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REPORT ON CITIZENSHIP LAW: SURINAME

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September 2015



<http://eudo-citizenship.eu>

European University Institute, Florence
Robert Schuman Centre for Advanced Studies
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EUDO Citizenship Observatory
Robert Schuman Centre for Advanced Studies
in collaboration with
Edinburgh University Law School
Country Report, RSCAS/EUDO-CIT-CR 2015/17
Badia Fiesolana, San Domenico di Fiesole (FI), Italy

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Published in Italy
European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy
www.eui.eu/RSCAS/Publications/
www.eui.eu
cadmus.eui.eu

Research for the EUDO Citizenship Observatory Country Reports has been jointly supported by the European Commission grant agreement JLS/2007/IP/CA/009 EUCITAC and by the British Academy Research Project CITMODES (both projects co-directed by the EUI and the University of Edinburgh).

The financial support from these projects is gratefully acknowledged.

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Citizenship Law

Suriname

*Hamied Ahmadali and Ngo Chun Luk*¹

1. Introduction

The current constitutional form of Suriname as a republic dates from 25 November 1975. The country obtained a limited form of autonomy in 1954 after centuries as a colony of the Netherlands.² Full constitutional sovereignty was achieved on 25 November 1975 with the entry into force of the Constitution of Suriname.³ The current Surinamese Constitution was adopted in 1987 (hereinafter: Constitution of Suriname or Constitution), after the process of democratisation following the military coup in 1980.⁴ Both the Constitution of 1975 and the Constitution of 1987 refer to further legislation to regulate matters of Surinamese citizenship.⁵

Surinamese citizenship law is heavily influenced by Dutch nationality law around the time of the independence of Suriname. Thus, many of the features of citizenship law common to South American/Latin American states (e.g. distinctions between *nacionalidad* and *ciudadania*, no automatic loss of citizenship due to voluntary acquisition of a foreign citizenship) are conspicuously absent in the Surinamese legislation. The influence of Dutch citizenship laws also includes the prevention of dual nationality of its citizens (although this is starting to change, see further).

The official term used in Surinamese legislation for citizenship is *nationaliteit*. *Nationaliteit* here refers to legal citizenship. In the Surinamese Nationality Law, a Surinamese citizen is also referred to as *Surinamer* and Surinamese citizenship is also called *Surinamerschap*. *Burgerschap* is rarely used when referring to citizenship. These terms are clear parallels to the same terms used in the Netherlands (*nationaliteit*, *Nederlander(schap)* and *burgerschap* respectively).

¹ The authors are jointly responsible for the content of this report, with the exception of paragraph 4 ('State Succession of Suriname and the Allocation Agreement'), which was authored by Hamied Ahmadali.

² In line with the legal order established by the Charter for the Kingdom of the Netherlands, *Gouvernementsblad van Suriname* (G.B.) 1954, no. 82 and 175, *Nederlandse Staatsblad* (Stb.) 1954, 503, www.arubaforeignaffairs.com/afa/readBlob.do?id=704.

³ 'Grondwet van de Republiek Suriname' [Constitution of the Republic of Suriname], G.B. 1975, no. 170.

⁴ 'Grondwet van de Republiek Suriname' [Constitution of the Republic of Suriname], *Staatsblad van de Republiek Suriname* (S.B.) 1987, no. 116.

⁵ Article 2(1) of the Constitution of 1975 and Article 3(1) of the Constitution of 1987.

2. Historical overview

Until the independence of Suriname in 1975, the country did not have its own citizenship law. As part of the (Kingdom of the) Netherlands, Dutch (citizenship) legislation applied to the territory of Suriname in full. The citizenship regime in Suriname can be traced back as early as the Dutch Civil Code of 1838 (cf. De Groot & Tratnik 2010: 47).⁶ The general rule of acquisition and loss of Dutch citizenship was based on a combination of *ius sanguinis* and *ius soli* (De Groot & Tratnik 2010: 39).⁷

The Netherlands adopted new citizenship legislation in 1892: the *Wet of het Nederlanderschap en het ingezetenschap* (Law on Dutch Citizenship and Residence).⁸ At the time, the scope of application of this legislation was limited to the territory of the ‘Kingdom’, i.e. the European territory of the Netherlands (De Groot & Tratnik 2010: 47). The colonial territories, which included Suriname, were left without a citizenship regime until 1927 (cf. De Groot & Tratnik 2010: 47). In that year, the Act of 10 February 1910, originally adopted for the Dutch colony of Dutch East Indies, was extended to the other Dutch colonies. This act does not grant the (full) Dutch nationality; instead, it created the status of ‘Dutch subject non-Dutch national’ (*Nederlands onderdaan niet-Nederlander*) (De Groot & Tratnik 2010: 47-48).⁹

The Dutch citizenship law of 1892 was finally extended to the territory of Suriname in 1951,¹⁰ when the Law on Dutch subject non-Dutch citizens was repealed for *inter alia* Suriname (De Groot & Tratnik 2010: 47-48). The majority of the Surinamese population with this second rank citizenship automatically obtained Dutch citizenship (cf. De Groot 2007:130) with retroactivity to 1949.¹¹ This meant that they were once more full citizens with *inter alia* all ‘political rights’ (cf. De Groot & Tratnik 2010: 47). The Law on Dutch Citizenship and Residence remained in force in Suriname until it attained its independence in 1975.

⁶ This Civil Code applied to Dutch colonies as well until it was superseded by the ‘Wet op het Nederlanderschap en het ingezetenschap van 1892’ [Law on the Dutch Nationality and the Residence of 1892] (hereinafter: Law on Dutch Nationality and Residence). Cf. De Groot & Tratnik 2010: 47.

⁷ It should be noted that the acquisition *iure soli* also applied to the Dutch colonial territories, including Suriname (De Groot & Tratnik 2010: 39).

⁸ While the territorial scope of the new grounds of acquisition and loss of Dutch citizenship under the Law on Dutch Nationality and Residence of 1892 was not extended to the territory of Suriname, all persons who were Dutch nationals under the Civil Code of 1838 continued to be Dutch citizens (cf. De Groot 2007: 129).

⁹ The status of Dutch subject non-Dutch national was acquired *iure soli* by any person born in the territory within the scope of this Act to parents who were settled there. This status can be seen as a so-called second rank (*sachlich beschränkte*) citizenship, as its holders lacked political rights and the right to reside in the Netherlands (cf. De Groot 2007: 129-130; De Groot & Tratnik 2010: 48; Elzinga & De Lange 2006: 228).

¹⁰ ‘Wet nadere regelen omtrent nationaliteit en ingezetenschap 1951’ [Law on further rules regarding nationality and residence 1951], *Stb.* 1951, 593 (hereinafter: Law of 1951)

¹¹ Article 4(2)(b) of the Allocation Agreement between the Netherlands and Indonesia, and Article 1 of the Law of 1951.

Upon independence, Suriname also adopted its own citizenship rules. As with the independence of Indonesia, the population of the (former) Kingdom of the Netherlands was divided between the successor State (Suriname) and the predecessor State (the Netherlands) with the Allocation Agreement concerning nationalities between the Netherlands and Suriname (hereinafter: Allocation Agreement).¹² National legislation was adopted to determine within the sovereign territory of Suriname who belonged to its population and who were considered to be foreigners: the *Wet van 24 november 1975 tot regeling van het Surinamerschap en het Ingezetenschap* (hereinafter: the Law on Surinamese Nationality and Residence or WSI).¹³ Both the Allocation Agreement and the WSI entered into force on 25 November 1975.

The WSI did not experience many major changes in the ensuing decades, however two important changes to the WSI deserve attention at this point. First, the legislator deemed it desirable in the 1980s to retain contact with persons who have a special bond with Suriname. Thus, in 1983, the legislator amended the WSI to *inter alia* include a facilitated naturalisation procedure for these persons of ‘Surinamese origin’.¹⁴

The second and most recent major amendment of the WSI was realised in 2014. Nearly forty years after the entry into force of the WSI, the legislator deemed that the law suffered from four shortcomings: the lack of equality between the position of men and women in general and in particular with regard to the transfer of citizenship by women to their children, a strict regime to prevent the emergence of multiple citizenships, the absence of a legal regime to prevent statelessness due to loss of Surinamese citizenship, and the limited possibilities for (re-)acquisition of the Surinamese citizenship by way of option rights.

In June 2014, a riveting legislative process was finalised with the passing by the National Assembly of the draft to further amend the WSI.¹⁵ The preamble to the legislation affirmed that amendment of the aforementioned shortcomings was ‘desirable’ and these were considered to be repaired by the 2014 amendment act.¹⁶

¹² ‘Toescheidingsovereenkomst inzake nationaliteiten tussen het Koninkrijk der Nederlanden en de Republiek Suriname’ [Agreement between the Kingdom of the Netherlands and the Republic of Suriname concerning allocation of nationalities], *Tractatenblad* 1975, no. 132, <https://zoek.officielebekendmakingen.nl/trb-1975-132> (in Dutch).

¹³ ‘Wet van 24 november 1975 tot regeling van het Surinamerschap en het Ingezetenschap’ [Law of 24 November 1975, for the Regulation of the Surinamese nationality and the Residence], S.B. 1975, no. 4, http://eudo-citizenship.eu/admin/?p=file&appl=currentCitizenshipLaws&f=SUR_Law_on_nationality_consolidated_version_12.09.2014_ENGLISH.pdf.

¹⁴ ‘Wet van 5 oktober 1983 houdende wijziging van de Wet van 24 november 1975, tot regeling van het Surinamerschap en het Ingezetenschap’ [Law of 5 October 1983 containing amendments to the Law of 24 November 1975 for the Regulation of the Surinamese Nationality and the Residence in Suriname], S.B. 1983, no. 104.

¹⁵ ‘Wet van 21 september 2014, houdende nadere wijziging van de Wet van 24 november 1975, tot regeling van het Surinamerschap en het Ingezetenschap’ [Law of 12 September 2014 containing further amendments to the Law of 24 November 1975 for the Regulation of the Surinamese Nationality and the Residence] (hereinafter: WSI Amendment Law 2014), S.B. 2014, no. 121, http://eudo-citizenship.eu/NationalDB/docs/SUR_amendment%20to%20law%20on%20nationality%2012.09.14_as%20enacted_ORIGINAL%20LANGUAGE.pdf (in Dutch).

¹⁶ Minister of the Interior Edmund Leilis indicated during the adoption of the law that ‘(...) this is a milestone for Suriname. The law now complies with international standards [*translation NCL*]’, see ‘Leilis: Suriname stimuleert dubbele nationaliteit’ [Leilis: Suriname stimulates dual citizenship], *Suriname Herald*, 11 July 2014, www.srherald.com/suriname/2014/07/11/leilis-suriname-stimuleert-dubbele-nationaliteit/ (in Dutch).

3. The current citizenship regime

The current citizenship regime is based on the aforementioned Law on Surinamese Nationality and Residence (WSI). This section will highlight the main modes of acquisition and loss of nationality under the WSI. A few words will also be given to the issue of dual nationality in the WSI. Essential for the citizenship regime of Suriname is the application of the Allocation Agreement. These issues will be discussed in detail in section 4.

Acquisition of Surinamese nationality

There are, broadly speaking, three ways in which a person can acquire Surinamese citizenship: *ex lege*, by naturalisation and by option. The general principle of acquisition of citizenship is that Surinamese citizenship is derived from the Surinamese citizenship of one of an individual's parents (*ius sanguinis*). The amendments to the WSI in 2014 have mostly equalised the acquisition *iure sanguinis* of the Surinamese nationality. Suriname also allows for a limited application of *ius soli*, particularly where the child would otherwise become stateless.

A child born from parents, at least one of whom possesses Surinamese citizenship at the time of birth, acquires Surinamese citizenship automatically.¹⁷ The child also obtains Surinamese citizenship if the Surinamese parent is deceased before the birth of the child.¹⁸ Recognition of a child born out of wedlock by a Surinamese father also leads to the acquisition of Surinamese nationality. The acquisition of Surinamese citizenship is retroactive to the time of the birth of the child if the father possesses Surinamese citizenship at the time of the birth of the child;¹⁹ otherwise, the child is considered to have obtained Surinamese nationality from the moment of recognition, as long as the father possesses Surinamese nationality at that time and the child has his or her residence in Suriname at the time of recognition.²⁰

A similar situation applies for children for whom a familial relationship with a Surinamese father is established by legitimation (*wettinging*). The Surinamese Civil Code states that a child born out of wedlock is 'legitimised' if the child has been recognised by the father prior to or during the marriage with the 'natural' mother.²¹ This form of legitimation will normally be covered by the provisions of Articles 4 sub a, and 5(3) of the WSI concerning the legal consequences of recognition of children (see above). If the father has not recognised the child prior to or during the marriage, he may apply to the President for the so-called *brieven van wettinging* (letters of legitimation).²²

¹⁷ Article 3 sub a WSI.

¹⁸ Article 3 sub b WSI.

¹⁹ Article 4 sub a WSI.

²⁰ Article 5(3) WSI.

²¹ Article 325 Surinamese Civil Code.

²² Article 327 Surinamese Civil Code.

If one of the (intended) parents becomes deceased prior to the marriage – thereby making the legitimation by marriage impossible – the surviving parent as well as the child may apply to the President for the letters of legitimation.²³ Children who have thus been legitimised by a Surinamese father obtain, as with recognition, Surinamese citizenship at the time of birth (if the father was Surinamese at the time of birth) or at the time of legitimation (if the father became Surinamese after the birth of the child but before the time of legitimation and the child is resident in Suriname at the time of legitimation).²⁴

Under the proposed new Surinamese Civil Code,²⁵ the institution of legitimation will be removed from the Civil Code and replaced by the judicial establishment of paternity.²⁶ At that time, the legislator should preferably amend the Surinamese Nationality Law to include the citizenship consequences of the judicial establishment of paternity. Otherwise, the citizenship consequences will have to be interpreted analogously to existing grounds of acquisition.²⁷

The Surinamese citizenship legislation also applies – to a limited extent – the principle of acquisition *iure soli*. A child born in the territory of Suriname (including children born on a Surinamese aircraft or vessel)²⁸ obtains Surinamese citizenship in two cases. Firstly, children born in Suriname are considered to have acquired Surinamese citizenship at birth, unless it is shown that the child has obtained another citizenship at the time of birth.²⁹ In the latter case, the child is considered to have never obtained Surinamese citizenship.³⁰ According to the Explanatory Memorandum to the WSI Amendment Law 2014, the other citizenship obtained at birth is that which has been derived from the citizenship of one of the parents.³¹ Similarly, a child found (foundling) or who has been abandoned in the territory of Suriname also automatically obtains Surinamese citizenship, if both parents are unknown.

²³ Article 328 Surinamese Civil Code.

²⁴ See Articles 4 sub a, and 5(3) WSI.

²⁵ For this issue and other civil law matters that are relevant for the application of the WSI, it is important to note that the Surinamese Civil Code, which entered into force on 1859 and amended a number of times since, remains in force to this day. The preparatory process for the revision of the Civil Code was recently finalised and submitted by the Surinamese government as a proposal on 1 March 2009. See in particular the draft for a new Book 1 (on Person and Family Law) of the *Nieuw Burgerlijk Wetboek van Suriname* (New Civil Code of Suriname), available at <http://www.gov.sr/ministerie-van-juspol/documenten/nieuw-bw/nieuw-burgerlijk-wetboek-van-suriname.aspx> (in Dutch).

²⁶ See Articles 207 et seq. of the proposal for a new Book 1 of the New Surinamese Civil Code.

²⁷ There are two possibilities imaginable in this case. Firstly, as the judicial establishment of paternity will have retroactivity to the birth of the child, the parental affiliation will exist, in hindsight, from birth; the child thus derives the Surinamese citizenship *iure sanguinis* from the Surinamese father on the basis of Article 3 sub a. Alternatively, judicial establishment of paternity could be interpreted as the legal successor of legitimation; a legal-systematic interpretation of the WSI would lead to the conclusion that the nationality consequences of judicial establishment of paternity is governed analogously to the acquisition of Surinamese citizenship by 'legitimation'.

²⁸ See Article 1 sub a WSI.

²⁹ Article 3 sub c WSI.

³⁰ See Article 3 sub c WSI.

³¹ See WSI Amendment Law 2014, Explanatory Memorandum, point B, under 'Article 3 sub c', p. 13, http://www.dna.sr/media/78594/SB_2014_no_121_wijz._Surinamerschap_en_Ingezetenschap.pdf (in Dutch).

Finally, children adopted by Surinamese parents also obtain Suriname citizenship *ex lege*. Under Surinamese law, adoption of children in Suriname is pronounced by the Surinamese court.³² Children adopted in Suriname obtain Surinamese citizenship automatically if the adoptive parent, on the day that the adoption decision becomes final, possesses Surinamese citizenship, and the child was a minor on the day of the decision of the court of first instance.³³ For international adoptions (i.e. adoptions outside of Suriname), acquisition of Surinamese citizenship is subject to additional requirements. Firstly, only minor children adopted internationally are eligible to acquire Surinamese citizenship.³⁴ Furthermore, the international adoption must be in conformity with Surinamese rules of Private International Law. Finally, the international adoption must result in the child becoming a 'legitimate' child of the adoptive parent.³⁵

A special situation regarding the acquisition of Surinamese citizenship by *ius soli* is contained in the second sentence of Article 2 WSI. According to this provision, all persons born in Suriname, who had their domicile or principal residence there at the time of the independence of Suriname (i.e. 25 November 1975), automatically acquire Surinamese citizenship.

On the acquisition of Surinamese citizenship *ex lege* as a result of the Allocation Agreement between Suriname and the Netherlands, as espoused in the first sentence of Article 2 WSI, see section 4.

Naturalisation

There are three types of naturalisation in Suriname. The general naturalisation regime is governed by Article 8 WSI. The President of Suriname can also grant naturalisation on the grounds of 'state interest'.³⁶ Finally, certain categories of persons may naturalise on the basis of Article 16 and 16a WSI.

The conditions for regular naturalisation are contained in Article 8(2) to 8(7) WSI. Applicants for naturalisation must have reached the age of majority, as defined in the WSI.³⁷

³² Article 227(1) of Book 1 New Surinamese Civil Code.

³³ Article 7(1) WSI.

³⁴ Article 7(2) WSI. In comparison, children adopted in Suriname may acquire Surinamese citizenship even as an adult, provided that the judicial adoption decision in first instance was given when the child was still a minor.

³⁵ Article 7(2) WSI. In this regard, it should be noted that the institution of legitimate versus illegitimate children will be removed by the *proposal* for a new Book 1 of the New Surinamese Civil Code. The requirement of 'legitimate' child-status by the international adoption should be interpreted as requiring the international adoption to have the same effect as Surinamese adoption, i.e. establishment of parental affiliation with the adoptive parents *and* loss of familial affiliation with the 'birth parents'; see Article 229 of the proposal. See also footnote 25.

³⁶ Article 9 WSI.

³⁷ Article 8(4)(a) WSI. Article 1 sub b WSI defines a 'person of age' as a person who has reached the age of 18 years or who has entered into marriage prior thereto.

There are three categories of persons eligible for ordinary naturalisation. First, persons who have previously lost Surinamese citizenship may apply for ordinary naturalisation.³⁸ Second, persons who have had their domicile or their principal residence in Suriname for 5 years prior to the application are also eligible under Article 8 WSI.³⁹ Third, persons born in the territory of Suriname to stateless parents or parents of unknown nationality may apply for ordinary naturalisation. For this latter category of persons, it begs the question what the added value of ordinary naturalisation is, given the scope of the acquisition of Surinamese citizenship *ex* Article 3 sub c WSI.

It should be noted that the Surinamese Nationality Law has a specific definition of what constitutes ‘domicile or principal residence’.⁴⁰ Unless proven otherwise, a person’s domicile or principal residence is defined as the place where the person is registered in the Civil Registry or Residence Registry. According to the Explanatory Memorandum to the 2014 WSI Amendment Law, this provision was introduced due to ‘the many problems that have emerged in practice in applying the concept of domicile or principal residence’.⁴¹

Thus this definition clearly differs from the definition of domicile in the Surinamese Civil Code. The Civil Code defines ‘domicile’ as ‘the place where a person has established his or her principal residence. In the absence of such a place, the place of factual stay will be taken as the place of domicile’. The jurisprudence of both the Dutch and Surinamese courts regarding the interpretation of the ‘loss of domicile’ under the Allocation Agreement take the Civil Code definition of the respective countries as the basis. Essential therein is the determination and appreciation of the volitional act of the individual to lose his or her domicile (cf. Ahmad Ali 1998a: 97-99).

Applicants must also have paid application fees for the process of naturalisation.⁴² Where naturalisation is not granted, half of the amount paid is refunded.⁴³ Finally, applicants who possess the nationality of another State may be required to produce proof that the legislation of that State does not prohibit his or her naturalisation in Suriname.⁴⁴ While the WSI does mention integration requirements as part of the ordinary naturalisation procedure, they are not defined in the Act itself; this task is delegated to the government.⁴⁵

³⁸ Article 8(4)(b) WSI. Interestingly, these persons may also apply for naturalisation under Article 16a WSI; see further below.

³⁹ Article 8(4)(b) WSI.

⁴⁰ Article 1 sub g WSI.

⁴¹ WSI Amendment Law 2014, Explanatory Memorandum, point A, under Article 1 sub g, p. 12.

⁴² Article 8(2) WSI. The current legislation establishes the amount due at a maximum of 200 SRD (Surinamese Dollars). At the time of writing, 200 SRD amounts to around 54 EUR. The WSI specifies that certain categories of persons are subject to lower naturalisation fees, see Article 8(6) or are exempt therefrom (Article 8(2)). See for the conversion of the original currency (‘Surinaamse gulden’) as found in *inter alia* Article 8 WSI to the new currency introduced in 2003 (‘Surinaamse dollar’) Article 3 of the Law on Name and Value Conversion of Amounts in Guilders to Amounts in Dollars (‘Wet Vernoeming en Herleiding van Guldensbedragen tot Dollarbedragen’), S.B. 2003, no. 89, <http://www.dna.sr/wetgeving/surinaamse-wetten/geldende-teksten-tm-2005/wet-vernoeming-en-herleiding-van-guldensbedragen-tot-dollarbedragen/> (in Dutch).

⁴³ Article 8(7) WSI.

⁴⁴ Article 8(5) WSI. The literal text of the provision applies to ‘persons belonging to another country’. It is unclear whether this provision is to be interpreted as a renunciation requirement.

⁴⁵ Article 8(9) WSI.

For minor (adopted) children of applicants, Article 11 WSI governs the conditions under which they will naturalise with the (adoptive) parents. The second ground of naturalisation is where naturalisation would be in the ‘state interest’.⁴⁶ Persons naturalising on this basis are exempt from most of the requirements of ordinary acquisition, including naturalisation fees and period of residence.⁴⁷ This ground of acquisition of Surinamese citizenship is not further defined in the WSI, and it is unknown how many times individuals have been naturalised on this basis.

It should be noted that for both naturalisation categories mentioned above, the naturalisation takes place on the basis of a legislative act.⁴⁸ On the other hand, the final ‘category’ of naturalisations distinguishes itself from the former two primarily by the manner in which it is granted. Both naturalisations under Article 16 and 16a WSI are granted by a decree of the President.⁴⁹

There are two groups of persons eligible for naturalisation by Presidential decree. First, a mother of Surinamese citizenship may apply to the President for naturalisation of her minor children born from a prior marriage or whose father is deceased or unknown.⁵⁰ These children must meet the requirement of one year of domicile or principal residence in Suriname prior to the application.⁵¹

Second, Article 16a WSI also allows the President to naturalise certain persons with strong ties to Suriname. Four groups of people are eligible under this ground:

- a) Persons with a foreign citizenship or stateless persons born in Suriname;⁵²
- b) Persons with a foreign citizenship or stateless persons who have previously possessed the Surinamese citizenship;⁵³
- c) Persons with a foreign citizenship or stateless persons, born abroad to parent(s) born in Suriname;⁵⁴ and
- d) Persons resident in Suriname who have the status of ‘Person of Surinamese Origin’ (*Persoon van Surinaamse Afkomst*, PSA status).⁵⁵

⁴⁶ See Article 9 WSI.

⁴⁷ Article 9(1) WSI. Specifically, this provision exempts the naturalisation applicant in the interest of the state from the requirements of Articles 8(2) to 8(7) WSI.

⁴⁸ Article 8(1) WSI.

⁴⁹ Articles 16(1) and 16a(1) WSI.

⁵⁰ Article 16(1) WSI.

⁵¹ Article 16(1) WSI.

⁵² Article 16a(1)(a) WSI.

⁵³ Article 16a(1)(b) WSI.

⁵⁴ Article 16a(1)(c) WSI.

⁵⁵ Article 16a(1)(d) WSI. The PSA Status is governed by the PSA Law, S.B. 2014, no. 8. Upon activation of this status, its holders are granted a number of ‘special rights’ stipulated in the PSA Law. The definition of persons entitled to the PSA Status is nearly identical to the categories described in Article 16a(1) subs a and b (with the exception of stateless persons) and sub c (expanded to include the generation with a grandparent born in Suriname). It should be noted that this provision was only recently introduced (September 2014), and it is unlikely that many persons have already naturalised under this ground.

e) These persons must further meet the following requirements: they must have reached the age of majority and must have their domicile or principal residence in Suriname at the time of application,⁵⁶ they may not be a danger to the public order, morals, and health, or to the safety of the State,⁵⁷ and they must have made the utmost effort to renounce their former citizenship or be willing to renounce it after naturalisation.⁵⁸ The latter two requirements are somewhat peculiar, as they are not (explicitly) required under any of the other naturalisation procedures.

Statistics on the number of naturalisations are hard to find.⁵⁹ At least as regards ordinary naturalisations, the numbers can be derived from the legislative acts confirming naturalisations.⁶⁰ The Ministry of Justice and Police also publish a number of lists of naturalisations online.⁶¹ From this information, we have derived the following number of naturalisations, disaggregated by type of applicants, i.e. ‘naturalised persons of Surinamese origin’ and ‘naturalising foreigners’.

⁵⁶ Article 16a(2) WSI.

⁵⁷ Article 16b(1)(a) WSI.

⁵⁸ Article 16b(1)(b) WSI.

⁵⁹ The problems of availability of statistical data was prominently discussed in recent parliamentary debates concerning two bills granting naturalisation, see the report of the National Assembly, ‘Openbare Vergadering d.d. 24 januari 2014’, p. 12.

⁶⁰ For naturalisations after 2005, see the official website of *De Nationale Assemblée* (<http://www.dna.sr/wetgeving/surinaamse-wetten/wetten-na-2005/>) under the various legislative acts starting with “Wet naturalisatie”.

⁶¹ See the official website of the Ministry of Justice and Police of Suriname (<http://www.gov.sr/ministerie-van-juspol/documenten/vreemdelingen-zaken/naturalisatie.aspx>).

Table 1. Number of naturalisations in Suriname (2000-2014) ⁶²			
Year	By law of foreigners ⁶³	By Presidential Decree of persons of Suriname origin ⁶⁴	Total
2000	572	Not available	572
2001	547	Not available	547
2003	100	Not available	100
2007	154	Not available	154
2009	301	Not available	301
2010	350	63	413
2011	249	91	340
2012	150	83	233
2013	300	43	343
2014	Not available	11	11

Option

Finally, certain categories of persons have a facilitated access to Surinamese citizenship. These can generally be divided into three groups: ‘ius soli’ optants, persons who have lost Surinamese citizenship attained as a minor, and persons who may (re-)acquire Surinamese citizenship due to a change in their marital status. In all these cases, the acquisition of Surinamese citizenship is effectuated by a declaration by the individual to the competent authorities;⁶⁵ a separate decision by the authorities is not required for the acquisition of citizenship.

⁶² Data derived from the various legislative acts of naturalisation and the lists of naturalisations published by the Ministry of Justice and Police. Please note that no data has been found for the years 2002, 2004-2006, and 2008.

⁶³ Data available for the years 2010-2014. The data from 2014 may be provisional and may not include all naturalisations in 2014.

⁶⁴ Data available for the years 2000, 2001, 2003, 2007, 2009-2013. The term ‘vreemdelingen van Surinaamse origine’ (foreigners of Surinamese origin) does not appear in the citizenship legislation. The term is used to refer to persons with Suriname in the context of the Immigration Law 1991 (S.B. 1992, no. 3, <http://www.gov.sr/ministerie-van-juspol/diensten/hoofdafdeling-vreemdelingenzaken.aspx>, in Dutch). The description of this category overlap more or less with Article 16a(1) subs a to c WSI.

⁶⁵ The competent authority referred to in the relevant provisions is the Surinamese Minister charged with citizenship affairs, or – in case of option declarations abroad – the official representation of Suriname in the country in which the declaration is made; see Articles 19 and 1 sub f WSI.

The first category of option rights concerns persons born in the territory of Suriname, if at least one of their parents were resident in Suriname at the time of birth, and the child had his or her domicile or principal residence in Suriname for a period of at least three years prior to attaining the age of eighteen years.⁶⁶ Qualifying persons may make the declaration to obtain Surinamese citizenship within one year after attaining the age of eighteen years.⁶⁷

Adults who lost the Surinamese citizenship they had obtained as a minor may also make a declaration to reacquire Surinamese citizenship within one year of attaining the age of majority. This applies to persons who lost their Surinamese citizenship by an act of their legal representative as a minor,⁶⁸ as well as persons who renounced their Surinamese citizenship obtained as a minor by naturalisation upon reaching the age of eighteen years.⁶⁹ For the former group, the age of majority refers to the age of majority as defined in the Surinamese Nationality Law (i.e. eighteen years). For the latter group, however, Article 17 WSI refers to the age of majority as defined in the Surinamese Civil Code. This definition in the Civil Code differs from the definition in the Surinamese nationality legislation; the age of majority under the Civil Code is 21 years.⁷⁰ This means that the latter individuals have a right to renounce their Surinamese citizenship between the ages of 18 and 19 years; after this renunciation, they may reacquire Surinamese citizenship upon reaching the age of 21 years (until the age of 22 years).

Finally, there are two cases in which a person may obtain Surinamese citizenship due to a change in marital status. First, a non-Surinamese citizen who enters into a marriage with a Surinamese citizen may opt for Surinamese citizenship.⁷¹ The spouse of the optant must have been a Surinamese citizen at the time of the celebration of marriage *and* at the time of the declaration.⁷² Furthermore, the non-Surinamese spouse must fall within one of these three categories:

- a) The spouses must have been and continue to be married for at least two years prior to the declaration, and the spouses have had their domicile or principal residence at the same address for at least two years;⁷³
- b) The optant must have had his or her residence in Suriname from prior to the marriage until the date of declaration, and this period must have lasted for at least five years;⁷⁴ or
- c) Children have been born in the relationship between the optant and the Surinamese citizen, including children born prior to the marriage.⁷⁵

⁶⁶ Article 5(1) WSI.

⁶⁷ Article 5(1) WSI.

⁶⁸ Article 6(2) and (3) WSI.

⁶⁹ Article 17 WSI in conjunction with Articles 10(2) and 16(3) WSI.

⁷⁰ See Article 382 Surinamese Civil Code. Under the proposed new Surinamese Civil Code, this age of majority will be lowered to 18 years, see Article 233 of the proposed Book 1 for a new Surinamese Civil Code.

⁷¹ Article 12 WSI.

⁷² Article 12(1) WSI.

⁷³ Article 12(1)(a) WSI.

⁷⁴ Article 12(1)(b) WSI.

⁷⁵ Article 12(1)(c) WSI.

Second, a Surinamese citizen who has entered into a marriage with a foreign national and acquired the nationality of his or her spouse, and thereby exercised his or her right to renounce the Surinamese citizenship under Article 13 WSI, may opt for the reacquisition of the Surinamese citizenship after the dissolution of the marriage.⁷⁶ If this declaration is made within one year after the dissolution of marriage, the optant acquires the Surinamese citizenship from the date of the dissolution of marriage.⁷⁷ The optant may also make the declaration after this period; in this case, the optant must have had his or her domicile or principal residence in Suriname for at least one year after the dissolution of marriage, and he or she must not have obtained another citizenship after the dissolution of marriage.⁷⁸ The latter declaration results in the acquisition of Surinamese citizenship from the moment of the declaration.⁷⁹

Incidentally, the Explanatory Memorandum to the 2014 Amendment Law states that these two option rights are contingent on the optant having his or her domicile in Suriname at the time of application.⁸⁰ This interpretation leads to the inclusion of an extra residency requirement for two groups of optants: spouses opting for Surinamese citizenship on the ground of children having been born in the relationship, as well as former Surinamese citizens who renounced their Surinamese citizenship after marriage, and who have opted for reacquisition of the Surinamese citizenship within one year after the dissolution of the marriage. For these two groups of optants, the Surinamese citizenship legislation does not explicitly require residence in Suriname at the time of the declaration.

Loss of citizenship

Article 11 of the Surinamese Nationality Law is the general provision regarding the loss of Surinamese citizenship. A Surinamese citizen may lose his or her citizenship on the grounds of voluntary acquisition of a foreign citizenship,⁸¹ military service without prior approval of the President,⁸² withdrawal of the naturalisation decree by the President due to failure to comply with the naturalisation condition of renunciation of foreign citizenship(s),⁸³ and voluntary renunciation.⁸⁴ It should be noted that Surinamese Nationality Law contains multiple provisions providing for certain persons to renounce Surinamese citizenship.⁸⁵

⁷⁶ Article 14(1) WSI.

⁷⁷ Article 14(1) WSI.

⁷⁸ Article 14(2) WSI.

⁷⁹ Article 14(2) WSI.

⁸⁰ See WSI Amendment Law 2014, Explanatory Memorandum, points L to N.

⁸¹ Article 11(2) and (4) WSI. The loss of Surinamese citizenship due to voluntary acquisition of a foreign citizenship is extended to minor children who have obtained the foreign citizenship as a result of extension of the naturalisation of the (adoptive) parent(s), see Article 11(2) WSI.

⁸² Article 11(5) WSI.

⁸³ Article 11(6) WSI.

⁸⁴ Article 11(3) WSI.

⁸⁵ See Articles 6(2), 10(2), 13, 15 and 16(3) WSI.

Surinamese Nationality Law does not allow for the loss of Surinamese citizenship where this would lead to statelessness of the individual. This is reflected in the general prohibition,⁸⁶ as well as in the various renunciation rights, which require that the individual possesses another citizenship and has his or her domicile or principal residence outside of Suriname.⁸⁷

Unlike in some Latin American countries,⁸⁸ Surinamese Nationality Law does not make a distinction between Surinamese citizens ‘by birth/origin’ and Surinamese citizens ‘by naturalisation’. This is particularly important for the loss of citizenship due to voluntary acquisition, as Surinamese citizens may lose their citizenship under Surinamese legislation regardless of the manner in which they became Surinamese (*ex lege*, by naturalisation or option).

4. State Succession of Suriname and the Allocation Agreement

In the international legal process leading up to the succession of Suriname from the Kingdom of the Netherlands, the States concerned negotiated intensively regarding issues of nationality and movement of persons. This led on the 25 November 1975 to the entry into force of *inter alia* the following three treaties between the Republic of Suriname and the Kingdom of the Netherlands: the Allocation Agreement concerning nationalities, the Agreement concerning the residence and establishment of mutual nationals, and the Agreement concerning the abolishment of visa requirements.⁸⁹ A number of foundational principles guided the drafting of the arrangement of nationalities in the Allocation Agreement. The main goal was the division of nationals between the successor state (the Republic of Suriname) and the predecessor state (the Kingdom of the Netherlands). The most important rule of thumb therein was the combination of ‘place of birth’ and ‘residence’ at the time of the transfer of sovereignty.

⁸⁶ Article 11a WSI.

⁸⁷ See Articles 6(2), 10(2), 11(3), 13, 15, and 16(3) WSI.

⁸⁸ For example Argentina, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, and Uruguay preclude their citizens ‘by birth’ (*de origen/por nacimiento*) from losing their nationality (*nacionalidad*), while citizens by naturalisation may lose their nationality if they voluntarily acquire the nationality of another state (Cf. Vink, De Groot & Luk 2013).

⁸⁹ ‘Overeenkomst tussen het Koninkrijk der Nederlanden en de Republiek Suriname inzake het verblijf en de vestiging van wederzijdse onderdanen’ [Agreement between the Kingdom of the Netherlands and the Republic of Suriname concerning the residence and establishment of mutual nationals], *Tractatenblad* 1975, no. 133, <https://zoek.officielebekendmakingen.nl/trb-1975-133> (in Dutch), respectively ‘Overeenkomst tussen het Koninkrijk België, het Groothertogdom Luxemburg en het Koninkrijk der Nederlanden, enerzijds, en de Republiek Suriname, anderzijds, inzake de afschaffing van de visumplicht’ [Agreement between the Kingdom of Belgium, the Grand Duchy of Luxembourg, and the Kingdom of the Netherlands on the one part, and the Republic of Suriname on the other part, concerning the abolishment of visa requirements], *Tractatenblad* 1975, no. 139, <https://zoek.officielebekendmakingen.nl/trb-1975-139> (in Dutch). These two treaties concerned the arrangement of the movement of persons between the State parties. For a further discussion on this, see the note by H. Ahmad Ali for the case of the *Rechtseenheidskamer Rechtbank 's-Gravenhage* 30 May 2000, *Jurisprudentie Vreemdelingenrecht* 2000/156.

The main elements of the Allocation Agreement are:

- Acquisition of the nationality of the successor State or retention of the nationality of the predecessor state;
- Conferment of option rights and prevention of statelessness and multiple nationalities; and
- Promotion of unity of nationalities between spouses.

The Allocation Agreement further recognises the special ties of a specific group of former inhabitants of Suriname with their native country, i.e. persons who have retained the Dutch nationality. This has led to the striking fact that a treaty on nationality matters also confers other kinds of rights to persons born in Suriname, who attained the age of majority on 25 November 1975, who reside outside of Suriname, and who did not acquire Surinamese nationality – i.e. those who have retained the Dutch nationality – by the application of the Allocation Agreement.⁹⁰ These rights were also granted to a more limited extent to family members of these persons..

Modes of acquisition

The Allocation Agreement provides for the following ways of acquiring Surinamese nationality or Dutch nationality:

- a) Acquisition of Surinamese nationality *ex lege* by certain categories of persons who had reached the age of majority on 25 November 1975, with the simultaneous loss of Dutch nationality, at the entry into force of the Allocation Agreement, or at a later time.⁹¹

Article 3 of the Allocation Agreement stipulates that all Dutch nationals of age, born in Suriname and who, on the day of the entry into force of the Allocation Agreement – i.e. 25 November 1975 – have their domicile or principal residence in Suriname, automatically acquire the Suriname nationality on that date.

Article 4 of the Allocation Agreement concerns Dutch nationals of age, born outside of Suriname, who have their domicile or principal residence in Suriname on 25 November 1975 and who fall under one of the categories contained in this Article.

Article 5(2) of the Allocation Agreement governs the position of *inter alia* Dutch nationals of age, born in Suriname and who had their domicile or principal residence outside of Suriname at the time of entry into force of the Allocation Agreement: these persons acquire Surinamese nationality automatically if they have subsequently had their domicile or principal residence in Suriname for a period of two years. Due to diverging opinions between the state parties about the period of application of this ground for acquisition of Surinamese nationality, this aspect of Article 5(2) has since been repealed. The repeal was effectuated with retroactivity to 1 January 1986 with the Protocol of 14 November 1994.⁹²

⁹⁰ These so-called ‘special rights’ are contained in Article 5(2) in conjunction with 5(1), and Article 5(3) of the Allocation Agreement.

⁹¹ See particularly Articles 3, 4, and 5(2) of the Allocation Agreement.

⁹² ‘Protocol tot wijziging van de op 25 november 1975 te Paramaribo ondertekende Toescheidingsovereenkomst inzake nationaliteiten tussen het Koninkrijk der Nederlanden en de Republiek Suriname’ [Protocol to amend the Agreement – signed on 25 November 1975 in Paramaribo – between the Kingdom of the Netherlands and the

b) Acquisition of Surinamese or Dutch nationality based on the *principle of descent* by persons not yet of age on 25 November 1975, with simultaneous loss of the original nationality at the entry into force of the Allocation Agreement, or at a later time.

Articles 6(1) and (2) of the Allocation Agreement stipulate that minors follow the nationality of their father or, where the father is deceased or legally unknown, the nationality of the mother. An exception to this rule is made in Article 6(2): minors follow the nationality acquired by their mother due to the application of the Allocation Agreement, if and as long as they reside with the mother in another country than the father.

c) Acquisition of Surinamese or Dutch nationality by the exercise of *option rights* by a limited group of persons. This is the case for example in Articles 5(1), 6(4) and (5), and 7(1) and (2) of the Allocation Agreement.

Article 5(1) deals with the position of persons who were of age and residing outside of Suriname on 25 November 1975, and who did not obtain the Surinamese nationality at that time.⁹³ Article 6(4) and (5) concern persons who were minors on 25 November 1975, and who, after attaining the age of majority, would like to make use of the possibility to acquire the nationality they would have obtained on 25 November 1975 if they had been of age at that time. Article 7(2) in conjunction with 7(1) governs the position of persons who obtained Surinamese or Dutch nationality on the basis of the Allocation Agreement and whose spouse possesses the other nationality.

Limited applicability due to passage of time

Applying the Allocation Agreement in practice is not possible without consulting the official explanations,⁹⁴ relevant proceedings of the First and Second Chambers of the Dutch parliament, subsequent agreements between the state parties to amend the Agreement, case law of the Dutch courts, particularly the judicial department of the Council of State and the Supreme Court of the Netherlands, as well as case law of the Surinamese courts. Finally, cognisance of the literature is essential.⁹⁵

Republic of Suriname on the allocation of nationality], *Tractatenblad* 1994, 280, <https://zoek.officielebekendmakingen.nl/trb-1994-280.html> (in Dutch).

⁹³ The option right granted by this Article could only be exercised until 1 January 1986.

⁹⁴ ‘Handleiding betreffende de Toescheidingsovereenkomst inzake nationaliteiten gesloten tussen het Koninkrijk der Nederlanden en de Republiek Suriname: Teksten en toelichtingen’ [Instructions on the Agreement between the Kingdom of the Netherlands and the Republic of Suriname concerning allocation of nationalities: Text and explanations], The Hague: Staatsuitgeverij 1975. A guide with the same content was published in 1976 in Paramaribo by the Governmental Department of Publicity of the Ministry of General and External Affairs of Suriname.

⁹⁵ The reader is referred in this context to the PhD thesis of the author (Ahmad Ali 1998a). See also the case notes of A.H.J. Swart and G.-R. de Groot in the *Nederlandse Jurisprudentie* to the judgments of the Supreme Court of the Netherlands concerning the interpretation of provisions of the Allocation Agreement. For a comprehensive reference to literature on the Allocation Agreement, see the section ‘Bibliography’ below.

The Allocation Agreement has mostly run its course due to the lapse of time, with the exception of Article 5(2) concerning the special rights of entry and residence in Suriname by Surinamese Dutch nationals who were resident outside of Suriname on 25 November 1975, as well as the related Article 5(3) of the Allocation Agreement governing the position of spouses and children of the persons defined in Article 5(2),⁹⁶ and Article 7(2) in conjunction with 7(1) of the Allocation Agreement concerning the option right for the nationality that the other spouse obtained or retained, as well as a ‘retro-option’ right in case of a dissolution of the marriage, where the person opted during the marriage for the Dutch or Surinamese nationality of the other spouse.

Therefore, the discussion below of the Allocation Agreement will be limited to Articles 5(2), and 7(2) in conjunction with 7(1) of the Allocation Agreement.⁹⁷

Conferral of special rights

Unconditional right of entry to Suriname and equal treatment as Surinamese nationals

Article 5(2) of the Allocation Agreement grants two specific (special) rights to Dutch nationals of age who had their domicile or principal residence outside of Suriname on 25 November 1975, and who were either born in Suriname or, if born outside of Suriname, fall under one of the groups of persons defined in Article 4 sub b of the Allocation Agreement. These two rights are the ‘unconditional right of entry into Suriname for themselves and their family members’ and the right of ‘treatment in all aspects as Surinamese citizens’ during their stay in Suriname. The drafting of this provision was guided by the principle – politically widely supported in both the Netherlands and Suriname in 1975 – that return migration to Suriname should be encouraged. This provision also expressed the desire of the Surinamese government at the time to retain ties with Surinamese citizens in the Netherlands, who did not acquire Surinamese nationality at the moment of sovereignty of Suriname. In light of these perspectives, the state parties considered it desirable to grant special rights to Surinamese Dutch citizens resident in the Netherlands on 25 November 1975, upon their return to Suriname (Ahmad Ali 1998a: 227).

Case law

The application of Article 5(2) of the Allocation Agreement by the Surinamese government, particularly as regards the ‘unconditional right of entry to Suriname’ and ‘equal treatment as Surinamese citizens’, led to a number of important rulings before the Surinamese courts of first instance and appeal.⁹⁸

⁹⁶ This provision grants the unconditional right to enter Suriname to the spouses and children born before 2001 of persons defined in Article 5(2) of the Allocation Agreement. The aforementioned spouses and children are limited to the ‘unconditional right of entry to Suriname’ under this provision.

⁹⁷ The other provisions may remain relevant in situations where the nationality position of an individual has to be established *ex post*.

⁹⁸ Kantonrechter in het Eerste Kanton 23 May 2001, A.R. No 994674, *SJB (Surinaams Juristenblad)*, September 2002, nr. 2, p. 39-44; Kantonrechter in het Eerste Kanton 13 June 2002, A.R. No. 014650, *SJB*, September 2002, nr. 2, p. 45-49; Kantonrechter in het Eerste Kanton 3 July 2006, A.R. No. 024892, *SJB*, April 2007; nr. 1, p. 84-89; Hof van Justitie 3 August 2007, Generale Rol NO. 1415, *SJB*, September 2007, nr. 2, p. 95-110; Kantonrechter in het Tweede Kanton, 7 July 2009, *SJB*, October 2009, nr. 2, p. 81-84; Kantonrechter in het Eerste Kanton 2 February 2010, A.R. No. 051385, *SJB*, June 2010, nr. 1, p. 75-88, annotated by S. Gangaram Panday, p. 89.

The proceedings show that the claimants (interested parties) supported a literal interpretation of Article 5(2), amounting to the conferral of all citizenship rights formally granted to a Surinamese citizen. The defendant, the Surinamese State, rejects this broad interpretation. During summary proceedings in the first instance regarding this issue, the Surinamese State defended the position ‘(...) that the applicant is a foreigner, and therefore the Immigration Act, the Visa Instructions 1983, the Law on Nationality and Residence, the Surinamese Constitution and other national legal provisions are fully applicable to them (...) [translation]’.⁹⁹ The defendant also argued that Article 5(2) had to be interpreted in conjunction with Article 5(1) of the Allocation Agreement. In this view, persons appealing to Article 5(2) should first have made use of their option right for Surinamese nationality under Article 5(1). The latter provision grants Dutch nationals of age born in Suriname, who were resident outside of Suriname on 25 November 1975 and thereby retained the Dutch nationality,¹⁰⁰ the right to opt for the Surinamese nationality during a period of 10 years, i.e. until 1 January 1986.¹⁰¹ On the basis of this interpretation, the Surinamese state concluded that persons appealing to the provisions of Article 5(2) could only do so until 1 January 1986.

The following conclusions can be drawn from the jurisprudence as it stands:

a) A common outcome is the establishment that even under Surinamese law, the Allocation Agreement, being an international agreement, is of a higher order than national legislation, ‘(...) so that in all cases for Suriname, where conflict arises between [the Allocation Agreement] and a provision of national law, the provisions of the Agreement have primacy over the latter, and that the national provision should be set aside [translation]’.¹⁰²

A concrete application of this provision in relation to the legislation on extradition¹⁰³ played in the judgment of the *Kantonrechter in het Tweede Kanton*. This judgment concerns a request of the Public Prosecutor to consider the request for extradition by the Kingdom of the Netherlands. The *Kantonrechter* considered first that the person requested for extradition fell under the scope of Article 5(2) of the Allocation Agreement, which meant that he was entitled to the right of equal treatment as Surinamese citizen of this Article. The court continued:

‘On the basis of the aforementioned right, the person requested [for extradition] could not be considered as a foreigner in the sense of the Law on extradition; after all, this Act considered as foreigner anyone who is not a Surinamese citizen in the sense of the Law on Nationality and Residence and who are not treated as a Surinamese citizen on the basis of other legal provisions (...) [translation]’.¹⁰⁴

The court concluded as follows:

⁹⁹ Kantonrechter in het Eerste Kanton 23 May 2001, op cit.

¹⁰⁰ Due to the application of Article 3 of the Allocation Agreement.

¹⁰¹ Article 5(1) also grants this option right to Dutch nationals of age born outside of Suriname who fall under one of the categories of persons described in Article 4 sub b of the Allocation Agreement.

¹⁰² As expressed in the judgment of the Kantonrechter in het Eerste Kanton 23 May 2001, op. cit. In this judgment, the mere fact of belonging to one of the categories of persons defined in Article 5(2) was sufficient to exercise the rights provided for in this Article.

¹⁰³ ‘Decreet van 10 juni 1983, houdende nieuwe regelen betreffende uitlevering en andere vormen van internationale rechtshulp in strafzaken’ [Decree of 10 June 1983, containing new provisions concerning extradition and other forms of international legal assistance in criminal cases], S.B. (*Staatsblad van de Republiek Suriname*) 1983 no. 52. Article 2 thereof states that Surinamese citizens will not be extradited.

¹⁰⁴ Kantonrechter in het Tweede Kanton 7 July 2009, op. cit.

‘(...) As the requested person falls under the application of Article 5(2) of the Allocation Agreement, he must be treated as a Surinamese citizen in all aspects during his stay in Suriname. Moreover, he may not be considered as a foreigner in the sense of the extradition Act. These facts preclude a declaration of admissibility of the requested extradition (...) [translation]’.¹⁰⁵

b) In a decision in summary proceedings of 3 August 2007 on appeal of a lower court ruling in summary proceedings, the *Hof van Justitie* (Court of Justice) rejected the defence of the state regarding a temporal limit to the invocation of the special rights of the Allocation Agreement (i.e. until 1 January 1986).¹⁰⁶ The conferral of the special rights of Article 5(2) were, in the opinion of the Court, not only guided by the intention of the state parties concerning return migration, ‘(...) but also the importance of the persons involved in retaining the ties with Suriname established as a result of their birth or the birth of their parents there [translation]’.¹⁰⁷ The Court concluded thus: ‘The Court is of the preliminary view that the provision of the first sentence of Article 5(2) remains applicable after 1 January 1986 [translation]’.¹⁰⁸

c) The *Kantonrechter*, adjudicating in the main proceedings, arrived in its ruling of 2 February 2010 at a different interpretation,¹⁰⁹ compared to the aforementioned conclusion of the Court of Justice, of whether the rights of Article 5(2) of the Allocation Agreement have expired. The *Kantonrechter* decided in this regard as follows: ‘the category of persons described in Article 5(2) of the Allocation Agreement can only successfully invoke this Article if they have expressed their wish prior to January 1986 to settle in Suriname and to acquire the Surinamese nationality towards the Republic of Suriname or the Kingdom of the Netherlands’ (the *Kantonrechter* refers in this regard to the ‘expression condition’).¹¹⁰

Views of the state parties

The issue of the interpretation of Article 5(2) of the Allocation Agreement has been regularly discussed at the political level since 2005 in the Dutch parliament as well as in consultations between the state parties. In 2008, the Minister of Foreign Affairs of the Netherlands informed the Second Chamber that Suriname has indicated that it wishes to terminate the Allocation Agreement as the treaty ‘has achieved its primary goal, namely the allocation of nationalities [translation]’.¹¹¹

¹⁰⁵ Ibid.

¹⁰⁶ Hof van Justitie Suriname 3 August 2007, op. cit.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Kantonrechter in het Eerste Kanton 2 February 2010, op. cit.

¹¹⁰ Ibid.

¹¹¹ *Kamerstukken II* 2008/09, 20361, no. 134, p. 2-3, <https://zoek.officielebekendmakingen.nl/kst-20361-134.html> (in Dutch).

The Minister informed the Parliament that the Netherlands disagreed with this position, as ‘the Allocation Agreement also contains rights of a group of Dutch nationals of Surinamese origin which must be sufficiently guaranteed [translation]’.¹¹² The Dutch statesman stated that there were two views: a literal interpretation, on the one hand, of the scope of Article 5(2), which amounts to the outcome of the case law discussed above, and on the other hand, the view that ‘the “treatment equal to a Surinamese citizen” is limited by the constraints in the Surinamese Constitution [translation]’.¹¹³ The Minister further informed the Second Chamber that he was in favour of a so-called ‘interpretative declaration’ as a solution for the discussions on the scope of Article 5(2).¹¹⁴ In a Protocol to be concluded with Suriname, the rights granted to Dutch nationals of Surinamese origin under Article 5(2) would be elaborated.¹¹⁵

In a reaction to parliamentary questions from the Second Chamber in 2010, the Minister of Foreign Affairs stated that a draft text of the envisaged ‘interpretative declaration’ had been prepared.¹¹⁶ Nonetheless, he indicated that consultations at the official level have not yet come to an agreement.¹¹⁷ In 2011, the Minister informed the Parliament that negotiations have been taking place for a number of years between the two countries in order to arrive at an ‘interpretative protocol’, but that they have not led to any results.¹¹⁸ A reaction of the statesman also seems to indicate that the negotiations have reached an impasse. The Minister clearly indicated the position of the Netherlands:

‘The Netherlands is opposed to termination of the Allocation Agreement as long as the rights of Surinamese Dutch nationals derived from the Allocation Agreement are not sufficiently guaranteed. (...) The Netherlands understands that Suriname wishes to reserve certain constitutional rights, such as the active and passive voting rights, to persons holding Surinamese nationality. Notwithstanding, rights concerning e.g. travel and acquiring land must remain fully guaranteed. The Netherlands shall continue to actively convey this position. [translation]’¹¹⁹

Finally, in 2014 the Second Chamber was informed of the following: ‘From the current Surinamese government (...) no initiatives have as yet been taken to continue negotiations’.¹²⁰

¹¹² Ibid., p. 2.

¹¹³ Ibid., p. 3.

¹¹⁴ Cf. *ibid.*

¹¹⁵ A report of a working visit of a parliamentary delegation of the Second Chamber in 2009 in Suriname (dated 29 March 2010, *Kamerstukken II* 2009/10, 20361, no 146, <https://zoek.officielebekendmakingen.nl/kst-20361-146.html> (in Dutch) reveals that the Surinamese side had also prepared a concept of an interpretative protocol. The president of the National Assembly of Suriname indicated that, since then, this concept was ‘with the Dutch government. No reaction has yet been received from the side of the Netherlands’. A minister of the former Surinamese government further claimed that in the interpretative protocol concerned, ‘(...) the active and passive franchise must remain outside of the treaty’; see *Kamerstukken* 2009/10, 20361, no 146, p. 8.

¹¹⁶ *Aanhangsel Handelingen II* 2010/11, 301, p. 1, <https://zoek.officielebekendmakingen.nl/ah-tk-20102011-301.html> (in Dutch).

¹¹⁷ *Ibid.*

¹¹⁸ *Kamerstukken II* 2010/11, 20361, 147, p. 8, <https://zoek.officielebekendmakingen.nl/kst-20361-147.html> (in Dutch).

¹¹⁹ *Ibid.*, p. 9.

¹²⁰ Letter of the Minister of Foreign Affairs to the President of the Second Chamber dated 2 June 2014 under no. Minbuza-2014.242389, also available from *Aanhangsel Handelingen II* 2013/14, 2131, p. 2, <https://zoek.officielebekendmakingen.nl/ah-tk-20132014-2131.html> (in Dutch).

Retro-option rights after dissolution or annulment of marriage

In the first paragraph of Article 7 of the Allocation Agreement, each spouse is granted the possibility to opt for the nationality of the other spouse, if the unity of nationality between the spouses was broken by the application of the Allocation Agreement. This option right must be exercised within five years after the change in citizenship (due to the Allocation Agreement) has taken place. As a result of the lapse of time since the entry into force of the Allocation Agreement, Article 7(1) is no longer applicable on its own.

This is different for the application of 7(2) of the Allocation Agreement. The second paragraph of Article 7 grants a ‘retro-option’ right to persons whose nationality was changed by the application of Article 7(1). Within a period of three years from the dissolution or annulment of the marriage, the person concerned may opt for his or her former nationality.

5. Current political debates and reform plans

The WSI has not been a point of much societal or political discussion in the couple of decades since its introduction. The most substantial amendment regarded the introduction of a different naturalisation regime for persons of Surinamese origin with a foreign (mostly Dutch) citizenship. This category of persons could thereby obtain Surinamese citizenship by way of a facilitated naturalisation procedure.¹²¹

Recently, there has been much debate about whether to provide a legal framework to grant Surinamese citizenship to certain categories of persons of Surinamese origin settled abroad (predominantly Surinamese Dutch citizens) so as to make the persons concerned dual nationals.

The context of this idea stems from the perceived need, by both the Surinamese government and Surinamese Dutch citizens residing in the Netherlands, in particular to allow for talented athletes settled in the Netherlands to represent Suriname on the international stage. While this idea is not new, it has recently reached a euphoric level. The realisation of this idea would particularly allow top Dutch footballers of Surinamese origin to represent the Surinamese national football team. This idea has also found support in Surinamese politics, as reflected in the submission of a Draft bill to further amend the WSI.¹²²

The core of the proposal is to grant Surinamese citizenship *ex lege* on the grounds of state interests. The accompanying explanatory memorandum indicates that the proposal aims to expand Article 9 WSI, by allowing the acquisition of Surinamese citizenship not only by naturalisation but also by operation of the law.¹²³ The implicit premise is that the appointment to a particular special function serving the state interest of Suriname indirectly results in the automatic acquisition of Surinamese citizenship. The justification is that the exercise of the function necessitates the possession of Surinamese citizenship.

¹²¹ Article 16a(1) WSI. See also here above under ‘naturalisation’.

¹²² See editorial comments in ‘Assemblee en dubbele nationaliteit’, *De Ware Tijd*, 8 December 2014. The proposal submitted at the National Assembly is based on a document of the Surinamese Football Association. Cf. ‘SVB heeft uitgewerkt voorstel dubbele nationaliteitsvraagstuk’, *Nieuws-Suriname*, www.nieuws-suriname.nl/svb-heeft-uitgewerkt-voorstel-dubbele-nationaliteitsvraagstuk/ (in Dutch).

¹²³ This document proposes the following criteria for the acquisition of Surinamese citizenship *ex lege* on the grounds of state interest:

As this proposal will – in practice – predominantly concern the grant of Surinamese citizenship to persons in the possession of Dutch citizenship, the occurrence of dual citizenship of the persons concerned will also depend on Dutch citizenship legislation. The Dutch Ambassador in Paramaribo has already pointed to the ground of loss of Article 15(1) of the RWN,¹²⁴ stating in essence that the legal construction of the legislative proposal will be considered as voluntary acquisition of a foreign nationality, leading to the automatic loss of Dutch nationality.¹²⁵

It should be noted that the phenomenon of dual citizenship is not absolutely precluded in the WSI. Nonetheless, there are two ways in which the WSI aims to prevent the occurrence of dual citizenship. First, certain grounds of naturalisation explicitly contain a requirement to renounce one's former citizenship(s).¹²⁶ Second, the WSI attaches the automatic loss of Surinamese citizenship as a consequence of the voluntary acquisition of a foreign citizenship (Cf. Ahmad Ali 2003, ACVZ 2008:37).¹²⁷

6. Conclusions

After gaining its independence in 1975 Suriname adopted its own citizenship regime closely resembling the citizenship law of the former mother country. The WSI has remained largely uncontested in the past decades, with the exception of two notable large legislative amendments. These changes to the WSI took place in 1983 (*inter alia* to introduce a facilitated naturalisation process for persons with special ties to Suriname) and in 2014 (amendments to *inter alia* achieve equality of men and women, particularly for birthright acquisition *iure sanguinis* and prevent multiple nationality and statelessness).

The current citizenship regime of Suriname shows some similarities to citizenship regimes around the world: birthright acquisition of citizenship *iure sanguinis* and (limited) *ius soli*, prevention of statelessness, option rights for certain categories of persons, and loss of citizenship on the basis of a number of grounds adopted by many states (voluntary acquisition of a foreign citizenship, foreign military service, and renunciation).

¹ The Surinamese citizenship is obtained *ex lege* by a person appointed in a special function, profession or position, if the following cumulative conditions have been met:

- a. The person is a PSA entitled person in the sense of the “PSA Law” or a resident of Suriname in the sense of the “Law on the nationality and the residence”;
- b. The Surinamese citizenship is desirable in the context of the function, profession or position;
- c. The function, profession or position serves a state interest.

¹²⁴ *Rijkswet op het Nederlanderschap* [Kingdom Act on Netherlands Nationality], see http://eudo-citizenship.eu/admin/?p=file&appl=currentCitizenshipLaws&f=NL%20Netherlands%20Nationality%20Act_consolidated%2025_11_13_ENGLISH.pdf.

¹²⁵ See ‘Nederlandse ambassadeur: Dubbele nationaliteit voor voetballers niet mogelijk’, *De Ware Tijd*, 6 January 2015; Jessurun d’Oliveira (2015) defends a contesting view in his opinion in the *Volkskrant* of 1 June 2015 under the title ‘Kunnen Surinaams-Nederlandse voetballers voor Suriname uitkomen?’ [Can Surinamese-Dutch football players represent Suriname?].

¹²⁶ Articles 16b(1) sub b WSI. Surinamese citizenship is lost under Article 11(6) WSI by withdrawal of the Presidential Decree by which the naturalisation was granted to the categories of persons described in Article 16a(1) WSI, if the individual concerned did not make the utmost effort to renounce their former citizenship (after naturalisation).

¹²⁷ See Article 11(4) WSI, including the limited ‘exception’ to this automatic loss.

Notwithstanding, the Surinamese citizenship regime does contain specific elements that set it apart from other citizenship regimes, particularly the citizenship regimes of neighbouring countries. First, Suriname remains one of the few countries in South America which does not accept (and tries to discourage) multiple citizenships. Second, ordinary naturalisation is not effectuated by ministerial or Presidential decision; instead, it is granted by an Act of Parliament adopted specifically for that purpose.

Third, the Allocation Agreement of 25 November 1975 remains of ample interest and importance even forty years after the realisation of Suriname as a sovereign State. The cause thereof is not the lack of achieving the goal of establishing the new citizenship of the successor state or the retention of the nationality of the predecessor state. This goal has more than been met.

However, a protracted problem has manifested in the divergence of interpretation on the application of Article(s) 5(2) and 5(3), which govern the ‘unconditional right of entry to Suriname’ and ‘the right of equal treatment as a Surinamese citizen’ during residency in Suriname. These rights are accorded to certain categories of persons further defined in Articles 5(2) and (3). Litigants have experienced certain proceedings launched in Suriname as unsatisfactory, and they have experienced the actual practice of the Surinamese State as highly unsatisfactory.¹²⁸ Deliberations between the state parties to come to a solution remain at an impasse.

Fourth, the recent surge of attention for the Surinamese diaspora has clearly spurred the Surinamese government into action. A diaspora policy was adopted by the PSA Law of 21 January 2014, which states in its preamble ‘(...) that it has proven necessary, 37 years after the constitutional independence of Suriname, to create a legal basis for the relationship between the Surinamese State and Persons of Surinamese origin’ who express the desire thereto.¹²⁹ The core of the law is to grant the category of persons defined in Article 2 of the PSA Law not resident in Suriname the rights defined in Article 6 PSA Law – *inter alia* concerning entry and residence in Suriname – upon activation of the PSA Status.

¹²⁸ Cf. among others the reports of the Surinamese newspaper *De Ware Tijd* of 8 June 2015, entitled ‘Verkiezingen uitslag 2005, 2010 en 2015 in geding’: since 2005, parties have submitted a complaint to the Inter-American Commission on Human Rights (IACHR) of the OAS. At the time of writing, the IACHR has not yet ruled on the complaint. An article in *De Ware Tijd* on 24 August 2010 titled ‘Oneigenlijke interpretatie Toescheidingsovereenkomst verworpen’ reports that Suriname expressed the opinion that the relevant categories of Surinamese Dutch nationals ‘only have the right to be treated at all times as Surinamese citizens in Suriname for a limited period. These rights were furthermore limited. They were contingent on the expression of the will to obtain the Surinamese nationality’. The position represented in this quote is very similar to the interpretation given by the *Kantonrechter* in the judgment of 2 February 2010, op. cit.

¹²⁹ It concerns the ‘Law of 21 January 2014, establishing the status of Persons of Surinamese Origin, and the Rights and Obligations arising from this status (PSA Law)’, promulgated in *S.B.* 2014, no. 8, http://eudo-citizenship.eu/NationalDB/docs/SUR_PSA_as%20enacted_ORIGINAL%20LANGUAGE.pdf (in Dutch). See in this regard the letter of the Dutch Minister of Foreign Affairs to the Second Chamber dated 2 June 2014: the Diaspora law is not a replacement for the rights granted by Article 5(2) and (3) of the Allocation Agreement. The statesman stressed that ‘(...) there is no matter of replacement as long as the Allocation Agreement remains in force’; see *Aanhangsel Handelingen II* 2013/14, 2131, op. cit., p. 2. The President of the National Assembly also spoke in the same line, indicating that the PSA Law is completely unrelated to the Allocation Agreement or dual citizenship (Brewster 2013).

Furthermore, the recent societal and political discussions of whether *inter alia* top athletes should be able to possess Surinamese citizenship along with another citizenship, so as to be able to represent Suriname internationally, has led to a proposal to naturalise top athletes *ex lege* in the interest of the state. It remains to be seen whether this proposal will be adopted, and what the consequences are of this legal construction. These discussions may be seen as a sign that Suriname is starting on the path to accepting dual citizenship. On the other hand, the fact that the proposal did not aim to abolish the preclusion of dual citizenship in its entirety may indicate that it was not deemed ‘desirable’ for everyone to be a Suriname dual citizen.

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