

COMPARISON BETWEEN THE "GUIDELINES FOR STATE PRACTICE IN THE FIELD OF NATIONALITY AND STATE SUCCESSION" (CDL-NAT (96) 1 rev.) AND THE "DECLARATION ON THE PRINCIPLES, RULES AND RECOMMENDATIONS CONCERNING THE QUESTION OF THE NATIONALITY OF INDIVIDUALS AND LEGAL PERSONS IN STATE SUCCESSION (CDL-NAT (96) 3)".

prepared by the Secretariat

The Preamble.

The Economides Report gives a **definition of the expression "State succession"**, a detail missing in the Guidelines.

The assertion that "**questions relating to nationality shall fall to States within the limits laid down by international law**" is placed in the Preamble in the Economides Report, whereas in the Guidelines it is part of the declaration itself.

As concerns the elements borne in mind for the declaration of principles which apply to the question of nationality in State succession, the Economides Report confines itself to a **summary reference to State practice on the subject**. However in the Guidelines, mention is made of a whole host of international texts to be taken into consideration for the same purpose.

Principles to be observed

A number of elements in the Guidelines do not feature in the Economides Report:

- The assertion whereby **the conditions for the acquisition and loss of nationality shall be provided for by law**.
- The requirement for States to provide **an effective judicial remedy** for any deprivation, withdrawal or refusal to confer nationality.
- **The requirement for the predecessor State to refrain from withdrawing its nationality** from inhabitants or permanent residents of the transferred territory who have not chosen to adopt the nationality of the successor State, with certain exceptions.

Also, the Guidelines clearly state the cases where the successor State may consider that certain persons are not inhabitants or permanent residents in its territory for the purpose of conferring its nationality. In the Economides report, these details are only mentioned in the commentaries on the rules laid down.

Points 5 and 6 of the Economides Report state **the recommendation for the States to confer their nationality to a certain number of persons** especially with the aim of avoiding cases of statelessness. The same idea is found in the Guidelines but more forcefully, as a compulsory rule.

Concerning **the exercise of the right of option** of persons residing in the transferred territory (when the predecessor State did not cease to exist), the Economides Report lays down as a **condition** for persons who pass from one sovereignty to another that they have **ethnic, linguistic or religious links with the predecessor State**. This condition is not explicitly mentioned in the Guidelines.

Concerning **the right of option** it should also be noted that the Guidelines provide explicitly this **right on behalf of a certain number of persons** in the case of State succession followed by the **dissolution of the pre-existing State**. This precision is not found in the Economides Report.

Points 8 and 9 of the Economides Report rule the condition of **legal persons**, a question which is not mentioned in the Guidelines.