

THE EROSION OF GENUINE LINK: SLOVAKIA'S CITIZENSHIP LAW AMENDMENTS GO AGAINST CURRENT STATE PRACTICE¹

Ivan Novotný

Abstract: This article examines the concept of genuine link as a prerequisite for dual citizenship through comparative research. The Article focuses on the 2022 amendment to Slovakia's State Citizenship Act and the research identifies a significant deviation from trends in international citizenship law and state practice, which increasingly emphasizes genuine link between citizens and their home states. While the controversial 2010 Slovak citizenship reform remained within the boundaries of principles of international citizenship law, the 2022 amendment paradoxically imposes obligations on dual citizens to demonstrate connections to foreign states rather than ties to Slovakia. This counter-intuitive approach not only lacks internal coherence but also contradicts current state practice concerning genuine link between citizens and their states of citizenship. The comparative analysis reveals that Slovakia's requirement for citizens to prove five-year foreign residency represents a virtually unprecedented mechanism in international citizenship law, inverting traditional burden of proof requirements and creating practical absurdities that undermine established international citizenship law principles.

Resumé: Tento článok skúma koncept skutočnej väzby ako predpokladu dvojakeho občianstva prostredníctvom komparatívneho výskumu. Článok sa zameriava na novelu zákona o štátnom občianstve Slovenskej republiky z roku 2022 a výskum identifikuje významné odchylenie sa od trendov v medzinárodnej úprave štátneho občianstva a praxi štátov, ktorá čoraz viac zdôrazňuje skutočnú väzbu medzi občanmi a ich domovskými štátmi. Zatiaľ čo kontroverzná reforma slovenského štátneho občianstva z roku 2010 zostala v rámci hraníc medzinárodných princípov občianstva, novela z roku 2022 paradoxne ukladá povinnosti dvojakým občanom preukázať väzby k cudzím štátom namiesto väzieb k Slovensku. Tento protiintuitívny prístup nielen že nemá vnútornú koherenciu, ale tiež odporuje aktuálnej praxi štátov týkajúcej sa skutočnej väzby medzi občanmi a ich štátmi občianstva. Komparatívna analýza odhaľuje, že slovenské požiadavky na preukázanie päťročného zahraničného pobytu predstavujú prakticky bezprecedentný mechanizmus v medzinárodnom práve štátneho občianstva, ktorý obracia tradičné požiadavky na dôkazné bremeno a vytvára praktické absurdity podkopávajúce zavedené princípy štátneho občianstva.

Key words: genuine link, dual citizenship, state practice, international citizenship law

About the Author:

Mgr. Ivan Novotný, PhD. is Assistant Professor at the Department of International and European Law, Faculty of Law, University of Trnava. He specializes in the foundational aspects of international law, particularly its sources, theory, and doctrinal development. In addition to his academic work, Ivan Novotný leads the Moot Courts Clinic at Trnava's Faculty of Law — a program noted for preparing students in international litigation advocacy, legal writing, rhetoric, and public speaking for competitions such as the Philip C. Jessup International Moot

¹ *The research of this article was supported by the Scientific Grant Agency of Slovakia under Grant no. VEGA-1/0635/22 on Citizenship in the Context of International and European Principles and Standards.*

Court. He also coaches the faculty Jessup team. He is bridging academia and practice as he previously served as a lawyer and diplomat within the Ministry of Foreign and European Affairs of Slovakia. Ivan Novotný is a board member of both leading Slovak international law organizations – Slovak Society of International Law and International Law Association-Slovak Branch.

Introduction

The concept of genuine link between citizens and their states has emerged as a principle governing modern international citizenship² law, finding its theoretical foundation in the ICJ's landmark *Nottebohm* decision and subsequent state practice. Notwithstanding seven decades of criticism and challenging of *Nottebohm* judgement, the genuine link has found its place in international law and beyond the issue of diplomatic protection. The research suggests that contemporary developments in international citizenship law increasingly emphasize the requirement for meaningful connections between individuals and their states of citizenship, in other words the genuine link, reflecting concerns about instrumental dual and multiple citizenship acquisition and the need to maintain democratic legitimacy in an era of globalized world. This trend manifests across diverse jurisdictions through sophisticated mechanisms requiring citizens to demonstrate substantive ties to their home states.

In Central Europe, citizenship policies have been at the spotlight in two last decades due to the Hungary's citizenship reform in 2010 which heavily liberalized conditions for acquiring the Hungarian citizenship. Slovakia's political representation reacted with significant opposition typical for then-strained relations between the two. The bedrock of Slovakia's controversial reaction was a 2010 reform of its citizenship act that introduced an automatic loss of the Slovak citizenship if a Slovak citizen acquired foreign citizenship by naturalization, while keeping narrow exceptions. The reform was challenged at the Constitutional Court of Slovakia, yet due to procedural reasons the Court never gave its judgement on compatibility from constitutional, European and international legal stance. Warming up of the bilateral relations between Hungary and Slovakia led to having then-newly elected 2020 government undertake a goal to correct the 2010 legislation on the Slovak side. However, the controversy of the Slovakia's citizenship law has not been erased, rather on the contrary.

Slovakia's 2022 amendment to its State Citizenship Act presents a striking departure from international consensus, introducing an unprecedented mechanism that requires citizens to prove genuine link to foreign states, not to their home state, Slovakia itself. This counter-intuitive approach mandates that Slovak citizens demonstrate five years of continuous legal residence in foreign countries where they acquired additional citizenship as a condition for retaining their Slovak one. Through comparative analysis of state practice and examination of established genuine link doctrine, this Article demonstrates that Slovakia's unique foreign-connection requirements not only lack precedent in contemporary international citizenship law, but actively contradict the fundamental principles underlying genuine link requirements, creating logical inconsistencies that undermine both the coherence of citizenship policy and Slovakia's alignment with international legal development. In other words, this Article does not argue that the Slovakia's legislation contravenes international law. It accepts that questions

² Author considers terms "citizenship" and "nationality" as interchangeable within the scope of the research and uses term "citizenship" in the Article.

of citizenship fall primarily within the sovereign discretion of states. However, it maintains that such discretion is not unlimited. The doctrine of genuine link, as articulated by the International Court of Justice, does not invalidate domestic citizenship laws, but limits their recognition in the international legal context. Against this background, the article evaluates the Slovakia's amendment not only as a policy response, but as a legal measure that stands in tension with principles increasingly reflected in international legal doctrine and state practice.

This Article proceeds through four principal stages of analysis. Following examination of the 2022 Slovakia's citizenship amendment and its distinctive foreign-residency requirements, the analysis reviews contemporary international state practice demonstrating the trend toward requiring genuine connections to home states rather than foreign states. The comparative analysis then establishes Slovakia's position as a clear outlier in international citizenship law, before concluding with demonstration of the fundamental concerns inherent in Slovakia's counter-trend approach to genuine link requirements.

1. The 2022 Amendment of Slovakia's State Citizenship Act

1.1 *Historical Context and Legislative Background*

The 2022 amendment to Slovakia's State Citizenship Act represents the latest chapter in a complex legislative evolution that reflects both domestic political considerations and international pressures surrounding dual citizenship policies. To understand the significance of this reform, it is essential to examine the broader trajectory of Slovakia's citizenship law from the contentious 2010 "anti-Hungarian" legislation through to the supposedly liberalizing 2022 amendment.

Prior to the controversial 2010 citizenship reforms, and prior to the entry of Slovakia and Hungary into the EU, Hungary had already adopted the 2001 Status Law, which provided preferential treatment and benefits to ethnic Hungarians in neighbouring countries.³ However, it must be stressed that this law did not extend Hungarian citizenship to ethnic Hungarians living abroad. The legislation faced significant international criticism, both by the Venice Commission and the OSCE High Commissioner on National Minorities as well as from the scholars, with focus on the obvious discrimination policies based on citizenship.⁴ While the 2001 Status Law represented Hungary's initial approach to supporting its diaspora through benefits rather than citizenship acquisition, it established a precedent for unilateral Hungarian action that would later escalate to the full citizenship reform that prompted Slovakia's reactive legislation.

³ Act LXII of 2001 on Hungarians Living in Neighbouring Countries (2001. évi LXII. törvény a szomszédos államokban élő magyarokról).

⁴ European Commission for Democracy through Law (Venice Commission), *Report on the Preferential Treatment of National Minorities by their Kin-State* (CDL-INF(2001)019, 22 October 2001) [https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF\(2001\)019-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(2001)019-e) accessed 28 July 2025; OSCE High Commissioner on National Minorities, *Report on the Preferential Treatment of National Minorities by their Kin-State* (4 October 2001) <https://www.osce.org/hcnm/53936> accessed 28 July 2025; FOWLER, B. 'Fuzzing Citizenship, Nationalising Political Space: A Framework for Interpreting the Hungarian "Status Law" as a New Form of KinState Policy in Central and Eastern Europe' (2002) ESRC *One Europe or Several* Working Paper No 40.

The foundation of Slovakia's restrictive approach to dual citizenship was established through amendment of the Slovakia's State Citizenship Act, which came into effect in July 2010.⁵ This legislation introduced automatic loss of Slovak citizenship upon voluntary acquisition of foreign citizenship, also known as naturalization, marking a fundamental departure from the previous legal framework that permitted dual citizenship in Slovakia without restriction. Echoing the previous paragraph, the 2010 amendment was widely perceived as a direct response to Hungary's expansive citizenship-by-descent policies introduced under the 2010 Hungarian Citizenship Act, which granted simplified naturalization procedures to ethnic Hungarians living abroad, including those from Slovak substantial Hungarian minority.⁶

The political context surrounding this legislative change cannot be ignored. The then-coalition Slovak National Party, led by Ján Slota, explicitly framed the citizenship restriction as a defensive measure against what they characterized as Hungarian irredentism and threats to Slovak territorial integrity.⁷ Prime Minister Robert Fico's government supported the measure, arguing that dual citizenship posed risks to state loyalty and could facilitate foreign political influence in Slovak domestic affairs.⁸ This "anti-Hungarian" characterization became deeply embedded in public discourse, despite the law's formally neutral application to all foreign citizenships.

Proving this campaign wrong, Slovak citizens belonging to the Hungarian minority had no interest in acquiring the citizenship of Hungary. On the contrary, the loss of citizenship was dominant by acquiring citizenship of different states, predominantly of the Czech Republic.⁹ With relations between Slovakia and Hungary improving and with public pressure on the abolishment of the automatic loss of citizenship, political parties campaigned to change the 2010 Slovakia's reform. After 2020 general elections in Slovakia, the government led by Igor Matovič incorporated amendment of the State Citizenship Act to abolish the automatic loss of Slovak citizenship when naturalizing in a foreign state. Yet, in political reality the change was more difficult and has resulted in the compromise in a form of 2022 citizenship reform.

To be fully accurate in political and historical context, the 2022 reform was also influenced by a different political context, driven also by Brexit-related concerns and the practical difficulties faced by Slovak emigrants rather than ethnic minority politics. The UK's departure from the European Union created urgent pressures for almost 100,000 Slovak citizens residing in Britain, who faced the choice between acquiring British citizenship to secure their residency rights or maintaining their Slovak citizenship with uncertain long-term status.¹⁰

⁵ Act No. 250/2010 Coll. amending Act No. 40/1993 Coll. on State Citizenship of the Slovak Republic.

⁶ For analysis of Hungarian citizenship policy impacts, see POGONYI, S., KOVÁCS, M. M., KORTVÉLYESI, Z., *The Politics of External Kin-State Citizenship in East Central Europe* (2010).

⁷ Daily Pravda, "Fico: Maďari môžu stratiť slovenské občianstvo. Slota vytliahol Hitlera" ["Fico: Hungarians Could Lose Slovak Citizenship. Slota Invoked Hitler"] (Pravda, 13 May 2010) <https://spravy.pravda.sk/domace/clanok/166235-fico-madari-mozu-stratit-slovenske-obcianstvo-slota-vytiabol-hitlera/> accessed 10 May 2025.

⁸ *Ibid.*

⁹ Ministry of Interior of the Slovak Republic, 'Press Release on Loss of Slovak Citizenship Statistics' (27 February 2021).

¹⁰ Freedom and Solidarity (Sloboda a Solidarita), 'SaS Proposes to Solve the Problem of Loss of State Citizenship' (Press Release, 13 March 2019).

1.2 Conditions for Proving Genuine Link to Foreign States

The 2022 amendment introduced an unprecedented mechanism in international citizenship law by requiring Slovak citizens to demonstrate genuine connections to foreign states, not to Slovakia itself. Under the revised Section 9, Subsection 18 of the State Citizenship Act, Slovak citizens may retain their Slovak citizenship when acquiring foreign citizenship provided they can prove “authorized, registered, or otherwise recorded residence of at least five years in the foreign state” where they acquired the other citizenship.¹¹

This requirement represents a fundamental reversal of traditional genuine link doctrines, which require individuals to demonstrate meaningful connections to their home state rather than foreign jurisdictions. The Slovak approach places the burden of proof on citizens to establish their integration into foreign states as a prerequisite for maintaining their original citizenship. This mechanism operates as a conditional permission system, where dual citizenship is permitted only upon demonstration of substantial foreign residence.

The legislative text specifies several key elements that citizens must prove: first, continuous legal residence in the foreign state for a minimum of five years immediately preceding the acquisition of foreign citizenship; second, documentary evidence of this residence through official permits, registrations, or other recognized legal instruments; and third, compliance with the foreign state’s legal requirements for residence documentation.¹² The law requires that this residence be “actual” rather than merely formal, suggesting that brief or pro forma residence arrangements would not satisfy the statutory requirements.

The burden of proof falls entirely on the citizen, who must provide authenticated foreign documents with official translations and apostille verification where required by treaty.¹³ Citizens have ninety days from acquiring foreign citizenship to notify Slovakia’s authorities and provide the necessary documentation proving their five-year foreign residence. Failure to provide adequate documentation results in automatic loss of Slovak citizenship, with limited possibilities for subsequent restoration.

1.3 The Five-Year Foreign Residency Requirement Mechanism

The five-year residency requirement represents the cornerstone of Slovakia’s approach to managing dual citizenship. This temporal threshold appears to have been selected to align with common naturalization requirements in many European states, where five years of residence frequently serves as a standard qualification period for citizenship acquisition.¹⁴ However, the Slovakia’s law’s uniqueness lies not in using residence as a citizenship criterion, but in requiring proof of foreign residence as a condition for maintaining existing Slovak citizenship.

The practical operation of this mechanism reveals several distinctive features. The five-year period must be completed before acquiring the foreign citizenship, meaning that

¹¹ Act No. 40/1993 Coll. on State Citizenship of the Slovak Republic, as amended, para 9 (18).

¹² *Ibid.*

¹³ *Ibid.*, para 16a(3).

¹⁴ European Migration Network, *Pathways to Citizenship for Third-Country Nationals in the EU: An EMN Study* (European Commission 2023) 15–20. Available at: https://home-affairs.ec.europa.eu/document/download/e93bffb4-8d61-4afe-99fe-3f9d746121bc_en?filename=00_eu_emn_study_synthesis_report_citizenship_final_en.pdf Accessed 17 June 2025.

individuals cannot retroactively establish their qualification for Slovak citizenship retention.¹⁵ This temporal requirement creates a narrow window of eligibility that excludes many Slovak citizens who acquired foreign citizenship without maintaining continuous documented residence, as well as those who naturalized in foreign countries with shorter residence requirements.

Moreover, the law establishes specific documentation standards that reflect the complexity of proving foreign residence across diverse legal systems. Citizens must provide evidence through official channels, including residence permits, municipal registrations or potentially other documents depending on the foreign state's administrative practices.¹⁶ The requirement for official translation and authentication adds additional bureaucratic layers that can prove particularly challenging for citizens residing in countries with different documentation practices or limited consular services.

The mechanism also creates temporal pressures that distinguish it from other citizenship laws. The ninety-day notification requirement begins immediately upon acquisition of foreign citizenship, creating tight deadlines for gathering and authenticating the necessary documentation.¹⁷

While keeping limited options of dual citizenship open when acquiring the foreign one by marriage or birth,¹⁸ when it comes to naturalization, the law provides no explicit exceptions for special circumstances. This rigid approach reflects the 2022 amendment's focus on creating clear, objective criteria rather than maintaining administrative discretion in citizenship matters. However, this inflexibility also demonstrates the law's disconnect from the complex realities of international migration and the diverse circumstances under which Slovak citizens may acquire foreign citizenship.

2. International State Practice: Genuine Link to Home States

2.1 *The Nottebohm Doctrine and International Legal Foundation*

The requirement for genuine link between citizens and their states of citizenship finds its foundational expression in the International Court of Justice's landmark decision in the *Nottebohm* case.¹⁹ The Court established that citizenship must reflect "a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties" between the individual and the state.²⁰ While this decision emerged from a specific diplomatic protection context, and it is deemed in many contexts as outdated, its articulation of the genuine link principle has profoundly influenced subsequent developments in citizenship law and state practice.²¹

¹⁵ *Supra*, 11, para 9(18).

¹⁶ *Ibid.*, para 16a(3).

¹⁷ *Ibid.*, para 9(19).

¹⁸ *Ibid.*, para 9(17).

¹⁹ *Nottebohm Case (Liechtenstein v. Guatemala)*, Judgment, *I.C.J. Reports* 1955, p. 4.

²⁰ *Ibid.*, p. 23.

²¹ SPIRO, J.P., 'Nottebohm and "Genuine Link": Anatomy of a Jurisprudential Illusion' (2019) *IMC-RP Investment Migration Working Paper* 2019/1 <https://blog.lselawreview.com/2024/09/25/reassessing-nottebohm-in-an-era-of-global-mobility/> accessed 17 June 2025; for overall contemporary view of Nottebohm doctrine see UHAĽOVÁ, T., *International legal aspects of citizenship and diplomatic protection* (Master's thesis, University of Trnava 2025).

The Nottebohm doctrine contemporary relevance extends far beyond its original diplomatic protection framework. Modern citizenship laws increasingly reflect the Court's emphasis on meaningful connections, though states have adapted this principle to address twenty-first century challenges of globalization, dual citizenship, and diaspora management.²² The genuine link requirement has evolved from a constraint on diplomatic protection claims to a positive organizing principle for citizenship acquisition and retention policies.

Contemporary international legal doctrine recognizes that the genuine link doctrine serves multiple functions in modern citizenship law, such as ensuring democratic legitimacy through meaningful political participation, maintaining social cohesion within national communities, and providing a rational basis for the distribution of rights and obligations between states and individuals.²³ These theoretical foundations provide the framework within which current state practice has developed increasingly sophisticated mechanisms for ensuring and maintaining genuine connections between citizens and their home states.

2.2 European and Global Examples of genuine link within Home-State Connection

2.2.1 Switzerland's Comprehensive Connection Framework

Switzerland maintains the most developed and explicit genuine link requirements in contemporary international citizenship law. The Swiss approach demonstrates how states can create detailed, measurable criteria for ensuring meaningful connections between citizens and their home state while allowing dual citizenship practical in the globalized world.

Under the Swiss Citizenship Act, Swiss citizens born abroad automatically lose their Swiss citizenship at age 25 unless they demonstrate ongoing ties to Switzerland.²⁴ This mechanism requires active engagement rather than passive retention, creating incentives for diaspora communities to maintain substantive connections with their homeland. The law establishes specific criteria for demonstrating these connections, including residence requirements, language competency, and social integration indicators.²⁵

The Swiss framework extends beyond automatic loss provisions to create positive requirements for citizenship retention. Swiss citizens abroad must register with Swiss authorities, demonstrate ability to communicate in one of the Swiss national languages, and maintain contacts with Swiss nationals or institutions.²⁶ These requirements reflect a comprehensive understanding of genuine link that encompasses cultural, linguistic, and social dimensions rather than purely formal legal connections.

Moreover, Switzerland's approach to dual citizenship demonstrates how genuine link requirements can coexist with permissive dual citizenship policies. Swiss law allows dual citizenship while requiring meaningful demonstration of Swiss connections, creating a balanced

²² BAUBÖCK, R., 'Genuine Links and Useful Passports: Evaluating Strategic Uses of Citizenship' (2018) 45(6) *Journal of Ethnic and Migration Studies* 1015–1026.

²³ WEINGERL, P. and TRATNIK, M., 'Relevant Links: Investment Migration as an Expression of National Autonomy in Matters of Nationality' in KOCHENOV, D. and SURAK, K. (eds), *Citizenship and Residence Sales: Rethinking the Boundaries of Belonging* (Cambridge University Press 2023).

²⁴ Swiss Citizenship Act (Bundesgesetz über das Schweizer Bürgerrecht, SR 141.0) Art 38.

²⁵ *Ibid.*

²⁶ For comprehensive overview on the conditions of citizenship see Swiss Federal Department of Foreign Affairs, 'Swiss Citizenship Information' (Swiss Community) <https://www.swisscommunity.org/en/living-abroad/swiss-citizenship> accessed 15 May 2025.

framework that accommodates mobility in the globalized world while maintaining national cohesion.²⁷

2.2.2 *The Netherlands' Residence-Based Approach*

The Netherlands implements genuine link requirements through its comprehensive residence-based framework, demonstrating how states can use temporal connections to ensure meaningful citizenship relationships. Under the Dutch Citizenship Act, Dutch nationals with dual citizenship lose their Dutch citizenship if they reside outside the Netherlands or EU for extended periods without maintaining active connections to the Netherlands.²⁸

The Dutch “ten-year rule,” recently extended to thirteen years, creates a presumption that prolonged absence without connection indicates abandonment of genuine link to the Netherlands.²⁹ Citizens can overcome this presumption by demonstrating active maintenance of Dutch connections through passport renewals, residence periods, or formal applications for citizenship retention. This approach balances respect for citizen autonomy with state interests in maintaining meaningful citizenship relationships.

The Netherlands' policy reflects sophisticated understanding of modern migration patterns while maintaining traditional sovereignty over citizenship determination. The law recognizes that contemporary citizens may have legitimate reasons for extended foreign residence while requiring demonstration of ongoing Dutch connections for citizenship retention.

2.2.3 *Italy's 2025 Citizenship Reform*

Italy's 2025 comprehensive citizenship reform represents the most significant recent implementation of explicit genuine link requirements in citizenship legislation.³⁰ The reform fundamentally restructures Italian citizenship law by introducing mandatory demonstration of “effective bonds” between citizens and Italy, particularly for citizenship acquisition through descent.³¹

The Italian reform limits citizenship transmission to two generations. Qualifying connections include parent or grandparent birth in Italy and parental residence in Italy for consecutive years after citizenship acquisition.³² This approach explicitly addresses concerns connected to the globalized world embedded in “passport collecting” while maintaining practical dual citizenship with keeping pathways for genuinely connected citizens.

This legislative development represents a strong and recent endorsement of genuine link requirements and demonstrates growing acceptance of connection-based citizenship criteria.

²⁷ For comprehensive overview on the conditions of dual citizenship see Swiss Federal Department of Foreign Affairs, ‘Dual Citizenship Provisions’ (EDA) <https://www.eda.admin.ch/countries/germany/en/home/services/citizenship/doppelte-staatsbuergerschaft.html> accessed 15 May 2025.

²⁸ Kingdom Act on Dutch Nationality (Rijkswet op het Nederlanderschap) (Stb. 1984, 628) Arts 14 and 15.

²⁹ For comprehensive overview on conditions of fulfilling genuine link conditions see IND (Immigration and Naturalisation Service), ‘Losing Dutch Nationality’ (IND) <https://ind.nl/en/dutch-citizenship/losing-dutch-nationality> accessed 15 May 2025.

³⁰ Law No 74/2025 of 23 May 2025 on Italian Citizenship Reform (Legge 23 maggio 2025, n 74 di conversione del Decreto Legge 28 marzo 2025, n 36) accessed 2 June 2025.

³¹ MESINA, M., ‘Italy Introduces “Genuine Link” Limitations on Citizenship by Descent’ *IMI Daily* (5 June 2025) <https://www.imidaily.com/europe/italy-introduces-genuine-link-limitations-on-citizenship-by-descent/> accessed 15 June 2025.

³² *Supra.* 30, Arts 1 and 9.

2.2.4 *Nordic Countries' Retention Requirements*

Four Nordic countries — Denmark, Norway, Sweden, and Finland — have implemented sophisticated genuine link frameworks requiring citizens born abroad to demonstrate ongoing ties to retain citizenship beyond age 22.³³ These requirements reflect the Nordic approach of balancing dual citizens engagement with meaningful citizenship connections.

Denmark requires demonstration of “cohesion with Denmark” through residence periods, regular visits, or other substantial connections.³⁴ Norway demands “adequate ties” often satisfied through frequent travel, study periods, or family connections.³⁵ Sweden and Finland maintain similar requirements for “adequate ties” and “sufficient connection” respectively for citizenship retention.³⁶ These frameworks demonstrate how multiple states can develop parallel approaches to genuine link requirements while adapting to national circumstances.

The Nordic model emphasizes preventing citizenship from becoming purely instrumental while maintaining meaningful connections to citizens abroad who demonstrate ongoing commitment to their home states. This approach provides a template for states seeking to implement genuine link requirements without banning dual citizenship or losing connection to dual citizens with their home state.

2.2.5 *Australia's Integration-Based Model*

Australia's 2007 Citizenship Act establishes extensive genuine link requirements combining physical presence, civic participation, and cultural integration as evidence of meaningful ties to Australia.³⁷ The Australian approach requires four years of lawful residence plus one year of permanent residency, English language proficiency, citizenship tests on Australian values and history, and good character requirements.

Again, also the Australian model demonstrates how genuine link requirements can balance accessibility to dual citizenship with meaningful connection requirements to the home state. The law provides clear pathways for demonstrating ongoing ties to Australia while maintaining dual citizenship permissions for those who establish substantive connections to the state.

2.3 *Recent CJEU Ruling in Commission v Malta (2025)*

While relevant only in the EU context, the recent ruling of the Court of Justice of the European Union dealing *inter alia* with the genuine link doctrine cannot be omitted while reviewing current state practice connected to citizenship law. CJEU ruling in *Commission v Malta* decided in April 2025 provides crucial contemporary support for the international trend toward requiring meaningful citizenship connections.³⁸ While the Court did not establish explicit genuine link requirements, its condemnation of purely transactional approaches to citizenship reinforces the principle that citizenship must reflect substantive relationships between citizens and states.

³³ Nordic Council of Ministers, *Citizenship in the Nordic Countries* (2018) <https://www.norden.org/en/publication/citizenship-nordic-countries> accessed 17 June 2025.

³⁴ *Ibid.*, pp. 62–63.

³⁵ *Ibid.*, pp. 61–62.

³⁶ *Ibid.*, pp. 60 and 64.

³⁷ Australian Citizenship Act 2007 (Cth), ss 21(2)(f)–(g), 22, 22A–22B.

³⁸ *Commission v Malta*, Case C-181/23, ECLI:EU:C:2025:283, 29 April 2025.

The CJEU emphasized that citizenship requires “a particular relationship of solidarity and good faith” between the State and its citizens.”³⁹ The Court condemned Malta’s citizenship-by-investment scheme for “amounts to the commercialisation of the granting of the status of national of a Member State and, by extension, Union citizenship” finding such arrangements incompatible with the fundamental nature of citizenship.⁴⁰

This decision strengthens the argument for genuine connection requirements by rejecting instrumental approaches to citizenship acquisition. The Court’s emphasis on “solidarity, good faith and reciprocity” aligns with contemporary state practice requiring demonstration of meaningful ties to home countries rather than foreign states.⁴¹ The ruling provides EU legal authority for the proposition that citizenship must reflect substantive rather than merely formal relationships.

This decision highlights the contradiction between trends toward home-state connection requirements and Slovakia’s unique approach of requiring proof of foreign state connections. The state practice demonstrated in the second subchapter of this chapter, along with the CJEU’s emphasis on meaningful citizenship relationships, provides additional authority for the proposition that Slovakia’s approach represents a departure from current state practice rather than an innovation worthy of emulation.

3. Slovakia’s Unique Approach in Comparative Perspective

3.1 *The Absence of Similar Foreign-Connection Requirements Globally*

The comparative analysis conducted during this study confirms that Slovakia’s 2022 amendment requiring citizens to prove foreign state connections represents a virtually unique approach in international citizenship law. After extensive examination of citizenship laws across Europe, North America and other regions, no states were found with substantially similar legislation that requires citizens to demonstrate foreign residency or connections as a condition for maintaining home state citizenship when acquiring additional citizenship.⁴²

This finding is particularly striking given the scope of jurisdictions examined. The research encompassed federal and unitary states, common and civil law systems, and countries with varying approaches to dual citizenship policy. Despite this diversity, Slovakia’s specific requirement for citizens to prove at least five years of continuous legal residence in foreign states where they acquired citizenship appears to be without precedence in contemporary state practice.

The absence of similar legislation globally suggests that Slovakia’s approach represents not an adaptation of established international practice, but rather a novel experiment in international citizenship law. The doctrine consistently documents various approaches to dual citizenship regulation—prohibition, permission, or tolerance — but fails to identify any jurisdiction requiring citizens to prove genuine link in a form of substantive foreign connections as conditions for maintaining home state citizenship.⁴³

³⁹ *Ibid.*, para 98.

⁴⁰ *Ibid.*, para 100.

⁴¹ *Ibid.*, para 99.

⁴² The research for this Article was also conducted by a study visit in 2024 to Washington, D.C., U.S. hosted by International Law Students’ Organization focusing on topics of citizenship, statelessness and genuine link.

⁴³ SPIRO, P.J., ‘Multiple Nationality’ in WOLFRUM, R. (ed), *Max Planck Encyclopedia of Public International Law* (online edn, OUP 2008).

3.2 *Limited Examples of Related (but Distinct) Approaches*

While no countries replicate Slovakia's approach, several jurisdictions have citizenship laws that share certain conceptual similarities, though with fundamental differences in structure and intent. These examples serve to highlight the uniqueness of Slovakia's mechanism rather than provide true parallels.

Latvia represents the closest parallel to Slovakia's approach, but with critical distinctions. Latvia's citizenship law requires citizens to prove specific circumstances of foreign citizenship acquisition (marriage, adoption, or automatic acquisition) for certain non-approved countries.⁴⁴ However, this requirement focuses on how citizenship was acquired not if the citizen resided in a foreign state, and importantly applies only to a restricted list of countries outside the EU, EFTA, NATO, Australia Brazil and New Zealand.⁴⁵ Unlike Slovakia's blanket requirement for five-year foreign residency proof, Latvia's provisions target the method of acquisition, apply geographical limitations and do not require providing residence in foreign states.

Austria maintains a fundamentally different system through its prior permission requirement. Austrian citizens must obtain government permission before acquiring foreign citizenship, with applications requiring demonstration that retention serves Austrian interests or addresses personal hardship.⁴⁶ This pre-approval system differs fundamentally from Slovakia's post-facto proof requirements and emphasizes benefit to Austria rather than foreign connections. Austrian law seeks to prevent dual citizenship through advance control not by requiring proof of foreign integration after the fact.

The Austrian model illustrates the conventional approach to dual citizenship management in restrictive systems. However, Austria does not require its citizens to prove foreign connections which is the fundament of the Slovakia's legislation. Austria evaluates whether permitting dual citizenship serves Austrian national interests, maintaining focus on the home state relationship. Under Austrian law, citizens must apply for retention permits before acquiring foreign citizenship, with approval based on Austrian interests not for foreign residence patterns.⁴⁷

Another outstanding example is Estonia and Lithuania, yet their practice stems from their historical experience under the Soviet occupation. Both states generally do not allow dual citizenships, however they provide historical exceptions for citizens who fled during Soviet occupation, but these provisions focus on persecution circumstances rather than contemporary foreign residency requirements.⁴⁸ These historical provisions address specific traumatic events arising from foreign occupation and subsequent displacement, creating restoration mechanisms for citizens whose departure was involuntary.

The Baltic examples demonstrate how states address historical injustices through citizenship law while maintaining traditional approaches to voluntary dual citizenship acquisition policies. These provisions cannot be considered precedents for Slovakia's general

⁴⁴ Citizenship Law, *Pilsonības likums* (Republic of Latvia) para 9(2).

⁴⁵ *Ibid.*, para 9(1).

⁴⁶ Austrian Citizenship Act, *Staatsbürgerschaftsgesetz* (Federal Law Gazette No. 311/1985, as amended) para 28.

⁴⁷ For comprehensive overview on the conditions of dual citizenship see Federal Chancellery of Austria, 'Dual Citizenship' <https://www.bmeia.gv.at/en/travel-stay/living-abroad/citizenship-and-union-citizenship/dual-citizenship> accessed 17 June 2025.

⁴⁸ WILLIAMS, C. R., *Supplemental Citizens: The Supply of Dual Citizenship in Estonia, Latvia, and Lithuania* (Master's thesis, Harvard Extension School 2019).

application to all dual citizens, as they respond to very specific historical circumstances rather than establishing genuine link by requirements for foreign connection proof.

3.3 *The Absence of Legislative Retaliation in the Region except Slovakia*

The uniqueness of Slovakia's approach is also confirmed by comparative analysis of Hungary's neighbours' reactions to the 2010 Hungarian Citizenship Act, which establishes that no other neighbour of Hungary, including Romania with the largest Hungarian minority, reacted with legislative changes similarly to Slovakia.

Romania, despite historic sensitivities regarding its one-million Hungarian minority, did not alter its liberal dual citizenship framework. President Traian Băsescu openly declared that Romania had no objections to the Hungarian law, emphasising a non-confrontational stance.⁴⁹ Romania's long-standing policy of offering dual citizenship to Moldovans based on cultural-linguistic kinship remained consistent.⁵⁰

Having the third largest Hungarian minority with almost two-hundred-thousand people, Serbia also maintained its pre-existing legal regime permitting dual citizenship. Its 2004 Citizenship Act (as amended in 2007) already allowed acquisition of foreign citizenship without loss of the Serbian one, and no changes were adopted in reaction to the Hungarian amendment.⁵¹

Both Slovenia and Croatia, with rather small ten-thousand Hungarian minorities, made no legal or policy changes and did not engage publicly with Hungary's legislative development. Both Slovenian and Croatian citizenship regimes remained unchanged.⁵²

Austrian specific citizenship framework was already analysed, being relevant due to its over one-hundred-thousand Hungarian minority.⁵³ Austria made no changes to its rather strict citizenship policy due to Hungary's reform nor react in any way.⁵⁴

To conclude with Hungary's neighbours, Ukraine's constitutional ban on dual citizenship is of a focus in the following part of the Article, bearing relevance due to over one-hundred-fifty-thousand Hungarians living in Ukraine prior to the 2022 Russian aggression against Ukraine.⁵⁵ While there was criticism from regional Zakarpattia regional leaders in 2010,⁵⁶ Ukraine did not modify its legal order in reaction to the adoption of 2010 Hungarian citizenship reform.⁵⁷ It must be stated that Ukraine indeed reacted to the reform two years

⁴⁹ TUDOR, I., *Romania Agrees with Hungary's New Citizenship Law – President Basescu* (Mediafax English, 18 October 2010). <https://www.mediafax.ro/english/romania-agrees-with-hungary-s-new-citizenship-law-president-basescu-7491163> accessed 28 July 2025.

⁵⁰ Law No. 21/1991 on Romanian Citizenship (Legea cetățeniei române nr. 21/1991), republished in *Official Gazette* No. 576 of 13 August 2010, Arts 10 and 11.

⁵¹ Law on Citizenship of the Republic of Serbia (Zakon o državljanstvu Republike Srbije) (*Official Gazette* of RS, No. 135/2004, 90/2007) p. 29.

⁵² Citizenship Act (Zakon o državljanstvu Republike Slovenije) (*Official Gazette* RS, Nos. 1/1991, 47/2006, 40/2017) – no amendments made in response to Hungary's 2010 reform; Act on Croatian Citizenship (Zakon o hrvatskom državljanstvu) (*Official Gazette* 53/91, 70/91, 28/92, 113/93, 4/94, 130/11, 110/15, 102/19) – no amendments made in response to Hungary's 2010 reform.

⁵³ See chapter 3.2.

⁵⁴ *Supra*. 46 – no amendments made in response to Hungary's 2010 reform.

⁵⁵ See chapter 3.4.

⁵⁶ *Ukraine Reactions to the Hungarian Citizenship Law* (25 June 2010) <https://globalcit.eu/ukraine-reactions-to-the-hungarian-citizenship-law/> accessed 28 July 2025.

⁵⁷ Constitution of Ukraine, art 4 with Law of Ukraine on Citizenship of Ukraine (Zakon Ukrainy pro hromadyanstvo Ukrainy) (1 March 2001) – no amendments made in response to Hungary's 2010 reform.

later after reported sixty-thousand Ukraine citizens acquired Hungarian citizenship despite its dual-citizenship ban.⁵⁸ Ukraine only propose to effectively enforce its already existing ban on dual citizenship by amending its penal code to include fines for citizens who fail to comply with the existing obligations under Ukraine laws, however it passed only as a proposal and never entered into force.⁵⁹

In sum, while political tensions or diplomatic statements occasionally accompanied Hungary's citizenship law amendment, none of Hungary's neighbours — except Slovakia — responded with legal or administrative changes to their citizenship regimes. Slovakia's automatic loss mechanism thus stands out as an exceptional and unique legislative response, departing also from the broader regional reaction.

3.4 Slovakia as an Outlier in International Citizenship Law

The comparative analysis establishes Slovakia's 2022 amendment as a clear outlier in international citizenship law. This conclusion rests on several converging factors that distinguish Slovakia's approach from established international practice. The absence of proof for similar approach in leading comparative citizenship law doctrine suggests that Slovakia's mechanism represents a genuine innovation not an adaptation of existing models.

International legal doctrine identifies various models for managing dual citizenship, including complete prohibition (Ukraine, traditional German model before 2024), conditional permission (Austrian model), and general tolerance (US, Canada).⁶⁰ However, none of these established categories encompasses Slovakia's approach of providing genuine link by requiring proof of foreign state connections.

Moreover, Slovakia's position as an outlier raises questions about the long-term sustainability of its approach. International citizenship law typically develops through gradual convergence around common principles and practices.⁶¹ Slovakia's 2022 amendment moves against this convergence, creating isolation from emerging international consensus on genuine link requirements and dual citizenship management.

The absence of similar legislation in other countries also suggests practical difficulties with Slovakia's approach. If such requirements represented effective policy solutions, other countries facing similar challenges with dual citizenship would likely have adopted comparable measures. The fact that no other state has implemented substantially similar foreign-connection requirements indicates either that other states have not identified this as a viable policy option or, more likely, that they have rejected it as impractical or contrary to citizenship law principles.

⁵⁸ *Verfassungsblog*, "Hungarians outside Hungary – the twisted story of dual citizenship in Central and Eastern Europe" (8 October 2014) <https://verfassungsblog.de/hungarians-outside-hungary-twisted-story-dual-citizenship-central-eastern-europe/> accessed 28 July 2025.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, for Ukrainian legislation see Constitution of Ukraine, art 4 with Law on Citizenship of Ukraine art 19; for German legislation prior to 2024 reform see Citizenship Act 1914 (Staatsangehörigkeitgesetz, StAG) § 10(1) (1)(4) and § 25(1); for Austrian legislation see chapter 3.2; for US legislation see Constitution of the United States of America, Amendment XIV, Section 1 with Immigration and Citizenship Act 1952 (United States), pp. 301, 310–358, 320, 349 with Immigration Act 1990 (United States), Pub L No 101–649, 104 Stat 4978; for Canadian legislation see Constitution Act 1867 (UK), s 91(25) with Citizenship Act, RSC 1985, c C-29.

⁶¹ SHAW, M. N., *International Law* (6th edn, Cambridge University Press 2008) 659–664.

This isolation becomes particularly problematic when considered against the broader international trend toward requiring genuine connections to home states rather than foreign states, as demonstrated in Chapter 2. Slovakia's unique approach not only lacks international precedent but actively contradicts the direction of international legal development in international citizenship law.

4. Main concerns of Slovakia's Counter-Trend Legislation

International citizenship law represents a relatively narrow field within international law, reflecting the fundamental principle that citizenship remains largely within the *domaine réservé* of states, with international law avoiding detailed regulation of citizenship specifics.⁶² However, the sovereign right of states to determine their citizens is not absolute, operating within certain limits that, while often unclear in their boundaries, establish recognizable constraints on state discretion.⁶³ The identification and analysis of emerging trends in state practice therefore becomes particularly important, as such developments may serve as future reference points for customary obligations. This chapter examines the concerns arising from Slovakia's approach, which differs significantly from contemporary state practice demonstrated in the preceding chapters. While this analysis does not assert that Slovakia currently necessarily violates international law, it demonstrates that Slovakia's 2022 amendment contradicts principles underlying international citizenship regulation, most notably through its reversal of genuine link requirements.

4.1 Reversal of Burden of Proof: Foreign vs. Home State Connections

Slovakia's 2022 amendment represents a fundamental reversal of the burden of proof in citizenship law. While international practice increasingly requires citizens to demonstrate genuine connections to their home states, Slovakia uniquely demands proof of connections to foreign states. This reversal creates a logical contradiction that undermines established principles of citizenship law demonstrated in the second chapter of this article.

The traditional approach, reflected in the *Nottebohm* doctrine and mentioned contemporary state practice, places the burden on individuals to prove their genuine link to the state from which they seek protection or recognition. Switzerland's requirement for citizens born abroad to demonstrate ongoing ties to Switzerland, Italy's 2025 reform limiting citizenship by descent to those with "effective bonds" to Italy, and Nordic countries' retention requirements all exemplify this home-state focus.⁶⁴ Slovakia's approach inverts this logic by requiring citizens to prove they belong elsewhere rather than demonstrating they belong to Slovakia.

This reversal results in problematic practical outcomes. Under Slovakia's system, a citizen who has lived in Slovakia for decades but acquired foreign citizenship without sufficient prior foreign residence would lose Slovak citizenship—not because they lack connection to Slovakia, but because they lack sufficient connection to the foreign state. The law thus punishes citizens for having stronger ties to their home state than to foreign states, contradicting the fundamental purpose of genuine link requirements.

⁶² ČEPELKA, C. and ŠTURMA, P., *Public International Law [Mezinárodní právo veřejné]* (C. H. Beck 2003) 321–341.

⁶³ SPIRO, P.J., 'A New International Law of Citizenship' (2011) 105 *AJIL Unbound* 694–695; B von RÜTTE, 'State Sovereignty and the Right to a Nationality: Statelessness and the Recalibration of the Domain Réservé' (2023) 41(1) *Netherlands Quarterly of Human Rights* 82–101.

⁶⁴ See Chapter 2.2.

4.2 *Incompatibility with International Trends Toward Home-State Genuine Link*

Slovakia's 2022 amendment directly contradicts the clear international trend toward requiring genuine connections to home states. As demonstrated in the previous chapter, leading jurisdictions have either liberal policies towards dual citizenship or are on a trend to constrain dual citizenship by strengthening requirements for citizens to demonstrate meaningful ties to their states of citizenship, not to foreign states.

CJEU's position in the pending *Commission v Malta* case exemplifies this trend. The Commission argues that citizenship schemes lacking "genuine link" to the home state violate EU law principles, with the Advocate General emphasizing that genuine connection requirements apply to relationships between citizens and their own states.⁶⁵ Slovakia's approach directly contradicts this logic by requiring proof of foreign rather than domestic connections.

This incompatibility extends beyond European law. The ICJ's *Nottebohm* decision, despite its limitations, established that genuine link requirements serve to ensure meaningful relationships between citizens and their states of citizenship.⁶⁶ Slovakia's system twists this principle by requiring citizens to prove meaningful relationships with foreign states as a condition for maintaining their original citizenship.

Contemporary academic doctrine consistently identifies the trend toward home-state genuine link as a response to concerns about "passport collecting" and instrumental citizenship acquisition.⁶⁷ Slovakia's approach fails to address these concerns while creating the opposite problem: citizens with strong Slovak connections may lose citizenship due to insufficient foreign connections.

4.3 *Practical Absurdities and Logical Inconsistencies*

The practical operation of Slovakia's 2022 amendment reveals fundamental logical inconsistencies that highlight its incompatibility with established citizenship law principles.

The law penalizes successful integration into Slovak society. Citizens who immigrate to Slovakia and integrate quickly—acquiring Slovak citizenship after the minimum required period—are more likely to lose it under the 2022 amendment than those who delayed integration and maintained longer foreign residence. This creates harmful incentives that discourage rather than encourage integration.

By requiring proof of foreign connections, Slovakia's law implicitly demands that citizens demonstrate loyalty to foreign states as a condition for maintaining Slovak citizenship. This contradicts the fundamental principle that citizenship involves exclusive or primary allegiance to the state of citizenship.⁶⁸ The five-year foreign residency requirement creates arbitrary documentation hurdles that bear no relationship to genuine link to Slovakia. Citizens must prove residence registrations and other official records from foreign states that prove an actual residency abroad to maintain Slovak citizenship—requirements that focus entirely on foreign rather than domestic integration.

⁶⁵ Opinion of Advocate General Collins in Case C-181/23 *European Commission v Malta* [2024] paras 56-57.

⁶⁶ *Supra*. 20.

⁶⁷ SPIEKER, L. D. and WEBER, F., 'Bonds without belonging? The genuine link in international, union, and nationality law' (2025) *Yearbook of European Law* (advance article) <https://doi.org/10.1093/yel/yeae007>.

⁶⁸ *Supra*. 62.

The law's requirement for five years of foreign residence before acquiring foreign citizenship creates a narrow eligibility window that excludes many legitimate dual citizens in the globalized world. This temporal requirement lacks any rational connection to citizenship policy goals and serves primarily to limit rather than rationalize dual citizenship.

Conclusion

The comprehensive analysis undertaken in this Article establishes that Slovakia's 2022 citizenship amendment represents a fundamental departure from established principles of international citizenship law rather than a refinement of existing policy frameworks. The law's unprecedented focus on foreign not on domestic connections, its systematic reversal of traditional burden of proof requirements, and its creation of huge incentives that discourage integration into Slovak society all demonstrate a system that contradicts both emerging international trends and basic logical consistency in international citizenship law. While contemporary state practice increasingly emphasizes genuine link requirements between citizens and their home states, Slovakia's unique approach demands proof of foreign state connections as a prerequisite for maintaining home state citizenship, inverting the fundamental logic underlying genuine link doctrine.

By adopting this approach Slovakia directly contradicts international legal development in international citizenship law. The practical operation of the 2022 amendment reveals systematic logical inconsistencies that undermine the coherence of Slovak citizenship policy while positioning Slovakia as a clear outlier in international citizenship law.

The evidence presented demonstrates that Slovakia's 2022 reform fails to achieve the policy objectives typically associated with genuine link requirements while creating new categories of citizenship inequality based on arbitrary documentation standards. Rather than ensuring meaningful connections between Slovak citizens and their state, the amendment paradoxically penalizes successful integration into Slovak society while rewarding prolonged foreign residence. Although the Slovak approach remains formally within the bounds of state discretion, it departs from the direction of contemporary international citizenship law. The genuine link doctrine, while not rendering such legislation prohibited, serves as a clear point of reference against which such disproportional measures can be evaluated. In this context, the reform reflects a growing conflict between accepted standards of citizenship regulation and Slovakia's chosen legal framework. As of now, a safe conclusion is that the present contradictions between stated policy goals and practical outcomes reflects the fundamental incompatibility between Slovakia's foreign-connection requirements and established principles of citizenship law, confirming that the 2022 amendment represents not an innovation worthy of emulation but a cautionary example of citizenship legislation that contradicts both international legal development and rational policy approach.

Slovakia's both citizenship reforms of 2010 and 2022 resulted in an experiment that has no relevance in current international trends, state practice, and is not fulfilling any logical and legitimate policy goals. Rather than maintaining policies rooted in historical bilateral tensions, Slovakia should go back to its pre-2010 citizenship laws while implementing the current trends in citizenship law along the process. And what is even more significant, Slovakia should focus more on building genuine links with its citizens, especially with those belonging to its rich national minorities.