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THE PROBLEM OF STATELESSNESS

Information transmitted by States in pursuance of
Economic and Social Council resolution 352 (XII)
relating to the problem of statelessness

The Secretary-General has the honour to circulate the following communication dated 22 August 1951 which he has received from the Ministry of Foreign Affairs of Ecuador:

1. The Ecuadorean Ministry of Foreign affairs has the honour to reply to communication No. SOA 325/04, dated 5 April 1951, from the Secretariat of the United Nations, dealing with the problem of stateless persons.
2. In this communication information is requested relating to the problem of stateless persons in Ecuador, in accordance with the resolution adopted by the Economic and Social Council on 13 March 1951 and with resolution 319 B III (XI) adopted by the same organ, the text of which is contained in the Secretariat's communication No. SOA 325/5/02, dated 27 September 1950. Accordingly this Ministry begs to supply the following information:
3. The Republic of Ecuador is not involved in changes of territorial sovereignty likely to give rise to statelessness, so that it is not concerned with the part of resolution 319 III (XI) which reads: "Recommends to States involved in changes of territorial sovereignty that they include in the arrangements for such changes provisions, if necessary, for the avoidance of statelessness."
4. Among other things, the Economic and Social Council "invites States to examine sympathetically applications for naturalization submitted by stateless persons habitually resident in their territory and, if necessary, to re-examine their nationality laws with a view to reducing as far as possible the number of cases of statelessness created by the operation of such laws."

5. On this point, it may be stated that the Constitution and the laws of the Republic are based on the principle that nationality is a voluntary link between the individual and the State which protects or represents him. This principle of the voluntary link applies to Ecuadoreans and to aliens residing in the nation's territory.
6. Article 15 (b) of the Constitution of the Republic stipulates that an Ecuadorean loses his nationality if he becomes naturalized in another State. This confirms what is stated above, namely, that nationality is regarded as a voluntary link.
7. As regards aliens, Article 11 and Article 92 (11) of the Constitution opens the way for them to obtain Ecuadorean nationality.
8. But, subject to this principle that nationality is a voluntary link, the legislation and particularly the administrative organs in their daily practice are sympathetic to the elimination of statelessness or its reduction as far as possible, since it is regarded as an undesirable and abnormal legal phenomenon.
9. Article 12 of the Constitution eliminates the possibility of statelessness in the case of an Ecuadorean woman who marries an alien. The article states: "Neither marriage nor its dissolution affects the nationality of husband or wife." Consequently, as long as an Ecuadorean woman who marries an alien does not express a desire to acquire her husband's nationality, she remains Ecuadorean.
10. The same may be said of an Ecuadorean who becomes naturalized in another country and then returns to Ecuador to reside there. The legislations of most countries stipulate that a naturalized alien loses his acquired nationality if he remains absent from the country for a specified length of time. An Ecuadorean who, after becoming naturalized in another country, leaves that country and returns to Ecuador, thereby losing his acquired nationality, does not remain stateless because, under our legislation, he recovers his Ecuadorean nationality if he establishes his residence in the country for a certain length of time and expresses the desire to regain his original nationality (Article 16 of the Constitution and Article 17 of the Naturalization Regulations).
11. The laws of Ecuador do not contain any measures to eliminate statelessness by coercion or persuasion because that would impair the basic principle that

nationality is a voluntary link. On the other hand, once a stateless person has expressed the desire to acquire Ecuadorean nationality, the Constitution and the laws give him the same opportunities as any other alien without any discrimination and, if he meets the requirements laid down in the relevant laws and regulations, the Executive, in the exercise of its discretionary powers, grants him Ecuadorean nationality. (Article 92 (11) of the Constitution, Article 13 of the Naturalization Act and Articles 1 and 2 of the Naturalization Regulations).

12. The wife of a stateless person, like the wife of any other alien, can acquire Ecuadorean nationality, once her husband has acquired it, by means of an application addressed to the Ministry of Foreign Affairs, which takes the necessary decision declaring her to be of Ecuadorean nationality, without the usual formalities (Article 6 of the Naturalization Regulations).

13. For the rest, stateless persons enjoy the same civil rights as Ecuadoreans and other aliens, and there is no discrimination against them. Finally, it should be noted that, when stateless persons wish to leave the country, they are provided with a special travel certificate which is valid for six months and may be renewed for a further six months. This special provision is due to the fact that stateless persons do not have passports enabling them to leave the country according to the usual formalities (Article 6 of the Aliens Act and Article 21 of the Passport Regulations).

14. The legal texts referred to in this study are contained in the attached document.

Quito, 22 August 1951

ANNEXES

I. Constitution of the Republic of Ecuador (Excerpts)

- Art. 11. The following are Ecuadoreans by naturalization:
- (a) Persons who have been granted Ecuadorean nationality by Congress for services rendered to the country;
 - (b) Persons who have obtained the certificate of naturalization in accordance with the law (in the manner prescribed by law);
 - (c) Persons who were born abroad of alien parents and who were under eighteen years of age at the time their parents became naturalized in Ecuador. In that case they shall retain their nationality unless they expressly renounce it.
- Art. 12. Neither marriage nor its dissolution affects the nationality of husband or wife.
- Art. 15. Ecuadorean nationality is lost:
- (a) ...
 - (b) by naturalization in another State.
- Art. 16. Nationality may be recovered in accordance with the law.
- Art. 92. The following are the powers and duties of the President of the Republic:
- (11) To grant and to cancel certificates of naturalization in conformity with the Constitution and the law.

II. Naturalization Regulations (Excerpts)

- Art. 1. All aliens without distinction who meet the requirements of the law and the present Regulations are eligible to apply for naturalization as Ecuadorean nationals.
- Art. 2. In order to be able to apply for a certificate of naturalization, a person must:
- (1) have legal capacity in accordance with his personal status and the Ecuadorean laws;
 - (2) possess a lawful property, business, occupation or office permitting him to support himself;

- (3) have resided in the country for five years after obtaining the final residence certificate;
- (4) have been of irreproachable conduct before and during his residence;
- (5) speak and write Spanish, and have general knowledge of the national history and geography as well as of the Constitution of the Republic; and
- (6) produce a certificate from the diplomatic or consular representative concerned showing that by becoming naturalized the applicant loses his previous nationality.

Art. 6. An alien woman who is married to an Ecuadorean citizen can acquire her husband's nationality, either by a declaration made at the time of her marriage to the effect that she adopts Ecuadorean nationality and renounces her previous nationality, or at any time after her marriage by means of an application addressed to the Minister for Foreign Affairs who shall take the appropriate decision.

Art. 17. An Ecuadorean who has become naturalized in another country may recover his original nationality if he resumes residence in Ecuador for not less than two years and declares that he renounces his acquired nationality and wishes to regain Ecuadorean nationality in a formal application which he shall submit to the Ministry for Foreign Affairs together with his certificate of naturalization. The Ministry for Foreign Affairs, if it considers appropriate, and after consulting the Legal Department, shall take the decision conferring Ecuadorean nationality on the applicant and order the fact to be recorded in the registers of the Chancellery and of the Directorate General of the Civil Register. A certified copy of the decision shall be delivered to the person concerned.

III. Aliens Act (Excerpt)

Art. 6. All Aliens without exception upon arrival in the country are subject to Ecuadorean law and consequently to the Constitution, laws, jurisdiction and police of the Republic of Ecuador and in

no case and on no account may they claim exemption from the Constitution, laws, jurisdiction or police by reason of their alien status.

IV. General Passport Regulations (Excerpt)

Art. 21. If an alien has legally entered the country and wishes to leave but, owing to the fact that the country of his nationality has no diplomatic representative or that he is stateless or for any other just cause, is unable to obtain a passport from his country, the authorities competent to issue passports are obliged first to refer the case to the Chancellery and may then issue to him a special certificate, according to the specimen attached which shall be valid for a single journey and the time required for that journey. The certificate, which in no case may be regarded as a passport, shall be issued only after the person concerned has given satisfactory proof of his nationality or statelessness, and for good cause.