

4 Same letter, new spirit: Nationality regulations and their implementation in Poland

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The development of the legal notion of Polish citizenship has gone through twists and turns, shaped by the history of the country. Belonging to the Polish nation has not always meant belonging to the Polish state. Radical reconfigurations of Poland's borders in the last century explain this conceptual inconsistency as much as substantial political and economic emigration from Poland does. Moreover, the Polish People's Republic promoted the communist idea of a single socialist community comprised of inhabitants of Soviet Bloc countries. Thus, geopolitics defined a concept of the nation that was far removed from how many Polish people construed their own identity.

In the Polish case, it is, therefore, justified to differentiate between the distinct concepts of ethnicity and nationality/citizenship. The latter concept refers to the affiliation to the state and thus denotes the legal bond between a citizen and the state. Ethnicity constitutes more of a subjective feeling of belonging to an ethnic group or to a given nation, along with concurrent objective criteria relating to a person's ancestry.¹ Such a distinction is necessary in an examination of Polish nationality regulations and practice. In our opinion, ethnicity was very important in the formulation of the law on nationality in the Polish People's Republic and still plays a role in current Polish legislation.

The goal of this chapter is to demonstrate evolutions in the field of Polish nationality, particularly focusing on its acquisition and loss. We present changes not only in written law, but also in administrative practice regarding Polish nationality. This is necessary because of the high level of discretion that the Polish public authorities have in this field. Analyses of regulations are further enriched with selected statistics on the acquisition of Polish nationality in order to better represent the nature of the phenomenon in Poland.

Apart from analysing legal acts and statistics, we also devote some space to recently proposed bills on Polish nationality in order to indicate the direction in which the approach towards Polish nationality has been evolving since the 1990s. We argue that contemporary Polish nationality policy (if we can talk about one) still puts the emphasis on emigrants and the diaspora rather than on immigrants. Our argument is supported by the debate and the work on new legislation relating to

matters of Polish nationality in the Polish Parliament during 1999-2001. The focus on the diaspora is also evident when we consider the two most recent acts adopted in the field related to nationality, namely the Repatriation Act (2000)² and the Act on the Polish Ethnicity Card (2007)³ (*Ustawa o Karcie Polaka*).

The chapter opens with a historical overview of developments in nationality legislation from the post-war era to the present. It then discusses basic rules governing the acquisition and loss of Polish nationality in contemporary Poland. The third section analyses debates regarding new regulations and their underlying orientations as well as trends in Polish nationality policy. Finally, selected statistics on the acquisition of Polish nationality are provided and discussed.

4.1 Polish nationality in historical perspective

4.1.1 *Introductory remarks*

There have been three acts on Polish nationality – enacted in 1920,⁴ 1951⁵ and 1962⁶ – that share important elements. First of all, the acquisition of Polish nationality by birth has always been driven by the principle of descent (*ius sanguinis*), with the territorial principle (*ius soli*) merely playing an auxiliary role. Secondly, due to radical changes in Poland's international borders and long periods of emigration from Poland, establishing whether a given individual holds Polish nationality has always been crucial to Polish legislation on this matter. Finally, rules concerning foreigners' naturalisation in Poland have been of secondary importance in the debates and legislation on Polish nationality, despite considerable growth in immigration to Poland since the early 1990s.

4.1.2 *Post-war arrangements (1945-1962)*

The end of the Second World War and agreements signed between Stalin and other allied leaders radically altered Polish territory. This involved two major changes – loss of (formerly) eastern Polish lands inhabited by Polish citizens and the acquisition of eastern German lands populated largely by German citizens (the 'Regained Territories'). The loss of the eastern Polish territories brought with it the problem of repatriating Polish citizens from the new Soviet territory. This act was based on several Polish-Soviet mutual repatriation agreements signed in the 1940s and in 1957. On the basis of these agreements, people of Polish and Jewish ethnicity, who had been Polish citizens as of 17 September 1939, were entitled to move and resettle within Poland's new borders (Łodziński 1998). All repatriates were treated as Polish citi-

zens, and automatically lost their foreign nationality upon repatriation in Poland. The repatriation agreements signed with the Soviet Union also concerned the resettlement of Polish citizens of non-Polish (Ukrainian, Belarusian, Russian, etc.) ethnicity to the USSR. Thus, in both repatriation actions ethnicity constituted a decisive criterion.

Nevertheless, the biggest national group expatriated from Poland in the post-war period, on the basis of the Potsdam agreements, were Germans. They were officially excluded by the Act on the Exclusion of Persons of German Ethnicity from Polish Society (1946).⁷ This applied to Germans not verified as Polish nationals or those manifesting their German origins.⁸ Ethnic Poles, even those who had been German citizens before the Second World War, were entitled to stay in Poland. Special public bodies were established and appropriate legal rules introduced to verify the Polish ethnicity of those who wished to stay in Poland.⁹ Two pivotal legal acts announced at that time were the Act on Polish Nationality of Persons of Polish Ethnicity Inhabiting the Regained Territories (1946)¹⁰ and a similar decree for inhabitants of the former Free City of Gdańsk (Danzig) (1947).¹¹ These acts directly linked a person's nationality to his or her ethnicity.

Verification of ethnicity and objective ethnicity criteria were also included in the 1951 Act on Polish Nationality. The Act obliged the inhabitants of the Regained Territories and the former Free City of Gdańsk to obtain adequate documents certifying their Polish ethnicity. It also gave the right to Polish nationality to all Polish repatriates. Again, Polish citizenship was based primarily on ethnic criteria. This link was also reflected in two subsequent legal acts concerning the permission for the renunciation of Polish nationality for people of German (1956)¹² and Jewish (1958)¹³ ethnicities who left for their ethnic homelands (Albiniak & Czajkowska 1996: 324-325). Such acts were designed to simplify the renunciation of Polish nationality. Behind these acts, however, lay the idea of expelling those with non-Polish ethnicity from the country. The fact that this pressure was directed towards selected ethnic groups is symptomatic of this trend.

4.1.3 *Stabilisation (1962-1989)*

Another Act on Polish Nationality was passed in 1962. This Act remained in effect, without any major amendments, until the end of the communist era in Poland. It did not challenge the rules of acquisition and loss of Polish nationality included in the 1951 Act. The 1962 Act did not directly address the issue of Polish ethnicity, although it still accorded special rights to repatriates returning to Poland.¹⁴

The link between the ethnicity of a person and his or her right to Polish nationality was made an issue in the late 1960s. Polish authori-

ties officially challenged the loyalty of Polish citizens of Jewish origin. These people, who were perceived as having 'dual loyalties' and had often been active in some way in political life, were forced to leave Poland after signing a document expressing their intention to renounce their Polish nationality upon acquisition of Israeli nationality (Stola 2000). The legal basis for this 'action of mass renunciation of Polish nationality' was the aforementioned Decree of 1958. It is not within the scope of this analysis to present the comprehensive political background behind this move asking Jews to repudiate their Polish nationality.¹⁵ This episode demonstrates, however, how the concept of Polish ethnicity and its tight connection with the right to Polish nationality was exploited in Poland under the communist regime.

Furthermore, the communist authorities often required Polish emigrants to relinquish their Polish nationality whenever they came to visit Poland. If they refused to do so, they risked being imprisoned in Poland for illegally overstaying abroad. Here 'a need to renounce' Polish nationality was justified not in terms of the ethnicity criterion, but in terms of a lack of loyalty towards the Polish People's Republic and its ideology.

In general, the analysis of legal acts on Polish nationality, alone, does not allow for a thorough understanding of the issues of nationality in communist Poland. This is due to the authorities' high level of discretionary powers regarding Polish nationality at that time, which was particularly evident in how ethnicity was used in administrative decisions. Although absent from the 1962 Act on Polish Nationality, ethnicity was a factor in decisions regarding Polish nationality and played a particular role in relation to German and Jewish minorities. Special decrees designed for these two groups in 1956 and 1958 were in force until 1984 (Albiniak & Czajkowska 1996: 326).

4.1.4 Political and economic transition (the post-1989 era)

The end of the Polish People's Republic and the establishment of the Third Republic of Poland necessitated deep economic and political reforms in the country. Likewise, policymakers claimed as early as 1989 that there was need for a new nationality law. However, the 1962 Act on Polish Nationality, with some amendments in the late 1990s and at the beginning of the 2000s, is still in force.¹⁶ Nevertheless, some policy changes regarding Polish nationality have been introduced. These changes in policy take advantage of the way provisions of the 1962 Act on Polish Nationality were formulated. Therefore, an approach based on a high level of discretion of public officials in conferring Polish nationality has been continued in the Third Republic of Poland.

The most significant amendments to the 1962 Act were introduced in 1997-1998. Rules regarding the loss of Polish nationality were changed since one of the clauses of the Act – namely that ‘acquisition of a foreign nationality results in the loss of Polish nationality’ – violated the 1997 Polish Constitution¹⁷ (Jagielski 2000). An amendment was passed to make it impossible to deprive anybody of Polish nationality unless he or she expressed the desire to renounce it. A definition of the type of stay (permanent residence permit) was added to the five-year residence requirement for naturalisation. Although the exact period of total legal residence in Poland varies for different groups of foreigners, in practice, this change amounts to at least ten years of residency before a foreigner can apply for naturalisation, because it takes at least five years to obtain a permanent residence permit. Changes were also introduced to the procedure of acquiring nationality by marriage. Whereas this path to Polish nationality was previously open only to foreign women married to Poles, foreign men can now also acquire Polish nationality by marrying a Polish woman. In 2001, provisions concerning repatriation were removed from the Act on Polish Nationality. A separate legal act known as the Repatriation Act that dealt with this issue was implemented in 2000.

The Ordinance of the President of the Republic of Poland put into force in 2000¹⁸ was a step towards reducing discretion in decisions regarding the acquisition and loss of Polish nationality, although it did not change the procedures significantly. However, while these procedures previously had no legally binding basis, the 2000 Ordinance lists all of the documents and forms required by the Presidential Chancellery to process appropriate applications. The President initiated another significant change to Polish nationality policy. In 1999, he expressed his will (in the form of a legal act) to terminate all of the remaining conventions with other former communist countries concerning prevention of dual nationality.¹⁹ These conventions had affected foreigners’ naturalisation processes by creating inequality among applicants for Polish nationality. Most former Soviet Bloc citizens were not allowed to retain their previous nationalities upon naturalisation in Poland, whereas other foreigners were subject to the discretionary decision by the Polish President. Since 2002, as a consequence of the President’s initiative, Poland has ceased to be a party to those conventions.²⁰

4.2 Basic principles of current regulations on Polish nationality

4.2.1 Principles concerning Polish nationality

The legal regulations concerning Polish nationality can be found in the amended 1962 Act on Polish Nationality as well as in the Repatriation Act of 2000. The 1997 Polish Constitution formulated two principles concerning nationality (art. 34). One states that the basic mode of acquisition of Polish nationality is by birth to parents who are Polish citizens (the *ius sanguinis* principle).²¹ The other principle stipulates an absolute guarantee that no one can be deprived arbitrarily of his or her Polish nationality.

Other principles are stated in the Act on Polish Nationality itself. The principle of the continuity of Polish nationality (art. 1) translates the idea of the persistence of Polish nationality in time (from the moment of its acquisition until the moment of its loss) into law. Under this principle, the nationality status acquired under a given statute survives all subsequent changes in the statute, i.e. it is always considered under the law in force at the moment of acquisition. The principle of exclusivity of Polish nationality (art. 2) means that a person with dual or multiple nationality is treated (domestically but also abroad) as a Polish national by the Polish public authorities; it cannot be interpreted as forbidding dual nationality. The principle of equal citizenship rights for both husband and wife (art. 3) means that a conclusion of marriage by a Polish national with a person who is not a Polish national does not produce an automatic change in nationality for either husband or wife and a change of nationality of one spouse does not induce the change of nationality of the other.²²

4.2.2 Acquisition of Polish nationality

Polish law provides for several modes of acquiring Polish nationality, which can be divided into three basic groups according to their legal form. The first group comprises modes of acquiring nationality *ex lege* (acquisition at birth and acquisition through the repatriation procedure). The second group comprises modes of acquisition through application (acquisition by conferment and acknowledgement). The third group unites modes of acquisition through declaration (by marriage, option and reacquisition).

Acquisition of nationality at birth is mainly based on the *ius sanguinis* principle. A child acquires Polish nationality irrespective of the place of birth when at least one parent is a Polish national (art. 4.2 and art. 6). If the child has only one parent who is a Polish national and acquires another nationality at birth, the parents can renounce the child's Polish nationality within three months after birth. Children born in Po-

land to foreign parents do not acquire Polish nationality unless they would otherwise be stateless. This means that *ius soli* is treated as an auxiliary principle to determine the nationality of a child found or born in the Polish territory if the child's parents are unknown, stateless or their nationality cannot be established (art. 5). All changes in the determination of a parent of a child or with regard to the nationality of one or both parents will be considered in determining the nationality of a child only if they occur within one year from the birth of the child (art. 7.1) Hence, acquisition of nationality by legitimisation, for instance, is possible until the child's first birthday. Afterwards, legitimisation would have no effect on the child's nationality.

Automatic acquisition of nationality is also possible through repatriation. This is the only mode of acquiring Polish nationality not defined in the Act on Polish Nationality but in a separate statute, namely the Repatriation Act of 2000. According to this act, those holding a repatriation visa automatically acquire Polish nationality on the day they cross the Polish border (art. 4). Repatriation visas are granted to those of Polish descent, which is further defined to include those who once had Polish nationality or who have at least one parent or grandparent or two great-grandparents who were ethnic Poles or held Polish nationality. Other conditions include a declaration by the person concerned that he or she is of Polish ethnicity and proof of attachment to Polish culture by nurturing Polish language, traditions and customs (art. 5). Thus, this law uses both an ethnic criterion (Polish descent) and a cultural criterion to determine a person's belonging to the Polish nation.²³

A foreigner may be granted Polish nationality by conferment (regular naturalisation) if he or she has resided in Poland for at least five years on the basis of one of three types of permanent residence permit (art. 8).²⁴ Since such a permit may only be acquired after at least five years of legal residence,²⁵ it follows that the period after which a person is eligible for naturalisation is at least ten years. Applications are submitted via voivods (provincial governors) or consuls (for those living abroad) and these public authorities as well as the Minister of Internal Affairs (prior to 2007 the Head of the Foreigners' Office) normally give their opinion on the application. Apart from information on the required period of residence, applications have to include information on the parents' nationality, sources of income, past employment, knowledge of the Polish language and services rendered to Poland (or Polish diaspora organisations, etc.).²⁶ The power to grant nationality is a constitutional prerogative of the President of the Republic of Poland. The decision of the President is entirely discretionary since the criteria are unclear, especially with regard to the assessment of the additional information.²⁷ The President also does not have to grant nationality even if all of the conditions have been fulfilled. The President's decision

may even be called arbitrary in the sense that the decisions do not have to be justified and there is no judicial review available,²⁸ which may be considered contrary to the provisions of art. 11 and art. 12 of the European Convention on Nationality (ECN) of 1997.²⁹ In 'particularly justified cases' the President can disregard the residence requirement (art. 8.2), but this only applies to achievement-based acquisition of nationality. The conferment may be conditional upon providing proof of loss of the former nationality through withdrawal or renunciation (art. 8.3). From all of these provisions it is evident that the conferment procedure cannot be regarded as a legal entitlement and is instead based on the exercise of sovereign power by the head of state.

A stateless person or a person whose nationality cannot be established can be acknowledged as a Polish citizen if he or she has resided in Poland for at least five years on the basis of one of three types of permanent residence permit (art. 9; also see note 24). As with the naturalisation of foreign nationals, this is a discretionary procedure. However, in contrast to the regular naturalisation procedure, in this case the decisions are not made by the President but by voivods and constitute administrative case decisions that have to be justified. In these cases, administrative and judicial reviews are available.

Under Polish law (art. 8.4-8.7) Polish nationality acquired by parents through conferment can be extended to their minor children. When both parents acquire Polish nationality by conferment, it is automatically extended to children under sixteen years of age, whereas the child's consent is necessary if the child is sixteen or older. If only one parent acquires nationality, it may be extended to a child if other conditions are fulfilled – either the child is under this parent's exclusive parental authority or the other parent is a Polish citizen or the other parent gives his or her consent for the child's acquisition of nationality in front of a relevant public authority. The same rules apply to the filial extension of acquisition of Polish nationality through the acknowledgement procedure, provided that these children reside in Poland (art. 9.4).

Finally, there are three modes of acquiring nationality by declaration. The first is spousal acquisition of nationality (art. 10). The spouse of a Polish national acquires Polish nationality upon making a declaration (which has to be accepted by the relevant public authority, i.e. voivods or consuls) when he or she has lived in Poland on the basis of a permanent residence permit and has been married to the Polish national for at least three years. Compared to regular naturalisation, the minimum period of stay required is thus shortened by half (five instead of ten years). The voivod or consul can exercise full discretion whether to make the acceptance of the declaration conditional upon the proof of loss of the former nationality.

Another mode of acquiring nationality by declaration is acquisition of nationality by option (art. 6.3). This mode addresses those who (having one parent who is a Polish national) lost their Polish nationality in childhood by parental declaration (loss of nationality by option). They can reacquire this nationality in the period between the time they turn sixteen and six months after coming of age upon making a declaration in front of the relevant public authorities, i.e. voivods or consuls.

The third and last mode of acquiring nationality by declaration is reacquisition of nationality (art. 11), also called reintegration. A Polish citizen who lost Polish nationality by marrying a foreign citizen can regain his or her nationality if the aforementioned marriage ceases to exist. In these cases a declaration made in front of the relevant public authorities, i.e. voivods or consuls, must also be accepted. As in the case of acquisition of nationality by marriage, the public authorities can make the acceptance of the declaration dependent upon the proof of loss of the former nationality.

4.2.3 *Loss of Polish nationality*

As we have already mentioned, Polish nationality cannot be withdrawn against the will of the person concerned. A Polish citizen can lose his or her nationality if he or she renounces it; the loss is conditional upon the consent of the President of Poland (art. 13). The decision concerning the issuing of this consent is the President's constitutional prerogative and is thus not subject to administrative or judicial review. A permit to renounce one's Polish nationality issued by the President extends to children who are under parental authority if both parents stand to lose their nationality. It is automatic unless the children are sixteen years of age or older (in which case their agreement is necessary). A permit given to only one parent extends to children under parental authority if the second parent has no parental authority, if he or she is not a Polish citizen or if he or she is a Polish citizen but consents to the child losing the Polish nationality in front of relevant public authorities.

Polish nationality may also be lost shortly after birth due to parental decision (loss by option). For a child who has acquired Polish nationality at birth, parents may choose the nationality of a foreign country of which one of the parents is a national. This must be done within three months of the child's birth (art. 6.1), regardless of whether the child is born in Poland or abroad. However, as already explained, a child can reacquire his or her Polish nationality lost in this way (acquiring Polish nationality by option, art. 6.3). The optional renunciation of Polish nationality acquired by *ius sanguinis*, however, does not apply if, for ex-

ample, both parents are Polish nationals abroad and the child has acquired the nationality of his or her country of birth through *ius soli*.

During the communist period, the rules governing the loss of Polish nationality were quite different. Many emigrants lost their nationality contrary to their wills and would now like to have their Polish nationality restored. Unfortunately, there is no procedure to this end. Some emigrants use the procedure in front of the voivod, who is authorised to establish whether a given individual has acquired and currently holds Polish citizenship, has forfeited it or has never held it. Through an administrative decision, this authority can certify that someone holds Polish nationality following proceedings that take into account the principle of continuity of Polish nationality.

4.2.4 *Dual nationality*

Dual and multiple nationality is allowed under Polish law. There are, however, certain nuances concerning the possibility of acquiring this status. Dual nationals by birth are never required to choose one nationality over the other (neither upon reaching the age of majority nor at any other time). Naturalisation procedures, by contrast, distinguish between, on the one hand, individuals seeking to become naturalised Polish citizens and, on the other hand, Polish citizens seeking to naturalise in another state. The law in force favours the latter and Polish citizens can freely obtain other nationalities while retaining their Polish citizenship. Foreigners seeking to access Polish citizenship, however, may be required – at the discretion of relevant public authorities – to relinquish other nationality ties. One is thus tempted to use Sanford Levinson's formulation to say that Polish law 'tolerates political bigamy so long as the second political marriage follows, rather than precedes, acquiring [Polish] citizenship' (cited in Schuck 2002: 72).

Although nowadays multiple nationality as a legal status is tolerated in Poland, this has not always been the case in the past. A ban on dual nationality was a guiding principle of the 1920 and 1951 Acts on Polish Nationality. This historical fact, as well as the wording of art. 2 of the 1962 Act on Polish Nationality, seems responsible for some confusion. The article states that 'according to the law, a Polish national cannot be recognised as a national of another country'. The Highest Administrative Court interpreted this provision as a prohibition of dual or multiple nationality in one of its judgments.³⁰ Such an interpretation seems, however, inconsistent with the wording of the very article as it uses the term 'recognised' (*uznawany*). This is obviously not the same as stating a prohibition of having multiple nationalities, and the 1962 Act refrains from restating an explicit prohibition of multiple citizenship in earlier regulations. Therefore, the view that Polish law generally prohi-

bits dual nationality does not prevail and is – correctly – not shared by most legal scholars (Jagielski 1998; Ramus 1968; Mincer-Jaśkowska 1998). Art. 2 should be interpreted as a rule resolving a very particular problem, which arises in domestic law when a Polish national holds several nationalities. Accordingly, a dual or multiple national will always be treated as a Polish national by Polish public authorities inside the Polish territory as well as abroad. A multiple citizenship holder cannot claim rights that stem from an additional nationality status or avoid obligations stemming from Polish nationality or ask to be treated as a foreigner (Ramus 1968). In other words, foreign citizenship ties are considered irrelevant in front of Polish public authorities and he or she is treated as if he or she was Polish only. This reading of art. 2 also coincides with the specific rules governing acquisition of Polish nationality as thus far described.

4.2.5 *Act on the Polish Ethnicity Card*

As with other countries in the Central and Eastern European region, Poland has recently passed a law giving certain benefits to members of its kin minorities living abroad. The Act on the Polish Ethnicity Card³¹ was passed in September 2007. The first bill of this law was discussed in parliament almost ten years earlier. The scope of the card is restricted to ethnic Poles who are not Polish nationals, but are nationals of one of the fifteen successor states of Soviet Union republics (art. 2.2). The Polish Ethnicity Card confirms a person's belonging to the Polish nation and the right to benefits provided for by the Act (art. 3). It may be issued to a person who declares himself or herself to be a member of the Polish nation and who fulfils the conditions specified in the statute. These conditions are of mixed ethnic and cultural character and it should be noted that the ethnic criterion (descent) is not obligatory. Instead of proving Polish descent a certificate issued by one of the non-governmental organisations operating in these countries (specified in the Prime Minister's decree, *obwieszczenie*) may be presented, confirming active engagement in activities concerning Polish language and culture or other involvement in Polish national minority communities for at least three years prior to the application. In any event, it is necessary to prove attachment to 'Polishness' through having at least basic knowledge of the Polish language, which must be considered by the applicant to be his or her native language, as well as knowledge and practice of Polish traditions and customs (art. 2.1).

The law provides for different benefits, which include easier access to the labour market (holders of the card do not need a work permit and they can undertake economic activity in Poland on the same basis as Polish nationals), and some educational, cultural and health bene-

fits. In order to enter Polish territory, the holder of a Polish ethnicity card still has to apply for a visa, but may be exempted from the fee for a national visa (or this fee may be refunded) (arts. 5-8). The actual meaning of these benefits is different depending on whether a holder of the card is a citizen of a European Union country (in this case Latvia, Lithuania, Estonia) or not. Third country nationals holding the Polish ethnicity card enjoy free access to the labour market, free immediate medical assistance and access to education at tertiary level, free entry to state-run museums and 37 per cent travel reduction for train transport. For EU citizens, only the last two benefits are of any significance (Jagielski & Pudzianowska 2008).

The Act on the Polish Ethnicity Card was not easy to draft. It took over ten years of discussions as there was a range of controversies regarding the shape of the successive bills (see Jagielski & Pudzianowska 2008). Many commentators claimed that it was discriminatory, and that it was dangerous to create a privileged group of people having special rights in Poland who are residents of foreign countries. This argument was not specific to Poland and was present in all countries that adopted a kin minority legislation (see Kovács & Tóth, Kusá, Medved and Smilov & Jileva in this volume). Moreover, a number of practical arguments against the card were discussed during the parliamentary debates (see Górny, Grzymała-Kazłowska, Koryś & Weiner 2003). These concerned high costs, the danger of abuse of the card by economic migrants, etc. Even though domestic controversies were extensive, it can be argued that the Polish Ethnicity Card did not produce many reactions on the international arena (unlike, for example, the Hungarian Status Law of 2001). The Belarusian government's negative reaction is the exception to the rule that can be easily explained. On the one hand, apart from Ukrainians, Belarusian citizens are expected to be the main recipients of the Polish ethnicity cards. On the other hand, the negative reaction of Belarus is in line with the more general Belarusian policy towards the Polish minority in Belarus, marked as it is by a variety of more or less openly demonstrated conflicts and repressions from the Belarusian authorities. Interestingly enough, preparations for a Belarusian Ethnicity Card have recently been announced.

4.3 The unresolved debate (1999-2001)

Changes in the Polish nationality law have been planned since 1989, but only selected goals have been achieved to date. The most important act – the Act on Polish Nationality – remains unchanged, although several bills on Polish nationality have already been proposed and discussed in the Polish Parliament. Work on nationality legislation was

particularly intensive during the third parliamentary term (1997-2001), when post-Solidarity parties held a majority in the Polish Parliament. In the fourth parliamentary term (2001-2005), when post-communist parties held the majority, work on nationality legislation was postponed (see Górný, Grzymała-Kazłowska, Korys & Weiner 2003) only to reappear on the agenda during the fifth and sixth legislative terms under a majority of post-Solidarity parties (2005-2007 and 2007-present). Nevertheless, works on the Act on Polish Nationality did not enter the phase of parliamentary readings and discussions.

Apart from the ideological rationale for introducing new legislation on nationality with democratic transition in all CEE countries, new social currents require new solutions for the law on Polish nationality. For example, it is necessary to establish clear rules concerning reinstatement of Polish nationality for people who were deprived of it in various 'historical contexts'. Moreover, issues relating to the repatriation of people of Polish descent from the territory of the ex-USSR again became prominent in the 1990s. Last but not least, increasing immigration to Poland requires that rules on naturalisation be reevaluated and made less discretionary.

The repatriation problem was solved legislatively with the introduction of the Repatriation Act in 2000. Seven years later, the Act on the Polish Ethnicity Card introduced some privileges for members of Polish kin minorities. The enactment of this latter statute can also be regarded as a partial solution to the problem of the reinstatement of Polish nationality, as part of the diaspora considers it as a symbolic confirmation of their belonging to the Polish nation. However, a new Act on Polish nationality is still missing. Its preparation started in the late 1990s and three bills on Polish nationality have been proposed. The most recent one, which was submitted by a working group comprising representatives of various parties in 2000, combined the two earlier proposals. Certain issues included in the latest bill demonstrate the political background and aims behind the formulation of a new Act on Polish Nationality and are worth noting.

In the bill – as in all acts on Polish nationality – the basic principle for being recognised as a Polish citizen was the *ius sanguinis* principle. This newest bill foresaw special procedures for people who intended to reacquire their Polish nationality. In fact, as stated in the introduction to the bill, the problem of 'reinstating Polish nationality to all those who have the right to it' was considered very important by the bill's authors. The proposed reinstatement procedure would have applied to those who had lost Polish nationality on the basis of previous Acts on Polish Nationality (1920, 1951, 1962) and whose relinquishing of Polish nationality had not been 'fully voluntary'.³² Applicants' entitlement to this procedure would not have been conditional on living perma-

nently in Poland. The bill also proposed a procedure for granting nationality to a particular group of people of Polish origin: Polish veterans of the Second World War. As far as the naturalisation procedure is concerned, the Bill on Polish Nationality added to the requirement regarding length of stay contained in the 1962 Act, criteria referring to the applicants' level of social, economic and cultural integration into Polish society. They included adequate knowledge of the Polish language, evidence of the applicants' ability to sustain themselves in Poland and absence of a criminal record and of behaviour that does not violate loyalty towards the Polish state. These criteria were intended to set more precise and thereby less discretionary criteria for naturalisation in Poland.

The focus of discussions and political and legislative action regarding Polish nationality and related matters has been undoubtedly on the Polish diaspora and Polish emigrants, with immigration and naturalisation being of secondary importance. The parliamentary debates in 1999-2001 on such proposals were fairly uncontroversial (Górny, Grzymała-Kazłowska, Koryś & Weinar 2003) and can thus be considered indicative of a consensual approach to nationality matters observed in the contemporary Polish political scene. The reasons for the lack of consensus on the bill, which led to its withdrawal from the parliamentary agenda, are not clear. It seems, however, that the issue dividing the Polish Parliament was the problem of explicit acceptance of dual nationality (Górny, Grzymała-Kazłowska, Koryś & Weinar 2007), which was more a problem of a symbolic nature, rather than a legal one.

4.4 Acquisitions of Polish nationality in figures

4.4.1 Comment on data

Data on acquisitions of Polish nationality have just recently been integrated into the main statistical system and database on foreigners. For the years 1992-2001 we will therefore focus on acquisitions through only one procedure, namely the conferment of Polish nationality, for which nationwide data are available for the 1990s. To make our description for that period more precise and informative, we have enriched it with fragmented data regarding other procedures. These data include information on foreigners who were naturalised through acknowledgement and marriage procedures in 1997³³ and results of research carried out in the Warsaw voivodeship in 1999, when data on applicants for Polish nationality in 1989-1998 based on the three most important procedures – acquisition through conferment, acknowledgement and marriage – were collected.³⁴ When describing later years (2002-2006) we refer to acquisitions of Polish nationality through all

three procedures: conferment, acknowledgement and spousal acquisition. Finally, we also provide data on repatriation to Poland for the period 1997-2006.

4.4.2 *Naturalisations: Conferment and two other procedures*

In 1992-2001, two consecutive Polish presidents granted Polish nationality to 8,979 people under the conferment procedure. In this period, the biggest national group of newly admitted Polish citizens were Germans (16 per cent). Other important groups were Israelis (8 per cent), Canadians (8 per cent), Bulgarians (5 per cent) and Americans (4 per cent) (see Table 4.1). However, as much as 20 per cent of the applicants originated from the former Soviet Union.

Table 4.1 *Foreigners granted Polish nationality by conferment in 1992-2001 and by conferment, acknowledgement and spousal acquisition in 2002-2006, by (former) nationality*

Nationality	Acquisitions by conferment procedure in 1992-2001		All ^b acquisitions in 2002-2006	
	Number of persons	%	Number of persons	%
German	1,416	16	328	4
Israeli	726	8	469	5
Canadian	676	8	184	2
Bulgarian	490	5	165	2
American	381	4	149	2
The former Soviet Union, including the Baltic states ^a	1,778	20	4,392	51
Other	3,512	39	2,925	34
Total	8,979	100	8,612	100

^a We include the general category ex-USSR, since for as many as 804 persons the statistics do not indicate from which former Soviet Union republic they originate.

^b Does not include acquisitions by repatriation, which are demonstrated in Table 4.2.

Sources: Kępińska 2007; data provided by the Polish President's Chancellery

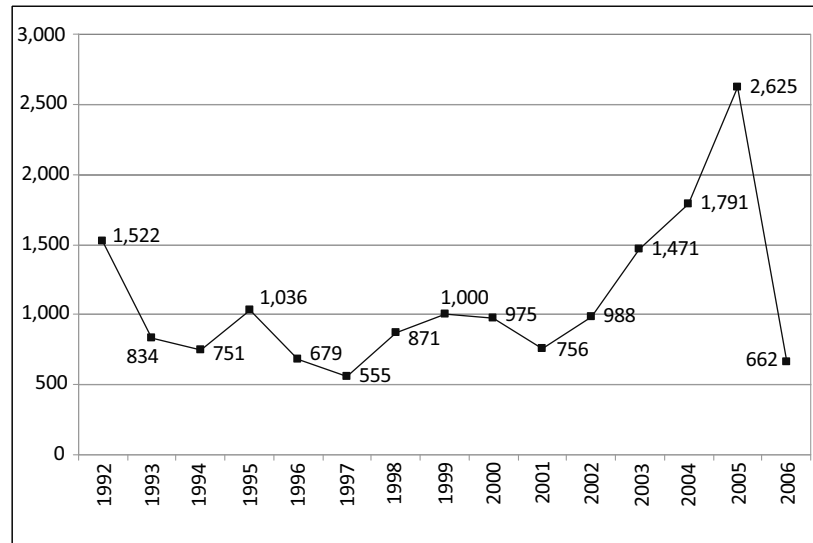
In the 1990s, most applicants for Polish nationality originated from countries constituting traditional areas of destination for Polish emigrants: Germany, the US, Canada and various countries in Western Europe (e.g. France). The intensive Polish-Bulgarian student exchanges during the communist era resulted in many Polish-Bulgarian marriages and complicated nationality matters for their families. It is evident that the conferment procedure has been used by successive Presidents to restore Polish nationality to Polish emigrants who had lost it. This also explains the high number of Israelis 'naturalising' in Poland.

The number of ex-USSR citizens naturalising via the conferment procedure in Poland in the 1990s and 2000s is also quite high. It does not fully reflect, however, the predominance of ex-Soviet citizens in contemporary migration to Poland, since they were particularly likely to use the acknowledgement procedure in the 1990s. This was due to the requirement to relinquish their original nationality in accordance with bilateral conventions on the prevention of dual nationality, which were still in effect between Poland and countries of the former Soviet Bloc in the 1990s. As these persons were generally stateless, they qualified for the acknowledgement procedure. In 1989-1998, in the Warsaw voivodeship, 76 per cent of ex-USSR citizens (stateless persons at the moment of applying) used the acknowledgement procedure and citizens of this region constituted 94 per cent of all those applying for naturalisation under this procedure.

The importance of applicants for Polish nationality originating from the ex-USSR is more visible in the data on acquisitions for 2002-2006, where all three procedures are included. Newly naturalised Polish citizens from this area constitute as much as 51 per cent of the total, with the Ukrainians being the leading group (27 per cent of the total number of acquisitions and 54 per cent of the acquisitions by nationals of the former Soviet Union). Immigrants from the former Soviet Union have constituted the main segment of the 'new wave' of immigration to Poland, which began in the late 1980s, and these migrants began qualifying for naturalisation in the second half of the 1990s. The subsequent termination of bilateral conventions on the prevention of dual nationality with some Soviet Bloc countries allowed more and more ex-USSR citizens to use the conferment procedure.

The chart showing the number of acquisitions of nationality by conferment in the whole period analysed here shows a roughly u-shaped curve (see Figure 4.1), so long as we exclude the latest figures for 2006. The highest annual numbers registered were 1,522 (in 1992), 1,791 (2004) and 2,625 (2005), whereas two among the three smallest annual figures (679 and 555) occurred in the mid-1990s (in 1996 and 1997), and the third (662) in 2006. The 'boom' of naturalisations registered at the beginning of the 1990s was caused mainly by 'early re-conferments' of Polish nationality. For example, in the 1992-1995 period, over one quarter of the people granted Polish nationality were German citizens, probably many or most of whom had lost their Polish nationality in the past.

The dramatic increase (56 per cent) in the number of acquisitions in 1998 can be partly explained by factors described above. Among them, the increase in the number of applications by Israelis (and other Polish emigrants) seems to be important. The number of 'naturalising' Israelis rose in 1998 after President Kwaśniewski's aforementioned promise

Figure 4.1 *Acquisitions of Polish nationality by conferment (1992-2006)*

Sources: Kępińska 2007; data provided by the Polish President's Chancellery

of a 'broad and uncomplicated restoration'. In 1997, the President granted Polish nationality to only nineteen Israelis, whereas in 1998, the respective number was six times higher (114 persons). Then, as mentioned above, a gradual increase in the numbers of ex-USSR citizens using the conferment procedure also contributed to the increase in acquisitions.

The sharp decrease in the number of acquisitions of Polish nationality by conferment in 2006 deserves some explanation. Its main cause is the change of the Head of State: Lech Kaczyński, who is close to the right-wing parties, replaced Aleksander Kwaśniewski, who came from the main post-communist party. In 2005 – the last year of the Kwaśniewski presidency – many cases were processed faster than usual in order to be completed before his term came to an end. Thereafter, President Kaczyński appeared to be reluctant to grant Polish nationality, at least at the beginning of his term.

Data on the conferment procedure certainly only describe part of the phenomenon of naturalisations in Poland though, in our opinion, they provide an accurate snapshot of national groups interested in Polish nationality, especially in the 2000s. In the 1990s, the number of applicants for the acknowledgement procedure was slightly higher than for the conferment procedure. In the 2000s, the first of these procedures almost totally lost its importance due to the abrogation of conventions on the prevention of dual nationality. In fact, between 2002 and 2004,

fewer than 200 people were naturalised through any procedure other than conferment.

The remaining procedure, i.e. spousal acquisition, played a secondary role in the 1990s and is still of only marginal importance. In 1997, for example, only 52 foreign women used this mode of acquisition. In the Warsaw voivodeship during the period 1992-1998, the number was 73 women. At the same time, the annual numbers of mixed marriages in Poland were much higher – between 3,000 and 3,500 were concluded in the 1990s and 2000s, respectively. Spousal acquisition gained more importance after 1999 when it started applying not only to women, but also to men, and when conditions regarding applications became more ‘reasonable’. It is likely to increase in importance, since ex-USSR citizens no longer have to relinquish their foreign nationality upon naturalisation in Poland. In 2002, for example, from among 3,552 mixed marriages concluded in Poland, over 40 per cent involved citizens of post-Soviet countries.

4.4.3 *Repatriation*

The repatriation procedure was introduced amidst much discussion. On the one hand, speculation about thousands of people of Polish descent (not always genuine) who would take advantage of the repatriation procedure was aired in the media and in parliament. On the other hand, virtually nobody dared to question Poland’s obligation to take care of its exiles in faraway Asiatic republics of the former Soviet Union. The controversies surrounding repatriation influenced the final shape of the Repatriation Act of 2000 by limiting repatriation to a very small group of people. As a rule the repatriation procedure only applies to persons who have lived permanently in certain Asiatic republics prior to 2000. Thus, it is designed for those who did not manage to repatriate themselves in the 1940s and 1950s. The requirement that a would-be repatriate has to be invited by an official institution or a private person further limits the accessibility of this procedure.

In all, during the 1997-2006 period, only 4,015 repatriation visas were issued and 5,293 repatriates arrived via the repatriation program (Kępińska 2004, 2007). The actual number of people who acquired Polish nationality through the repatriation procedure is somewhere between these two figures, since new arrivals include non-Polish members of repatriate families. From 2001 to 2006, 2,935 people acquired Polish nationality as repatriates. As demonstrated in Table 4.2, people from Kazakhstan represent the majority among repatriates (based on a count of visas issued). Residents of other former republics of the Soviet Union are in the minority and this relationship will persist due to the structure of the Repatriation Act.

Table 4.2 *Repatriation visas to Poland in 1997-2006, by repatriates' previous country of residence*

<i>Country of previous residence</i>	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total	316	281	278	662	804	613	301	269	252	239
Azerbaijan	-	-	-	-	-	-	-	-	-	1
Belarus	-	10	15	45	140	127	43	39	30	25
Czech Republic	-	-	-	-	2	4	1	1	1	1
Georgia	-	-	-	-	-	1	3	-	3	3
Kazakhstan	316	245	172	361	216	194	156	122	155	125
Lithuania	-	-	11	16	20	3	-	1	1	1
Latvia	-	1	1	10	-	-	-	-	-	-
Moldova	-	1	2	10	9	5	2	-	2	1
Russian Federation	-	7	8	10	36	31	11	35	32	40
Ukraine	-	15	69	210	381	245	77	56	23	27
Uzbekistan	-	2	-	-	-	2	8	15	5	14

Source: Central Statistical Office, from Kępińska (2007: 95)

According to the available fragmented data on acquisitions of Polish nationality, naturalisation remains a limited phenomenon in Poland. In the 1990s and 2000s, the annual numbers of persons granted Polish nationality did not exceed 3,000, although the beginning of the 1990s produced a visible increase in naturalisations. For example, in the Warsaw voivodeship, 26 and 80 applicants had been granted Polish nationality in 1990³⁵ and 1991, respectively, whereas in 1992, the number rose to 203, with no decrease evident in subsequent years.

4.5 Conclusions

There have been surprisingly few changes in Polish legislation on nationality since 1962. The post-communist Third Republic of Poland did not pass a new law on nationality despite expectations. All this does not mean, however, that nothing changed at the level of practice regarding Polish nationality. Political attitudes also changed, a fact that is exemplified by President Kwaśniewski's declaration in 1998 to return Polish nationality to those who had lost it during the communist era.

In general, the characteristic feature of legislation on Polish nationality is discretionary power given to public officials in making decisions. Consequently, changing policy in nationality matters does not necessarily require changes in the written law. At the same time, uncovering the mechanisms of this policy in practice requires looking beyond the written law. Even though the 1962 Act on Polish Nationality makes acquisition of Polish nationality conditional only on the duration and

type of an applicant's stay in Poland, civil servants also take into account other factors referring to a foreigner's social and cultural integration as well as his or her family and financial situation.

Poles living abroad and/or returning to Poland and their right to Polish nationality were the focus of the debate on reforms to Polish nationality law in the 2000s. It is important to remember that only some of the applicants for Polish nationality are immigrants. A visible proportion of new citizens – around half in the 1990s – are people who had lost Polish nationality under communism and repatriates. This is undoubtedly a temporary phenomenon. The proportion has already started to decline and will continue to do so as the pool of individuals interested in reacquiring their Polish nationality wanes and as the number of 'typical immigrants' who qualify for acquisition of Polish nationality, which is already relatively high today, gradually grows.

Polish accession to the European Union boosted discussions on immigration to Poland in the context of the shift of the EU border to Poland's eastern border. However, it did not affect the discourse on Polish nationality, which was absent from the political and public agenda in pre- and post-accession periods. This absence was probably due to the post-communist majority in the Polish Parliament between 2001 and late 2005, which was not eager to tackle nationality (and other) issues pertaining to how to 'deal with the communist past'. Works on legislation relating to nationality issues were resumed in the fifth (2005-2007) and sixth (2007-2011) legislative periods when the post-Solidarity parties had a majority in Parliament. It is, however, too early to analyse the proceedings relating to the most recent Bill on Polish Nationality since it has not been yet discussed in Parliament.

It can be also argued that another consequence of Polish accession to the EU is the visible increase in the interest in Polish nationality among diaspora members. The number of applications for certification/recognition of Polish nationality submitted to Polish consulates abroad, especially outside Europe, grew in the 2000s. In 2000, only 765 such applications were registered, whereas in 2004 their number reached 3,807. In 2000-2002, the largest number of applications came from Germany. In 2003, Argentina was first with 505 applications (Centre of Migration Research 2005).³⁶ We are certainly not talking about acquisitions of Polish nationality, but about situations whereby people, usually descendants of Polish emigrants, who are entitled to citizenship but are not registered citizens (not having a national registry number and passport, possibly due to a lack of interest on their part), take advantage of this right.³⁷

All in all, it seems that interest in Polish nationality, which was rather weak in the 1990s and at the beginning of the 2000s, has been growing recently. Moreover, it is likely to further increase in light of on-

going immigration to Poland and the fact that Polish nationality has entailed European Union citizenship since 2004.

Chronological list of citizenship-related legislation in Poland

Date	Legislative act	Content	Source
1920	Act on Nationality of Poland	Regulates modes of acquisition and loss of Polish nationality	www.dziennik-ustaw.pl (in Polish)
1938	Act on Deprivation of Polish Nationality	Regulates modes of loss of Polish nationality	www.dziennik-ustaw.pl (in Polish)
1946	Decree Concerning Exclusion of Persons of German Ethnicity from Polish Society	Defines the framework for the exclusion and eventual deportation of persons of German ethnicity living on the Polish territory after the Second World War	www.dziennik-ustaw.pl (in Polish)
1946	Act on Polish Nationality of Persons of Polish Ethnicity Inhabiting the Regained Territories	Defines the conditions for entitlement to Polish nationality for persons living in North-Western Poland (territories belonging to Germany before the Second World War)	www.dziennik-ustaw.pl (in Polish)
1947	Act on Polish Nationality of Persons of Polish Ethnicity Inhabiting the Former City of Gdańsk	Defines the conditions for entitlement to Polish nationality for persons living in the former city of Gdańsk (Danzig)	www.dziennik-ustaw.pl (in Polish)
1951	Act on Polish Nationality	Regulates modes of acquisition and loss of Polish nationality	www.dziennik-ustaw.pl (in Polish)
1956	Decree of the Council of the State No. 37/56 Concerning the Permission for German Repatriates to Renounce Polish Nationality (unpublished)	Provides a fast track for the renunciation of Polish nationality for people leaving for Germany	
1958	Decree of the Council of the State No. 5/58 Concerning the Permission for People Leaving for Israel to Renounce Polish Nationality (unpublished)	Provides a fast track for the renunciation of Polish nationality for people leaving for Israel	
1962	Act on Polish Nationality	Regulates modes of acquisition and loss of	www.coe.int ; www.uric.gov.pl

Date	Legislative act	Content	Source
1997	Amendment of the Act on Polish Nationality	Polish nationality Extends required time of residence in Poland (by five years) by introducing the clause that only stay on the basis of permanent residence permit be counted	(in Polish); www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)
1997	Constitution of the Republic of Poland (excerpts)	Protects citizenship status: 'A Polish citizen shall not lose Polish citizenship except by renouncing it' (art. 34.2)	www.legislationline.org
1998	Amendment of the Act on Polish Nationality	Introduces equality in treatment of husbands and wives of Polish citizens with regard to acquisition of Polish nationality; removes all possibilities of losing Polish nationality against person's will; makes resignation from Polish citizenship fully dependent on the will of its holder	
1999	Act on Terminating the Convention, Being Effective in Polish-Belarusian Relations, between the Polish People's Republic Government and the USSR Government Concerning the Prevention of Cases of Dual Nationality, signed in Warsaw on 31 March 1965	Expresses Poland's will to terminate the Convention on Prevention of Dual Citizenship in force between Poland and Belarus	www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)
1999	Act on Terminating the Convention, Being Effective in Polish-Czech Relations between the Polish People's Republic and the Czechoslovak Socialistic Republic Concerning Regulations	Expresses Poland's will to terminate the Convention on Prevention of Dual Citizenship in force between Poland and the Czech Republic	www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)

Date	Legislative act	Content	Source
1999	on Dual Nationality, signed in Warsaw on 17 May 1965 Act on Terminating the Convention between the Polish People's Republic and the Mongolian People's Republic Concerning Regulations on Dual Nationality, signed in Ulan Bator on 23 May 1975	Expresses Poland's will to terminate the Convention on Prevention of Dual Citizenship in force between Poland and Mongolia	www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)
1999	Act on Terminating the Convention, Being Effective in Polish-Slovak Relations between the Polish People's Republic and the Czechoslovak Socialist Republic Concerning Regulations on Dual Nationality, signed in Warsaw on 17 May 1965	Expresses Poland's will to terminate the Convention on Prevention of Dual Citizenship in force between Poland and Slovakia	www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)
1999	Act on Terminating the Convention, Being Effective in Polish-Ukrainian Relations, between the Polish People's Republic Government and the USSR Government Concerning Prevention of Cases of Dual Nationality, signed in Warsaw on 31 March 1965	Expresses Poland's will to terminate the Convention on Prevention of Dual Citizenship in force between Poland and Ukraine	www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)
2000	Repatriation Act	Defines the framework for the repatriation of people of Polish descent from the Asiatic republics of the ex-USSR	www.legislation.org ; www.uric.gov.pl (in Polish); www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)
2000	Ordinance of the President of the Republic of Poland concerning the procedure in cases of conferment or giving permission to renounce one's Polish nationality, as well as specimen	Defines the documents to be submitted and the exact procedures for the acquisition of nationality by conferment	www.dziennik-ustaw.pl (in Polish); www.abc.com.pl (in Polish)

Date	Legislative act	Content	Source
2001	certificates and applications Amendment of the Act on Polish Nationality	Introduces changes relating to registration of acquisitions and losses of Polish nationality; removes rules applying to repatriation procedure	
2003	Amendment of the Act on Polish Nationality	Introduces procedural changes	
2005-2007	Amendments of the Act on Polish Nationality	Introduce minor changes resulting partly from the accession of Poland to the EU	
2007	Act on Polish Ethnicity Card	Defines the conditions for entitlement to the Polish Ethnicity Card; introduces certain benefits to members of Polish kin-minorities in fifteen post-Soviet states including easier access to the labour market and some educational, cultural and health benefits	www.poland.gov.pl (in Polish, Russian and other languages)

Notes

- 1 It is beyond the scope of this chapter to discuss the complex relation between ethnicity and nationality/citizenship. Though following, for example, Thomas Hylland Eriksen (1999: 35), it is worth mentioning that the distinguishing mark of nationalism (when talking about nationality he refers to nationalism) is by definition its relation to the state. A nationalist holds that political boundaries should be coterminous with cultural boundaries, whereas many ethnic groups do not demand command over the state.
- 2 Repatriation Act, *Journal of Law* 160, 2000, 1118.
- 3 Act on the Polish Ethnicity Card, *Journal of Law* 180, 2007, 1280. In the official English translation, the Polish Ethnicity Card is sometimes called the 'Polish Charter' and there can be nothing more misleading. It is important to note that the Polish Ethnicity Card in the title of the act refers to the document that is issued under the act to certain subjects who are not Polish citizens, but are citizens of certain states entitled to certain privileges within Polish territory. The card thus does not ascertain the identity of the subject and can be compared to a student card inasmuch as it serves as proof of certain entitlements under the act. In its symbolic function, the card is deemed to ascertain that its holder 'belongs to the Polish Nation' defined in ethnic terms in this statute (art. 3).
- 4 Act on Nationality of Poland, *Journal of Law* 44, 1920, 44.

- 5 Act on Polish Nationality, *Journal of Law* 5, 1951, 25.
- 6 Act on Polish Nationality, *Journal of Law* 10, 1962, 49.
- 7 Act on the Exclusion of Persons of German Ethnicity from the Polish Society, *Journal of Law* 66, 1946, 404.
- 8 The exclusion involved forced resettlement from the Polish territory and the loss of property in Poland.
- 9 To be positively verified as Polish, a person had to prove his or her coming from a Polish family and express his or her desire to belong to the Polish nation.
- 10 Act on Polish Nationality of Persons of Polish Ethnicity Inhabiting the Regained Territories, *Journal of Law* 15, 1946, 106.
- 11 Act on Polish Nationality of Persons of Polish Ethnicity Inhabiting the Former Free City of Gdańsk, *Journal of Law* 65, 1947, 378.
- 12 Decree of the Council of the State No. 37/56 of 1956 Concerning the Permission for German Repatriates to Renounce Polish Nationality, (unpublished).
- 13 Decree of the Council of the State No. 5/58 of 1958 Concerning the Permission for People Leaving for Israel to Renounce Polish Nationality, (unpublished).
- 14 In fact, few people took advantage of this procedure, as there were no appropriate guidelines for its implementation.
- 15 It would be an oversimplification to look for origins of that action only in the anti-Semitic attitudes of the Polish elites and society. Not all Jews were forced to leave Poland. Moreover, some of them remained not only in Poland but also in various Polish political structures.
- 16 Act on Polish Nationality, *Journal of Law* 28, 2000, 353 (version including amendments).
- 17 Constitution of the Republic of Poland, *Journal of Law* 78, 1997, 483.
- 18 Ordinance of the President of the Republic of Poland concerning the procedure in cases of conferment or giving permission to renounce one's Polish nationality, as well as specimen certificates and applications, *Journal of Law* 18, 2000, 231.
- 19 They include conventions signed with the Soviet Union (1965), Czechoslovakia (1965), Bulgaria (1972), Mongolia (1975) and the German Democratic Republic (1975) (Albiniak & Czajkowska 1996).
- 20 At the time of writing, only the Ukrainian government has not ratified the termination of the convention.
- 21 This is a guiding principle for the legislature, meaning that the preference in the nationality regime should be given to the *ius sanguinis* principle and that other principles should only play an auxiliary role.
- 22 This refers only to automatic change of nationality as a consequence of marriage. Polish nationality law does provide for facilitated naturalisation of foreign spouses of Polish nationals.
- 23 It should be noted that these conditions are defined differently in the recently adopted Act on the Polish Ethnicity Card.
- 24 These are: 1) a permit to settle (*zezwoleńie na osiedlenie się*); 2) a long-term resident's EC residence permit (*zezwoleńie na pobyt rezydenta długoterminowego Wspólnot Europejskich*) as defined in the Act on Aliens (arts. 64, 65); and 3) right of permanent residence (*prawo stałego pobytu*) as defined in the Act on the Entry into, Residence in and Exit from the Republic of Poland of Nationals of the European Union Member States and their Family Members (*Journal of Law* 144, 2006, 1043).
- 25 In some cases, the period after which a permanent residence permit may be acquired is longer. For example, for people who have been granted subsidiary protection it is seven years, which means that to be eligible for naturalisation such a person has to wait at least twelve years (art. 64 of the Act on Aliens, *Journal of Law* 128, 2003, 1175).

- 26 Attachment to the Ordinance of the President of the Republic of Poland concerning the procedure in cases of conferment or giving the permit to resign from Polish nationality and specimen certificates and applications, *Journal of Law* 18, 2000, 231.
- 27 The study on positive and negative decisions on applications for Polish nationality in the Warsaw voivodship in 1989-1998 shows that Polish origins may influence a positive decision on nationality (Górny 2001).
- 28 Cf. the resolution of the Highest Administrative Court of 9 November 1998, OPD 4/98, ONSA 1999, book 1, item 6.
- 29 Art. 11 ECN requires that decisions relating to the acquisition, retention, loss, recovery or certification of nationality contain reasons in writing; while art. 12 demands that these decisions be left open to an administrative or judicial review. Poland has signed, but not yet ratified the ECN.
- 30 Judgment of 28 December 1994, V SA 1507/94; see Mincer-Jaśkowska 1996.
- 31 Act on the Polish Ethnicity Card, *Journal of Law* 180, 2007, 1280.
- 32 They had not expressed their will to decline Polish nationality (deprivation on the basis of the Act of 1920) or they were 'forced' to relinquish Polish nationality (deprivation on the basis of the Acts of 1951 and 1962).
- 33 Data from regional departments for 1997 were collected in one ad hoc action. For 2002-2006, we do not have exact data on the acknowledgement and marriage procedures but only on the total for all three procedures. Moreover, we have separate data only for the conferment procedure, but not for the years 2005-2006.
- 34 The database of 1,483 applicants, among whom 1,314 were granted Polish nationality, was compiled on the basis of personal data files.
- 35 The number for 1990 may be slightly underestimated, as files were checked according to the year of application. We started from 1989 and it is likely that somebody applying prior to 1989 and who received Polish nationality in 1990 was not registered in our database.
- 36 By 18 November 2004, 259 applications had been submitted in Argentina.
- 37 Data collected by Agnieszka Weinar in the research project entitled 'New Poles, new Europeans – dual nationality among descendants of Polish emigrants in Argentina'.

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