357/2003 COLL.

ACT

of September 23, 2002,

amending Act No. 40/1993 Coll., on the acquisition and loss of nationality of the Czech Republic, as amended by later regulations

The Parliament has hereby agreed on this Act of the Czech Republic:

Article I

Act No. 40/1993 Coll., on the acquisition and loss of nationality of the Czech Republic, as amended by Act No. 272/1993 Coll., Act No. 140/1995 Coll., Act No. 139/1996 Coll., Act No. 194/1999 Coll., and Act No. 320/2002 Coll., is hereby amended as follows:

1. In § 1 Section 3, which - including Footnote No. 1a) - reads as follows, shall be added:

”(3) For the purpose of this Act a child is understood to be a physical person younger than 18 years of age, unless - pursuant to the legal system applicable to it - it has reached majority earlier.1a)

Footnote No. 1a) For instance § 8 Section 2 of the Civic Code.”.

2. In § 2 Letter e) the words ”or § 18a” shall be amended as follows: ” , § 18a or § 18b”.

3. In § 5 the words ”younger than 15 years” shall be deleted.

4. In § 6 Section 2 shall be deleted.

The existing Sections 3 to 8 shall be designated as Sections 2 to 7.

5. In § 6 Section 2 the words ”younger than 15 years” shall be deleted.

6. In § 6 Section 3 the words ”younger than 15 years” shall be deleted.

7. In § 6 Section 4 the words ”3 or 4” shall be amended as follows: ”2 or 3”, and at the end of the text the words ”or if the residence of the other parent living outside the territory of the Czech Republic is not known” shall be added.

8. In § 6 a new Section 5, which reads as follows, shall be inserted after Section 4:

”(5) If both parents of the child have been deprived of their parental responsibility, the exercise of their parental responsibility has been suspended or limited; if they have no legal capacity or if the residence of the parents living outside the territory of the Czech Republic is not known, affirmation may be made by a court-appointed guardian, eventually by the child’s guardian; in these cases the consent of the parents shall not be required.”.

The existing Sections 5 to 7 shall be designated as Sections 6 to 8.

9. In § 6 Section 6 the words ”are older than 15 years” shall be amended as follows: ”have reached majority”.

10. In § 6 Section 8, including Footnote No. 3f), shall be amended as follows:

”(8) The competent authority shall issue a declaration on certification, sending a copy of the declaration and the certification to the Ministry of Interior (hereinafter referred to solely as ”the Ministry”), and the acquisition of nationality of the Czech Republic shall be reported to the following institutions:

a) registration office at the place of permanent residence in the Czech Republic, 3f)
b) Police of the Czech Republic,
c) local military authority, if the pertinent physical person is subject to conscription.

[3f)] Act No. 133/2000 Coll. on the registration of the population and birth identification numbers and on amendments to some acts (Act on the Registration of the Population), as amended by later regulations.”.

11. In § 7 Section 1 the comma at the end of Letter d) shall be replaced by the word ”and”, and Letter e), including Footnote No. 3g), shall be amended as follows:

”e) shall meet the duties ensuing from the provisions of the special legislative regulation governing residence and entry of aliens in the territory of the Czech Republic,3g) duties ensuing from the special regulations governing public health insurance, social security, old age pension schemes, taxes, levies and fees.

[3g)] Act No. 326/1999 Coll. on the residence of aliens in the territory of the Czech Republic and on changes to some acts, as amended by later regulations.”.

12. In § 8 the existing text shall be designated as Section 1, and Section 2, which reads as follows, shall be added:

”(2) For the purpose of proving the condition laid down in § 7 Section 1, Letter e) the Ministry may request certification from the Tax Office on the settlement of taxes and fees, copies of tax returns, copies of entries in the Commercial Register, trade certificates or labour contracts, health insurance company certificates on the proper course and payments of public health insurance, and employer’s certificate on the payment of income taxes, and on the payments of public health insurance schemes, social security and contribution to the state employment policy programme.”.

13. In § 9 Section 1 the opening sentence with the word ”eventually one of them” and the words ”younger than 15 years” shall be deleted.

14. In § 9 Section 1 Letter b) shall be deleted.

The existing Letter c) shall be designated as Letter b).

15. In § 9 a new Section 2, which reads as follows, shall be inserted after Section 1:

”(2) If an application pursuant to Section 1 is submitted only by one of the parents, the applicant shall submit - in addition to the documents laid down in Section 1, Letters a) and b)

- also the consent of the other parent with the change of the child's nationality, unless the exercise of the parental responsibility of the other parent has been limited or suspended, unless the other parent has been deprived of his or her parental responsibility or legal capacity or if the residence of the other parent living outside the territory of the Czech Republic is not known. If both parents of the child have been deprived of their parental responsibility, if the exercise of their parental responsibility has been suspended or limited, if they have no legal capacity or if the residence of the parents living outside the territory of the Czech Republic is not known, affirmation may be made by a court-appointed guardian, eventually by the child's guardian, in these cases consent of the parents shall not be required.".

The existing Section 2 shall be designated as Section 3.

16. In § 9 Section 3 the words "younger than 15 years" shall be deleted.

17. In § 10 Section 1 the words "the Ministry of Interior of the Czech Republic (hereinafter referred to solely as "the Ministry of Interior)" shall be amended to read "the Ministry".

18. In § 10 Section 2 the last sentence shall be amended to read as follows: "Together with the applicant the authority shall fill in the questionnaire whose content is given in the Annex hereto; through the Police of the Czech Republic it shall then send the application - together with its own standpoint and with the documents set forth in this Act - to the pertinent local council within 30 (thirty) days of the submission of the application to the Ministry at the latest."

19. In § 10 Section 3 the word "Interior" shall be deleted.

20. In § 10 Section 4 the words "the Ministry of Interior" shall be amended to read "the Ministry".

21. In § 10 Section 5 the word "Interior" shall be deleted.

22. In § 10 Section 6, which reads as follows, shall be added:

"(6) The authority shall send a record on the performance of nationality pledge or a record on the receipt of the certificate of naturalization in the Czech Republic to the Ministry, and notify the following institutions of the acquisition of nationality:
a) registration office at the place of permanent residence in the Czech Republic,
b) Police of the Czech Republic,
c) local military authority, if the pertinent physical person is subject to conscription."

23. In § 11 Section 1 the word "Interior" shall be deleted.

24. In § 11 Section 2 shall be amended as follows:

"(2) The Ministry may further waive the condition set forth in § 7, Section 1, Letter b) if the applicant has permanent residence in the territory of the Czech Republic, having resided in the territory of the Czech Republic in a justified manner for at least 5 (five) years, has a genuine relationship to the Czech Republic, and:

a) the legal regulations of the state whose citizen the applicant is do not allow for his or her release from the state bond or that state refuses to issue a document on the applicant's release from the state bond,
b) the applicant's release from the state bond is connected with inadequate administrative fees or other terms unacceptable in a democratic state,
c) by submitting an application for the release from the state bond the applicant could expose himself or herself or his or her next of kin to persecution due to race, religion, nationality, membership of a specific social group or political conviction,
d) granting nationality of the Czech Republic would be a major asset for the Czech Republic mainly in scientific, social, cultural or sports terms, or
e) the applicant has lost in the past the nationality of the Czechoslovak Republic or of the Czech and Slovak Federative Republic or of the Czech Republic, unless the applicant is a native born citizen of the Slovak Republic."

25. In § 11 a new Section 3, which reads as follows, shall be inserted after Section 2:

"(3) The condition laid down in § 7, Section 1, Letter b) may also be waived to an applicant whose permanent residence in the Czech Republic has been permitted for at least 5 (five) years, who has genuine relationship to the Czech Republic, and who has been residing in its territory in a justified manner for at least 20 (twenty) years."

The existing Section 3 shall be designated as Section 4.

26. In § 11, Section 4 the word "Interior" shall be deleted, and at the end of Section 4 the words "and e)" shall be added.

27. In § 12, Section 1 the words "older than 15 years" shall be deleted.

28. In § 12, Section 2 the words "younger than 15 years" shall be deleted.

29. In § 12, Section 3 the word "Interior" shall be deleted.

30. In § 13, Letter b) the words "(§ 17) with the exception of cases where nationality has been acquired in connection with marriage or birth of a child" shall be amended to read as follows: "on the basis of an explicit expression of one's will (§ 17 Section 1)".

31. In § 16, Section 1 the words "the age of 15 years" shall be amended as follows: "majority".

32. In § 16, Section 3 in the opening sentence the words " , eventually one of them" and the words "younger than 15 years" shall be deleted.

33. In § 16, Section 3 Letter b) shall be deleted.

The existing Letter c) shall be designated as Letter b).

34. In § 16 a new Section 4, which reads as follows, shall be inserted after Section 3:

”(4) If the application pursuant to Section 3 is submitted only by one of the parents, the applicant shall submit - in addition to the documents given in Section 3 - also the other parent’s consent with the change of nationality of the child, unless the other parent has been deprived of the exercise of his or her parental responsibility or legal capacity or if the residence of the other parent living outside the territory of the Czech Republic is not known. If both parents of the child have been deprived of their parental responsibility, the exercise of their parental responsibility has been suspended or limited, if they have no legal capacity or if the residence of the parents living outside the territory of the Czech Republic is not known, the affirmation may be made by a court-appointed guardian or eventually by the child’s guardian; in these cases the consent of the parents shall not be required.”

The existing Section 4 shall be designated as Section 5.

35. In § 16, Section 6, which reads as follows, shall be added:

”(6) The authority, after receiving the affirmation on the waiver of nationality of the Czech Republic, shall announce its loss to the following institutions:

a) registration office at the current place of permanent residence or the last permanent residence in the Czech Republic,
b) Police of the Czech Republic,
c) local military authority, if the pertinent physical person is subject to conscription.”.

36. § 17 including the headline shall read as follows:

”§ 17

Through the Acquisition of Nationality

(1) The native born citizen of the Czech Republic shall lose the nationality of the Czech Republic on the day when such person - on the basis of expression of his or her will (application, declaration, consent or other act aiming at the acquisition of a foreign nationality) - voluntarily acquires foreign nationality. The loss of nationality of the Czech Republic shall not occur in cases when foreign nationality has been acquired in connection with marriage with a native born citizen of a foreign state, namely providing that the husband’s foreign nationality has been acquired in the course of marriage. The loss of nationality of the Czech Republic shall not occur also in cases when foreign nationality has been acquired by birth.”

(2) The authority, after being notified of the loss of nationality of the Czech Republic, shall report its loss to the following institutions:

a) registration office at the current place of permanent residence or the last permanent residence in the Czech Republic,
b) Police of the Czech Republic,
c) local military authority, if the pertinent physical person is subject to conscription,
d) the Ministry, unless the loss of nationality of the Czech Republic has been communicated to the authority by that Ministry.”

37. In § 18a, Section 1 the words ”pursuant to special acts 3b)” shall be amended to read ”pursuant to special legal regulations 3f), 3g)”, Footnote No. 3b) shall be

deleted, and the words ”(hereinafter referred to solely as ”declarer”)” shall replace the words ”lives permanently in the territory of the Czech Republic”.

38. In § 18a, Section 3 the words ”younger than 15 years” shall be deleted.

39. In § 18a, Section 4 the words ”younger than 15 years” shall be deleted.

40. In § 18a, Section 5 the words ”younger than 15 years” shall be deleted.

41. In § 18a, Section 7, Letter c) the words ”district or of equal standing” shall be amended to read ”local”.

42. In § 18a, Section 7, Letter d) the words ”the Ministry of Interior” shall be amended to read ”the Ministry”.

43. A new § 18b, which reads as follows, shall be inserted after § 18a:

§ 18b

(1) The native born citizen of the Slovak Republic who - as of December 31, 1992 – had the nationality of the Czech and Slovak Federative Republic and who was granted the nationality of the Slovak Republic between January 1, 1994 and September 1, 1999 can make the affirmation on the acquisition of the nationality of the Czech Republic, unless that nationality has, in the meantime, been already acquired otherwise.

(2) Competent to receive the affirmation is the pertinent representation abroad, if the affirmation is made in a foreign country. If the affirmation is made in the Czech Republic, competent to receive it is the pertinent authority according to the declarer´s place of permanent residence, eventually the last permanent residence in the territory of the Czech Republic. If the declarer never had permanent residence in the Czech Republic, competent to receive his or her affirmation shall be the Municipality of Prague 1.

(3) The declarer shall prove his or her identity, stating in the affirmation his or her current place of permanent residence, eventually the last place of permanent residence in the Czech Republic. If the declarer never had such a place of residence, he or she shall state that fact.

(4) Attached to the affirmation shall be the declarer´s birth certificate and the certificate of naturalization in the Slovak Republic; if the declarer entered into marriage, he or she shall attach to the affirmation – as the case may be - also his or her marriage certificate, document on the divorce of the marriage or death certificate of the deceased spouse.

(5) The representation abroad that shall receive the affirmation is obliged to transfer it - together with attached documents - to the competent authority pursuant to Section 2 within 30 (thirty) days at the latest.

(6) Parents may also incorporate a child into their affirmation; this need not comply with the condition set forth in Section 1. The child’s birth certificate shall be attached to the affirmation. If the affirmation is submitted only by one of the parents, consent of the other parent with the acquisition of nationality of the Czech Republic shall be attached to the affirmation, unless the other parent’s exercise of parental responsibility has been limited or suspended, unless the other parent has been deprived of his or her parental

responsibility or legal capacity or if the residence of the other parent living outside the territory of the Czech Republic is not known.

(7) Parents may make an independent affirmation for their child; this child need not comply with the condition set forth in Section 1, if at least one of its parents is a native born citizen of the Czech Republic. The documents given in Section 6 shall be attached to the affirmation.

(8) If both parents of the child have been deprived of their parental responsibility, if the exercise of their parental responsibility has been suspended or limited, if they have no legal capacity or if the residence of the parents living outside the territory of the Czech Republic is not known, the affirmation may be made by a court-appointed guardian, eventually by the child's guardian, in these cases the consent of the parents shall not be required. The guardian shall attach the following documents to his or her application:

a) the child's birth certificate,
b) final and conclusive court decision on the establishment of that person as a guardian.

9) The competent authority shall verify whether the conditions laid down by this Act for the issue of the certification on the acquisition of nationality of the Czech Republic by affirmation have been met; if these conditions have been met, the authority shall issue an authorization, in the contrary case it shall refuse affirmation by its decision.

10) Pursuant to this provision, nationality of the Czech Republic shall be acquired on the day of the issue of the certificate of the acquisition of nationality through affirmation.

11) The acquisition of nationality of the Czech Republic shall be notified by the competent authority to the following institutions:

a) registration office at the place of permanent residence in the Czech Republic,
b) Police of the Czech Republic,
c) local military authority, if the pertinent physical person is subject to conscription,
d) the Ministry."

44. A new § 18c, which reads as follows, shall be inserted after § 18b.

§ 18c

(1) The native born citizen of the Slovak Republic who

a) has been born in the territory of the Slovak Republic to parents of whom one had the nationality of the Czech Socialist Republic or the Czech Republic and the other the nationality of the Slovak Socialist Republic or the Slovak Republic, and

b) as of December 31, 1993 was the native born citizen of the Czech and Slovak Federative Republic and concurrently of the Slovak Republic younger than 18 years,

may make the affirmation on the acquisition of nationality of the Czech Republic, unless that nationality has, in the meantime, been already acquired otherwise.

(2) Competent to receive the affirmation is the pertinent representation abroad, if the affirmation is made abroad. If the affirmation is made in the Czech Republic, competent to receive it is the pertinent authority according to the declarer´s place of

permanent residence, eventually the last permanent residence in the territory of the Czech Republic.

(3) The declarer shall prove his or her identity, giving in the affirmation his or her current place of permanent residence, eventually the last place of permanent residence in the Czech Republic; if the declarer never had such a place of residence he or she shall state that fact.

(4) Attached to the affirmation shall be the declarer´s birth certificate and the document on the nationality of the Slovak Republic, and then documents on the nationality of the declarer´s parents at the time of his or her birth. If the declarer entered into marriage, he or she shall attach - as the case may be - also his or her marriage certificate, document on the divorce of the marriage or death certificate of the deceased spouse.

(5) Parents or eventually one of them may make the affirmation on behalf of a child pursuant to Section 1. The child's birth certificate and document on the nationality of the Slovak Republic and further documents on the nationality of both parents at the time of the birth of the child shall be attached to the affirmation. If the affirmation on behalf of a child is submitted only by one of the parents, consent of the other parent with the acquisition of the nationality of the Czech Republic shall be attached to the affirmation, unless the other parent's exercise of parental responsibility has been limited or suspended, he or she has deprived of his or her parental responsibility or legal capacity or if the place of residence of the other parent living outside the territory of the Czech Republic is not known.

(6) If both parents of the child have been deprived of their parental responsibility, the exercise of their parental responsibility has been suspended or limited, if they have no legal capacity or if the place of residence of the parents living outside the territory of the Czech Republic is not known, the affirmation may be made by a court-appointed guardian, eventually by the child's guardian, in these cases the consent of the parents shall not be required. The guardian shall attach the following documents to his or her affirmation:

a) the documents laid down in Section 5 the second sentence, and
c) final and conclusive court decision on the establishment of that person as a guardian.

(7) The representation abroad that shall receive the affirmation is obliged to transfer it - together with the attached documents - to the competent authority pursuant to Section 2 within 30 (thirty) days at the latest.

(8) The competent authority shall verify whether the conditions laid down by this Act for the issue of the certification on the acquisition of nationality of the Czech Republic by affirmation have been met; if these conditions have been met, the authority shall issue an authorization, in the contrary case it shall refuse affirmation by its decision.

10) Pursuant to this provision, nationality of the Czech Republic shall be acquired on the day of the issue of the certification on the acquisition of nationality through affirmation.

(11) The acquisition of the nationality of the Czech Republic shall be reported by the

competent authority to the following institutions:

a) registration office at the place of permanent residence in the Czech Republic,
b) Police of the Czech Republic,
c) local military authority, if the pertinent physical person is subject to conscription,
d) the Ministry.”

45. In § 20 Section 3 shall read as follows:

”(3) Application for the issue of a certificate on the nationality of the Czech Republic shall be submitted by a physical person on the day that person comes of age at the earliest, for a child the application shall be submitted by its statutory representative.”.

46. In § 21 Section the word ”Interior” shall be deleted.

47. In § 23 Section 2 the word ”Interior” shall be deleted.

48. In § 24 Section 3 shall read as follows:

”(3) Application for ascertaining the nationality of the Czech Republic shall be submitted by a physical person on the day that person comes of age at the earliest, for a child the application shall be submitted by its statutory representative.”.

49. In § 26 the existing text shall be designated as Section 1, and Section 2, which reads as follows, shall be added:

”(2) The fact that the residence of the other parent living outside the territory of the Czech Republic is not known (§ 6 Section 4, § 9 Section 2, § 16 Section 4, § 18b Section 8, § 18c Section 5, and § 18c 6) shall be proved by the applicant (declarer) by a certificate or decision issued by a competent authority of the state whose citizen the applicant is; if the applicant cannot - due to objective reasons - submit such a document, it shall be replaced by affirmation.”.

50. Appendix, which reads as follows, shall be added:

”Appendix to Act No. 40/1993 Coll.

QUESTIONNAIRE
to an application on granting nationality

I.

1. Applicant

Name and surname, eventually also maiden surname

Date and place of birth

Employment

Address

Education

Family status

When and where married, eventually when and where marriage was divorced?

Monthly income

2. Spouse

Name and surname, eventually also maiden surname

Date and place of birth

Employment

Address

Education

Nationality

Monthly income

3. Children

Name and surname

Date and place of birth

Address

Nationality

4. Applicant's current nationality

How did the applicant acquire, eventually lose his or her current nationality, how does he or she prove it?

Current nationality

Has the applicant applied for the nationality of the Czech Republic in the past, if so when and where?

5. Residence in the territory of the Czech Republic

Since when has the applicant been residing in the territory of the Czech Republic?

When has the applicant been granted permanent residence permit in the territory of the Czech Republic?

Residence before entering the territory of the Czech Republic

Residence permit in the territory of the Czech Republic

Travel document

II.
Applicant's parents

Name and surname

Date and place of birth

Nationality

Address

Residence in the territory of the Czech Republic

Have they applied in the past for the nationality of the Czech Republic, if so when and where?

On ……..

…….. ……
Signature of the authority's clerk Applicant's signature

Stamp with state emblem."

Article II

Transitional Provisions

1. Affirmation on the acquisition or loss of nationality of the Czech Republic, made by children older than 15 (fifteen) years, or applications for granting nationality filed by those children before the day this Act comes into effect, which shall not be decided by the date when the Act comes into force, shall be dealt with pursuant to the existing legal regulations.

2. Applications submitted by Slovak native born citizens who had - as of December 31, 1992 - the nationality of the Czech and Slovak Federative Republic and who were granted nationality of the Slovak Republic between January 1, 1994 and September 1, 1999 prior to the date this Act comes into effect, which shall not be decided by the day when this Act comes into force, shall be regarded as submitted pursuant to § 18b of Act No. 40/1993 Coll., as amended by this Act.

Article III

The Premier is hereby empowered to publish the full wording of Act No. 40/1993 Coll. on the acquisition and loss of nationality of the Czech Republic, as resulting from the acts amending it, in the Collection of Laws.

Article IV

This Act shall come into effect on the day of its promulgation.

Zaorálek with his own hand
Klaus with his own hand.
Špidla with his own hand.