

## 14 Sweden

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### 14.1 Introduction

The Instrument of Government (*regeringsformen*), which is the fundamental law that lays down the basic principles by which the Swedish State is governed, states in Chapter 8 art. 2 that provisions relating to Swedish citizenship are laid down in law. The provisions are found in the Swedish Citizenship Act (2001: 82). This law, however, gives no information concerning the particular legal effects of national citizenship; these must instead be sought in other parts of Swedish legislation. The Swedish Citizenship Act merely concerns the acquisition and loss of citizenship, as well as procedures.

For a long time the *ius sanguinis* tradition has been predominant in Sweden, however it was expressly stated for the first time in the Citizenship Act of 1894. Since then, nationality reforms have taken place in 1924, 1950 and 2001, and *ius sanguinis* has remained the principal rule, even though the principle of domicile gained importance through the Citizenship Act of 2001. Since 1979, by an amendment to the Citizenship Act of 1950, a child acquires Swedish citizenship at birth if its mother is Swedish. It does not matter if the child is born in Sweden or abroad, or whether it is born in wedlock or not. If the mother is foreign, automatic acquisition is however possible through a Swedish father if the child is born in Sweden or born in wedlock.

Even though many provisions of the Act of 2001 are based on old traditions and are a product of continuous legal development, the act has in several aspects entailed a new attitude and is a consequence of the modernisation of society. The acceptance of dual citizenship and the emphasis on the principle of domicile belong primarily here. Another innovation is that the law is not based on Nordic cooperation. Instead, the law is based on the European Convention on Nationality from 1997.

As to the issue of dual citizenship, Sweden previously had, like many other countries, a negative attitude which was reflected in its national legislation. Sweden has, however, through the Citizenship Act of 2001 changed its attitude to a positive one. Dual citizenship is fully accepted, in every situation. Much of the development in this area is re-

lated to the reduced significance of national citizenship for an individual's status in the state, as Sweden has increasingly been equalising the rights of citizens and foreigners. A Swedish citizen, who is a dual citizen, is practically always considered a Swede, and the fact that the person also has a foreign citizenship is normally ignored when Swedish law is applied.

There are no categories of citizenship, or any quasi-citizenship in Sweden. Every Swede (born a Swede or naturalised, male or female) has the same legal position, and the same rights and duties. This is also the case with expatriates (they have, for example, the right to vote for Parliament). However, a person who has completely lost contact with Sweden, i.e., a person who is born abroad and who has never lived in Sweden or been in Sweden under circumstances that indicate a link with the country, normally loses his or her citizenship according to statutory limitations at the age of 22. The loss also includes his or her children, unless the other parent still holds Swedish citizenship and the child also derives Swedish citizenship from him or her. This is the only way that Swedish citizenship can be lost involuntarily.

Swedish citizenship has, since the late nineteenth century, been dealt with in Nordic cooperation. Sweden has however abandoned this cooperation through the Swedish Citizenship Act of 2001. Nevertheless, Nordic citizens (i.e., citizens from Denmark, Finland, Norway and Iceland) still enjoy benefits compared to people originating from other countries. Apart from facilitated naturalisation, a Nordic citizen can acquire Swedish citizenship by notification. Acquisition of Swedish citizenship by notification is a simplified, formal procedure whereby a person can become a Swedish citizen if he or she satisfies certain legal requirements. A person who meets the legal requirements cannot be denied citizenship. As a consequence of the increased importance of the principle of domicile the possibility of notifications was extended to embrace new groups through the Citizenship Act of 2001. One of the objectives was to encourage the integration of immigrants.

A person who does not fulfil the legal requirements for acquisition by notification has to apply for naturalisation to become a Swedish citizen. Sweden has, for a very long time, had a rather high proportion of acquisition of citizenship among long-term resident immigrants. The barriers for naturalisation are not very high in Sweden compared to many other countries. Instead, the possibilities of applying for naturalisation are rather generous. Since the 1920s, the rules on naturalisation have basically remained unchanged, and amendments made have often weakened the conditions for naturalisation (Sandesjö & Björk 2005: 180). The former requirement that an applicant should have enough means to support him- or herself was, for example, abolished in 1976. The former language requirement was also abolished during the

1970s. Some requirements have however been sharpened, for example the proof of identity requirement and the good conduct requirement.

When the Citizenship Act of 1950 came into force, men and women were already given an equal position under nationality law. Except for the fact that citizenship is acquired at birth if the mother is Swedish but not necessarily if only the father is Swedish, there are no other gender inequalities in any mode of acquisition or loss of citizenship. The possibility to acquire Swedish citizenship through marriage was abolished by the law of 1950, but if an applicant is married to a Swede or living in conditions resembling marriage with a Swede exemptions may be granted from the requirements for naturalisation (in most cases the period of domicile).

## 14.2 Historical development

### 14.2.1 *Early historical developments and the Royal Ordinance of 1858*

During early historical periods, from the Middle Ages to the sixteenth century when the nation-state became an important concept, every person living permanently in Sweden was considered a Swede, whether born in the country or not (Lokrantz Bernitz 2004: 73). Franchise, as well as marriage to a Swedish woman, was enough to prove a true and permanent immigration. From the sixteenth century onwards, the king had, in practice, the right to naturalise foreigners and grant Swedish citizenship, but the differences between citizens and foreigners were not always significant. During the seventeenth and eighteenth centuries, Swedish nationality law began developing. A Swedish citizen was then a person born in the country and whose parents were Swedish, and a person from a foreign country who had his permanent residence in Sweden. From the beginning of the nineteenth century a formal naturalisation of foreigners was demanded.

In 1809, a new Instrument of Government was enacted. It contained some of the first expressions of a modern nation-state in Sweden. Naturalisation was however not clarified, and a new provision, regulating naturalisation of foreign men, was therefore introduced in the Instrument of Government in 1856-57. The provision was specified in a royal ordinance of 1858 on regulations and conditions for foreign men to be registered as a Swedish citizen,<sup>1</sup> and this ordinance was the first true nationality law in Sweden. The scope of the ordinance was however rather limited, as the provisions only dealt with naturalisation of foreign men (Lokrantz Bernitz 2004: 75). Nevertheless, this early ordinance already stated that a person, who applied for naturalisation, had to prove that he was no longer the subject of a foreign state.

Apart from the regulations on naturalisation in the ordinance of 1858, Swedish citizenship was still not codified and other means of acquisition and loss were decided in case law and administrative practice. The case law was however neither integrated nor uniform and the need for codification became more and more obvious, not least because of Sweden's growing international relations. At the end of the nineteenth century and the beginning of the twentieth century Sweden had turned into an emigration country, and between 1850 and 1930 almost 1.2 million people left Sweden to settle in other parts of the world, mostly in North America. It was not until the end of the nineteenth century however that firmer nationality rules were developed. In the 1890s, a Nordic cooperation on nationality developed.

#### 14.2.2 *The Citizenship Act of 1894*

In Sweden, Nordic cooperation resulted in the law of 1894 on the acquisition and loss of (Swedish) citizen's rights.<sup>2</sup> This law was, in principle, a codification of rules already existing in practice. In only two aspects did the law contain new rules; automatic acquisition of citizenship on the grounds of socialisation, and the loss of citizenship for persons who had been domiciled abroad for an extended period, and their possibility to recover citizenship by resuming residence in the country. The royal ordinance of 1858 still applied and contained the provisions on naturalisation.

As mentioned above, the *ius sanguinis* principle was expressly laid down in the Citizenship Act of 1894 for the first time, but the principle had already been generally accepted in customary law for some time. According to sect. 1 of the Act, a child born in wedlock acquired Swedish citizenship by birth through its father. For children born out of wedlock the mother's citizenship was however determinative.

A novelty, introduced by the law of 1894, concerned socialisation-based acquisition of citizenship. Foreigners (men and unmarried women) born and since birth resident in the country, acquired Swedish citizenship automatically at the age of 22, unless the person renounced the citizenship and proved that he or she had a foreign citizenship (sect. 2). If a man acquired citizenship according to this rule, the acquisition also included his wife and children.

The citizenship of a married woman was dependent on her husband's citizenship. A woman who married a Swedish man automatically acquired Swedish citizenship (sect. 3). This also included any child of theirs born before their marriage and who had not reached the age of majority. A Swedish woman who married a foreigner lost her Swedish citizenship, whether or not she acquired her husband's citi-

zenship (sect. 6). The same applied for the couple's unmarried children.

Dual citizenship was not accepted in the law of 1894 and consequently, a Swede who acquired a foreign citizenship lost his Swedish citizenship, no matter where he was resident (sect. 5).

Loss of Swedish citizenship was also stated for men and unmarried women who had been living abroad for ten years (sect. 7). Unless the stay abroad was part of official employment citizenship was lost if the person in question did not make a statement that he or she wished to retain Swedish citizenship. Such a statement had to be renewed every ten years. If a man lost his citizenship according to this provision then the loss also included his wife and children. A person, who had lost his or her Swedish citizenship by residing abroad, could recover it by simply resuming residence in Sweden. It was, however, on condition that the person had not acquired a foreign citizenship in the meantime (sect. 8). The rule was supplemented in 1909 with a provision laying down that a Swede who had become a citizen of a foreign state, with which Sweden had an agreement, would be considered as losing the foreign citizenship upon returning permanently to Sweden. As a consequence, the person recovered his Swedish citizenship. Due to the emigration from Sweden, such agreements had already been concluded with the US (where 97 per cent of the Swedish emigrants settled) in 1869 and with Argentina in 1885 (Lokrantz Bernitz 2004: 155).

#### 14.2.3 *The Citizenship Act of 1924*

In 1924, a new Citizenship Act on the acquisition and loss of Swedish citizenship<sup>3</sup> came into force, and just like the previous Act, it was a product of Nordic cooperation.

Unlike the law of 1894, the title of the new Act included the expression 'citizenship' (the previous law had used the expression 'citizen's rights'), as 'citizenship' was considered as indicating that the legal relationship between the individual and the state not only included rights but also duties.

Contrary to the Act of 1894, the new Citizenship Act contained provisions on naturalisation, and the royal ordinance of 1858 was thus repealed. According to sect. 5, a foreigner who had reached the age of 21, who had been residing in the country for five years, who was known to lead a respectable life and who could support his family, could be naturalised. If the applicant could not prove the loss of his or her foreign citizenship, it was laid down as a condition that such proof should be provided within a certain period of time. Exceptions to the requirements of naturalisation were possible if it was for the benefit of the country, if the person had formerly held Swedish citizenship or if there

were other special reasons for granting citizenship. Exemptions were however neither granted from the good conduct requirement, nor from the support requirement (Fahlbeck, Jägerskiöld & Sundberg 1947: 96).

Apart from the rules on naturalisation the provisions on acquisition laid down in the former Act of 1894 remained basically unchanged. The right to recover Swedish citizenship by resuming residence in the country was however limited to those who had acquired Swedish citizenship by birth, but later lost their citizenship (sect. 4). The re-acquisition was automatic.

The most important novelties in the law of 1924 concerned loss of citizenship. In the previous Citizenship Act, loss of Swedish citizenship due to the acquisition of a foreign nationality had not been dependent on the person's habitual residence. According to the Act of 1924 a person who acquired a foreign citizenship only lost his Swedish citizenship if he took up residence in the other country (sect. 8).

Loss of citizenship for people permanently residing abroad was also fundamentally altered. Instead of losing his or her Swedish citizenship after ten years abroad, as the law of 1894 had provided, a Swedish man or unmarried woman lost Swedish citizenship at the age of 22 if he or she was born abroad and never had been domiciled in Sweden (sect. 9). The loss could however be avoided if permission to retain citizenship was granted. The political reason behind this change of attitude was the fact that a true affinity with the country was now regarded as essential for citizenship, and families living abroad should not be allowed to retain their Swedish citizenship for generations if they had lost every link with the country.

#### 14.2.4 *The Citizenship Act of 1950*

After the Second World War a review of the Nordic countries' nationality laws was considered necessary and the Nordic cooperation was resumed. In Sweden, this resulted in a new law in 1950 on Swedish citizenship.<sup>4</sup> The law of 1950 was based on three major principles: the *ius sanguinis* tradition, the wish to avoid statelessness, and the fact that double citizenship should be avoided (Sandesjö & Björk 2005: 25). The Act resembled the previous nationality laws in many ways, but there were also some major changes. One of the most important changes concerned the position of married women. Before the law of 1950 a married woman had been dependent on her husband, and changes in the husband's nationality also affected his wife. Now married women were given an independent position; if a foreign woman married a Swedish man this had no other effect on her nationality than facilitating her acquisition of Swedish citizenship, and if a Swedish woman married a foreigner she kept her Swedish citizenship.

Concerning the issue of children, the original wording of the Citizenship Act of 1950 did not introduce any major changes, and children born in wedlock still acquired the father's citizenship (sect. 1). It was already noted in the legal history of the Act (*travaux préparatoires*) however that the application of the principle of equal rights of man and woman would imply that a child born in wedlock would acquire Swedish citizenship if the mother was Swedish. As most other countries still upheld the principle of the father's citizenship being determinative, a logical consequence of a change in Sweden would, however, have been a large number of persons holding dual citizenship. As avoiding dual citizenship was one of the main principles of the Act, acquisition through the mother was not introduced at this stage (Bellander 1996: 645). During the following years the issue was discussed upon several occasions, but it was not until 1979 that the law was altered (again in Nordic cooperation). Since 1979, a child acquires Swedish citizenship by birth primarily through its mother, whether it is born in wedlock or not. One of the reasons for finally changing the law was the fact that the former provision had become old-fashioned, as the equality of opportunities between men and women had increased in many different areas (Sandesjö & Björk 1996: 43). Other countries had already altered their nationality laws in this direction. Another reason was that immigration had increased, and many Swedish women married foreign men with the result that their children did not acquire Swedish citizenship.

In 1950, another novelty introduced was the privileged position given to other Nordic citizens. Negotiations between the Nordic countries preceded the law aimed at placing Nordic citizens on an equal footing, as far as possible. Facilitated naturalisation and the possibility of acquiring citizenship through notification were therefore introduced for Nordic citizens (sects. 6 and 10).

As to the issue of naturalisation, the period of required domicile was initially set to seven years (compared to five years in the Act of 1924), but, apart from this, the major principles of naturalisation remained unchanged in the new Act (sect. 6). Over the years the provision was however amended several times, and in 1976 the period of domicile was set to two years for Nordic citizens and five years for other foreigners. At the same time the requirement that an applicant should be able to support him- or herself and his or her family was abolished. The facility to grant exemptions was extended by the Act of 1950 to cover all naturalisation requirements (Sandesjö & Björk 1996: 95).

Other major changes in Swedish nationality law introduced by the Act of 1950 concerned acquisition through notification for people recovering their Swedish citizenship and for persons who had grown up in Sweden. Concerning recovery, the re-acquisition of Swedish citizenship

was no longer automatic. Instead, a notification was required (sect. 4). Recovery was however still limited to people born in the country, and the applicant still had to prove that he or she had lost his or her foreign citizenship. As to those who had grown up in the country acquisition was no longer automatic, instead a notification was required (sect. 3). According to the original wording of the provision, a person born in Sweden, who had reached the age of 21 but not yet 23 and who had been domiciled in Sweden uninterruptedly, had an unconditional right to become a Swedish citizen by notification. In 1969, the period of domicile was reduced, and the former condition that the person had to be born in Sweden was abolished. The amendments were a consequence of the Swedish ratification of the UN Convention on the Reduction of Statelessness. In 1979, a new Section (sect. 2a) on notification was introduced because of new provisions in Swedish family law on custody of children. According to sect. 2a a child, who had not acquired Swedish citizenship by birth or by the marriage of its parents, acquired Swedish citizenship through the father by notification if the father was a Swedish citizen at the time of the child's birth, and had custody or joint custody of the child.

Another amendment to the Act, made in 1972, was also related to changes in family law. In family law, adopted children had been given a status equal to the status of other children whenever kinship was required in Swedish law. To avoid dual citizenship an exception was made, however, regarding citizenship. A new sect. 13a was introduced in the Citizenship Act, stating that only if the father or mother adopted a child of their own then the provisions on acquisition or loss because of the mother's or the father's acquisition or loss would apply to the adoptee.

#### 14.2.5 *The Instrument of Government of 1974*

Like most other democracies, Sweden has a written constitution which sets out the rules for political decision-making. Instead of one document, Sweden has four fundamental laws. One of them is the Instrument of Government (*regeringsformen*) which serves as a basis for how Sweden is ruled. According to Chapter 2 art. 7, no citizen who is domiciled in the realm or who has previously been domiciled in the realm may be deprived of his or her citizenship. The provision aims at protecting both citizens living in the country, as well as citizens who have left the country.

The prohibition was first introduced in the Swedish legal system by the present Instrument of Government which came into force in 1974. The prohibition against denationalisation has however not always been an evident feature of Swedish law. In the preparatory work on the Act

of 1950 a provision was suggested that would have made it possible to deprive naturalised persons who had committed serious crimes, of their citizenship. The suggested regulation did not correspond to any similar provision in earlier Swedish nationality laws. The Act of 1950 was a product of Nordic cooperation, and the suggestion should be read in the light of bad conditions in the other Nordic countries during the Second World War (in which Sweden did not participate). The suggested provision was however never enacted, as the Council of Legislation considered it being in conflict with the Constitution.

The issue of denationalisation has since then been discussed upon several occasions. In 1994, a Committee of Inquiry examined the possibility of introducing a provision to make it possible to withdraw citizenship from persons who had acquired citizenship by giving false information when applying for naturalisation. The committee concluded that even if it be somewhat offensive that the State cannot apply this effective instrument, the disadvantages of using it would have such ramifications that deprivation of citizenship should not be introduced. The main argument against deprivation was the fact that it would create two kinds of citizenship; one that could never be withdrawn, and one that could. This would put people born as Swedes in a better position, and the important principle of the equality of all before the law would not apply. Family related problems, as well as problems connected to the execution of the decisions were also focused on. Instead of introducing a possibility of deprivation of citizenship, in 1999 Parliament codified the requirement that a person applying for naturalisation must provide proof of his or her identity. This requirement had, until then, been part of case law and administrative practice.

Recently, the issue of denaturalisation has been on the agenda again, and a Commission of Inquiry has submitted a report in 2006 that recommends the introduction of denationalisation.

### **14.3 Recent developments and current institutional arrangements**

#### *14.3.1 Main general modes of acquisition and loss of citizenship*

During the fifty years that the Citizenship Act of 1950 was in force, Swedish society changed in substantial ways. The general development placed foreigners domiciled in Sweden on an equal footing with Swedish citizens in a growing number of areas. The principle of domicile thus gained importance, and citizenship correspondingly lost significance. The society also became more and more internationalised, and people lived, worked and studied abroad in a manner that was not predictable in 1950. In 1995, Sweden also joined the EU. Over the years

immigration has increased. In 1950, the number of foreign citizens living in Sweden was about 123,000. In 1997, there were about 522,000. The emigration of Swedish citizens was also substantial. Between 1960 and 1997 the net emigration was about 135,600 persons. Some principles of the Act of 1950 consequently lost importance. A modernisation and adjustment to new circumstances was considered necessary, and a new Citizenship Act came into force on 1 July 2001.

*Ius sanguinis*, as well as the wish to avoid statelessness, have remained main principles of Swedish nationality law. The wish to avoid statelessness remains pertinent, and many provisions in the new Act expressly emphasise the importance of this principle.

Contrary to previous citizenship acts, the Act of 2001, however, fully accepts dual nationality. The reasons previously cited against dual citizenship, such as national security reasons, difficulties with diplomatic protection and problems with military service are today viewed as less significant. There were several reasons for the change of attitude. Apart from the increased importance of the principle of domicile and the internationalisation of Swedish society, the personal advantages were considered very important as people often are truly and genuinely connected to more than one country (Lokrantz Bernitz 2004: 262). Swedish expatriates played an important role in the acceptance of dual citizenship, and had a big influence on the debate preceding the acceptance. In the legal history of the Act, the advantages in practical life of having dual citizenship were also focused on, for example the possibility to visit one's native country without applying for a visa, and the possibility to work and live in both countries without special permission. Keeping the original citizenship was also considered as making it easier for people who were planning to return to their native countries. By enjoying the security and advantages of Swedish citizenship while retaining his or her native citizenship, a person would also, according to the legal history of the Act, feel more at home in Sweden and integrate more quickly into Swedish society. The fact that dual citizenship was already rather common in Sweden due to exemptions granted to the provisions of the Act of 1950, was also an important reason for the new Swedish attitude.

There are three main possibilities for acquiring Swedish citizenship: automatically, by notification, and by application for naturalisation.

Among those who acquire Swedish citizenship automatically are children who acquire citizenship by birth (Citizenship Act, sect. 1). According to the main principle, a child acquires Swedish citizenship by birth if the mother is a Swedish citizen, whether the child is born in Sweden or not. If the mother is an alien, the child can however in some circumstances acquire Swedish citizenship automatically by birth through a Swedish father. As in the Act of 1950, a child acquires Swed-

ish citizenship automatically by birth if the father is a Swedish citizen and married to the child's mother. In the Act of 2001, a new provision, based on *ius soli*, has also been introduced, stating that a child acquires Swedish citizenship automatically by birth if the father is Swedish citizen and the child is born in Sweden. The reason for giving *ius soli* increased importance was Sweden's ratification of the European Convention on Nationality, and also the aim to treat children born out of wedlock equally to those born in wedlock (Sandesjö & Björk 2005: 47). The same rules apply if the father has deceased prior to the birth. If there is a risk that Swedish citizenship might be in doubt, then a declaration may be issued on application (sect. 21). Since 2005, a child born from artificial insemination acquires Swedish citizenship at birth if the child has a foreign mother who is legally registered for partnership or cohabiting with a Swedish woman, and the child was born in Sweden.

Automatic acquisition of the father's Swedish citizenship is also the case when the parents get married after the birth of the child (sect. 4). When a Swedish man marries a woman who is an alien, any child of theirs that was born before their marriage and has not acquired Swedish citizenship by birth becomes a Swedish citizen, if the child is unmarried and under eighteen years of age. Also foundlings discovered in Sweden are automatically considered Swedish citizens until indication to the contrary is discovered (sect. 2). This is, however, not an expression of *ius soli*, but a rule of presumption, as the other rules on acquisition in the Citizenship Act determine the citizenship if the child's origin is discovered.

Some adopted children also acquire Swedish citizenship automatically, namely children adopted in Sweden or in another Nordic country, and children adopted by virtue of a foreign adoption decision approved or otherwise legally valid in Sweden (sect. 3). Automatic acquisition of citizenship for adopted children was first introduced in 1992 by an amendment to the Act of 1950. According to that provision, children adopted in Nordic countries acquired citizenship automatically, while children adopted by virtue of a non-Nordic adoption decision valid in Sweden had to apply for naturalisation (Sandesjö & Björk 2005: 55). In the Act of 2001 this restriction has been abolished.

As mentioned above, the principle of domicile has gained much importance in Sweden, as it is often considered better in the light of the new structures of society than the principle of nationality. Belonging to Swedish society through long-term residence is generally believed to create a strong link between the individual and the state. New provisions, extending the possibilities of foreign children grown up in the country to acquire citizenship by notification were thus introduced through the Act of 2001.

There are four categories that can use the facilitated procedure of notification: children who have not acquired Swedish citizenship automatically, and whose father was Swedish upon the birth of the child, children who have grown up in Sweden and fulfil the residence requirement, persons who reacquire Swedish citizenship, and Nordic citizens.

Regarding children who have not acquired Swedish citizenship automatically, but who have a Swedish father (sect. 5), the procedure of notification supports the intention that a true relationship between the child and the father should exist, as only the father can submit the notification.

As to people who grew up in Sweden, three different groups can take advantage of the procedure of notification: stateless children born in Sweden (sect. 6), other children holding a permanent residence permit and who have been domiciled in Sweden for at least five years (three years if the child is stateless) (sect. 7), and young persons who have reached the age of eighteen but who are not yet twenty (sect. 8). The intention of the provision on stateless children is to fulfil Sweden's international obligations regarding statelessness. The child must be stateless since birth, domiciled in Sweden and hold a permanent residence permit. For stateless children, as well as other children grown up in the country, a notification has to be submitted by the child's guardian. As to young persons aged between eighteen and twenty, notification is possible if the person has a permanent residence permit and has been domiciled in Sweden since the age of thirteen (fifteen if the person is stateless). A political objective is to give young adults the possibility to choose for themselves whether they want to become Swedish citizens upon reaching the age of majority. As concerns recovery of Swedish citizenship by notification (sect. 9), a permanent residence permit is required as well as a certain period of domicile (a total of ten years before reaching the age of eighteen and domicile in Sweden for the preceding two years). As concerns notifications submitted by Nordic citizens (sect. 18), domicile in Sweden for the previous five years is required. The person must also have acquired his or her Nordic citizenship by a means other than application and not have been sentenced to imprisonment during the required period of domicile in Sweden. A person who has lost his or her Swedish citizenship and has thereafter continuously been a citizen of a Nordic country may recover Swedish citizenship by notification if he or she becomes domiciled in Sweden (sect. 19).

When an alien becomes a Swedish citizen by notification, his or her unmarried children who are under the age of eighteen and domiciled in Sweden also acquire Swedish citizenship if the alien has sole custody of the child or joint custody with the other parent and that parent is a Swedish citizen (sect. 10). If the parents become Swedish citizens

at the same time and if they share custody, the child also acquires Swedish citizenship.

Aliens who cannot use the procedure of notification can apply for naturalisation (sect. 11). There are several criteria that the applicant must fulfil. First, the person has to provide proof of his or her identity. This requirement has been tightened up due to the increasing number of aliens arriving in Sweden without identity documents. Second, the applicant must have reached the age of eighteen. The applicant must also have a permanent residence permit and have been residing uninterruptedly in Sweden for the past five years (two years if the person is a Nordic citizen, and four years if the person is stateless or a recognised refugee). There is also a good conduct requirement. Naturalisation of an adult does not automatically include his or her children. Instead it shall, in the decision concerning naturalisation, also be decided whether or not the applicant's unmarried children shall acquire Swedish citizenship (sect. 13).

There are several possibilities for granting exemptions from the requirements for naturalisation mentioned above. According to sect. 12, applicants who have formerly held Swedish citizenship and persons who are married to a Swedish citizen or living in conditions resembling marriage with a Swedish citizen may be naturalised even if they do not meet all requirements. Exceptions can also be made if there are other special reasons for granting Swedish citizenship. There is also the possibility for an applicant who cannot provide proof of identity to become naturalised if he or she has been domiciled in Sweden for at least the previous eight years and can give the authorities reason to believe that the stated identity is correct. The political intention is to afford people the possibility to apply for Swedish citizenship, even if they originate from countries where it is difficult or perhaps impossible to acquire identification documents.

Sweden does not, contrary to many other countries, have any language requirements. Language requirements have never been provided for Swedish citizenship acts, however, in administrative practice knowledge of the Swedish language was required until the late 1970s (Lokrantz Bernitz 2004: 145). The question of reintroducing language requirements has since then been debated upon several occasions and seems to be a sensitive issue. It was for example examined in the report of the Commission of Inquiry and in the Government bill preceding the Citizenship Act of 2001. The reintroduction of language requirements was also a big and highly debated issue in the electoral campaign in the parliamentary election of 2002. The Liberal Party made this proposal to increase the 'Swedishness' of the naturalised Swedes. The main arguments against language requirements have

been concerns about integration and justice as well as the difficulties in determining and documenting levels of knowledge.

As to loss of citizenship, a decision regarding citizenship is viewed in Sweden as being a favourable administrative decision which means that a decision on citizenship can never be annulled. A naturalised Swede is allowed to retain citizenship even if citizenship was acquired, for example, through fraud, through false information or by threat. In case B637/89 the Court of Appeal (*Svea hovrätt*) concluded, in a case concerning narcotics crimes, that a decision on naturalisation regarding a man who had acquired his citizenship through false identity was not a nullity. As already mentioned there is a provision in the Instrument of Government stating that no citizen who is domiciled in Sweden or who has previously been domiciled in Sweden may be deprived of his or her citizenship. Introducing denaturalisation has, however, been suggested in 2006.

As Sweden has now fully accepted dual citizenship, only two possibilities of losing Swedish citizenship remain in the Citizenship Act: loss after statutory limitation and release.

According to sect. 14 in the Citizenship Act a person loses his or her Swedish citizenship automatically after the statutory limitation at the age of 22 if the person was born abroad, has never been domiciled in Sweden and has never been in Sweden under circumstances that indicate a link with the country. People with no ties to Sweden are thus not considered entitled to retaining Swedish citizenship. A person who risks losing his or her citizenship can however apply for permission to retain it, an application that may be turned down by the authorities if the link to Sweden is considered insufficient. The loss of citizenship does not apply if it would result in the person becoming stateless.

Someone who for any reason does not wish to keep his or her Swedish citizenship may be released from it on application (sect. 15). If the person is not already a foreign citizen release shall be conditional on the acquisition of citizenship in another country within a certain period of time.

#### 14.3.1.1 *Political analysis*

Swedish politics is to a high degree based on consensus and negotiations. A large majority in Parliament has often backed major decisions. Since the 1930s, the Social Democratic Party (*Socialdemokraterna*), supported by the trade unions (*LO*), has been the dominating political force in the country.

The parties represented in the Swedish Parliament are divided into two separate political blocks, the ruling socialist/green block and the more market-oriented right-of-centre block (non-socialist block). The left-of-centre block, formed by the Social Democrats, together with the

Left Party (*Vänsterpartiet*) and the Green Party (*Miljöpartiet*), have been in the majority in the Parliament since 1994, when they replaced the right-of-centre government headed by Prime Minister Carl Bildt. Since then, Göran Persson, party leader of the Social Democrats, has been prime minister of Sweden.

The right-of-centre block which forms the opposition is composed of four non-socialist parties. Since the 1980s, it has been dominated by the Swedish conservatives, the Moderate Party (*Moderata Samlingspartiet*). The second largest party in the right-of-centre block is the Liberal Party (*Folkpartiet*), who achieved a strong election result in the last Parliamentary elections in 2002. Two smaller parties, the Centre Party (*Centern*) and the Christian Democrats (*Kristdemokraterna*) also represent non-socialist alternatives.

On matters concerning immigration, there has been an alliance between the Social Democrats and the Moderates, which in practice has been decisive for the Swedish policy in this area. Today however, this alliance seems weaker than before and it can be assumed that the existing order will be challenged in the future.

With the exception of the electoral period between 1991 and 1994, when the New Democracy party (*Ny Demokrati*) was represented in the Parliament, there has not been any party represented in the Swedish Parliament that could be labelled 'populist'. There seems to be a consensus in Sweden that populist parties should be avoided, and any attempt would probably fail to reach the public through the media. In this respect the political landscape in Sweden differs from that of its neighbours, Norway and Denmark. This may be one of the reasons why the issue of immigration is less prominent in the Swedish political debate than in neighbouring countries.

Swedish immigration policy is based on the country's international commitments on refugees. A large proportion of immigration into Sweden consists of family reunification. There are at present very few possibilities for labour-related immigration into Sweden (except for Nordic and EU citizens). This has not however always been the case, as immigration into Sweden during the first decades after the Second World War, like in many other Western European countries, was based on the need for people who could fill up the increasing demand for labour caused by the expansion of Swedish industry. Some of those immigrants arrived in groups organised by the Swedish labour market authorities, but mostly they arrived by themselves. In the public debate there are today strong voices for an increase of labour-related immigration, not least to cope with demographic changes. There are however, at this point in time, no propositions to allow more labour-related immigration though ministers in Government have voiced a need for such a change.

In Sweden there is little difference in practice between a citizen and a foreigner who holds a permanent residence permit. There is, for example, no discrimination as to the right to use social welfare systems. Acquiring citizenship is, at large, often a question on how long a person has been in the country, and there is little added value in becoming a citizen. In many ways it is more a question of practicalities.

One of the few substantial differences between being a Swedish citizen and being a permanent resident in Sweden is, however, the right to vote for Parliament. The general view is that naturalised Swedes vote less frequently than native-born Swedes. This has been a source of concern for a long time as Sweden has one of the highest records of participation in elections in the world. In the public debate there is, however, no or very little discussion on which party potentially 'gains' from immigration, i.e., wins the immigrant's vote.

In Sweden, the politically sensitive issues on immigration are connected to permanent residence and the criteria that should apply for this, and are therefore dealt with on a level prior to the actual question of citizenship and naturalisation. The requirements for naturalisation, for example the proof of identity requirement laid down in the Citizenship Act, however, form an extra barrier. The focus on permanent residence, and the fact that citizenship historically has been a low-key issue in Sweden, is probably the reason why citizenship is not widely debated.

The legal conditions for acquiring a permanent residence permit in Sweden are rather strict. About half the immigration into Sweden is attributed to family reunification. Swedish policy on family reunification is liberal, but only for the immediate family (primarily spouses, cohabitants, and children). For other relatives the regulations on family reunification seldom apply. Family reunification is, however, not directly connected to citizenship, but rather to a permanent residence permit.

Traditionally, the focus of Swedish policy regarding immigrants has been on integration. The intention has not been that the immigrants should cut their ties with their native countries. The Swedish policy is reflected, for example, in the so called 'home language' policy, where children with immigrant parents are encouraged to preserve linguistic ties with their countries of origin by attending publicly funded language courses where the children learn their native language. The Government's immigration policy is therefore two-sided, both helping immigrants to preserve links to their country of origin and at the same time also helping them integrate into Swedish society. Of the two, integration is surely the most predominant issue in the public and political debate.

As to different groups of immigrants, the only group that enjoys a specific position according to Swedish nationality law is other Nordic

citizens. As mentioned above this has been the case for a long time, and the advantageous regulations were transferred to the new Citizenship Act of 2001 without any political opposition or particular debate. Apart from Nordic citizens, other more generally defined groups such as stateless children, have, as already mentioned, been given certain benefits. Another generally defined group, for which a specific regulation applies, comprises those who do not fulfil the good conduct requirement for naturalisation. It is worth noting that this requirement applies mainly to those who have committed crimes during their time in Sweden.

None of the political parties represented in the Swedish Parliament has any outspoken policy concerning either the increase or decrease of the number of naturalisations. A factor like fulfilment of the legal criteria of whether the person in question has a strong enough link to the country, is, however, considered important.

There are today no specific political or social goals regarding naturalisation in Sweden, apart from fulfilling the countries international commitments on refugees. As already mentioned, the political battleground on matters of immigration and nationality is focused on permanent residence, and it is difficult to specify any major political battle lines on either nationality law or citizenship. An exception is the Green Party that can be said to have a more liberal view than the majority in Parliament. The Green Party wants to introduce a new basis for acquisition of citizenship in Sweden based on the birthplace of the child, i.e., a child born in Sweden would automatically qualify for citizenship (*ius soli*). The Green Party supports the current Social Democratic government (however it is not in the coalition), but its own support base is between six to eight per cent of the voters.

Those in the political sphere who are concerned with questions related to nationality law normally focus on the problems relating to integration, whether 'being Swedish' should be more closely related to citizenship and whether the relationship between rights and responsibilities should be more prominent. So far this has not resulted in any major political proposals.

The review of Swedish nationality law that resulted in the new Citizenship Act of 2001 was not provoked by any major political debate, but should merely be seen as a wish to modernise the nationality law and put it in line with the changes that had occurred in Swedish society because of immigration and internationalisation. Practical considerations dominated and the political debate preceding the new legislation was more of a technical nature than a wish to use the nationality law in a wider debate, for example, on the meaning of 'being Swedish'.

All political parties in the Swedish Parliament sponsored the current Citizenship Act and backed the legislative package. The only exception,

which also gave rise to a major debate and political battle, concerned the acceptance of dual citizenship. The Moderate Party did not support the new attitude towards dual citizenship and voted against the new proposal on this particular point. The problems foreseen and the political arguments against dual citizenship concerned the question of how to deal with and protect citizens abroad, especially persons running into trouble in the other country of which he or she is also a citizen. The political majority in Parliament, however, found that the benefits of allowing people to have dual citizenship outweighed the problems and disadvantages. The Moderate Party also argued for a stricter regulation on how to deal with people with a criminal record applying for citizenship. The new Citizenship Act was however adopted without any difficulties.

The new Act was not triggered by external pressure such as, for example, adaptation to international law. The ratification of the European Convention of Nationality however implied some changes to the Swedish attitude towards nationality law. Nor was the new Act provoked by any legal disputes. As Sweden does not have a constitutional court the Act was not blocked by any legal decisions. The reasons for enacting a new Citizenship Act were purely dictated by the need for a modernisation of Swedish nationality law.

Likewise, when, prior to the decision in Parliament on the new Citizenship Act, relevant referral bodies were invited to put forward their comments and suggestions on the proposed law, there was little opposition. The immigrant organisations were on the whole pleased with the proposed amendments. Nor was there any real public debate regarding the new Citizenship Act. This does not, however, mean that the new legislation was enacted by stealth, but rather that the Swedish construction, where focus lies on permanent residence instead of citizenship, leaves little room for debate and consequently little public or political interest in the law governing citizenship. In contrast to many other countries not even the question of naturalised terrorists seems to be of public interest. When, for example, a Swedish citizen of foreign origin was held by the US at the Guantanamo Base accused of terrorism, the general view in Sweden was that the Swedish government should help him. It is generally considered that control should be carried out at an earlier stage, already when the application for naturalisation is evaluated, and the records of the Swedish Security Service are therefore sometimes consulted before approval.

A current political topic is, however, the need for special ceremonies to be arranged for people who have been granted Swedish citizenship. This kind of ceremony has not previously been part of Swedish tradition, but has now been introduced at a municipal level throughout the country, including the City of Stockholm. It has generally been the

right-of-centre parties that proposed the introduction of such ceremonies. The ceremonies can be seen as a political wish to demonstrate the value of citizenship as something stronger and more important than permanent residence.

As citizenship is rarely discussed in Sweden, many Swedes have an unclear view of the concept of citizenship and of the rights that citizenship entails. Many Swedes believe, for example, that being a Swedish citizen entitles the person to welfare-security rights also outside of Sweden. This was, for example, noted on New Year 2005 with respect to the tsunami catastrophe, where the general view was that the Swedish government and other authorities did not fulfil their obligations towards the Swedish citizens involved as they did not come to their rescue in the way that many citizens had expected.

With respect to the abovementioned, a Commission of Inquiry has in 2006 examined future possible amendments to the Citizenship Act. Although the content of the report lies beyond the scope of this study, the work of the commission is worth mentioning, as the need for an evaluation reflects problems with the current legislation. The commission has focused on the question of denaturalisation, an issue that has arisen as the result of murders committed in the name of honour, and officials taking bribes at the Swedish Migration Board (*Migrationsverket*). The murders in the name of honour gave rise to an intense public debate, but this debate has not primarily focused on citizenship issues. The officials taking bribes had granted citizenship to people with a criminal record who would otherwise have failed to qualify for naturalisation. This highlighted the need for an evaluation of whether it should be possible to withdraw citizenship based on incorrect decisions. Such a provision can, however, only be introduced if the Instrument of Government is first amended. The Commission of Inquiry has also examined whether people, who have acquired citizenship by submitting false information about their identity, for example, should be considered as having acquired citizenship on false pretences and therefore risk losing their citizenship. The Commission has suggested an amendment that would make denationalisation possible. The introduction of denationalisation would be something radically new in Swedish nationality law and will surely spark intense debates.

The new Citizenship Act has however achieved its intended effect of modernising the nationality law, and most political parties seem pleased with the result. One of the most important goals was to make it easier to acquire Swedish citizenship for children who grew up in the country and for those who wanted to keep their foreign citizenship. An increase in the number of acquisitions within those groups has been noted. Apart from the aspects that the above-mentioned Commission of Inquiry is dealing with, the general spirit of the Swedish na-

tionality law is not disputed. Most people seem to agree on the fact that the new Citizenship Act fits the reality of Sweden today.

#### 14.3.1.2 *Statistical developments*

The First World War, in combination with immigration restrictions in the US, slowed down the emigration from Sweden that had been going on since the middle of the nineteenth century. Sweden then turned into an immigration country, and since 1930 immigration has annually exceeded emigration, except for a number of years in the 1970s. During the Second World War many refugees from Germany and other Nordic countries immigrated to Sweden. After the war most of them returned to their native countries, but quite a few also remained in Sweden. During the first decades after the war, labour immigrants from other parts of Scandinavia, as well as countries such as Yugoslavia, Greece, Italy and Turkey dominated. In the late 1960s, Parliament decided that immigrants should have their residence permits approved prior to entering the country, and thus immigration became regulated. Permits were only given if the country was considered in need of the particular kind of foreign labour that the person could provide. People from other Nordic countries, who have had the right to reside and work wherever they like within the Nordic area since 1951, were exempted, and Nordic immigration increased. During the 1960s, and the first half of the 1970s about 50,000 Finns and 11,500 Norwegians became Swedish citizens. There was also an increase in immigration from non-Nordic countries because of family unification. During the 1970s the Swedish immigration policy became more restrictive. Foreigners who had their ordinary residence in Sweden were however encouraged to naturalise. The number of naturalisations thus increased during the 1970s as a consequence of the immigration that had taken place during the 1960s. The tendency to naturalise differed, however, between various groups of people. While many refugees from Hungary, Czechoslovakia and Poland naturalised, labour immigrants from Southern Europe were less willing to naturalise (Widgren 1980: 30). In the 1980s, the numbers of asylum seekers from countries like Iraq, Lebanon and Turkey increased, and in the 1990s new zones of conflict, like the collapse of Yugoslavia, brought many people to Sweden. About 100,000 Yugoslavs (mostly Bosnians) found a new home in Sweden. In July 2005, the Swedish population comprised about nine million inhabitants. About half a million of these were foreign citizens. Since 2000 the total number of residence permits granted has been between 45,000 and 50,000 per year.

In 2004, about 50 per cent of the immigrants originated from non-European countries and about 20 per cent from Nordic countries.

**Table 14.1: Swedish Population Statistics 1960-2004**

	1960	1970	1980	1990	2000	2004
<b>Total population</b>	7,497,967	8,081,229	8,317,937	8,590,630	8,882,792	9,011,392
<b>Foreign citizens</b>	190,621	411,280	421,667	483,704	477,312	481,141
<b>Foreign citizens in %</b>	2.5	5.1	5.1	5.6	5.4	5.3
<b>Inhabitants born abroad</b>	299,879	537,585	626,953	790,445	1,003,798	1,100,262
<b>Total number of acquisitions of citizenship</b>	8,452	11,539	20,833	16,770	43,474	28,893
<b>whereof men</b>					21,319	13,307
<b>women</b>					22,155	15,586

Source: Statistics Sweden (*Statistiska centralbyrån, SCB*); [www.scb.se](http://www.scb.se)

About 14,400 Swedish citizens returned to Sweden, and about 20,500 Swedish citizens emigrated.

Concerning the issue of naturalisations, it is difficult to get an accurate figure of the total number of naturalisations per year before the new Citizenship Act came into force in 2001. The reason is that acquisition, according to the previous Citizenship Act of 1950, was often conditional, and the applicant would have to prove within two years that he or she had been released from his or her former nationality. The objective was to avoid dual citizenship. If the applicant fulfilled the condition, he or she became a Swedish citizen on the day that proof was provided, but the examination of the requirements for naturalisation as well as the decision of approval were already completed when the conditional citizenship was approved (Sandesjö & Björk 1996: 118). It is, however, clear that the number of persons acquiring Swedish citizenship has increased over the decades, and between 1960 and 2004 the number increased more than three times. Since 2001, the number of women acquiring Swedish citizenship has exceeded the number of men by between 2,000 and 3,000 per year. The high number of acquisitions in 2002 is explained by the fact that during that year the Swedish Migration Board was given extra means to reduce the waiting time for the examination of applications.

The acceptance of dual citizenship is estimated to have increased the number of acquisitions of citizenship. There has, however, been no political campaign encouraging foreigners to acquire Swedish citizenship, as dual citizenship could involve some major disadvantages for the individual such as problems related to military service. On the contrary, Swedish authorities issue information about the problems that can be caused by having dual citizenship.

**Table 14.2: Naturalisation matters decided and approved naturalisations in Sweden 2001-2004**

	2001	2002	2003	2004
<b>Matters decided<sup>5</sup></b>	23,676	24,852	21,138	17,394
<b>Approved naturalisations (adults)</b>	19,845	21,893	18,032	15,109

Source: Swedish Migration Board (*Migrationsverket*). [www.migrationsverket.se](http://www.migrationsverket.se).

To arrive at the total number of naturalisations (i.e., adults and children) approximately 50 per cent should be added to the figures in Table 14.2. In 2004, the total number of children (0-17 years) acquiring Swedish citizenship was 9,763.

The number of refusals of naturalisation is rather limited. This can partly be explained by the generous Swedish attitude towards naturalisation and also by the possibilities for granting exemptions from the naturalisation requirements. Another explanation could of course be the fee (1,500 Swedish kronor in 2005, which is about 160 euros), which deters people from taking a chance and applying even if they know that they do not fulfil all requirements.

The number of notifications per year has steadily increased since the mid-1990s. The Citizenship Act of 2001 made new groups of persons eligible to submit notifications, and it is very likely that the number of naturalisations within those groups has decreased since 2001. The total number of approved notifications for non-Nordic citizens in 2004 was 1,218. The extended possibilities for notification in the Citizenship Act of 2001 have not, however, increased the number of notifications as much as expected.

As to Nordic citizens, an increase in the number of approved acquisitions of citizenship can be noted in 2003, which can probably be explained by the new Citizenship Act of Finland coming into force accepting dual citizenship. The number of Finns acquiring Swedish citizenship increased from 1,561 in 2002 to 2,816 in 2003. A similar

**Table 14.3: Refusals of naturalisation and reasons for refusal in Sweden 2001-2004**

<i>Reason for refusal</i>	<i>Year</i>			
	2001	2002	2003	2004
Unclear identity	818	791	1,199	658
Period of domicile too short	462	606	481	356
Has not led or cannot be expected to lead a respectable life	907	969	791	683
Other reasons for refusal	4	116	153	193
<b>Total number of refusals</b>	<b>2,291</b>	<b>2,482</b>	<b>2,624</b>	<b>1,890</b>

Source: Swedish Migration Board (*Migrationsverket*). [www.migrationsverket.se](http://www.migrationsverket.se).

increase can be noted for Icelanders. The number of Icelanders acquiring Swedish citizenship increased from 39 in 2002 to 118 in 2003. The total number of Nordic citizens acquiring Swedish citizenship in 2003 was 3,639 (compared to 2,292 in 2002). In 2004, the number of acquisitions of citizenship was 3,681. This includes both naturalisations and notifications.

The number of refused notifications is increasing. One reason might be that the legal requirements are not always known to the applicant. Another reason might be that the fee for submitting notifications is rather low, in 2005 just 175 Swedish kronor (475 for Nordic citizens), and the applicant does not lose much by applying even if he or she knows that all requirements are not fulfilled.

As to the issue of loss of citizenship after a statutory limitation has expired, the loss is automatic, but the person may, as mentioned, apply for permission to retain Swedish citizenship before he or she reaches the age of 22. In 2004 there were 372 such applications and 315 of those were approved. Only two cases were refused. As to the issue of release of citizenship, 105 matters were decided in 2004. 37 of those were immediately approved, whereas 54 matters were approved on condition that the applicant prove, within a year, that he or she had acquired a foreign citizenship.

### 14.3.2 Institutional arrangements

#### 14.3.2.1 The legislative process

Before the Government (*regeringen*) submits a proposal to the Parliament (*riksdagen*), the various alternatives available are examined by an assigned Commission of Inquiry, composed of politicians, experts or officials. The Commission of Inquiry presents its recommendations in a report published in Swedish Government Official Reports (*SOU, Statens offentliga utredningar*). This report is referred to various municipalities, agencies and organisations for consideration. The Government then adopts a position on the recommendation and on the proposals from the referral bodies. Within the Swedish Government, the Ministry of Justice handles matters of nationality.

The Government submits a proposal to the Parliament in the form of a Government bill (*proposition*). Members of Parliament have the right to introduce proposals to the Parliament, based on a Government bill, in the form of a private member's motion (*motion*). A Government bill is normally sent to the Council of legislation (*lagrådet*), which examines whether the proposed law is in conflict with legislation already existing. Characteristic for Sweden is that the legal history, especially reports from Commissions of inquiry and Government bills, have a

great influence on the interpretation of legislation, especially in areas where there have been very few court decisions.

Proposals made by the Government are tabled once in the Chamber and then referred to a committee. The committees are composed of Members of Parliament (proportionally to the size of the parties in the Chamber), and carry out much of the work in Parliament (Strömberg & Lundell 2004: 40). Practically all proposals must be considered by a committee. There are, for the moment, sixteen committees, each responsible for different subjects. The committees shall deliver reports on all matters which have been referred to them, and which have not been withdrawn. A committee report is submitted to the Chamber and normally tabled twice at meetings of the Chamber before settlement. Questions concerning citizenship have been moved from the committee dealing with the labour market (*Arbetsmarknadsutskottet*) to the committee on social insurance (*Socialförsäkringsutskottet*). The change was made for practical reasons, namely to create a more even workload between the committees, however it also coincided with the shift in Swedish immigration policy that occurred when labour-related immigration decreased.

The Swedish Citizenship Act is an ordinary law, which means that amendments, as well as new nationality laws, are decided by Parliament according to the normal procedure laid down in the Instrument of Government. Votes taken in the Parliament constitute a decision if more than half of those voting concur.

The Government is responsible for the implementation of new laws and may adopt provisions relating to the implementation by means of a statutory instrument. The statutory instrument (2001: 218) concerns citizenship.

As mentioned above, there is no such thing as a constitutional court in Sweden. The establishment of a constitutional court has been discussed upon several occasions, but rejected as being an unfamiliar element in Swedish legal culture (Warnling-Nerep, Lagerqvist Veloz Roca & Reichel 2005: 165). There is no possibility of trying the legal applicability of a provision without referring to an actual case. If a court or other public body finds that a provision conflicts with a rule of fundamental law or other superior statute, or finds that a procedure laid down in law has been disregarded in any important respect when the provision was made, the provision may not be applied. The result of the investigation can, however, never be the annulment of a provision, but only a ruling that the provision in question is not applicable in the actual case. Provisions approved by Parliament (laws) or by Government (statutory instruments) shall be waived only if an error is manifest. Such an investigation has never, as far as known, been made in a matter related to citizenship.

#### 14.3.2.2 *The process of implementation*

Matters concerning naturalisation are examined by the Swedish Migration Board (*Migrationsverket*) (Citizenship Act sect. 22). Anyone may apply for naturalisation and if they fulfil the conditions citizenship is normally granted. There is however a certain allowance for discretion in the assessment, though it may not be arbitrary and must be applied in accordance with fixed criteria. Many of the refusals for naturalisation are based on unclear identity. The identification documents required in administrative practice are an original of the applicant's national passport or other original photo identification papers issued by an authority in the applicant's native country. The papers must be of decent quality and not have too simple a format. There must be no doubt that they are genuine and have been properly issued. If an applicant has neither a passport nor identification papers it is nevertheless sufficient if a spouse or an immediate family member, who has become Swedish citizen by proving his or her identity with a national passport or identification paper from his or her native country, verifies the applicant's identity.

The requirement of good conduct has been tightened up over the years. A person who has committed a crime in Sweden can still become a Swedish citizen, but waiting periods have been introduced in administrative practice. The waiting periods serve as guiding principles but individual control and examination is always carried out. If the applicant, for example, has been sentenced to imprisonment for one month, he or she can normally become Swedish citizen no sooner than four years after the crime. If the applicant has been sentenced to imprisonment for one year he or she can become a Swedish citizen no sooner than seven years after the crime. Marks on a person's record, such as unpaid taxes, fines or child support, can also cause an application to be rejected.

As mentioned earlier, exemptions may be granted from the naturalisation requirements. Most frequent in administrative practice are exemptions from the residence requirement (Sandesjö & Björk 2005: 126). For instance, a person can obtain Swedish citizenship after only three years in Sweden if he or she has been the spouse or cohabitant of a Swedish citizen for at least two years. Exemptions from the residence requirement can also be granted for emigrants returning to Sweden, people employed on Swedish ships and people living abroad who have been married to a Swedish citizen for at least ten years and who do not live in their native country. Exemptions are less frequent for the other naturalisation requirements. Exemptions from the age requirement are, however, sometimes granted. A child with either a mother or a father who is a Swedish citizen can, for example, obtain Swedish citizenship independently if the parents submit an application. Exemp-

tions from the requirement of a permanent residence permit are rare. Exemptions could, however, be granted, for example, if a person who has lost his or her Swedish citizenship after statutory limitation has expired applies for naturalisation. Exemptions from the good conduct requirement are normally not granted.

An application for naturalisation is made on a special form and a fee must be paid. Normally the application is then examined within a year. A matter considered being of particular importance requiring guidance regarding the application of the Citizenship Act could, before 2006, be forwarded to the Government for examination (sect. 25) and the Government should then normally consult the Aliens Appeals Board (*Utlänningsnämnden*) before deciding. The Government could also forward the matter to the Board for decision. This section has now been repealed.

The Swedish Migration Board examines matters on notification if they concern people originating from non-Nordic countries (sect. 22). Notifications submitted by citizens of Denmark, Finland, Iceland and Norway are examined by the county administrative board (*länsstyrelsen*) in the county where the person is registered as resident.

Release from citizenship and applications concerning permission to retain citizenship to avoid automatic loss after statutory limitation has expired, are examined by the Swedish Migration Board. In administrative practice, applications for permission to retain citizenship are rarely refused. Normally, applications from the first generation born abroad are granted, while applications from subsequent generations are granted only as long as the ties with Sweden have not been completely severed. Many applications are also approved even though the person in question does not risk losing his or her citizenship after statutory limitation expires. The reason is the wish to avoid confusion as it has turned out that many such applicants do not understand why their applications are not examined.

Normally only the person directly affected by a decision (and his or her legal representative) has the right to appeal. Decisions on notifications were, before an amendment in 2006, appealed to a public administrative court (sect. 26). Leave to appeal was required for appeals to an administrative court of appeal. Decisions made by the Swedish Migration Board in matters concerning naturalisation and loss of citizenship were appealed to the Aliens Appeals Board (sect. 26). In 2004, the Aliens Appeals Board decided in 1,057 appealed matters. 33 per cent of those were approved. On average, the handling of an appeal took 198 days.<sup>6</sup> A decision by the Aliens Appeals Board was final and could not be appealed (sect. 26). Since 2006 decisions on notifications and naturalisations are appealed to special migration courts.

A security matter, i.e., a matter in which the National Police Board has recommended to the Swedish Migration Board that an application should be rejected on grounds concerning the safety of the realm or public safety, is appealed to Government (sect. 27). The National Police Board may also appeal a decision in a security matter if the decision goes against the Board's recommendation.

The institutional order is intended to counteract any divergent implementation and application of the rules. Prohibitions of discrimination and unfavourable treatment because a person belongs to a minority group by reason of race, colour, or ethnic origin, also intend to guarantee a uniform application. To secure a uniform application in practice, the Swedish Migration Board has special meetings every week (or every second week) where application matters and administrative practice are discussed. There are also internal guidelines and manuals. The Swedish Migration Board has however occasionally been accused of subjectivity, and, as mentioned, there have been cases of individual officials granting citizenship after taking bribes.

As to the issue of notifications, the examination leaves no room for discretionary powers. Those who meet the legal requirements have an unconditional right to become citizens and citizenship can consequently not be denied. All requirements have to be met by the date that the application arrives at the Swedish Migration Board or at the county administrative board.

One of the reasons for the lack of case law related to nationality law is the fact that naturalisation has been exempt from judicial review for a long time in Sweden, as the decision by the Aliens Appeals Board was final. Before 2006 it was not possible to refer matters concerning naturalisation to the courts. The only possibility to have a naturalisation case tried in court was if relief for substantive defects (an action of exceptional character) was granted by the Swedish Supreme Administrative Court. There are only a handful of such cases. These cases, however, provide very little guidance as the Supreme Administrative Court has not established any fixed guidelines. The court had a standing locution regarding the right to a judicial appeal of a decision by the Aliens Appeals Board.

As of 31 March 2006 the institutional order has been changed and decisions by the Swedish Migration Board and the county administrative boards are now appealed to special migration courts (located at three different county administrative courts). A decision by a migration court may be appealed to a migration court of appeal. This change has come about despite earlier rejections by Government. However, pressure from immigration organisations and other political parties represented in Parliament brought the change forward. The reason for the amendment has not been criticism of the previous institutional order

regarding citizenship but the fact that the Aliens Appeals Board has ceased to exist as appeals in other matters concerning aliens and immigration were transferred to migration courts. The new institutional order intends to fulfil the principle of legal certainty and legal protection of the individual, as well as making the process more transparent.

#### 14.4 Conclusions

In Sweden there has been an obvious change of attitude regarding the importance of citizenship, and during recent years a weakening of the concept of citizenship has occurred.

In early history, citizenship was not codified and ordinary residence in Sweden was enough to consider a person loyal to the country. Anyone who immigrated permanently became a citizen, and those who emigrated lost their citizenship. In the nineteenth and twentieth century citizenship became strictly regulated, and it was carefully specified who belonged to the Swedish population and who did not. It became more difficult to acquire citizenship for those who were not descended from Swedes and acquisition of citizenship through naturalisation or recovery was periodically restricted. One explanation for this policy might be that Sweden was an emigration country during a substantial part of this period.

Today, with Sweden being an immigration country, there is a more liberal attitude towards citizenship. The intention of the new Swedish Citizenship Act of 2001 was to effectively fulfil the principle of legal certainty and legal protection of the individual. The extension of the possibilities to submit notifications, the rather generous provisions on naturalisation, the acceptance of dual citizenship, and the prohibition against denaturalisation all indicate that Sweden has a generous attitude towards the individual. Acquisition of citizenship is viewed as a part of the integration process, and an aim of the new Act was to strengthen the status of citizenship as a part of integration.

As an example of the generous Swedish attitude towards the individual applicant one may point to the fact that knowledge of the Swedish language is not required. One reason, for instance, is that language requirements are considered unfair, as some groups of people would have trouble learning a new language. According to the legal history of the Citizenship Act of 2001, the Swedish policy in this area is based on the idea that the immigrant has his or her own responsibility to learn the Swedish language, and that the immigrant is expected to do his or her best on the basis of own individual qualifications. Swedish authorities are primarily responsible for organising language courses, and the question of language fluency is therefore the task of the educational

system. All necessary measures are thus taken prior to the question of naturalisation. In the majority of cases, however, a person seeking naturalisation is assumed to have sufficient knowledge of Swedish society and the Swedish language through the requirement of a certain period of residency for naturalisation.

Nor does Sweden require any oath of loyalty to the country. The oath was already abolished in the law of 1924, and today an oath would probably be hard to combine with the objectives for allowing dual citizenship.

An alien's status in Sweden is very similar to that of a Swedish citizen, and to a large extent Swedes and foreigners have the same rights. The development in Sweden as to increasingly giving equal rights to citizens and foreigners reflects a clear change in the view of the core and idea of citizenship. In many contexts the concept of domicile has taken over the role of citizenship. Much of the development in Sweden depends on new international relationships, but also on a revised view of the rights of the individual. The Swedish concept of citizenship may have its background partly in the country's view on its status in the world. Additionally, it may also depend on the good living conditions that the country offers its inhabitants. The absence of war in modern times, the endeavours for equality and considerations of integration are other important factors. A review of provisions in Swedish legislation in which citizenship is required as a qualifying criterion for rights or other legal consequences shows that these provisions are few in number. One of the most important rights reserved for citizens is, as already mentioned, the right to vote in elections for Parliament. In general, however, only a few constitutionally protected rights are reserved for citizens, like, for example, the right to enter the country and the prohibition against deportation. In other legislation citizenship is primarily required for holding important public offices; it can however be maintained that the requirements concerning Swedish citizenship for employment in the public service are considerably fewer than those permissible in EU law. Most other EU Member States have more far-reaching requirements.

Another illustrative example of the Swedish attitude towards citizenship is the fact that Swedish law lacks any definition as to who is a 'citizen'. Nor does the law define the actual concept of 'citizenship'. This can be compared, for example, to the new Finnish Nationality Act from 2003 which expressly defines the concept of citizenship. One can also make a comparison to the United States where in a number of cases the Supreme Court has set out the fundamental central principles and definitions. There are also important decisions of the German Constitutional Court. One explanation for the lack of a definition can be that for a long time the Swedish population was easy to distinguish and ci-

tizenship was viewed as something obvious, and therefore not considered in need of a legal definition. Another basic explanation can be that issues of citizenship have for a long time been exempt from judicial review. One central sub-issue here is naturally the requirements for naturalisation. As already mentioned, judicial review is, however, possible from 2006.

To conclude: citizenship in Sweden is not a big political issue. The parties represented in Parliament more or less agree on the citizenship policy. The generous Swedish attitude towards the individual and the equalising of citizens' and foreigners' rights are therefore likely to continue.

#### Chronological table of major reforms in Swedish nationality law since 1945

Date	Document	Content of change
1 January 1951	Swedish Citizenship Act (1950:382) (lagen (1950:382) om svenskt medborgarskap).	New citizenship act. Swedish Citizenship Act (1924: 130) repeated.
1 January 1951	Ordinance (1950:614) on citizenship (medborgarskapskungörelsen (1950:614)).	Provisions regarding the implementation of the Citizenship Act (1950:382).
1 January 1951	Ordinance (1950:664) on the application of sect. 10 in Swedish Citizenship Act (1950:382) in relation to Denmark and Norway (Kungörelsen 1950:664 angående tillämpningen i förhållande till Danmark och Norge av 10 § lagen den 22 juni 1950 (382) om svenskt medborgarskap).	
1 January 1969	Law 1968:704: Amendment to the Citizenship Act (1950:382).	Facilitated acquisition by notification. 'Domiciled uninterruptedly' for certain periods sufficient; new provisions on ordinary residence for Nordic citizens; certain matters could be forwarded to the Government for decision.
8 February 1969	Ordinance (1969:6) on the application of sect. 10a-c in Swedish Citizenship Act (1950:382) (Kungörelsen om tillämpning av 10 § a-c i lagen den 22 juni 1950 (nr 382) om svenskt medborgarskap)	New ordinance concerning Nordic citizens. Ordinance (1950:664) on the application of sect. 10 in Swedish Citizenship Act (1950:382) in relation to Denmark and Norway repealed.
1 July 1969	Ordinance (1969:235) on citizenship (medborgarskapskungörelsen (1969:235)).	New ordinance regarding the implementation of the Citizenship Act (1950:382). Ordinance (1950:614) on citizenship repealed.
1 January 1972	Law 1971:881: Amendment to the Citizenship Act (1950:382).	Normally no automatic citizenship effects because of adoptive parent's

Date	Document	Content of change
6 March 1974	Law 1974:152: Instrument of Government (Regeringsformen).	acquisition/loss. New fundamental law. Instrument of Government of 1809 repealed.
22 July 1975	Ordinance (1975:608) on the requirement of Swedish citizenship for access to certain offices. (Förordning (1975:608) om krav på svenskt medborgarskap för tillträde till vissa statliga tjänster).	New ordinance.
1 January 1977	Law 1976:871: Amendment to the Instrument of Government.	Prohibition against denationalisation extended to citizens previously domiciled in Sweden.
1 January 1977	Law 1976:469: Amendment to the Citizenship Act (1950:382).	A child born after a divorce acquires the mother's citizenship; automatic acquisition for children whose parents become citizens by notification; requested domicile for naturalisation: two years (Nordic citizens), five years (other aliens); naturalisation requirement concerning support abolished; period of domicile for notification five years for Nordic citizens; changes in parent's citizenship have effects on own adopted children.
1 January 1978	Ordinance (1977:819) on the application of a certain provision in Citizenship Act (1950:382) (förrordningen om tillämpning av viss bestämmelse i lagen (1950:382) om svenskt medborgarskap).	New ordinance concerning sect. 10b on notification for Nordic citizens.
1 July 1979	Law 1979:139: Amendment to the Citizenship Act (1950:382).	Automatic acquisition by birth through mother instead of father; acquisition of citizenship through Swedish father possible by notification; child does not lose citizenship because of parents' marriage; loss because of dual citizenship acquired by birth.
1 January 1985	Law 1984:682: Amendment to the Citizenship Act (1950:382).	Changes primarily related to responsible authorities.
1 July 1991	Law 1991:501: Amendment to the Citizenship Act (1950:382).	Minor changes related to national registration.
1 January 1992	Law 1991:1574: Amendment to the Citizenship Act (1950:382).	Government may grant naturalisation for the benefit of the country; in naturalisation decisions children's acquisition shall be decided on; specification of matters that may be forwarded to the Government; new provisions on

Date	Document	Content of change
		declaration of a person's citizenship; appeal: decisions by Swedish Immigration Board appealed to Aliens Appeals Board; determination of authorities that can demand information from social welfare boards.
1 January 1992	Ordinance 1991:1576: Amendment to the Ordinance (1969:235) on citizenship.	Minor changes.
1 July 1992	Law 1992:392: Amendment to the Citizenship Act (1950:382).	Automatic acquisition on adoption for some children; extended group of adoptee affected by the parents' acquisition/loss.
1 May 1994	Law 1994:143: Amendment to the Citizenship Act (1950:382).	Minor administrative change.
1 April 1995	Law 1995:11: Amendment to the Citizenship Act (1950:382).	Change of institutional order.
1 July 1995	Law 1995:774: Amendment to the Citizenship Act (1950:382).	Good conduct requirement for naturalisation extended to future expectations; most decisions by Aliens Appeals Board may not be appealed.
1 July 1996	Law 1996:633: Ordinance (1975:608) on the requirement of Swedish citizenship for access to certain offices.	Repealed the ordinance.
1 July 1997	Law 1997:195: Amendment to the Citizenship Act (1950:382).	Automatic acquisition on adoption if the adoption decision is valid; parent's acquisition/loss entail citizenship effects if adoption decision is valid.
1 October 1998	Law 1998:321: Amendment to the Citizenship Act (1950:382).	Minor changes regarding the responsible authorities.
1 January 1999	Law 1998:1453: Amendment to the Citizenship Act (1950:382).	Proof of identity requirement for naturalisation codified; exemptions from identity requirement for naturalisation possible after eight years of domicile.
1 July 2000	Law 2000:298: Amendment to the Citizenship Act (1950:382).	Swedish Immigration Board becomes Swedish Migration Board.
1 July 2001	Law 2001:82: Swedish Citizenship Act (2001:82) (Lagen (2001:82) om svenskt medborgarskap).	New citizenship act. Swedish Citizenship Act (1950:382) repealed.
1 July 2001	Ordinance on Citizenship (2001:218) (medborgarskapsförordningen (2001:218)).	Provisions on the implementation of the Citizenship Act of 2001. Ordinance (1969:235) on citizenship repealed. Ordinance (1977:819) on the application of a certain provision in Citizenship Act (1950:382) repealed.

Date	Document	Content of change
1 July 2001	Law 2001:82: Swedish Citizenship Act (1924:130) (lagen den 23 maj 1924 (nr 130) om förvärvande och förlust av svenskt medborgarskap).	Sect. 13 (1) on recovery of citizenship repealed.
1 May 2005	Ordinance (2004:294) with instructions for the Swedish Migration Board (förordningen (2004:294) med instruktion för Migrationsverket).	New Ordinance.
1 July 2005	Law 2005:451: Amendment to the Citizenship Act (2001:82).	Automatic acquisition for some children born after insemination introduced; possibility to notification introduced for some children born after insemination
31 March 2006	Law (2005: 722): Amendment to the Citizenship Act (2001: 82).	New institutional orders appeal to special migration courts.

## Notes

- 1 Kungl. förordning den 27 februari 1858 (nr 13) angående ordningen och villkoren för utländsk mans upptagande till svensk medborgare.
- 2 *Lag den 1 oktober 1894 (nr 71) om förvärvande och förlust av medborgarrätt.*
- 3 *Lag den 23 maj 1924 (nr 130) om förvärvande och förlust av svenskt medborgarskap.*
- 4 *Lagen (1950:382) om svenskt medborgarskap.*
- 5 An authority can decide on a matter by approving or rejecting it, but it can also refuse the matter if there are formal mistakes, remove it if the applicant withdraws the application, or transfer it if the applicant has turned to the wrong authority.
- 6 Alien Appeals Board (*Utlänningsnämnden*); statistics: [www.un.se](http://www.un.se).

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