

Draft Convention on the Elimination of Future Statelessness

1954

Text adopted by the International Law Commission at its sixth session, in 1954, and submitted to the General Assembly as a part of the Commission's report covering the work of that session (at para. 25). The report, which also contains commentaries on the draft articles, appears in *Yearbook of the International Law Commission, 1954*, vol. II.



Draft Convention on the Elimination of Future Statelessness

PREAMBLE

Whereas the Universal Declaration of Human Rights proclaims that “everyone has the right to a nationality”,

Whereas the Economic and Social Council has recognized that the problem of stateless persons demands “the taking of joint and separate action by Member nations in cooperation with the United Nations to ensure that everyone shall have an effective right to a nationality”,

Whereas statelessness often results in suffering and hardship shocking to conscience and offensive to the dignity of man,

Whereas statelessness is frequently productive of friction between States,

Whereas statelessness is inconsistent with the existing principle which postulates nationality as a condition of the enjoyment by the individual of certain rights recognized by international law,

Whereas the practice of many States has increasingly tended to the progressive elimination of statelessness,

Whereas it is imperative, by international agreement, to eliminate the evils of statelessness,

The Contracting Parties

Hereby agree as follows:

Article 1

A person who would otherwise be stateless shall acquire at birth the nationality of the Party in whose territory he is born.

Article 2

For the purpose of article 1, a foundling, so long as his place of birth is unknown, shall be presumed to have been born in the territory of the Party in which he is found.

Article 3

For the purpose of article 1, birth on a vessel shall be deemed to have taken place within the territory of the State whose flag the vessel flies. Birth on an aircraft shall be considered to have taken place within the territory of the State where the aircraft is registered.

Article 4

If a child is not born in the territory of a State which is a Party to this Convention he shall, if otherwise stateless, acquire the nationality of the Party of which one of his parents is a national. The nationality of the father shall prevail over that of the mother.

Article 5

If the law of a Party entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon acquisition of another nationality.

Article 6

The change or loss of the nationality of a spouse or of a parent shall not entail the loss of nationality by the other spouse or by the children unless they have or acquire another nationality.

Article 7

1. Renunciation shall not result in loss of nationality unless the person renouncing it has or acquires another nationality.

2. A person who seeks naturalization in a foreign country or who obtains an expatriation permit for that purpose shall not lose his nationality unless he acquires the nationality of that foreign country.

3. A person shall not lose his nationality, so as to become stateless, on the ground of departure, stay abroad, failure to register or on any other similar ground.

Article 8

A Party may not deprive its nationals of their nationality by way of penalty or on any other ground if such deprivation renders them stateless.

Article 9

A Party may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.

Article 10

1. Every treaty providing for the transfer of a territory shall include provisions for ensuring that, subject to the exercise of the right of option, the inhabitants of that territory shall not become stateless.

2. In the absence of such provisions, a State to which territory is transferred, or which otherwise acquires territory, or a new State formed on territory previously belonging to another State or States, shall confer its nationality upon the inhabitants of such territory unless they retain their former nationality by option or otherwise or have or acquire another nationality.

Article 11

1. The Parties undertake to establish, within the framework of the United Nations, an agency to act, when it deems appropriate, on behalf of stateless persons before Governments or before the tribunal referred to in paragraph 2.

2. The Parties undertake to establish, within the framework of the United Nations, a tribunal which shall be competent to decide any dispute between them concerning the interpretation or application of this Convention and to decide complaints presented by the agency referred to in paragraph

1 on behalf of a person claiming to have been denied nationality in violation of the provisions of the Convention.

3. If, within two years after the entry into force of the Convention, the agency or the tribunal referred to in paragraphs 1 and 2 has not been established by the Parties, any of the Parties shall have the right to request the General Assembly to establish such agency or tribunal.

4. The Parties agree that any dispute between them concerning the interpretation or application of the Convention shall, if not referred to the tribunal provided for in paragraph 2, be submitted to the International Court of Justice.

Article 12

1. The present Convention, having been approved by the General Assembly, shall until ... (a year after the approval of the General Assembly) be open for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign is addressed by the General Assembly.

2. The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. After ... (the above date) the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 13

1. At the time of signature, ratification or accession any State may make a reservation permitting it to postpone, for a period not exceeding two years, the application of the Convention pending the enactment of necessary legislation.

2. No other reservations to the present Convention shall be admissible.

Article 14

1. The present Convention shall enter into force on the ninetieth day following the date of the deposit of the ... (e.g., third or sixth) instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention subsequently to the latter date, the Convention shall enter into force on the ninetieth day following the deposit of the instrument of ratification or accession by that State.

Article 15

Any Party to the present Convention may denounce it at any time by a written notification addressed to the Secretary-General of the United Nations. Such denunciation shall take effect for the said Party one year after the date of its receipt by the Secretary-General.

Article 16

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States referred to in article 12 of the following particulars:

- (a) Signatures, ratifications and accessions under article 12;
- (b) Reservations under article 13;
- (c) The date upon which the present Convention enters into force in pursuance of article 14;
- (d) Denunciations under article 15.

Article 17

1. The present Convention shall be deposited with the Secretariat of the United Nations.

2. A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States referred to in article 12.

Article 18

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its entry into force.
