UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

UNHCR Comments on the "Bill for Partial Amendments of the Civil Code and Other Laws" submitted to the 210th Diet Session on 14 October 2022 with Regard to the Part Concerning Amendments to Article 3 of the Nationality Act of Japan

United Nations High Commissioner for Refugees (UNHCR)

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I. Introduction

1. Today, at least 4.3 million people around the world are known[1] to be stateless or of undetermined nationality, while the actual number is estimated to be much larger. They are often unable to have an identity document, go to school, see a doctor, be employed, open a bank account, purchase a house, or even get married. As they may not have a legal residency in any country, many stateless people do not have freedom of movement and may face detention. They can experience lifetime of obstacles.
2. The Office of the United Nations High Commissioner for Refugees (UNHCR) is the Agency entrusted by the United Nations General Assembly[2] with a global mandate to identify, prevent and reduce statelessness and provide

[1] The actual number is likely much higher. UNHCR, "Global Trends 2021" (June 2022) p.42 (available from https://www.unhcr.org/62a9d1494/global-trends-report-2021)
[2] UNHCR's mandate concerning statelessness was initially limited to stateless persons who were refugees as set out in paragraph 6 (A) (II) of the UNHCR Statute and Article 1 (A) (2) of the 1951 Convention relating to the Status of Refugees. To undertake the functions foreseen by Articles

protection to stateless persons. The General Assembly has specifically requested UNHCR "to provide technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested States."[3] Thus, UNHCR has a direct interest in the national laws and regulations of countries impacting on the prevention or reduction of statelessness, including in the implementation of safeguards contained in international human rights treaties. UNHCR has been undertaking the #IBelong campaign to seek for ending statelessness in the ten years preceding 2024, a campaign welcomed by the UN General Assembly,[4] supported by the Global Compact on Refugees (GCR)[5] and the Global Compact on Migration (GCM)[6] that Japan endorsed and contributes to the achievements of Sustainable Development Goals (SDGs) that Japan is committed to in particular the Goal 16.9 on the right to legal identity. UNHCR is grateful for the willingness expressed by the Government of Japan (GoJ) to support UNHCR's engagement to eliminate statelessness.[7] While Japan is not a party to the two international Conventions dedicated to address statelessness i.e. the 1954 Convention relating to the Status of Stateless Persons (the 1954 Convention) and the 1961 Convention on the Reduction of Statelessness (the 1961 Convention), Japan is currently following up on the recommendations made by UN Human Rights mechanisms to consider its accession to the both Conventions.[8]

3. UNHCR welcomes GoJ's ongoing efforts to end the situation of *mukosekisha* (persons of Japanese nationality not registered on family registers),[9] which contributes to its #IBelong campaign to end statelessness. In particular, it helps to implement Action 8 (Issue nationality documentation to those with entitlement to it) of 10 Global Actions called for in the campaign. UNHCR in general terms welcomes the object and purpose of the "Bill for Partial

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11 and 20 of the 1961 Convention on the Reduction of Statelessness, UNHCR's mandate was expanded to cover persons claiming the benefit of that Convention by General Assembly Resolutions 3274 (XXIX) of 1974 and 31/36 of 1976. The Office was entrusted with responsibilities for stateless persons generally under UNHCR Executive Committee Conclusion 78, which was endorsed by the General Assembly in Resolution 50/152 of 1995. Subsequently, in Resolution 61/137 of 2006, the General Assembly endorsed Executive Committee Conclusion 106 which sets out four broad areas of responsibility for UNHCR: the identification, prevention and reduction of statelessness and the protection of stateless persons.

[3] UNHCR Standing Committee, "Note on UNHCR and Statelessness Activities", EC/47/SC/CRP.31, 30 May 1997.

[4] UN General Assembly, Resolution No. A/RES/70/135, 17 December 2015, para. 12 (see https://www.unhcr.org/ibelong/).

[5] United Nations, "Report of the United Nations High Commissioner for Refugees - Part II: Global compact on refugees", Sections 2.8 and 2.9, 17 December 2018 (available from: https://www.unhcr.org/gcr/GCR_English.pdf).

[6] United Nations, "The Global Compact for Safe, Orderly and Regular Migration (GCM)", 19 December 2018, para. 20 (e) (available from: https://www.iom.int/global-compact-migration).

[7] See, for example, the statement by Ambassador Ken Okaniwa of the Permanent Mission of Japan in Geneva at the High-Level Segment on Statelessness during the 70th session of the UNHCR Executive Committee (7-11 October 2019) https://www.unhcr.org/5d9ee4d57.pdf: "*Japan welcomes UNHCR's work to address the statelessness issue. An issue of great concern to us all. Such people are in vulnerable situations and require assistance. As a major donor, Japan supports UNHCR's engagement both to eliminate statelessness and to provide assistance to the vulnerable*."

[8] The number of the parties to the Convention on the Reduction of Statelessness has rapidly increased from 33 in 2010 to 78 as of 28 April 2022. In the context of the Universal Periodic Review of the UN Human Rights Council, Japan expressed its positive attitude to the consideration of accession to the Convention by stating "Accept to follow up" the relevant recommendation. See A/HRC/37/15/Add.1 (1 March 2018), p.3, 161.28 (Recommendation concerning the ratification of the two conventions on statelessness).

[9] While not a legal term and therefore the official definition does not exist, "*mukosekisha*" generally refer to persons who fulfill (or who are highly likely to fulfill) the legal requirements to acquire Japanese nationality under the Nationality Act who nevertheless are not registered on any family registers (koseki), a strong evidence of Japanese nationality. While the causes for the lack of family registers vary, the most common cause is related to Article 772 of the Civil Code providing for the presumption of paternity (presuming that for children born within 300 days of divorce, the previous legal husbands of the mothers are presumed to be legal fathers), which among other things deter women in certain situations from registering the birth of their children of other males. Apart from the currently ongoing legislative efforts revolving around the amendment to Article 772 of the Civil Code, GoJ has taken various measures to reduce mukoseki such as by providing enhanced counselling and facilitation of legal assistance, and has enabled under some conditions mukosekisha to register as residents with local municipalities to facilitate the provision of administrative services, and in some cases acquire passports.

Amendments of the Civil Code and Other Laws" (submitted on 14 October 2022 to the 210th Extraordinary Diet Session [hereinafter "the Bill"]) that contains different measures in order to reduce *mukosekisha* and to protect the best interests of the child. Meanwhile, with regard to the part of the Bill proposing the amendment to the Nationality Act to introduce an exception to the application of its Article 3, some matters of interest seem to exist in the light of UNHCR's mandate to prevent statelessness. It is in this context that UNHCR offers these Comments in particular by referring to Japan's obligations under the international human rights law offering some concrete proposals.

II. Observations on the current proposals in the Bill

4. The Bill[10] at p.8 states that as part of the amendment to the Civil Code, Article 786 will be amended as follows:

"*(Actions for Annulment of Recognition of Parentage) Article 786 (1) Any person who falls under any of the following items may bring a legal action to annul parentage, only within seven years of the date stipulated respectively in the following items (in a case where the parentage was recognised for an unborn child, when the child was born) for the reason of the existence of facts contrary to the parentage recognition. However, for the person who falls under item 3, if it is obvious that her assertion of annulment of recognition of parentage prejudices the interests of the child, this does not apply.*

i) For the child or his/her legal representative, when he/she came to know of the parentage recognition;

ii) For the person who had recognized the parentage, when the recognition was made;

iii) For the child's mother, when she came to know the parentage recognition."

On the other hand, on p.11 of the Bill it is proposed that: the following rule is to be added to the Article 3 of the Nationality Act[11] concerning acquisition of nationality by children whose parentage is recognized:

"The preceding two sections shall not apply when there are facts contrary to the parentage recognition."

(Quotations are indicated in italics; underlines added by UNHCR. The same applies to below).

5. Looking at the materials produced in the process of drafting the *Draft Outline*[12] based on which the Bill was drafted, the document submitted to the 19th meeting of the Working Group on the Civil Code (Law of Parentage) of the Legislative Council (held on 7 September 2021), entitled "Reference Material 19: Consideration of Individual Points at Issue (3)" ("IV. Review of the Effect of a Parentage Recognition against Facts: 3. Further Consideration: (2) Provisions on the effect of annulment of an parentage recognition with regard to the acquisition of nationality, etc.: (b) Specific procedural steps of the provisions of the main text (1) and (2))[13] states on p.48 as follows:

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[10] Law to Amend the Civil Code and Other Laws" submitted on 14 October 2022 to the 210th Diet Session <https://www.moj.go.jp/content/001382152.pdf>

[11] Article 3 of the Nationality Act which relates to children born out of wedlock currently provides for the acquisition of nationality by children for whom parentage is acknowledged at paragraph (1) stating: *"In cases where a child acknowledged by the father or mother is under twenty years of age (excluding a child who was once a Japanese citizen) and the acknowledging father or mother was a Japanese citizen at the time of the birth of the child, Japanese nationality may be acquired through notification to the Minister of Justice if that father or mother is currently a Japanese citizen or was so at the time of death."* Its paragraph (2) states: *"The person making notification under the preceding paragraph will acquire Japanese nationality at the time of the notification."*

[12] *Draft Outline of Amendments to the Civil Code (Law of Parentage)*, 1 February 2022 (available from: https://www.moj.go.jp/shingi1/shingi04900001_00120.html in Japanese).

[13] The 19th meeting of the Working Group on the Civil Code (Law of Parentage) of the Legislative Council (held on 7 September 2021), "Reference Material 19: Consideration of Individual Points at Issue (3)" (available from: https://www.moj.go.jp/content/001355408.pdf?fbclid=IwAR2w5A9C7DBLDymOs_qIhU-EVE9d07-qSt3iUDUV6dUYb4DfgExVoptR7wo in Japanese).

"*(…) (iii) Suppose, after a parentage recognition that is contrary to truth was undertaken, and notification for the acquisition of nationality was submitted and accepted and the child was entered on the family register as a Japanese national. If it is found, as a result of a criminal case, etc., that the parentage recognition was contrary to truth* (**Note:** After the lapse of limitation period during which annulment of parentage recognition can be legally asserted)*, the acquisition of nationality is to be found null and void retrospectively, since the premise - in relation to nationality acquisition - is that the given parentage recognition is invalid (…); the mayor of the relevant municipality is to remove the entry of the child in the family register with the permission of the head of the relevant Legal Affairs Bureau* (**Note**: Regional bureaus of the Civil Affairs Bureau, Ministry of Justice)*. (Nevertheless, since annulment of a parentage recognition can no longer be undertaken under private law, the entry of the parentage recognition in the personal particulars of the family register of the person who had recognized the child will not be deleted.* "

Moreover, it is stated on p.49 ("(c) Effect of the provision of the main text on the personal status of the child") that:

"*(…) Concerning the personal status of the child with regard to the acquisition of nationality, in the case (iii) referred to above, the notification of nationality acquisition by the child is to be treated as null and void from the outset when it is found ex post facto that the parentage recognition had been done against true. In such a situation, which is similar to such cases involving renouncement of nationality by a child of a Japanese national, it is treated that the child has not acquired nationality from the outset, while the rights and duties resulting from the parentage recognition under private law remain effective. It may not be considered that the child's personal status would be unjustly made unstable by such treatment (…)*".

6. On the basis of the above, UNHCR understands that the proposal in the Bill to insert a rule in Article 3 of the Nationality Act that it *"shall not apply when there are facts contrary to the parentage recognition"* would intend not only to prevent one from acquiring Japanese nationality at the time of notification of nationality acquisition - but also to retrospectively treat null and void the nationality that had already been acquired and a person has been living with. This means that when facts contrary to parentage recognition were discovered after the acquisition of nationality, the person will be treated as never to have been a national; that there is no limitation period for asserting the existence of opposing facts. While it is inferred that in practice it is the usual flow that criminal judgments in criminal litigation in which it was found that the notification of parentage recognition had been false would be preceding the deletion of a family register, UNHCR understands it is still legally possible for the Legal Affairs Bureau to remove the entry of the person concerned from the family register *ex officio* after its internal investigation even in the absence of such criminal judgements or civil judgements as a result of civil litigation declaring absence of a parent-child relationship or making a parentage recognition null and void. It is also understood that the new rule will be applicable also to those cases who had no knowledge of the lack of biological parentage at the time of acknowledging parentage. Notably, there is no exception even if the annulment of nationality would result in statelessness (including cases where the person concerned would have been stateless from the outset, if he or she had not acquired Japanese nationality based on Article 3 of the Nationality Act). On the one hand, with regard to the **Civil Code,** amendments are being considered with a view to restricting annulment of parentage recognition and stabilize the civil status of the child thereby protecting the best interests of the child by introducing provisions which make it impossible to make legal parentage null and void even if there is no biological parentage, including

through the establishment of a limitation period (i.e. seven years), and this is a highly positive amendment. On the other hand - with regard to the **Nationality Act,** it appears in contrast that an amendment is to be made to the Act to explicitly provide that the acquisition of nationality would be made null and void retrospectively, without any exceptions including in cases where it would result in statelessness, and regardless of the number of years – whether 5 years or 50 years – that has elapsed in one's life at the time when it is found that there is no biological parentage. UNHCR understands that as the Civil Affairs Bureau's finding that the Japanese nationality is null and void is not formulated to constitute an "administrative disposition," the person concerned would not be able to benefit from due process provisions under the Administrative Procedures Act, and appeal the finding to an administrative body under the Administrative Appeal Act, or to file a lawsuit with a judicial body to directly dispute the relevant disposition under and the Administrative Case Litigation Act.[14]

7. As far as UNHCR is aware, statelessness is likely to occur when the acquisition of nationality is found to be null and void primarily in the following scenarios, albeit these may be rather exceptional cases: (1) where the mother is stateless; (2) where the mother is unknown (including cases where the mother has gone missing or passed away after the child acquired the nationality of Japan and where her identity cannot be authentically established with the available evidence); or (3) where the mother is a foreigner and cannot pass on her nationality to the child (such as because her country of nationality strictly applies the principles of *jus soli* or paternal *jus sanguinis*), provided that the child does not acquire another nationality through the recognition of paternity by another man.
8. On the hypothesis that the Nationality Act would be amended as has been mentioned above, it may be worth to consider as preparatory observations the remedies for the statelessness caused by the above-mentioned annulment that may possibly be envisioned within the current legal framework,. In the cases of scenario (1) and (2), it is assumed that, if the person concerned was born in Japan, his or her Japanese nationality may be confirmed once again retroactively to the time of birth in accordance with Article 2 (iii) of the Nationality Act, which provides that a person is a Japanese citizen *"if born in Japan and both of the parents are unknown or are without nationality."* Theoretically, the situation of being temporarily stateless would be resolved retrospectively through this process. Even in that case, however, it would be important that each of the three relevant legal requirements under Article 2(iii) i.e. "if born in Japan", "both of the parents are unknown"[15] and "[both of the parents] are without nationality"[16] are interpreted and applied in a full and inclusive manner so that no case of statelessness is left

[14] Note that it appears possible however that a lawsuit to confirm one's possession of Japanese nationality and so on can still be filed without the finding constituting an administrative disposition.

[15] With regard to the meaning of the term "unknown" in "both of the parents are unknown", see, for example, the Supreme Court judgment of 27 January 1995 (*Minshu* Vol. 9-1, p.56, in Japanese, on "the case of Andrew"). The judgment found that "the requirement under Article 2(iii) of the law (Note: Nationality Act) that 'both of the parents are unknown' should be considered to be satisfied *even if there is a high possibility that a certain individual is the child's father or mother, which is nevertheless not sufficiently high to definitively identify [tokutei] the father or mother."* This is because it will otherwise run counter to the object and purpose of the legislation, which is the prevention of statelessness, since it is impossible to determine the nationality of the child on the basis of the nationality of his/her father or mother when the latter has not been "definitively identified." On the interpretation of such terms as "if born in Japan" and "both of the parents are unknown", including legal precedents as well as scholarly theories, see, for example, Shoichi Kidana, *Commentaries to the Nationality Act – Identification of Issues and Annotations of Articles*, Nihon Kajo Shuppan (2021), in particular "Article 2 (iii) Acquisition of nationality through *jus soli* (sub-paragraph iii)" (in Japanese); and Mai Kaneko-Iwase, *Nationality of Foundlings - Avoiding Statelessness Among Children of Unknown Parents Under International Nationality Law* -（Springer 2021). Paras. 57-61 of UNHCR, *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness* (2012) are also relevant.

[16] A person who is "without nationality" is, in other words, "a stateless person". Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons ("1954 Convention") establishes the definition of the term as "*a person who is not considered as a national by any State under*

behind. In addition, UNHCR considers that it may take time depending on what kind of procedures are followed for the re-confirmation of nationality. For example, it is possible that a person whose nationality has been annulled is treated as a foreigner (possibly without legal residency status in Japan) and would be required to apply to the family court for the registration in the family register (exclusively for the person concerned) in accordance with Article 2 (iii) of the Japanese Nationality Act, in order to re-confirm their Japanese nationality retroactively at the time of birth. Specific circumstances of the case may further delay the process (e.g. cases where it takes time to assess whether or not the identity of the mother is "unknown"). Different kinds of difficulties may occur when it takes time to reconfirm or acquire Japanese nationality, as the person may become subject to a deportation procedure as a foreigner, and especially if the person concerned has not been granted legal status of residence, including the possibility of destitution due to lack of the right to work and other forms of livelihood. In the cases of scenario (3) in the preceding paragraph of this document, while naturalization may be facilitated in accordance with Article 8 (iv) of the Nationality Act,[17] it may possibly be difficult to obtain Japanese nationality because the requirement that "*a person who (...) continuously has a domicile in Japan for three years or more"* is currently interpreted as implying "lawful stay" with legal status of residence, and because naturalization is based on the discretion of the Minister of Justice. It may simply take time to acquire Japanese nationality by naturalization, which can lead to the same difficulties as in the scenarios (1) and (2). If remedies under Article 8 (iv) of the Nationality Act are being envisaged, it would be important to clarify whether or not the period during which the person concerned had been treated as a Japanese national prior to the annulment of nationality and during which he/she has been thereafter treated as a foreigner is counted as the period of "lawful stay." In any case, rather than trying to resolve statelessness after it arises as a result of the annulment of nationality – which gives rise to the risks of predicament stated above – it would be prudent not to cause statelessness as a result of nullification of nationality from the outset.

9. On the assumption that amendments to the Nationality Act will be proposed in the manner as per UNHCR's current understanding as described above, the following paragraphs will summarize, in a non-exhaustive manner, the relevant international legal standards based on Japan's obligations under the international human rights treaties that Japan is a party to and other relevant international norms.

III. Relevant international standards (non-exhaustive)

the operation of its law", which is considered by the International Law Commission as part of "customary international law" and is binding on non-State parties including Japan. ILC, 'Draft Article on Diplomatic Protection with Commentaries' (2006), p.36. Moreover, it is important to interpret the definition in an inclusive manner, taking into consideration the international standards, including the guidance indicated in UNHCR, *Handbook on Protection of Stateless Persons* (2014). Refer to, in particular, para. 37 of the Handbook: "*Where the competent authorities treat an individual as a non-national even though he or she would appear to meet the criteria for automatic acquisition of nationality under the operation of a country's laws, it is their position rather than the letter of the law that is determinative in concluding that a State does not consider such an individual as a national*". Concerning the relevance of the Handbook and other UNHCR guidelines when interpreting the Japanese Nationality Act, see also, for example, Kidana, Shoichi, *Commentaries to the Nationality Act – Identification of Issues and Annotations of Articles*, Nihon Kajo Shuppan (2021), p.40.

[17] Article 8 of the Nationality Act provides that "*The Minister of Justice may permit naturalization of a foreign national who falls under one of the following items even if that person has not met the conditions listed in Article 5, paragraph (1), item (i), item (ii) and item (iv)*", which includes "*a person who was born in Japan but has never had any nationality since the time of birth, and continuously has a domicile in Japan for three years or more since that time*" (Article 8 (iv)).

i. The prevention of statelessness and the prohibition of arbitrary deprivation of nationality as part of the fundamental principles of international law

10. While questions of nationality in principle fall within the domestic jurisdiction of each State, States are required to honour their obligations to other States as governed by the rules of international law. In its Advisory Opinion on the Tunis and Morocco Nationality Decrees of 1923, the Permanent Court of International Justice stated that:

> *"The question whether a certain matter is or is not solely within the domestic jurisdiction of a State is an essentially relative question; it depends on the development of international relations."* [18]

This approach was reiterated in the 1930 Hague Convention on Certain Questions relating to the Conflict of Nationality Laws (1930 Hague Convention), which Japan signed but has not ratified or acceded to, whose Article 1 of the Convention states that:

> *"It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality."*

In other words, how a State exercises its right to determine its citizens should conform to the relevant provisions in international law.

Article 15 of the Universal Declaration of Human Rights (UDHR) provides for the right to nationality and prohibits arbitrary deprivation of nationality by stating that "*Everyone has the right to a nationality*" (paragraph 1) and that "*No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality*" (paragraph 2). As stated in paragraph 85 of the UNHCR's Guidelines on Statelessness No. 5 ("UNHCR Guidelines No. 5"): Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness (the 1961 Convention):[19]

> "*There is a strong international consensus that the right to a nationality* [guaranteed under Article 15 of the UDHR] *and, relatedly, the prohibition of arbitrary deprivation of nationality are fundamental principles of international law*".

For example, para. 16 of the UN General Assembly Resolution 50/152 of 1996 calls upon States "*to adopt* nationality *legislation with a view to reducing statelessness, consistent with the fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality* (...)". Some assert that the prohibition of arbitrary deprivation of nationality and the related principle of prevention of statelessness have crystallized as norms of customary international law.[20] As will be mentioned below, Article 7 and Article 8 of the Convention on the Rights of the Child (CRC) and Article 24 of the International Covenant on Civil and Political Rights (ICCPR), both of which contracted by Japan, also protect the right of the child to nationality, among other

[18] Permanent Court of International Justice, *Advisory Opinion No. 4, Nationality Decrees Issued in Tunis and Morocco*, 1923, PCIJ Series B, No. 4, p. 24.
[19] UNHCR, "Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness", HCR/GS/20/05, May 2020 (available from: https://www.refworld.org/docid/5ec5640c4.html).

[20] UNHCR, "Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality", ("Tunis Conclusions"), March 2014, para. 2 (available from: https://www.refworld.org/docid/533a754b4.html).

international human rights instruments.[21] A series of Human Rights Council Resolutions also reaffirm that the right to nationality is a "fundamental human right."[22] The principle that States must enact nationality laws to avoid statelessness and arbitrary nationality deprivation is reflected, for example, in Article 4 (Principles) of the European Convention on Nationality (ECN) adopted by the Committee of Ministers of the Council of Europe in 1997, which states that:

> "*The rules on nationality of each State Party shall be based on the following principles*" and identifies four principles, including: a "*everyone has the right to a nationality*"; b "*statelessness shall be avoided*"; and c "*no one shall be arbitrarily deprived of his or her nationality*".[23]

11. Although the UNHCR Guidelines No. 5 specifically focus on Articles 5-9 of the 1961 Convention, Japan is currently considering to accede to the Convention as mentioned above; and the guidance therein and the related international standards are relevant also for all States which are not parties to the Convention, including Japan. In this regard, paragraph 3 of the UNHCR Guidelines No. 5 states:

> "*While not all States are party to the 1961 Convention, all States have obligations concerning loss and deprivation of nationality pursuant to the prohibition of arbitrary deprivation of nationality. All States also have certain relevant international human rights law obligations"* and paragraph 84 states *"[t]he guidance in this Part* [Part III] *of these Guidelines is also relevant to States not party to the 1961 Convention insofar as it concerns international law and good practices generally*" and paragraph 92 further states: *"As a matter of good practice, domestic legislation on withdrawal of nationality should, at a minimum, have safeguards equivalent to those found in the 1961 Convention."*

12. In terms of the States' actions covered by the norm of prohibition of arbitrary deprivation of nationality, Paragraph 9 of the UNHCR Guidelines No. 5 states that:

> "*[T]he prohibition of arbitrary deprivation of nationality encompasses both loss and deprivation of nationality(…). The prohibition of arbitrary deprivation of nationality also covers situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual (or group) as a national (or nationals)(…)*."

Based on the above, annulment of nationality or not treating a person as no longer a national can be considered "deprivation" of nationality. In the amendment to Article 3 of the Nationality Act currently envisaged, it is understood that the person concerned would be treated to have never been a Japanese national from the outset since the biological parentage with a Japanese national never existed. It should however be noted that he/she will experience it as "loss" of nationality, since GoJ will have treated the person as being a national until the time that it ascertains that the nationality was not duly acquired; and the effect on the affected person tends to become more serious according to the period during which he/she has been treated as a Japanese national after the parentage

[21] Among the treaties that Japan is a Party to, there are Article 18 of the Convention on the Rights of Persons with Disabilities (CRPD), Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and Article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are relevant.

[22] UN Human Rights Council Resolutions 2005/45 of 2005, 7/10 of 2008, 10/13 of 2009, 13/2 of 2010, 20/5 of 2012, 26/14 of 2014 and 32/5 of 2016. See also Human Rights Council, Impact of the arbitrary deprivation of nationality on the enjoyment of the rights of children concerned, and existing laws and practices on accessibility for children to acquire nationality, inter alia, of the country in which they are born, if they would otherwise be stateless: Report of the Secretary General, 16 December 2015, A/HRC/31/29, para. 3.

[23] European Convention on Nationality, Article 4, a-c. Article 4 d provides that marriage and the dissolution of a marriage as well as the change of nationality by one of the spouses shall not automatically lead to change of nationality.

recognition. Whenever a final administrative act is reopened with a view to its possible invalidation, the general principles of legal certainty and protection of legitimate expectations, or "acquired rights", need to be reconciled with requirements stemming from the principle of legality. In particular, when the loss or deprivation of nationality involves adults, it is pertinent to consider the implications over different rights such as those arising from the right to vote, right to be elected and right to hold public office and so on that have already been exercised, as well as the nationality acquired based on descent by the offspring of the person whose nationality is being withdrawn.

In addition to taking the measures to prevent statelessness and so on as discussed below, in order to ensure the application of the norms and measures to prevent arbitrary deprivation of nationality (as elaborated in paragraphs 14-16 below), it would be best if Japan re-formulates the proposal contained in the Bill to retroactively treat the person as never having been a national, as an administrative disposition to withdraw the person of nationality.

13. The UNHCR Guidelines No. 5 states that the minimum content of the prohibition of arbitrary deprivation of nationality is that withdrawal of nationality: i) conforms to what is prescribed by law; ii) be proportionate to, and the least intrusive means of, achieving a legitimate purpose; and iii) follow a due process (including the right to appeal the first instance decision). The paragraphs 92-108 of the Guidelines encourage States to adopt measures according to these three principles to avoid the situation where loss or deprivation of their nationality generally constitutes "arbitrary deprivation of nationality," regardless of whether the person concerned has a single or multiple nationalities: For example, paragraph 97 states:

> *"(…)it is necessary for States to implement procedural safeguards in all cases of withdrawal of nationality regardless of whether or not they result in statelessness."*

UNHCR will elaborate on some aspects of these principles most relevant to the currently proposed amendments (for details, please refer to the UNHCR Guidelines No.5).

14. In relation to the first principle i) that withdrawal of nationality must take place in accordance with the law, paragraph 92 states:

> *"The legislation in question must sanction the State's ability to withdraw nationality and be sufficiently precise so as to enable citizens to reasonably foresee the consequences of actions which trigger a withdrawal of nationality."*

In this regard, it is recommended the wording (as mentioned in paragraph 3 above) currently proposed to be inserted in Article 3 of the Japanese Nationality Act (*that its provision* "*shall not apply when there are facts contrary to recognition of parentage*") is reworded to clearly and separately communicate that it not only prevents nationality acquisition in the first place but also post-facto withdraws the nationality that has once been acquired, while putting in place clear safeguards (see below).

15. As part of ensuring the proportionality in relation to the second principle ii) above, UNHCR Guidelines No. 5 at paragraph 94 explains that:

> *"(…)the consequences of loss or deprivation of nationality must be weighed against the aim pursued. The impact of withdrawal of nationality on the individual's ability to access and enjoy other human rights (…) should be taken into consideration.*"

Further, paragraph 95 explains:

"the question of whether a person is in possession of another nationality is relevant to the assessment of whether loss or deprivation of nationality is proportionate to the aim pursued (...). Given the severe consequences of statelessness, withdrawal of nationality that results in statelessness would only conceivably be possible to justify as proportionate in limited and narrow circumstances."

Moreover, in relation to persons for whom the withdrawal of nationality does not lead to statelessness, paragraph 95 states:

"[e]ven where a person is in possession of another nationality or may be able to (re-) acquire another nationality, any loss of the right to reside in the State in question will result in the loss of all the rights which attach to residence. States should therefore ensure that there are no less intrusive alternatives to achieve the relevant aim before withdrawal of nationality occurs."

16. Further, in terms of the principle iii) above, the due process element of the prohibition of arbitrary deprivation of nationality includes the provision of a fair hearing in all cases of withdrawal of nationality which includes the ability to appeal decisions made at the first instance (paragraph 100), as well as access to an effective remedy (paragraphs 106-107). Paragraph 98 states:

"The minimum content of the requirement of due process in this context is that an individual is able to understand the reasons why their nationality has been withdrawn and has access to legal and/or administrative avenues through which they may challenge the withdrawal of nationality. State decisions involving the acquisition, retention or renunciation of nationality should be issued in writing and open to effective administrative and judicial review."

Paragraph 96 further encourages the establishment of a limitation period, stating that:

"*States are (...) encouraged to ensure that there is a defined and limited period with respect to the time elapsed between commission of an act and its discovery by the authorities, and between the discovery and the withdrawal of nationality*."

ii. The prevention of statelessness as a result of loss of nationality due to changes in personal status under the 1961 Convention standards

17. Articles 5 – 9 of the 1961 Convention prohibits deprivation or loss of nationality resulting in statelessness except in limited cases. Article 5 (1) of the 1961 Convention provides that "*If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality*," and prevents statelessness from occurring as a result of the change of civil status.

18. With regard to Article 5 (1) of the 1961 Convention, the Conclusions of the Expert Meeting convened by UNHCR in Tunis ("Tunis Conclusions (2014)"),[24] which were issued in 2014 and which UNHCR Guidelines No. 5 draw upon state in paragraph 37:

"(…) *The list of changes in personal status contained in Article 5(1) is not exhaustive. In addition to the situations explicitly listed in the Article, this rule would apply in case of a successful denial of paternity (…)as*

[24] UNHCR, "Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality" ("Tunis Conclusions"), March 2014 (available from: https://www.refworld.org/docid/533a754b4.html).

well as to annulment or revocation of a recognition (...). The range of situations which fall under Article 5(1) is likely to grow (...)".

Paragraph 38 of the Tunis Conclusions further states that:

"*Article 5(1) also applies if it is established that the family relationship which constituted the basis of a child's acquisition of nationality was registered erroneously. This includes situations in which the identity of the parent (relevant for jure sanguinis acquisition of nationality) has been erroneously recorded, or where it is discovered, after acquisition of the nationality by an ex lege extension of naturalization from a parent to a child, that no family relationship ever existed between the parent and the child*".

If any amendments are introduced to the Japanese Nationality Act to cause loss of nationality due to the annulment or invalidity of parentage as currently envisaged in the Bill in relation to Article 3, at least **establishing an exception to such a loss of Japanese nationality when it would result in statelessness** would thus help maintain the compatibility of the Nationality Act with Article 5 (1) of the 1961 Convention, which Japan is considering to accede to.

19. In implementing the provision to prevent statelessness from arising due to the annulment or invalidity of parentage, States are required to examine whether the person possesses another nationality at the time of loss or deprivation, not whether they could acquire a nationality at some future date. As paragraph 101 of the UNHCR Guidelines 5 states:

"The determination of whether a person is stateless is neither a historic nor a predictive exercise. The question of whether a person is stateless according to the definition of a stateless person in Article 1 of the 1954 Convention is to be assessed at the time that a withdrawal of that person's nationality occurs."

Further, it would be important that the term "statelessness" is interpreted in a full and inclusive manner taking into consideration the guidance contained in the UNHCR Handbook on the Protection of Stateless Persons (2014).[25] Moreover, in relation to the burden of proof of the non-possession of another nationality, paragraph 45 of the UNHCR Guidelines No. 5 states:

"[P]rocedures that place the burden of proof solely on the individual to prove statelessness would not be consistent with the Contracting State's obligation to determine whether statelessness would result from the act of deprivation. The process of determining whether a person would be rendered stateless following deprivation of nationality is a collaborative one aimed at clarifying whether an individual would come within the scope of the definition of statelessness if deprived of nationality."

20. Article 8(1) of the 1961 Convention sets out the general rule that a Contracting State shall not deprive a person of his/her nationality if such deprivation would render him/her stateless. Meanwhile, Article 8 (2) (b) of the 1961 Convention provides that deprivation of nationality that would result in statelessness is permissible on the basis of "misrepresentation or fraud in the process of acquisition of nationality." It could be argued that when a parent has falsely recognized a child for the purpose of obtaining nationality for the child, it may be permissible to deprive the

[25] See also paragraph 6 of the Tunis Conclusions (2014) which sates *"A Contracting State must accept that a person is not a national of a particular State if the authorities of that State refuse to recognize that person as a national. A Contracting State cannot avoid its obligations based on its own interpretation of another State's nationality laws which conflicts with the interpretation applied by the other State concerned."*

child of the nationality under this exception even if it would result in statelessness. However, in the first place, paragraph 56 of the Tunis Conclusions (2014) states, with regard to Article 8 (2) (b), that:

> "*It was stressed that based on the travaux préparatoires, 'misrepresentation' in the context of this exception is to be read as 'dishonest misrepresentation'. Moreover, Article 8(2) only applies to nationality which is acquired through an application procedure – it would not extend to nationality acquired at birth (…)*".

Therefore, since Article 3 of the Japanese Nationality Act is based on "notification" whereby nationality is acquired *ex lege* upon the receipt of notification of recognition of parentage (as stipulated in its paragraph 2), rather than upon application entailing discretion of the Minister of Justice, it can be said that Article 8(2) of the 1961 Convention would not be relevant in any case even by analogy.

21. Hypothetically, if the guidance concerning Article 8 (2) (b) of the 1961 Convention is relevant by analogy to Article 3 of the Nationality Act, paragraph 39 of the Tunis Conclusions (2014), while admitting that under Article 8 (2) of the Convention, "*an exception may be made to this rule* [that loss of nationality due to changes in the personal status must not result in statelessness] *if the child has been considered a national on the basis of fraudulent behaviour or fraudulent information provided about him or her; such as when the full identity of the child, including existing family relationships, is not disclosed by his or her legal representative,*" warns however that:

> "*[A]s in all decisions relating to children, in instances of fraud committed by a legal representative, State authorities must take into consideration the best interests of the child. In light of this overriding principle set out in the Convention on the Rights of the Child, a range of other factors will need to be examined (including the ties to country concerned), in light of the general principle of proportionality, and not solely whether the child acquired nationality on the basis of fraud conducted by an adult guardian*."

Paragraph 62 of the Tunis Conclusions (2014) further states:

> "*Where authorities are considering the deprivation of nationality of children due to misrepresentation or fraud, special attention needs to be given to the objective of preventing statelessness among children as set out in (…) Articles 7 and 8 of the CRC, read in light of the principle of the best interests of the child of CRC Article 3. It is never in the best interests of the child to be rendered stateless*."

It is also asserted by some in the field of nationality and international human rights law that in cases when misrepresentation has been made by a parent, it should not necessarily be attributable to the child in the best interests of the child; and it is particularly so when adult involved fraudulently pretended to be the child's parent.[26]

Furthermore, paragraph 52 of the UNHCR Guidelines No. 5 states that:

> "*In the process of balancing the legitimate interests of the Contracting State and the individual, the nature or gravity of the fraud or misrepresentation should be weighed against the consequences of withdrawal of nationality (including statelessness). The length of time elapsed between the acquisition of nationality and the discovery of fraud should also be taken into account*."

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[26] See, for example Olivier Willem Vonk, Maarten Peter Vink and Gerard-René de Groot, "Protection against Statelessness: Trends and Regulations in Europe", May 2013, p.96 :"*(...) in case of fraud committed by a legal representative a State should take into consideration that, in the best interest of the child, not all acts of an adult in respect of a child are attributable to the child. This is in particular not the case where the adult involved acted fraudulently by pretending to be the child's parent (…). Consequently, in such cases the child should be deemed to be in good faith*" (available from: http://cadmus.eui.eu/bitstream/handle/1814/30201/eudocit_vink_degroot_statelessness_final.pdf?sequence=1).

It is useful to note that, with regard to the process of proportionality assessment referred to in the preceding paragraph in the context of Article 8 (2) of the 1961 Convention, the UN Human Rights Council comments that:

"*Given the severity of the consequences where statelessness results, it may be difficult to justify loss or deprivation resulting in statelessness in terms of proportionality.*"[27]

iii. The prevention of statelessness/arbitrary deprivation of nationality among children

22. If the exception currently proposed in the Bill to be inserted into Article 3 of the Japanese Nationality Act would apply to children, it is important to reiterate or further elaborate on the international legal standards on the rights of the child as a premise. As in paragraph 20 of the UNHCR Guidelines No. 5, Under Article 3 of CRC,[28] Contracting States are obliged to ensure that all actions taken with respect to a child's nationality are in the best interests of the child. Article 7 of the CRC, contracted by Japan, provides in paragraph (1) that:

"*The child (...) shall have the right from birth to a name, the right to acquire a nationality (...)*" and in paragraph (2) that "*States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless*".

Article 24 (3) of the ICCPR, to which Japan is also a party, provides that "*Every child has the right to acquire a nationality*" as well. Further, Article 8 (1) of the CRC states that:

"*States Parties undertake to respect the right of the child to preserve his or her identity, including nationality (...) as recognized by law without unlawful interference*".

23. Paragraph 17 of the UNHCR Guidelines No. 5 also states that:

"(…) *Articles 3, 7 and 8 of the Convention on the Rights of the Child ("CRC"), read together, may reasonably be understood to preclude the loss of nationality by a child due to adoption, recognition or another such act*. (…) ."[29]

When the withdrawal of nationality by a child due to annulment or opposing facts against parentage recognition is being considered, it is important to ensure due process and proportionality taking into consideration the best interests of the child examining factors such as the child's ties to country concerned even if it would not result in statelessness.

IV. Examples of legislation in other countries and regional standards (concerning the prevention of statelessness as a result of changes in the personal status and limitation period on loss of nationality in the same context)

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[27] UN Human Rights Council, "Human rights and arbitrary deprivation of nationality: Report of the Secretary-General", A/HRC/25/28, 19 December 2013, paras 4, 10 and 41.

[28] Article 3: "*In all actions concerning children, (...) the best interests of the child shall be a primary consideration*". See also Article 2: "*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's (...) birth or other status*".

[29] UN Human Rights Council, "Human rights and arbitrary deprivation of nationality: Report of the Secretary-General", A/HRC/25/28, 19 December 2013, para.16.

24. Annex 1, while non-exhaustive, carries the nationality laws of seven countries (Belgium, Finland, Germany, Montenegro, the Netherlands, Norway and Switzerland) as examples of legal provisions concerning invalidation or loss of nationality as a result of denial of parentage. Most of these countries establish the age limit of the age of majority or 18 years of age (Germany and Finland set the limit to 5 years of age); the Netherlands, Switzerland, Norway, Finland and Montenegro establish exceptions to the rule to the effect that the relevant provision does not apply to cases where its application would result in statelessness,[30] which means that the nationality would not be annulled, deprived or lost. Furthermore, a number of countries, including Spain, Germany and France, restrict annulment, deprivation or loss of nationality as a result of denial of parentage by taking a "*possession d'état*" or similar approach, having legal provisions to the effect that an individual who has acted as a national in good faith (or who has been presumed as a national) for a certain period (10 years in Spain and France; 12 years in Germany) do not lose or can acquire nationality.–

25. As a relevant standard, Article 7 (1) of the Council of Europe's ECN provides that:

    "*A State Party may not provide in its internal law for the loss of its nationality ex lege or at the initiative of the State Party except in the following cases*" and its sub-paragraph (f) refers to cases "*where it is established during the minority of a child that the preconditions laid down by internal law which led to the ex lege acquisition of the nationality of the State Party are no longer fulfilled*", excluding the possibility of loss of nationality after the person concerned has reached majority. As a precondition, Article 7 (3) provides that:

    "*A State Party may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph b, of this article*",[31] explicitly excluding cases which would result in statelessness.

26. Further, the Council of Europe has encouraged that the age limit on loss of nationality as a result of changes in personal status (in cases where the loss would not result in statelessness) should be set at an age lower than the age of majority in accordance with human rights standards. The Council of Europe's Recommendation on "The nationality of children" (CM/Rec(2009)13) in 2009 provides in its Principle 18 (Position of children treated as nationals) that: *"[C]hildren who were treated in good faith as their nationals for a specific period of time should not be declared as not having acquired their nationality*." The explanatory memorandum of the Recommendation CM/Rec(2009)13 explains, in paragraph 47, that:

    "*In the past few years serious doubts have arisen in several states regarding the age limit mentioned in Article 7, paragraph 1.f of the ECN. It is doubtful that the loss of nationality can still be justified when the child involved has been, in a completely legal way, in possession of a nationality for a considerable number of years. This is in particular the case if the child was treated as a national for a period exceeding the period of residence*

[30] According to the nationality acts of the Netherlands and Switzerland, not all stateless persons born in their territories automatically acquire nationality by birth through the operation of the nationality acts, which is the case in Japan as well; it is stipulated, however, that the provisions concerning loss of nationality as a result of denial of parentage would not apply to cases where statelessness would occur.

[31] Article 7 (1) (b) of the European Convention on Nationality: "*acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant*". It is necessary to note, however, that the sub-paragraph also limits its application to cases where the relevant act is "attributable to the applicant".

required for naturalisation, which according to Article 6, paragraph 3 of the ECN should not exceed ten years. Furthermore, the desirable preferential treatment of children could even justify a much shorter limit. (…)"[32]

Japan may wish to consider taking these standards into consideration.

V. Conclusions

27. In light of what has been described above, including the norms of the prevention of statelessness and the prohibition of arbitrary deprivation of nationality as a fundamental principle of international law enshrined in the UDHR and other instruments; Articles 3, 7 and 8 of the CRC and Article 24 of the ICCPR, both of which Japan is a party to, as well as UNHCR Guidelines No. 5 and other relevant international human rights standards; and the good practices of other countries, UNHCR would like to, in summary, propose the Government of Japan to consider the following in relation to the current proposal in the Bill to introduce an exception clause to Article 3 of the Nationality Act. Firstly, it is recommended that the rule to be newly inserted makes it clear that the loss of nationality due to the fact that the parentage is contrary to truth or is annulled as to the recognition of parentage will not lead to statelessness. Further, in order to prevent arbitrary deprivation of nationality, it would be best if Japan re-formulates the current proposal contained in the Bill to retroactively treat the person as never having been a national, as an administrative disposition to withdraw the person of nationality. This will help ensure individual examination of proportionality and due process including the right to personal hearing and appeal. In addition, when the withdrawal of nationality by a minor is being considered, it is important to take into consideration the best interests of the child under Article 3 of CRC examining various factors including the child's ties to Japan. The disposition should be subject to the application of procedural safeguards as provided in the Administrative Procedures Act, such as the right to personal interview and the showing of grounds for adverse dispositions, among other things. It would be important to, in addition to making it an administrative disposition, among other things, making the withdrawal of nationality subject to the Administrative Appeals Act enabling the person concerned to appeal such a finding to a relevant competent administrative body as well as the Administrative Litigation Act, to appeal to the judiciary ensuring the opportunity to directly dispute in court the disposition concerned itself. In addition, in light of good State practice and the development of international human rights law, it is desirable for Japan to consider the establishment of a certain limitation period beyond which nationality once acquired cannot be withdrawn even when the withdrawal of nationality would not result in statelessness, for example, by aligning it with the limitation period of 7 years proposed in the Bill in relation to the right to assert the annulment of parentage recognition.

[32] Similarly, while para. 48 of the explanatory memorandum states that "*this principle* [Principle 18] *does not apply if treating the child as a national is based on fraudulent behaviour or fraudulent information provided about the child. (…)*", it is necessary to take not of paras. 39 and 62 of the Tunis Conclusions (2014), which are quoted above. Council of Europe Committee of Ministers, Recommendation CM/Rec(2009)13 and explanatory memorandum of the Committee of Ministers to member states on the nationality of children, 9 May 2009, CM/Rec(2009)13, para 48 (available from: https://www.refworld.org/docid/4dc7bf1c2.html).

Annex 1. Examples of legislation in other countries (concerning the prevention of statelessness as a result of changes in the personal status and limitation period on loss of nationality in the same context) Part 1. Examples of nationality laws which regulate loss of nationality due to annulment of parentage (non-exhaustive)

Country	Excerpts of official or unofficial English translation of the provisions (underlines by UNHCR)[33]	Source[34]
The Netherlands	Nationality Act Article 14 paragraph 6 "The Dutch citizenship shall be lost by a minor as a result of termination of family legal relationship from which it derives (…)." Article 14 paragraph 7 "The Dutch citizenship shall not be lost otherwise than based on the provisions of this Chapter." Article 14 paragraph 8 "With the exception of the case referred to in paragraph one (**UNHCR Note:** fraudulent acquisition of nationality) the loss of the Dutch citizenship shall not occur if it would result in statelessness."	https://www.refworld.org/topic,50ffbce524d,50ffbce525c,4d3838932,0,,LEGISLATION,NLD.html
Norway	Nationality Act Section 6. "(Significance of a change in the basis for nationality)" In the event of a decision or admission that the circumstances that formed the basis for acquisition of nationality pursuant to section 4 or 5 of the Act (**UNHCR Note:** Section 4. Acquisition by birth / Section 5. Acquisition by adoption) do not subsist, the child shall be regarded as never having been Norwegian. However, this shall not apply if the child thereby becomes stateless, or if the decision or admission is made after the person concerned reaches the age of 18. When there are particular reasons for doing so, an administrative decision may upon application be made to the effect that such decision or admission as is mentioned in the first paragraph shall have no significance. The applicant shall then be regarded as having been Norwegian from the date of the	https://www.refworld.org/topic,50ffbce524d,50ffbce525c,3ae6b4f920,0,,LEGISLATION,NOR.html

[33] For a comprehensive understanding, the full text of the relevant nationality laws should be consulted.
[34] The latest available English translation accessible through the databases of UNHCR (refworld.org) the Global Citizenship Observatory (globalcit.eu) based at the European University Institute (except for Belgium for which translation was made by UNHCR). For the most up-to-date and accurate legal provisions, the originals should be consulted.

	originally presumed acquisition of Norwegian nationality. When making the decision, importance shall be attached to the length of time that has elapsed from the presumed date of acquisition to the time the real situation was ascertained, and to whether the applicant and his or her parents acted in good faith.	
Switzerland	Federal Act on Citizenship Article 5 "(Loss by termination of filiation)" "If filiation is nullified with the parent who has conferred Swiss citizenship on the child, the child loses Swiss citizenship provided the child does not become stateless thereby."	https://www.fedlex.admin.ch/eli/cc/2016/404/en#art_5
Montenegro	Citizenship Law Article 24 "(…) For a child Montenegrin citizen, who has citizenship of another state as well, shall lose his or her Montenegrin citizenship ex lege if it is established, while he or she is below 18 years of age that conditions based on which he or she has been granted Montenegrin citizenship, does not exist anymore."	https://data.globalcit.eu/NationalDB/docs/Law%20on%20Montenegrin%20Citizenship%20(consolidated%202016)%20EN.pdf
Finland	Nationality Act Section 4 "(Preventing statelessness)" "(1) The provisions of this Act on the loss of and release from citizenship must not be applied if, as a consequence of the application of these provisions, a person were to become stateless." Section 32 "(Effects of annulment of paternity)" "(1) If the husband's paternity has been annulled or if a claim which has resulted in his paternity being annulled has been brought before the child has reached the age of five years, or if an established paternity has been annulled or a claim which has resulted in the annulment of paternity has been brought within five years of establishing paternity, a decision may be made to the effect that the child	https://data.globalcit.eu/NationalDB/docs/FIN%20359_2003_ENGLISH_CONSOLIDATED%20VERSION%20as%20amended%20by%20974_2007.pdf

	loses the Finnish citizenship which he or she has acquired on the basis of his or her father's citizenship. A decision on this is based on an overall consideration of the child's situation. In the assessment, particular account shall be taken of the child's age and ties with Finland."	
Belgium	Nationality Code Article 8(4) "The person to whom the Belgian nationality of the owner has been attributed retains this nationality if the parentage ceases to be established after he has reached the age of eighteen or has been emancipated before that age. If the parentage ceases to be established before the age of eighteen or emancipation prior to that age, acts entered into before filiation ceases to be established and whose validity is subject to the possession of Belgian nationality cannot be contested on the sole ground that the person concerned did not have that nationality. The same applies to rights acquired before the same date."	http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1984062835&table_name=loi (unofficial translation made by UNHCR)
Germany	Nationality Act Section 17 "(Loss of citizenship)" "(1) Citizenship shall be lost: 1. by release from citizenship (…) 7. by revocation of an unlawful administrative act (..). (2) Loss of citizenship pursuant to sub-section 1 no. 7 does not affect German citizenship of third persons obtained by law, if they have reached the age of five. (3) Sub-section 2 shall apply accordingly to decisions pursuant to other acts which would result in the retroactive loss of German citizenship of third persons, in particular (…) where non-existence of paternity is determined under Section 1599 of the Civil Code. The first sentence shall not apply if paternity is contested pursuant to Section 1600, sub-section 1, no. 5 and sub-section 3 of the Civil Code.[3]" Footnote 3: The second sentence is null and void, due to the invalidity of Section 1600 (1)	https://www.refworld.org/topic,50ffbce524d,50ffbce525c,4e64c7ce2,0,,LEGISLATION,DEU.html

	no. 5 of the Civil Code and Article 229 paragraph 16 of the Introductory Act to the German Civil Code (Federal Constitutional Court. decision of 17 December 2013 - 1 BvR 6/10 -).	

Part 2: Examples of nationality laws that provide for nationality acquisition for persons who have acted in good faith as nationals and/or have been presumed to be nationals for a certain period of time (non-exhaustive)

Country	Official or unofficial English translation of the provisions (underlines by UNHCR)[35]	Source[36]
France	Civil Code Article 21-13 "May claim French nationality by declaration uttered as provided for in Articles 26 and following" (Act no 93- 933 of 22 July 1993), persons who have enjoyed in a constant way the apparent status of French for the ten years prior to the declaration. Where the validity of the transactions concluded before the declaration was made conditional on the entitlement of French nationality, that validity may not be objected to on the sole ground that the declarant had not that nationality."	https://data.globalcit.eu/NationalDB/docs/FRA%20Civil%20Code%20(on%20French%20nationality)%20(English%20consolidated%20version%20as%20updated%20on%2004%2004%202006).pdf
Germany	Nationality Act Article 3(2) "German citizenship shall also be acquired by any person who has been treated by German public authorities as a German national for 12 years and this has been due to circumstances beyond his or her control. In particular, any person who has been issued a certificate of nationality, a passport or a national identity card shall be treated as a German national. Acquisition of citizenship shall apply as of the date when the person was deemed to have acquired German citizenship by treating him or her as a German national. The acquisition of German citizenship shall extend to those descendants who derive their status as Germans from the beneficiary pursuant to the first sentence."	https://www.refworld.org/topic,50ffbce524d,50ffbce525c,4e64c7ce2,0,,LEGISLATION,DEU.html
Spain	Civil Code	https://data.globalcit.eu/NationalDB/docs/spanish-civil-co

[35] For a comprehensive understanding, the full text of the relevant nationality laws should be consulted.
[36] The latest available English translation accessible through the databases of UNHCR (refworld.org) and the Global Citizenship Observatory (Globalcit) based at the European University Institute. For the most up-to-date and accurate legal provisions, the latest versions in the original languages should be consulted.

	Article 18 "The possession and continued use of Spanish nationality for ten years, in good faith and based on a title registered in the Civil Registry shall constitute grounds for the consolidation of Spanish nationality, even if the title which originated should be annulled."	de-ENG%202013.pdf