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Citizenship acquisition by immigrants and their descendants: an international legal comparison

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Executive Summary

This report, commissioned by the State Secretariat for Migration (SEM) in Switzerland, provides a comparative study of **conditions and procedures for the acquisition of citizenship** by foreign **immigrants** (first generation) and their **descendants** (second and third generation) in Europe. The focus of the study is on **11 selected European countries:** Austria, Belgium, Denmark, France, Germany, Italy, Latvia, the Netherlands, Portugal, Sweden, and the United Kingdom. This study includes an **in-depth comparison** of the conditions and procedures for residence-based naturalisation, for citizenship acquisition by children and young adults, and for citizenship acquisition based on birth in the country. The study also covers counselling and information provisions. To ensure a systematic and comprehensive comparison of the requirements and procedures for citizenship acquisition across countries, we draw on the internationally recognized comparative framework developed within the Global Citizenship Observatory (GLOBALCIT).

The study includes **detailed country reports** that interpret the operation of citizenship laws within legal systems and demographic contexts. The findings from these country reports are summarised in a **comparative synthesis**, highlighting the variation in conditions and procedures for citizenship acquisition. Finally, we provide a **broader contextualisation** of these findings by drawing on the data from the GLOBALCIT Citizenship Law Dataset on the conditions for citizenship acquisition in **31 European countries** (all 27 EU member states, plus Switzerland, Iceland, Norway, and the UK).
The collected evidence points to the following main conclusions:

- All European states offer the possibility for the **acquisition of citizenship on the basis of residence in the respective country**. However, naturalisation conditions vary across states regarding length, permissible interruptions, and the requirement to hold a particular type of residence permit.

» **Naturalisation after five years of residence is the most widespread condition**. The most common residency requirement is five years, but several states require longer residence, up to ten years. **Fast-tracked naturalisation for special groups** exists across Europe. Various states maintain lower residence requirements for spouses/partner of citizens, refugees and/or stateless persons, and citizens of specific origin (e.g., EU or Nordic Union citizens).

» In all the eleven states examined, a **legal residence status is obligatory** for residence-based citizenship acquisition ('ordinary naturalisation') at the time of application. The number and types of permissible interruptions of a required residence period vary substantively across states. Some states calculate a percentage or number of days spent abroad, while others calculate residency more subjectively by determining the centre of life or sufficient ties.

- Restrictions on dual or **multiple citizenship** are increasingly uncommon in Europe. In the limited number of European states that still require renunciation of another citizenship as condition for naturalisation, there are significant exceptions (e.g., for spouses/partners of citizens or citizens of origin countries with strong economic or political ties to the state).

- Most states require applicants for naturalisation to demonstrate **language proficiency**, typically at an intermediate level and tested through a language exam. Citizenship knowledge tests are somewhat less common, but still widely applied. There is some variation between states on whether the knowledge test is conducted during an in-person interview or in written form.

- The **procedure** for ordinary naturalisation is typically **discretionary**. This means that the fulfilment of all naturalisation criteria is necessary, but that it does not legally guarantee the acquisition of citizenship. Some states provide guidance to the administrators on how to interpret the law. A few states provide an entitlement to naturalise if the applicant fulfils all the requirements, or do so for certain categories of applicants when all criteria are fulfilled, such as for spouses or minor children. In such cases there is little discretion for authorities.

» Applicants must provide **documentation** to support their applica-

tion for naturalisation. This, most often, includes a valid identification (such as a copy or original of a passport), birth certificates, and proof of residence, or a copy of residence permit. These documents need to be translated into the language of the host state (and in some cases certified by the home state).

  - » The authority for naturalisation applications can be **decentralised** (with a municipal or regional authority), centralised with a Ministry, or a combination of both. The path of a naturalisation application differs depending on where the authority for naturalisation applications is located. In **centralised** systems, there are typically no distinct steps once the application is submitted to the relevant Ministry. By contrast, in **decentralised** systems, the process may differ by municipality or region.
  - » In the eleven states included in the study, once an application has been submitted, the **processing time** varies between 6 to 48 months among states. Some states guarantee a specific timeframe within which they will reach a decision. After a naturalisation application has been accepted, some countries have a further requirement that the applicants participate in a citizenship ceremony and take a **pledge/ oath of allegiance**.
  - » In almost all countries covered in the report, there is a possibility for **appealing a negative decision.** There is variation among the states on how the appeals are managed and on who manages them. Appeals may go back to the competent authority, be directed to a higher authority, or sent to the courts.
  - » All states require naturalisation applicants to pay a fee. The fees vary substantially from around 30 euros to well over 2,000 euros. This basic fee does not include other costs incurred by the applicant, such as, language courses, collecting, or translating documents. Most states provide reduced application fees for minors, spouses, refugees, and stateless persons.

- There are a **few states that provide targeted information or counselling services** about the condition under which citizenship can be acquired beyond the information provided on governmental websites. Exceptions exist where, as a part of general integration policies, there are measures at different levels of government to provide information on the conditions for acquiring citizenship. These include, for example, **information portals** and

websites, information **events and workshops**, **advisory services** who specialise in supporting immigrants and citizenship candidates, brochures and information materials. Some states provide a free info phone line, **an online space for questions**, or information days that explain the naturalisation process and procedures. Other states have created **local migrant support centres**. Larger municipalities sometimes organise **local naturalisation campaigns**. These provide support with information and counselling on access to citizenship and may offer free legal advice services at the local level.

- Beyond residence-based naturalisation for first-generation immigrants, many European states provide **facilitated pathways to citizenship for the children of immigrants**. Different pathways exist for children who arrive in a country at young age and for those who are born in a country.

- There are only a few states that have a system for **citizenship acquisition based on residence/schooling during childhood**, typically depending on the age of arrival in the country or the number of years or type of schooling completed. More commonly, minors will apply for citizenship as secondary applicants to their parents' naturalisation requests.

- In **no European country is citizenship acquired based on birth in the country without any other conditions.** However, several states offer citizenship pathways to persons **born in the country** if neither parent is a citizen. In those cases, the acquisition of citizenship is conditional on the residence status and length of residence in the country of the foreign parent. If **one of the parents is born in the country**, this may also entitle the child born in the country to citizenship at birth. In some states, persons born in the country can acquire citizenship after birth at or before the age of majority under certain conditions.

- Often, but not always, states provide **special acquisition procedures** as a part of these facilitated pathways to citizenship based on birth in the country or childhood residence/schooling.

    - » These procedures typically involve submitting an oral or written **declaration** (by the person or by his/her legal representative) addressed to the relevant public authorities. In some countries, such a declaration is a unilateral act by the person concerned. Citizenship is

then acquired immediately and does not depend on a discretionary decision by the authorities.

  - » Where citizenship can be acquired through a declaration, in most cases**, documentation requirements are less rigorous** than those for residence-based naturalisation. Generally, the relevant authority is the same that also handles residence-based naturalisation. Overall, the **process** of acquiring citizenship by declaration is faster than residence-based naturalisation.
  - » **Appeal** procedures to declaration decisions are generally the same as for residence-based naturalisation.
  - » In most cases, **fees** for registration are significantly lower than for residence-based naturalisation.

- Typically, **there is no duty** for the authorities **to inform individuals** born in the country about the possibility of acquiring citizenship. **Most states provide information on various websites or in brochures** about eligibility and the necessary steps applicants should take to apply. However, it is **up to the potential applicant to inform themselves** on whether they qualify for citizenship or not.

Résumé

Ce rapport, commandé par le Secrétariat d'État aux Migrations (SEM) en Suisse, propose une étude comparative des **conditions et procédures pour l'acquisition de la citoyenneté** par des **immigrés** étrangers (première génération) et leurs **descendants** (seconde et troisième génération) en Europe. L'étude se concentre sur une **sélection de 11 pays européens** : l'Autriche, la Belgique, le Danemark, la France, l'Allemagne, l'Italie, la Lettonie, les Pays-Bas, le Portugal, la Suède, et le Royaume-Uni. Elle comprend une **comparaison approfondie** des conditions et procédures pour la naturalisation fondée sur la résidence, pour l'acquisition de la citoyenneté par des enfants et des jeunes adultes, et pour l'acquisition de la citoyenneté fondée sur la naissance dans le pays. L'étude couvre également les provisions concernant l'information et le conseil. Afin de garantir une comparaison systémtique et complète des conditions et procédures d'acquisition de la citoyenneté dans les différents pays sélectionnés, nous nous appuyons sur le cadre comparatif internationalement reconnu développé au sein du Global Citizenship Observatory (GLOBALCIT).

Cette étude comprend des **rapports nationaux détaillés** qui interprètent le fonctionnement des lois de citoyenneté dans le cadre des systèmes juridiques et des contextes démographiques. Les conclusions de ces rapports nationaux sont résumées dans une **synthèse comparative**, qui met en évidence la diversité des conditions et procédures pour l'acquisition de la citoyenneté. Enfin, nous présentons une mise en contexte plus large de ces conclusions en s'appuyant sur les données du GLOBALCIT Citizenship Law Dataset sur les conditions d'acquisition de la citoyenneté dans **31 pays européens** (qui comprend les 27 États Membres de l'UE, la Suisse, l'Islande, la Norvège et le Royaume-Uni).

Les informations recueillies mènent aux principales conclusions suivantes :

- Tous les pays européens offrent la possibilité **d'acquérir la citoyenneté sur la base de la résidence dans le pays concerné**. Cependant, les conditions

de naturalisation varient selon les État concernant la durée de la résidence, les interruptions de résidence autorisées, et l'obligation de détenir un titre de séjour particulier.

  - » **La condition la plus répandue est la naturalisation après cinq ans de résidence**. En effet, la condition de durée de résidence la plus courante est de cinq ans, mais plusieurs États requièrent une durée plus longue, jusqu'à dix ans. Des **procédures de naturalisation accélérées** pour des groupes spéciaux existent dans toute l'Europe. Plusieurs États maintiennent ainsi des critères de durée de résidence plus bas pour les conjoints/partenaires de citoyens, les réfugiés et/ou personnes apatrides, et les citoyens d'origine particulière (par exemple, les citoyens de l'UE ou les citoyens de l'Union nordique).
  - » Dans les onze États examinés, **un statut de résidence légal est obligatoire** pour l'acquisition de la citoyenneté sur la base de la résidence ('naturalisation ordinaire') au moment de la demande. Le nombre et le type d'interruptions autorisées d'une période de résidence obligatoire varient considérablement d'un État à un autre. Certains États prennent en compte un pourcentage ou un nombre de jours passés à l'étranger, alors que d'autres considèrent la résidence de manière plus subjective en déterminant le centre des intérêts privés et familiaux et l'existence de liens suffisants aux pays d'accueil.

- Les restrictions à la double ou **multiple citoyenneté** sont de moins en moins communes en Europe. Dans le nombre limité d'États européens qui requièrent encore la renonciation à une autre citoyenneté comme condition de naturalisation, des exceptions importantes existent (par exemple, pour les conjoints/partenaires de citoyens ou pour les ressortissants de pays d'origine ayant des liens économiques ou politiques étroits avec l'État).

- La plupart des États exigent que les candidats à la naturalisation fassent la preuve de **compétences linguistiques**, généralement à un niveau intermédiaire et testées par un examen de langue. Les examens de connaissance de naturalisation sont un peu moins courants, mais restent largement appliqués. Il existe des divergences entre les États sur la question de savoir si l'examen de connaissance est réalisé au cours d'un entretien en personne ou sous forme écrite.

- La **procédure** pour la naturalisation ordinaire est généralement **discrétionnaire**. Cela veut dire que le respect de tous les critères de naturalisation est nécessaire, mais qu'il ne garantit pas légalement l'acquisition de la citoyenneté. Certains États fournissent des orientations aux administrateurs sur l'interprétation de la loi. Un petit nombre d'entre eux prévoient un droit à la naturalisation si le demandeur remplit toutes les conditions, ou seulement pour une certaine catégorie de demandeurs lorsque tous les critères sont remplis, comme par exemple pour les conjoints ou enfants mineurs. Dans ces cas, les autorités disposent d'une faible marge de manœuvre.

    - » Les demandeurs doivent fournir des **documents** à l'appui de leur demande de naturalisation. Cela inclut, dans la plupart des cas, une pièce d'identité valide (telle qu'une copie ou l'original d'un passeport), un certificat de naissance, et la preuve de résidence ou la copie d'un permis de séjour. Ces documents doivent être traduits dans la langue de l'État d'accueil (et dans certains cas certifiés par l'État d'origine).
    - » L'autorité chargée des demandes de naturalisation peut être **décentralisée** (avec une autorité régionale ou municipale), **centralisée** avec un ministère, ou bien une combinaison des deux. Le déroulement d'une demande de naturalisation diffère selon l'endroit où se trouve l'autorité chargée des demandes de naturalisation. Dans les **systèmes centralisés**, il n'y a généralement pas d'étapes distinctes une fois que la demande est adressée au ministère compétent. Par contraste, dans les **systèmes décentralisés**, la procédure peut varier selon les municipalités ou les régions.
    - » Dans les onze États sélectionnés pour l'étude, une fois que la demande a été soumise, **les délais de traitement de la demande** varient entre 6 et 48 mois entre les États. Certains États garantissent un délai spécifique dans lequel une décision sera prise. Une fois que la demande de naturalisation a été acceptée, certains États exigent en outre que les demandeurs participent à une cérémonie de citoyenneté et prêtent **un serment d'allégeance**.
    - » Dans pratiquement tous les États couverts par l'étude, il existe une possibilité de **faire appel d'une décision négative**. Des divergences existent entre les États sur la question de savoir comment de tels appels sont gérés et par qui. Les appels peuvent être renvoyés à l'autorité compétente, être dirigés vers une autorité supérieure ou devant

les tribunaux.

» Tous les États requièrent que les demandeurs paient certains frais. Ces frais varient substantiellement d'environ 30 euros à plus de 2000 euros. Ce tarif basic n'inclut pas les autres coûts supportés par le demandeur, comme par exemple les cours de langue, la collecte, et la traduction de documents. La plupart des États accordent une réduction des frais de demande pour les mineurs, les conjoints, les réfugié et les personnes apatrides.

- **Quelques États proposent des informations ciblées et des services de conseils** sur les conditions d'acquisition de la citoyenneté au-delà des informations fournies sur les sites web du gouvernement. Il existe des exceptions lorsque, dans le cadre des politiques générales d'intégration, des mesures sont prises à des différents niveaux de gouvernement pour fournir des informations sur les conditions d'acquisition de la citoyenneté. Ces mesures incluent, par exemple, des **portails et sites web d'informations**, des **évènements et d'ateliers d'informations**, des **services de conseil spécialisés** dans l'aide aux immigrés et aux candidats à la citoyenneté, des brochures et du matériel d'information. Certains États mettent à disposition une ligne téléphonique d'information gratuite, **un espace en ligne pour répondre aux questions**, ou des journées d'information expliquant le processus et les procédures de naturalisation. D'autres États ont créé des **centres locaux d'aide aux migrants**. Les plus grandes municipalités organisent parfois des **campagnes locales de naturalisation**. Ces campagnes fournissent des informations et des conseils sur l'accès à la citoyenneté et peuvent offrir des conseils juridiques gratuits au niveau local.

- Au-delà de la naturalisation fondée sur la résidence pour les immigrés de première génération, beaucoup d'États européens **facilitent l'accès à la citoyenneté** pour les enfants d'immigrés. Différentes voies d'accès à la citoyenneté existent pour les enfants qui arrivent dans un pays à un jeune âge et pour ceux qui sont nés dans le pays.

- Seulement quelques États proposent un système **d'acquisition de la citoyenneté basé sur la résidence/la scolarité pendant l'enfance**, qui dépend généralement de l'âge d'arrivée dans le pays ou du nombre d'années ou du type de scolarité suivie. Le plus souvent, les mineurs demandent la citoyenneté en tant que candidats secondaires aux demandes de naturalisation de leurs parents.

- Dans **aucun pays européen, l'acquisition de la nationalité n'est fondée sur la naissance dans le pays sans aucune autre condition**. Cependant, plusieurs États offrent des voies d'accès à la citoyenneté aux personnes **nées dans le pays** si aucun des parents n'est un citoyen lui-même. Dans ce cas, l'acquisition de la citoyenneté est conditionnée au statut de résident et à la longueur du séjour dans le pays du parent étranger. Si **l'un des parents est né dans le pays**, l'enfant né dans le pays peut également avoir droit à la citoyenneté à la naissance. Dans certains États, les personnes nées dans le pays peuvent acquérir la citoyenneté après la naissance, à l'âge de la majorité ou avant, sous certaines conditions.

- Souvent, mais pas dans tous les cas, les États fournissent des **procédures d'acquisition de la citoyenneté spécifiques** dans le cadre ces voies facilitées à la citoyenneté sur la base de la naissance dans le pays ou de la résidence/scolarité pendant l'enfance.

    - » Ces procédures impliquent généralement une **déclaration** orale ou écrite (par la personne ou par son représentant légal) adressée aux autorités publiques compétentes. Dans certains pays, une telle déclaration est un acte unilatéral par la personne concernée. La citoyenneté est alors acquise immédiatement et ne dépend pas d'une décision discrétionnaire par les autorités.
    - » Quand la citoyenneté peut être acquise par une déclaration, dans la plupart des cas, les **conditions liées aux documents sont moins strictes** que celles pour la naturalisation fondée sur la résidence. Généralement, l'autorité compétente est la même qui gère la naturalisation fondée sur la résidence. Globalement, **la procédure** d'acquisition de la citoyenneté par déclaration est plus rapide que la naturalisation fondée sur la résidence.
    - » Les procédures **d'appel** concernant les décisions de déclarations sont généralement les mêmes que pour la naturalisation fondée sur la résidence.
    - » Dans la plupart des cas, les **frais** d'enregistrement sont significativement plus bas que pour la naturalisation fondée sur la résidence.

- En règle générale, **il n'y a pas de devoir** pour les autorités **d'informer les individus** nés dans le pays des possibilités d'acquérir la citoyenneté. **La**

plupart des États fournissent des informations sur des sites divers ou dans des brochures à propos de l'éligibilité et des démarches à effectuer pour déposer une demande. Cependant, il **incombe au demandeur potentiel de s'informer** pour savoir s'il remplit ou non les conditions requises pour obtenir la citoyenneté.

Zusammenfassung

Der vorliegende Bericht wurde vom Schweizer Staatssekretariat für Migration (SEM) in Auftrag gegeben und präsentiert eine vergleichende Studie zum **Erwerb der Staatsbürgerschaft für Zugewanderte**. Insbesondere werden die **Bedingungen und Verfahren** für Zugewanderte der ersten Generation sowie deren Nachkommen der zweiten und dritten Generation in Europe untersucht. Im Fokus der Analyse stehen **elf europäische Länder**: Belgien, Dänemark, Deutschland, Italien, Lettland, die Niederlande, Österreich, Schweden, Portugal und das Vereinigte Königreich. Die Studie umfasst einen **eingehenden Vergleich** der Bedingungen und Verfahren für die Einbürgerung aufgrund des Aufenthalts, für den Erwerb der Staatsbürgerschaft für Kinder und junge Erwachsene, sowie für den Erwerb der Staatsbürgerschaft durch die Geburt in dem jeweiligen Land. Zusätzlich legt die Studie ein Augenmerk auf die Beratungs- und Informationsangebote. Um einen systematischen und umfassenden Vergleich bezüglich der Bedingungen und der Verfahren für den Erwerb der Staatsbürgerschaft in den verschiedenen Ländern zu gewährleisten, bezieht sich diese Studie auf ein international anerkanntes Analyseraster, das von GLOBALCIT (Global Citizenship Observatory) entwickelt wurde.

Die Studie enthält **ausführliche Länderberichte**, in denen die Funktionsweise der Staatsbürgerschaftsgesetze innerhalb der Rechtssysteme und des demografischen Kontexts erläutert wird. Die Erkenntnisse aus diesen Länderberichten werden in einer **vergleichenden Synthese** zusammengefasst, die die unterschiedlichen Bedingungen und Verfahren für den Erwerb der Staatsbürgerschaft hervorhebt. Schließlich werden diese Ergebnisse in einen **breiteren Kontext** gestellt, indem Daten des GLOBALCIT Citizenship Law Dataset zu den Bedingungen für den Erwerb der Staatsbürgerschaft in insgesamt 31 europäischen Ländern (alle 27 EU-Mitgliedstaaten sowie die Schweiz, Island, Norwegen und das Vereinigte Königreich) herangezogen werden.

Die gesammelten Ergebnisse weisen auf die folgenden Hauptschlussfolgerungen hin:

- Alle europäischen Staaten bieten die Möglichkeit zum **Erwerb der Staatsbürgerschaft auf der Grundlage eines Aufenthalts im jeweiligen Land**. Die Einbürgerungsbedingungen unterscheiden sich jedoch von Staat zu Staat in Bezug auf die Dauer, die zulässigen Aufenthaltsunterbrechungen und die Anforderungen, eine bestimmte Art von Aufenthaltstitel zu besitzen.

    - » **Am weitesten verbreitet ist die Voraussetzung eines fünfjährigen Aufenthaltes, um eingebürgert zu werden**. Einige Staaten verlangen eine längere Aufenthaltsdauer von bis zu zehn Jahren. **Beschleunigte Einbürgerungsverfahren für besondere Gruppen** existieren europaweit. In verschiedenen Staaten gelten kürzere Aufenthaltsanforderungen für Ehegatten/Lebenspartnerinnen und -partnern von Staatsbürgerinnen und Staatsbürgern, Geflüchteten und/oder Staatenlose sowie Bürgerinnen und Bürger bestimmter Herkunft (z. B. EU-Bürgerinnen und Bürger sowie Angehörige der Nordischen Passunion).
    - » In allen elf untersuchten Staaten ist ein **rechtmäßiger Aufenthaltsstatus** zum Zeitpunkt der Antragstellung für den Erwerb der Staatsangehörigkeit aufgrund des Aufenthalts ("gewöhnliche Einbürgerung") **verpflichtend**. Die Anzahl und die Art der zulässigen Unterbrechungen der erforderlichen Aufenthaltsdauer variieren erheblich zwischen den Staaten. Einige Staaten berechnen einen Prozentsatz oder die Anzahl der im Ausland verbrachten Tage, während andere den Wohnsitz eher auf der Basis von qualitativen Kriterien festlegen, indem sie den Lebensmittelpunkt oder ausreichende Bindungen bestimmen.

- Beschränkungen der doppelten oder **mehrfachen Staatsbürgerschaft** sind in Europa zunehmend unüblich. In den wenigen europäischen Staaten, die immer noch den Verzicht auf eine andere Staatsangehörigkeit als Voraussetzung für die Einbürgerung verlangen, gibt es erhebliche Ausnahmen (z. B. für Ehegatten/Partnerinnen und Partnern von Staatsbürgerinnen und Staatsbürgern, oder Staatsangehörige von Herkunftsländern mit starken historischen oder politischen Bindungen an den Staat).

- Die meisten Staaten verlangen von Einbürgerungsbewerbenden den **Nachweis von Sprachkenntnissen**, die in der Regel ein mittleres Niveau erreichen müssen und in einem Sprachtest geprüft werden. Tests zu den Kenntnissen über das Land sind etwas weniger verbreitet, werden aber immer noch häufig angewandt. Es gibt einige Unterschiede zwischen den Staaten, ob der Wissenstest während eines persönlichen Gesprächs oder in schriftlicher Form durchgeführt wird.

- Das Verfahren für die **ordentliche Einbürgerung** ist in der Regel ein **Ermessensverfahren**. Das bedeutet, dass die Erfüllung aller Einbürgerungskriterien erforderlich ist, aber keine rechtliche Garantie für den Erwerb der Staatsbürgerschaft darstellt. Einige Staaten geben den Behörden Hinweise zur Auslegung des Gesetzes. In einigen wenigen Staaten besteht ein Anspruch auf Einbürgerung, wenn die Antragstellenden alle Voraussetzungen erfüllen, oder für bestimmte Kategorien von Antragstellenden, wenn alle Kriterien erfüllt sind, z. B. für Ehegatten oder minderjährige Kinder. In solchen Fällen haben die Behörden nur einen geringen Ermessensspielraum.

  - Die Antragstellenden müssen für ihren Einbürgerungsantrag **Unterlagen** zur Verfügung stellen. Dazu gehören in den meisten Fällen ein gültiger Ausweis (z. B. eine Kopie oder das Original eines Reisepasses), Geburtsurkunden und ein Nachweis des Wohnsitzes oder eine Kopie der Aufenthaltsgenehmigung. Diese Dokumente müssen in die Sprache des Aufnahmestaates übersetzt (und in einigen Fällen vom Heimatstaat beglaubigt) werden.
  - Die Behörde für Einbürgerungsanträge kann dezentral (bei einer kommunalen oder regionalen Behörde), zentral bei einem Ministerium oder auf beiden Ebenen angesiedelt sein. Der Ablauf eines Einbürgerungsantrags ist unterschiedlich, je nachdem, wo die Behörde für Einbürgerungsanträge angesiedelt ist. In zentralisierten Systemen werden in der Regel dieselben standardisierten Verfahren angewandt, sobald der Antrag beim zuständigen Ministerium eingereicht wurde. In dezentralisierten Systemen kann der Ablauf von Gemeinde zu Gemeinde oder Region zu Region hingehen variieren.
  - In den elf untersuchten Staaten dieser Studie variiert die **Bearbeitungszeit** nach Einreichung eines Antrags zwischen 6 und 48 Monaten. Einige Staaten garantieren einen bestimmten Zeitrahmen, innerhalb dessen sie eine Entscheidung treffen werden. Nachdem ein

Einbürgerungsantrag angenommen wurde, müssen die Antragstellenden in einigen Ländern an einer Einbürgerungszeremonie teilnehmen und **einen Eid ablegen**.

» In fast allen Ländern, die in der vorliegenden Studie untersucht werden, besteht die Möglichkeit, **Einspruch gegen einen Negativbescheid** einzulegen. Es gibt Unterschiede zwischen den Staaten, wie die Einsprüche gehandhabt werden und wer sie verwaltet. Einsprüche können an die zuständige Behörde zurückgehen, an eine höhere Behörde weitergeleitet oder an die Gerichte übergeben werden.

» In allen Staaten müssen die Einbürgerungsbewerbenden eine Gebühr entrichten. Die Gebühren unterscheiden sich maßgeblich und reichen von etwa 30 Euro bis weit über 2.000 Euro. Diese Grundgebühr deckt keine weiteren Kosten ab, die für den Antragsteller entstehen, wie z. B. Sprachkurse, das Sammeln oder Übersetzen von Dokumenten. Die meisten Staaten gewähren ermäßigte Antragsgebühren für Minderjährige, Ehegatten, Geflüchtete und Staatenlose.

- **Einige wenige Staaten bieten gezielte Informationen oder Beratungsdienste über die Voraussetzungen der Einbürgerung an**, die über die Informationen auf den Behördeninternetseiten hinausgehen. Diese Ausnahmen resultieren aus allgemeinen Integrationsmaßnahmen, welche auf verschiedenen staatlichen Ebenen über die Bedingungen für den Erwerb der Staatsangehörigkeit informieren. Dazu gehören beispielsweise **Informationsportale** und Internetseiten, **Informationsveranstaltungen, Seminare, Beratungsdienste**, die auf die Unterstützung von Zugewanderten und Staatsangehörigkeitsbewerbenden spezialisiert sind, sowie Broschüren und Informationsmaterial. Einige Staaten bieten ein kostenloses Hilfetelefon oder eine online Assistenz für Fragen an oder auch Informationstage, bei denen der Einbürgerungsprozess und die Verfahren erläutert werden. Andere Staaten haben **lokale Zentren zur Unterstützung von Zugewanderten** eingerichtet. Größere Gemeinden organisieren manchmal lokale **Einbürgerungskampagnen**. Durch Informations- und Beratungsangebote bieten diese Unterstützung beim Einbürgerungsverfahren und können kostenlose Rechtsberatung auf lokaler Ebene anbieten.

- Neben der aufenthaltsrechtlichen Einbürgerung für Zugewanderte der ersten Generation bieten viele europäische Staaten **erleichterte Verfahrenswege für die Einbürgerung von Kindern von Migrantinnen**

und Migranten. Es existieren unterschiedliche Verfahren für Kinder, die in jungen Jahren in einem Land ankommen und für Kinder, die in dem jeweiligen Land geboren wurden.

- Nur in wenigen Staaten existiert ein **Einbürgerungsverfahren**, das auf dem **Aufenthalt bzw. der Einschulung während der Kindheit basiert** und in der Regel vom Alter bei der Ankunft im Land oder der Anzahl der Jahre bzw. der Art der abgeschlossenen Schulbildung abhängt. Für gewöhnlich erfolgt die Einbürgerung von Minderjährigen als Zweitantragstellende im Zuge des Einbürgerungsantrags ihrer Eltern.

- In **keinem europäischen Land kann die Staatsbürgerschaft alleine durch Geburt** im jeweiligen Land erworben werden. Dennoch bieten mehrere Staaten den Erwerb der Staatsbürgerschaft an, wenn **eine Personen im jeweiligen Staat geboren worden ist,** auch wenn kein Elternteil Staatsbürger ist. In diesen Fällen hängt der Erwerb der Staatsbürgerschaft vom Aufenthaltsstatus und der Dauer des Aufenthalts im Land des ausländischen Elternteils ab. Ist **ein Elternteil im Land geboren**, so kann das im Land geborene Kind bei seiner Geburt ebenfalls das Recht auf die Staatsbürgerschaft erhalten. In einigen Staaten können im Land geborene Personen unter bestimmten Bedingungen die Staatsbürgerschaft nach der Geburt oder vor Erreichen der Volljährigkeit erwerben.

- Oft, aber nicht immer, bieten die Staaten **spezielle Einbürgerungsverfahren** als erleichterte Wege zur Staatsbürgerschaft an, die auf der Geburt im Land oder dem Aufenthalt/Schulbesuch in der Kindheit basieren.

    - » Diese Verfahren beinhalten in der Regel die Abgabe einer mündlichen oder schriftlichen **Erklärung** (durch die Person oder ihren gesetzlichen Vertreter) bei den zuständigen Behörden. In einigen Ländern bedarf eine solche Erklärung keiner weiteren Entscheidung der Behörde. Die Staatsbürgerschaft wird dann sofort per Erklärung erworben.
    - » Wenn die Staatsbürgerschaft durch Erklärungsrecht erworben werden kann, sind die **Anforderungen an die Unterlagen** in den meisten Fällen **weniger streng** als bei der Einbürgerung aufgrund des Aufenthalts. Im Allgemeinen ist die zuständige Behörde dieselbe, die auch für die aufenthaltsbasierte Einbürgerung zuständig ist. Ins-

gesamt ist der Erwerb der Staatsbürgerschaft durch Erklärungsrecht schneller als die gewöhnliche Einbürgerung aufgrund des Aufenthalts.

  - » Im Allgemeinen gleichen die **Einspruchsverfahren** gegen Erklärungsscheidungen jenen der Einbürgerung aufgrund des Aufenthalts.
  - » In den meisten Fällen sind die **Einbürgerungsgebühren** deutlich niedriger als bei der aufenthaltsbasierten Einbürgerung.

- In der Regel sind die **Behörden nicht verpflichtet,** im Land geborene Personen über die Möglichkeit des Erwerbs der Staatsangehörigkeit zu informieren. Die meisten Staaten informieren auf verschiedenen Websites oder in Broschüren über die Voraussetzungen und die dafür notwendigen Schritte der Antragstellung. Die Verantwortung liegt jedoch bei dem potenziellen Antragstellenden, sich selbst darüber zu informieren, ob er oder sie die Anforderungen für die Staatsbürgerschaft erfüllt.

1. Introduction

Maarten Vink, Jelena Džankić, and Rainer Bauböck

1.1 Background to the study

There is increasing evidence that citizenship acquisition contributes positively to the economic, social and political integration of immigrants and their descendants in their countries of residence (Gathmann and Garbers 2023).[1] Yet, becoming a citizen in some countries is considerably more challenging than in others and, as a result, the extent to which migrants and their children manage to do so varies greatly. Citizenship acquisition rates among resident foreigners in Europe in 2022 varied between 10.6 percent in Sweden and 0.4 percent in Estonia and Latvia, as reported by Eurostat (see Figure 1.1).[2] In Switzerland the citizenship acquisition rate is 1.9 percent, well below the average rate of 2.6 percent across 27 Member States of the European Union (EU).

Although naturalisation rates depend also on demographic factors determining the size and background of a foreign resident population, previous studies have shown that the requirements for naturalisation impact directly on how many immigrants acquire citizenship in their countries of residence (Vink et al, 2021).[3] Because in Europe the children of migrants often rely on their parents to acquire citizenship, the accessibility of citizenship has impor-

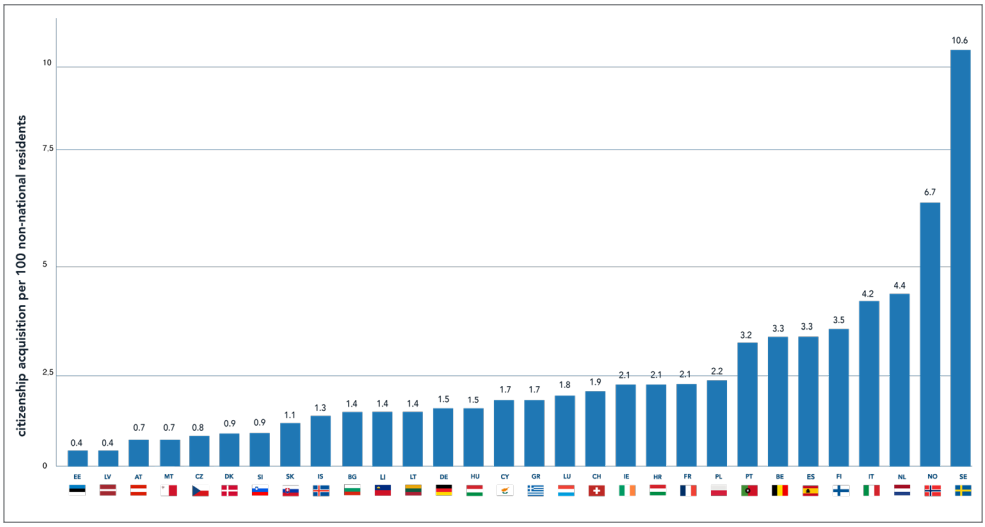
1 Gathmann, C., & Garbers, J. (2023). Citizenship and integration. Labour Economics, 82, 102343.

2 A standard measure for international comparison of the citizenship acquisition rate (often referred to as the 'naturalisation rate') is the ratio of the number of persons who acquired the citizenship of their country of residence during a year over the stock of non-national residents in that country at the beginning of the year. See Eurostat (2024), Citizenship granted to almost 1 million people in 2022, 29 February 2024, https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20240229-1

3 Vink, M., A. Tegunimataka, F. Peters and P. Bevelander (2021). Long-term heterogeneity in immigrant naturalisation: the conditional relevance of civic integration and dual citizenship. European Sociological Review 37(5) 751-765.

tant consequences across migrant generations (Labussiere and Vink 2020).[4] A systematic comparative analysis of legal systems concerning the acquisition of citizenship is therefore essential for understanding how citizenship laws affect the rates at which migrants and their descendants acquire citizenship status in their countries of residence.

Figure 1.1. Citizenship acquisition rate in 30 European countries, 2022



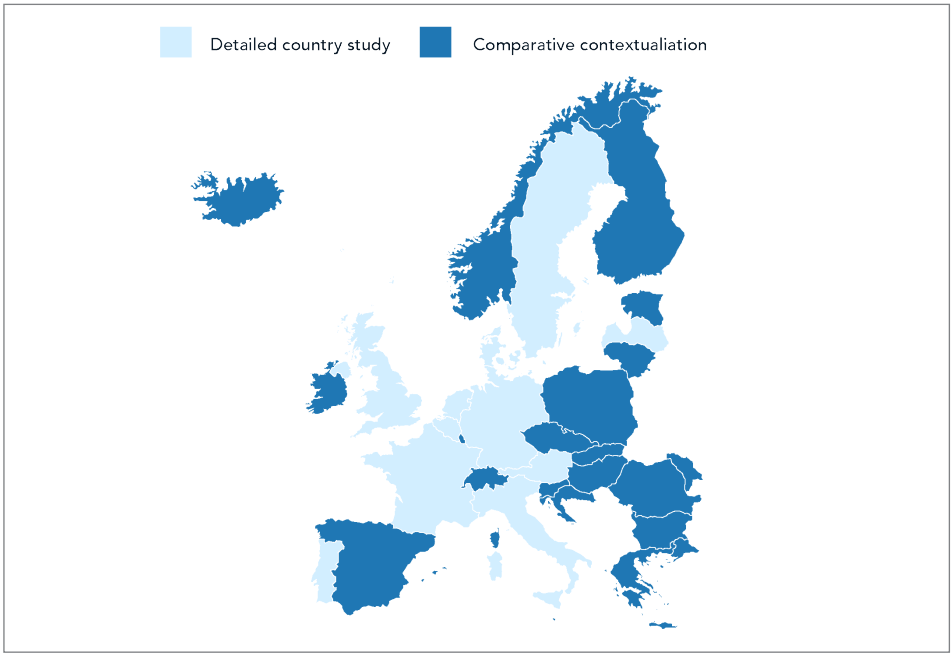
Source: Eurostat [migr_pop1ctz, migr_acq]. Data for 2022, missing for Romania.

1.2 Structure of the study

The main focus of the study is a comparative analysis of **11 selected countries** based on fine-grained information on the conditions and procedures to acquire citizenship (e.g., the precise residence title, level of language knowledge). To identify potential practical obstacles for the naturalisation of immigrants and their descendants, we also offer insights from country experts on counselling and information provision.

4 Labussière, M., & Vink, M. (2020). The intergenerational impact of naturalisation reforms: the citizenship status of children of immigrants in the Netherlands, 1995–2016. Journal of Ethnic and Migration Studies, 46(13), 2742-2763.

Figure 1.2 Geographical scope of the study



The study contains three main parts in order to allow policy-makers to make an informed assessment of the national legal system.[5]

In the first part, **in-depth country reports** will cover the requirements and procedures for citizenship acquisition in 11 selected European countries: Austria, Belgium, Denmark, France, Germany, Italy, Latvia, the Netherlands, Portugal, Sweden, and the United Kingdom. The country reports written by the national experts on citizenship law in the selected 11 countries follow a detailed template, drawing on the GLOBALCIT typology, which allows for a methodical comparative study of practices across the countries covered in the study (see 'comparative approach' below).

In the second part, a **comparative synthesis** highlights those aspects of the regulation of citizenship acquisition in these 11 countries where a) there is greatest variation across the foreign legal systems and b) our country experts identify the greatest obstacles to high citizenship acquisition rates among immigrants and their descendants.

5 The temporal scope of this report is as follows: the country reports and the comparative synthesis have been prepared in the Fall of 2023, while the Germany report has been updated to June 2024. The comparative contextualization covers the situation on 1 January 2022. Further details and the rationale for the temporal coverage are included in the respective sections.

In the final section of the report, we furthermore use up-to-date information from the GLOBALCIT Citizenship Law Dataset to contextualise our findings within the broader European landscape of legal systems. This **comparative contextualisation** will cover 31 European countries (all 27 EU member states, plus Switzerland, Iceland, Norway and the UK). Its value added is in providing a better understanding of 'law in context'. For instance, nearly half of the 11 selected countries have a nominal residence requirement of eight or more years for naturalisation, which might indicate this number to be a common European norm. However, when contextualised within 31 European countries, we find that five years is by far the most common residence requirement.

1.3 Scope of the comparative analysis

The study applies the path-breaking GLOBALCIT analytical framework for cross-national comparison of the regulations on the acquisition and loss of citizenship (on methodology, see section 4). The study will focus the comparative analysis on the conditions and procedures for the acquisition of citizenship by four migrant generations that are distinguished in the migration literature and to whom typically different rules apply for the acquisition of citizenship:

1. **First generation**: foreign-born persons who migrate to a destination country.

2. **1.5 generation**: persons who are born abroad but who have migrated to a destination country at a young age and spend their formative years there. These persons are called the '1.5 generation' because they fall in between the first and second migrant generation.

3. **Second generation**: children born in a country to two foreign-born migrant parents. Note that sometimes, in a sociological sense, the second generation is defined more broadly by having just one foreign-born parent (i.e. children of mixed native/migrant parentage). However, in this study, we apply a strict definition since different citizenship acquisition rules may apply to children with a native-born parent (see under 'third generation').

4. **Third generation**: children born in a country to at least one native-born parent and with two or more grandparents born abroad.

Note that of these four categories, only the first two groups are strictly migrants themselves, as they are foreign-born and migrate to the destination country at either young (1.5 generation) or later age (first generation). The latter two groups are native-born persons of (distant, in the case of the third generation) migrant background.

Within the scope of the comparative analysis (summarised in Table 1), we include facilitated citizenship acquisition for two main immigrant groups: 1) spouses or partners of citizens and 2) refugees or persons with international protection status. We identify cross-national variation in the main conditions, including residence requirements, birth requirements and integration/assimilation requirements, which we interpret broadly as including: no criminal record, economic self-sufficiency, renunciation of other nationalities, language tests, citizenship tests and assimilation requirements.

Table 1.1. Substantive focus of the study and applicable foreign population

Focus	Foreign population
1. Conditions for residence-based naturalisation	Foreigners who have migrated to the residence country, incl. provisions for spouses of citizens and refugees ('first generation').
1.1. Requirements: length of stay, residence title and length of residence?	
1.2. Integration or assimilation criteria?	
1.3. Procedure: legal entitlement?	
2. Citizenship acquisition by children and young adults	Children born in a country to foreign-born parents ('second generation') and young adults who arrived during the age of minority ('1.5 generation')
2.1. Conditions: age limit for immigration with family reunification?	
2.2. Requirements: length of stay, residence title and length of residence? Other requirements, such as number of years in school? If yes, which? At which age can citizenship be acquired?	
2.3. Parental requirements: length of stay in the country of residence, length of residence in the municipality, residence permit?	
2.4. Do certain integration or assimilation criteria have to be met in order to acquire citizenship? If yes, which?	

3. Citizenship acquisition based on (parental) birth in country	Children born in a country to a parent who was also born in that country ('third generation')
3.1. Parental requirement: eg age limit for immigration?	
3.2. (Grand) Parental requirements: e.g. length of stay in the country of residence, length of residence in the municipality, residence permit?	
3.3 Integration or assimilation criteria?	
4. Procedures for citizenship acquisition	1st, 1.5, 2nd and 3rd generation.
4.1. Documents to be submitted?	
4.2. Information or documents obtained from other offices or authorities?	
4.3. Who collects the information necessary to assess the requirements?	
4.4. Which authority (at which state level) collects the information necessary to assess the requirements? How is the process designed?	
4.5. How is the fulfillment of integration or assimilation criteria assessed?	
4.6. Steps in the procedure for acquiring citizenship?	
4.7. Which authority is in charge of the procedure? Additional authorities?	
4.8. Which authority or body decides on the acquisition of citizenship? Requirements for members of the authorities or committees?	
4.9. Are people who were born in the country of residence informed by the authorities about the possibility of acquiring citizenship?	
4.10. How long does the procedure take in total?	
4.11. What fees are charged?	
4.12. Options to lodge a complaint? How often are these used?	
4.13. Procedure regulated at statutory, ordinance or directive level?	
5. Information and counselling	1st, 1.5, 2nd and 3rd generation.
5.1. Government measures or information and counselling services?	

1.4 Comparative approach

The collection and analysis of data on the conditions and procedures for the acquisition of citizenship by foreigners of the first, 1.5, second and third generation is based on the GLOBALCIT comparative approach. Our comparative approach is organised around a comprehensive typology of modes of acquisition of citizenship. The typology outlines, in a systematic way, the various ways in which citizenship can be acquired.[6] This comparative approach has been successfully tried and tested since our early European citizenship law studies.[7] It is also incorporated in the GLOBALCIT Citizenship Law Dataset[8] which methodically compares the complete citizenship legislation of 191 countries worldwide on 1 January 2022.[9] As such, using this comparative approach ensures an objective and neutral presentation of the differences and similarities in the legal regulation of the acquisition of citizenship across European countries.

6 Van der Baaren, L. and M. Vink (2021). Modes of acquisition and loss of citizenship around the world: Comparative typology and main patterns in 2020. GLOBALCIT Working Paper, EUI RSC, 2021/90, p.4.

7 Bauböck, R., Ersbøll, E., Groenendijk, K., & Waldrauch, H. (Eds.). (2006a). Acquisition and loss of nationality: Comparative analyses: policies and trends in 15 European countries (Vol. 1). Amsterdam University Press; Bauböck, R., Ersbøll, E., Groenendijk, K., & Waldrauch, H. (Eds.). (2006b). Acquisition and loss of nationality: Country analyses: policies and trends in 15 European countries (Vol. 1). Amsterdam University Press.

8 The Dataset can be accessed here: https://globalcit.eu/modes-acquisition-citizenship/.

9 Vink, M., L. van der Baaren, R. Bauböck, J. Dzankic, I. Honohan and B. Manby (2023). GLOBALCIT Citizenship Law Dataset, v2. Global Citizenship Observatory. Available here.

2. Country Reports:

Austria, Belgium, Denmark, France, Germany, Italy, Latvia, the Netherlands, Portugal, Sweden, and the United Kingdom

Austria

Gerd Valchars

1. Introduction

Citizenship law in Austria is a matter of federal competence, while the provincial governments are responsible for the implementation of the legal provisions.[1] The principle of a uniform Austrian citizenship is laid down in the Constitution[2], the legal basis for the acquisition and loss of Austrian citizenship is provided for by the Federal Law on Austrian Citizenship of 1985 which has been amended 43 times to date; its latest amendment is from December 2022.[3] Apart from the Citizenship Law, the main other legal sources regulating the acquisition and loss of Austrian citizenship are the Decree on Citizenship[4] and a separate Decree on the Naturalisation Test.[5] A further decree regulates the procedural details of special naturalisation in cases where the acquisition of citizenship is in special interest of the Republic due to the applicant's past and expected outstanding achievements.[6]

2. Conditions for residence-based naturalisation

Under the current provisions[7] the requirements for ordinary (residence-based) naturalisation in Austria are long-term, legally established residence, clean criminal record and good conduct, a minimum income, knowledge of German, the passing of a knowledge test and the renunciation of all previous citizen-

1 Art. 11 (1) Federal Constitutional Act (Bundes-Verfassungsgesetz, B-VG), BGBl. 1/1930 latest amended BGBl. I 222/2022.

2 Art. 6 (1) Federal Constitutional Act (Bundes-Verfassungsgesetz).

3 Citizenship Law of 1985 (Staatsbürgerschaftsgesetz 1985, StbG), BGBl. 311/1985 latest amended BGBl. I 221/2022.

4 Decree on Citizenship 1985 (Staatsbürgerschaftsverordnung 1985), BGBl. 329/1985, latest amended BGBl. II 280/2022.

5 Decree on the Naturalisation Test (Staatsbürgerschaftsprüfungs-Verordnung), BGBl. II 138/2006, latest amended BGBl. II Nr. 260/2013.

6 Decree on the Procedure for Obtaining Confirmation from the Federal Government according to Art. 10 (6) Citizenship Law of 1985 (Verordnung der Bundesregierung über das Verfahren zur Erlangung einer Bestätigung gemäß § 10 Abs. 6 des Staatsbürgerschaftsgesetzes 1985), BGBl. II 39/2014.

7 If not stated otherwise articles refer to the current version of the Citizenship Law of 1985 (Staatsbürgerschaftsgesetz 1985, StbG), BGBl. 311/1985 latest amended by BGBl. I 221/2022.

ships. Besides a reduced residence requirement, the same conditions for naturalisation apply for spouses and registered partners of Austrian citizens as well as for some other groups of privileged applicants. Facilitated naturalisation for recognized refugees no longer exists.

a. Residence requirements: residence title and length of residence

To qualify for ordinary naturalisation applicants must have been legally and continuously resident in Austria for at least ten years.[8] For the five years immediately before the application they must have held a permanent residence permit. Applicants must not have been abroad for more than twenty per cent of the required ten years of residence (including any kind of travel abroad, such as holidays, business trips, semesters abroad, etc.), or else the residence requirement is not fulfilled. Irregular residence without a residence permit does not count and invalidates any time prior to this date.[9] [10]

Nationals of countries that are members of the European Economic Area (EEA), applicants who were born in Austria, and persons whose naturalisation serves the interests of the Republic because of their outstanding achievements in the fields of science, economics, the arts or sport qualify for a reduced requirement of only six years of lawful and continuous residence.[11] In these cases, a permanent residence permit is not required, but the twenty percent rule for time spent abroad applies. The same applies to spouses and registered partners of Austrian citizens if they have been married or in a registered partnership for at least five years and live in the same household. Acquisition is not possible if the applicant is married to or in a registered partnership with the same person for the second time and the partner him- or herself already had acquired Austrian citizenship through marriage or a partnership with an Austrian citizen before marrying the applicant for the second time.[12]

Finally, persons with German language skills at level B2 (instead of B1 required for naturalisation after 10 years) or who for at least three years have

8 Art 10 (1) & Art 15 StbG.

9 Art 15 (3) StbG.

10 Julia Ecker, "§ 15." in *StbG 1985. Staatsbürgerschaftsgesetz 1985,* eds. Julia Ecker, Martin Kind, Ivica Kvasina, and Johannes Peyrl (Vienna: Verlag Österreich, 2017), 151-169 and 382-388; Rainer Bauböck and Gerd Valchars, "Austria's Non-Toleration of Dual Citizenship." in *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives*, ed. Rainer Bauböck and Max Haller (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 2021), 59-73.

11 Art 11a (1) – (5) & Art 15 StbG.

12 Martin Kind "§ 11a." in *StbG 1985. Staatsbürgerschaftsgesetz 1985,* eds. Julia Ecker, Martin Kind, Ivica Kvasina, and Johannes Peyrl (Vienna: Verlag Österreich, 2017).

done voluntary work that serves the common good, have been working in a social, health or educational profession, or have held a function in an official representative body, also qualify for the reduced residence requirement of six years.[13] Applicants in this case must provide reasons why their relevant activities have an "added value" for their integration in Austria.[14]

Following a 2018 amendment that abolished the reduced residency requirement of six years for refugees,[15] the possibility of facilitated naturalisation for recognised refugees no longer exists. Since then, recognised refugees are required to maintain a lawful and continuous residence in Austria for at least ten years.[16] The amendment has faced criticism from multiple sources for violating Article 34 of the 1951 Refugee Convention which obliges the Contracting States to facilitate the naturalisation of refugees.[17]

If applicants do not fulfil the aforementioned residence requirements they may still qualify for naturalisation if they have had their principal residence in Austria for at least 30 years.[18] In this case there is no requirement for a specific residence status and minor gaps in the record of residence permits may be accepted. However, the general requirements of clean criminal record and good conduct do apply here as well; hence this provision does not allow for a legalisation of unlawful residence. Further, persons with 15 years of lawful and continuous residence who can give proof of "sustained personal and occupational integration" may qualify for naturalisation if they meet all other general requirements.[19] In this case, a permanent residence permit is not required, but the twenty percent rule for time spent abroad applies.

b. Dual citizenship: requirement to renounce previous citizenship(s)

For naturalisation in Austria, the renunciation of previously held citizenships is generally required; exceptions are allowed by law only in very limited cases.[20] If an applicant is unable or cannot reasonably be expected to relinquish his

13 Art 11a (6) StbG.

14 Kind, "§ 11a.", 315-321.

15 BGBl. I 56/2018.

16 Art 11a (7) StbG & Art 15 StbG.

17 Gerd Valchars "Staatsbürgerschaft: Recht und Praxis in Österreich." in *Migration, Arbeitsmarkt und Sozialpolitik,* eds. Birgit Schrattbauer, Walter Pfeil, and Rudolf Mosler (Vienna: Manz, 2018), 177.

18 Art 12 (1) lit a StbG.

19 Art 12 (1) lit b StbG.

20 Art 10 (3) StbG.

or her previous nationality, the law allows for its retention.[21] Applicants from countries that (by law or in practice) do not permit renunciation can therefore become dual citizens by naturalisation. Since 1998, exceptionally high release fees charged by countries of origin are further mentioned as a concrete reason for exemption.[22] From 1965 to 1998, recognised refugees were by law explicitly exempt from renunciation obligation.[23] Since then, they are usually covered by the broader exception provision.[24]

Previously held citizenships must be renounced either before naturalisation in Austria or within two years thereafter. In the first case, the Austrian authorities issue a guarantee of the grant of Austrian nationality to applicants once they fulfil all naturalisation requirements.[25] After providing proof that all previous nationalities have been relinquished, Austrian citizenship may be acquired. But the issued guarantee, valid for two years, is not an unconditional one. Austrian authorities have to reassess the eligibility for naturalisation and if any of the naturalisation requirements, except for the income requirement, are no longer met, the guarantee must be withdrawn and the naturalisation denied.[26] [27]

If the administration adopts this procedure, applicants regularly become temporarily stateless; if they are unable to fulfil the naturalisation requirements after renouncing their previous citizenship, this temporary statelessness becomes permanent. Consequently, this regulation is considered to violate not only the UN Convention on the Reduction of Statelessness of 1961[28] and the European Convention on Nationality[29] but also EU law.[30] In 2022 the Court

21 Art 10 (3) & Art. 20 (3) & (4) StbG.

22 BGBl. I 124/1998.

23 Art. 20 (1) StbG, BGBl 311/1985.

24 Joachim Stern and Gerd Valchars, "Country Report: Austria," European University Institute, *EUDO Citizenship Observatory*, RSCAS/EUDO-CIT-CR 2013/28, 2013; Rudolph Thienel, *Österreichische Staatsbürgerschaft. Band II*. (Vienna: Österreichische Staatsdruckerei, 1990), 192f.

25 Art. 20 (1) StbG.

26 Art 20 (2) StbG.

27 Thienel, Österreichische Staatsbürgerschaft. Band II., 268-273.

28 Convention on the Reduction of Statelessness, United Nations, Treaty Series, vol. 989, p. 175; signed by Austria in 1972, ratified in 1974, BGBl. 538/1974.

29 European Convention on Nationality, ETS No. 166; signed by Austria in 1997, ratified in 2000, BGBl. III 39/2000.

30 de Groot, David. "CJEU asked to rule on acquisition of nationality in light of EU citizenship: The fundamental status on the horizon?," *Global Citizenship Observatory Blog, June 16, 2020,* https://globalcit.eu/cjeu-asked-to-rule-on-acquisition-of-nationality-in-light-of-eu-citizenship-the-fundamental-status-on-the-horizon-c-118-20-jy-v-wiener-landesregierung/.

of Justice of the European Union (CJEU) issued a preliminary ruling on the revocation of a guarantee of the grant of Austrian nationality which left a former Estonian national permanently stateless.[31] The court ruled that in such a case a review of proportionality is required before a previously issued guarantee of naturalisation can be revoked, leading to permanent loss of the EU citizen status.

As mentioned above, the Austrian legislation also allows for conditional naturalisation. In this case Austrian citizenship is granted upon fulfilment of all naturalisation requirements. Previous citizenships have to be renounced within two years after naturalisation. If a naturalised Austrian to whom no exceptions apply fails to do so, Austrian citizenship has to be revoked immediately, but no later than six years following naturalisation.[32] [33]

In general, it falls to the authorities to determine which of the two procedures to apply. However, authorities are limited in their decision, as, in order to avoid statelessness, many countries of origin do not release their citizens based on a mere conditional guarantee of nationality grant. Moreover, as a consequence of the aforementioned CJEU ruling from 2022, for EU citizens only the conditional naturalisation procedure is applied.

c. Integration or assimilation criteria

To be eligible for ordinary naturalisation, applicants must demonstrate proficiency in the German language and pass a knowledge test. The required level of German is B1 according to the Common European Framework of Reference for Languages (CEFR).[34] This includes speaking, listening, reading, and writing. Applicants with German language skills at the higher level B2 qualify for a reduced residence requirement of only six (instead of ten) years.[35] The required level of proficiency must be demonstrated through a language certificate issued by a generally recognised language learning institute or through certain Austrian school leaving certificates. If German is the applicant's native language, a language certificate is not required.

Applicants further have to pass a multiple-choice test of in total 18 questions to prove – according to the law – "basic knowledge of the democratic system and the fundamental principles which can be derived therefrom as well

31 CJEU, Case C-118/20, Judgment of 18 January 2022, *JY v. Wiener Landesregierung*, ECLI:EU:C:2022:34.

32 Art 34 StbG.

33 Bauböck and Valchars, "Austria's Non-Toleration of Dual Citizenship", 214.

34 Art 10a (1) StbG in conjunction with Art 7 (2) Law on Integration (Integrationsgesetz, IntG), BGBl. I 68/2017 latest amended by BGBl. I Nr. 76/2022.

35 Art 11a (6) StbG.

as the history of Austria and of the federal province concerned".[36] However, the exam questions do not only ask about Austrian history, its political system and government institutions, but also about geography and landscape, regional customs and cuisine, etc.[37]

Exemptions from language and citizenship tests may be granted to applicants who are under-age and not yet subject to compulsory general education, to applicants in a chronically poor state of health if substantiated by an official medical report and applicants incompetent to act not solely by reason of their age.[38]

d. Procedure: is there a legal entitlement to naturalise?

The Austrian legislation distinguishes between a so-called "entitlement to naturalisation" and a naturalisation by "discretionary decision". Applicants entitled to naturalisation include (among others) people born in Austria, EEA citizens, spouses and minor children of Austrians or of applicants for Austrian citizenship, recognised refugees, stateless persons born in Austria, former Austrian nationals and long-term residents after 30 years. If applicants from these categories fulfil the naturalisation criteria, they are entitled to naturalisation; accordingly, nationality *shall be* granted.

In contrast, the 'ordinary' naturalisation procedure for resident non-nationals after ten years is considered as discretionary; upon fulfilling the naturalisation requirements nationality *may be* granted. However, this distinction between entitlement and discretionary decision has become blurry and more a theoretical concept than a relevant aspect in practice. Since the 1960s, it has been established by courts that discretionary decisions have to be reasoned, must not be taken arbitrarily and can be challenged before the administrative courts. On the other hand, naturalisation criteria that need to be fulfilled are based in part on vague, imprecise terms and indeterminate legal provisions (e.g. the obligation to take into account "the general conduct of the alien, having regard to the common good, the public interests and the extent of his or her integration"[39]) and provide room for a wide margin of interpretation even in procedures with an entitlement to naturalisation.[40]

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36 Art 10a (1) StbG.

37 Valchars, "Saatsbürgerschaft: recht und Praxis in Österreich", 273f.

38 Joachim Stern and Gerd Valchars, "Naturalisation Procedures for Immigrants. Austria", European University Institute, *EUDO Citizenship Observatory*, RSCAS/EUDO-CIT-NP 2013/4, 2013, 7.

39 Art 11 StbG.

40 Stern and Valchars, "Country Report: Austria", 39; Stern and Valchars, "Naturalisation Procedures for Immigrants. Austria", 7.

3. Citizenship acquisition based on residence/ schooling during childhood

Such provisions do not exist in Austria.

4. Citizenship acquisition based on birth in a country

Citizenship acquisition based on birth in the country exists in Austria only in a very limited way. Applicants who have been born in Austria qualify for a reduced requirement of six years of lawful and continuous residence.[41] A permanent residence permit is not needed, but applicants must not have spent more than twenty per cent of the required six years of residence abroad. Apart from the reduced residence requirement, no further facilitations exist and applicants have to meet the regular naturalisation requirements as described above. Upon fulfilling these criteria applicants are entitled to naturalisation. Except for a clause aiming to avoid statelessness,[42] no further regulations on citizenship acquisition based on birth in the country exist.

5. Procedures for citizenship acquisition

Applications for naturalisation must be submitted in writing and in person to the competent authority; applications by persons who are incompetent to act need to be submitted by a legal representative. Applicants are obliged to actively participate in the proceedings and provide all necessary documents and evidence.[43]

- *Documents*

Applicants must submit the following documents and documentation: a valid travel document, a birth certificate, a current photograph, and, if applicable, a marriage certificate, a divorce certificate, adoption papers, or a certificate on name changes. Furthermore, proof of sufficient economic resources has to be furnished through pay slips, employment contracts, pension or insurance certificates or bank statements; the required level of German knowledge needs to be demonstrated through a language certificate issued by a generally recognised language learning institute or through certain Austrian school leaving certificates. All documents have to be submitted in original and in copy, documents

41 Art 11a (4) subsection 3 & Art 11a (5) StbG.

42 Art 14 StbG.

43 Art 19 StbG.

in foreign languages need to be translated by certified translators and for documents from particular states confirmations of authenticity are needed. Obligations concerning identity documents can be waived if the applicant demonstrates that it is impossible or cannot reasonably be expected to acquire these documents and his or her identity can be established unobjectionably through other means.[44]

Authorities may ask for further documents and procedural details may vary by province. The following additional documents are inter alia commonly requested: a comprehensive curriculum vitae, Austrian visas and residence permits without any gaps, proof of residency (each for the relevant period), a clean criminal record from any country the applicant lived in for over six months, school certificates, confirmations of enrolment, etc.[45]

- *Authority*

The execution of the Austrian Citizenship Law lies within the competence of the provinces. The provincial government serves as the competent authority that receives applications and is responsible for reviewing documents, gathering additional information where needed, assessing the requirements and finally deciding regarding citizenship acquisition.

- *Implementation*

After an application has been submitted, the authority must reach a decision within a maximum of six months.[46] However, in practice, the actual length of the procedures can vary greatly by province and depending on the specific case. In the province of Vienna, where almost half of all nationwide procedures have been carried out, between 2015 to 2020 (most recent figures available) only 54 per cent of all cases were processed within the legal time limit of six months. 17 per cent took between six to twelve months, 13 per cent between one and two years, 6 per cent took between two and three years, 8 per cent between three and five years, and almost 2 per cent of all cases carried out in Vienna took even five years or longer. The average length of procedures in Vienna between 2015

44 Art 1 & 2 Decree on Citizenship 1985 (Staatsbürgerschaftsverordnung 1985).

45 Stern and Valchars, "Naturalisation Procedures for Immigrants. Austria", 6.

46 Art. 73 General Administrative Law (Allgemeines Verwaltungsgesetz 1991), BGBl. 51/1991 latest amended by BGBl. I 88/2023.

and 2020 was 347.5 days.[47] In other parts of the country where the number of applications is considerably lower, the situation is likely to be much better; however, detailed information on the duration of procedures in these provinces is not publicly available.

In cases where applicants must renounce their previously held citizenships before naturalising in Austria (see section 2.b), authorities issue a guarantee of the grant of Austrian nationality once all naturalisation requirements are met. This guarantee is issued at the end of the naturalisation procedure but prior to actually granting citizenship and gives the applicants two years to relinquish their nationality. Once proof of renunciation is provided, a reassessment of eligibility is necessary. If the applicant no longer meets any of the naturalisation requirements, except for the income requirement, the guarantee for the acquisition of citizenship has to be retracted and naturalisation denied;[48] the applicant becomes stateless.[49]

Finally, citizenship must be granted in a "festive setting, suitable for the occasion", expressed by the joint singing of the national anthem and the prominent display of the flags of the Republic of Austria, the respective federal province and the European Union. Applicants have to pledge an oath and swear to be loyal citizens to the republic and abide by the laws of the country.[50]

There is some extent of variation in implementation across the provinces. In general, the authorities must adhere to the regulations stipulated in the federal law; however, procedural details, such as required documents, may differ from province to province. Additionally, discretionary decisions and the partly wide margin of interpretation regarding naturalisation requirements contribute to variations between provinces. The provincial governments are further responsible for six out of the 18 questions of the naturalisation knowledge test, which examine applicants on the history of the respective province. As a result, each provincial government has developed a catalogue of questions and a study guide to aid applicants in preparing for that part of the exam. The applicants may prepare by utilising the textbooks published by the Federal Ministry of the Interior and the regional governments. These handbooks are handed out in hard copy or can be downloaded online (depending on the re-

47 Stadtrechnunghof Wien, 2022: MA 35, Einwanderung und Staatsbürgerschaft, Prüfung des Vollzugs des Niederlassungs- und Aufenthaltsgesetzes sowie Staatsbürgerschaftsgesetzes, Prüfungsersuchen gemäß § 73e Abs. 1 WStV vom 15. April 2021, StRH I - 2240159-2022, 39.

48 Art. 20 (1) & (2) StbG.

49 Bauböck and Valchars, "Austria's Non-Toleration of Dual Citizenship", 214f.

50 Art. 21 (1) & (2) StbG.

sponsible authority). Analyses of these study guides and sample questions show that they are subject to great variation across the provinces.[51] There is also a website with sample questions for the federal part of the test.[52] There is no set deadline to change the questions, but the large pool of questions from which the specific questions are drawn for each exam is renewed at irregular intervals. Finally, provinces have the right to levy naturalisation charges (in addition to the federal fees), which in practice differ widely from province to province.[53]

- *Appeal*

First-instance decisions made by the provincial government can be appealed to the Provincial Administrative Court. In certain cases, if a question of law is deemed to be of fundamental significance, these decisions may further be appealed to the Federal Administrative Court. The Constitutional Court shall rule on appeals against decisions of a Provincial Administrative Court if the complainant asserts that a constitutionally guaranteed right has been violated by the decision or that his or her rights have been violated due to the enforcement of an unconstitutional law. Data regarding the number of submitted appeals is not available.

- *Fees*

The naturalisation fees comprise federal and provincial fees and vary from province to province and according to the legal basis. In some provinces fees further depend on the applicant's income; there are no exemptions. In Austria, fees need to be paid both for the naturalisation application, as well as for the acquisition of citizenship.

The federal application fee is EUR 125.60 per person and EUR 68.50 per minor; Styria is the only province that charges an (additional) state fee for application (EUR 167.80), but some provinces charge a fee for issuing the citizenship test certificate (Tyrol, Upper Austria; EUR 40 resp. EUR 52) or for taking the test (Salzburg, EUR 138 per trial).The federal acquisition fee varies between EUR 867.40 for all forms of facilitated naturalisation ("entitlement to naturalisation") and EUR 1,115.30 for "discretionary naturalisation). These fees are per person with another EUR 247.90 for extending an application for

51 Bernhard Perchinig, "All You Need to Know to Become an Austrian: Naturalisation Policy and Citizenship Testing in Austria." in *A Redefinition of Belonging? Language and Integration Tests for Newcomers and Future Citizens*, eds. Ricky van Oers, Eva Ersbøll, and Dora Kostakopoulou (Leiden: Brill, 2010).

52 https://www.staatsbuergerschaft.gv.at/index.php?id=24

53 See section 5.e.

naturalisation to a minor child (per child). Provincial acquisition fees range between EUR 59.95 (Vorarlberg) and EUR 1,357.00 (Styria). This means that for ordinary naturalisation (with a residence requirement of ten years) the federal fee amounts to EUR 1,240.90 (EUR 125.60 application fee for adults and EUR 1,183.80 for minors.[54] The additional provincial fees (for application plus acquisition) vary between EUR 119.9 (Vorarlberg) and EUR 1,524.80 (Styria). In total, fees for an ordinary naturalisation therefore range between EUR 1,360.80 and a maximum of EUR 2,765.70, for adults and between EUR 1,303.7 and EUR 2,708.60 for minors. Finally an additional provincial fee may be charged for issuing the guarantee of the grant of Austrian nationality of between EUR 0 and EUR 135.70 (per person).

For all types of facilitated naturalisations after six years (including EEA nationals, applicants with German language skills at level B2, applicants born in the country, etc) and for recognised refugees, the federal fee amounts to EUR 993.00 for adults and EUR 935.90 for minors; provincial fees range between EUR 59.95 (Vorarlberg) and EUR 1,357.00 (Styria). In sum, fees for facilitated naturalisation hence range for adults from a minimum of EUR 1.052,95 to a maximum of 2,350.00 EUR and lie between EUR 995,85 and EUR 2,292.90 for minors.[55] Additional costs that may be incurred, e.g. for language courses, the translation of documents or the renunciation of previously held citizenships, etc. are not included.

54 Art. 14 Law on Fees 1957 (Gebührengesetz 1957), BGBl. 267/1957 latest amended by BGBl. I 110/2023.

55 Martin Stiller, "Möglichkeiten des Staatsbürgerschaftserwerbs durch Fremde in Österreich," *International Organisation for Migration/European Migration Network*, https://www.emn.at/wp-content/uploads/2020/07/emn-nationaler-bericht-2019_staatsbuergerschaft.pdf, 2019, 90-92; Valchars and Bauböck, "Austria's Non-Toleration of Dual Citizenship.", 65f.

6. Information and advice

There is currently no information policy in place; potential applicants for naturalisation, including people who were born in the country, are not being informed by the authorities about the possibility to acquire citizenship.

Nevertheless, there are websites run by the Federal Ministry of the Interior and the Federal Chancellery that offer information about the legal requirements for naturalisation in Austria.[56] Additionally, provincial governments provide information regarding the naturalisation procedure, eligibility criteria and necessary documents on their official websites; the quality and scope of the information offered vary widely from province to province. Since March 2023, the province of Vienna organises information events in collaboration with an NGO to inform potential applicants about naturalisation requirements and procedures and offer some counselling.[57]

56 https://www.staatsbuergerschaft.gv.at/[01.10.2023]; https://www.oesterreich.gv.at/themen/leben_in_oesterreich/staatsbuergerschaft.html [01.10.2023].

57 https://www.wien.gv.at/verwaltung/staatsbuergerschaft/ [01.10.2023].

Belgium

Djordje Sredanovic

1. Introduction

Nationality[58] in Belgium is regulated by the *Code de la nationalité belge* (Belgian nationality code – in this text, CNB), the last major reform of which is linked to the Law of the 04-12-2012, which has introduced several integration requirements and generally restricted the access to nationality.[59] The reform has a been significant change in direction compared to the previous law, dating from 2000, which provided for discretionary naturalisation after three years of residence or as-of-right access to nationality after seven years, without further requirements. The 2012 reform has also been the first time that integration requirements have been standardised and formalised, as before 2000 the integration of the applicants was evaluated ad-hoc through police interviews and the 2000 law did not include integration requirements strictly speaking.

The CNB has been the object of several minor reforms since 2012, which however had limited impact on the main provisions. Along with the CNB, nationality is regulated by a number of Royal Decrees ('*Arrêté Royal*'), of which the most important is the one of 14-01-2013 (in this text AR 14/01/13), which has been followed by the Royal Decrees 06-05-2020 and 01-09-2021, which were of minor relevance. At a lower legal level, ministerial circulars, among which the relevant one is that of 08-03-2013 (in this text C 08/03/13), specify some procedural aspects of the law.

Immigration, and in particular nationality, are largely a federal policy domain in Belgium. While subnational entities, and in particular the Linguistic

58 The legal status regulating the relation between an individual and the state is termen 'nationality' (*nationalité in French, nationaliteit in Dutch) in Belgium, where 'citizenship' indicates rather a range of rights linked to the status itself.*

59 Caroline Apers, *La loi du 4 décembre 2012 modifiant le Code de la nationalité*. (Waterloo : Kluwer, 2014); Patrick Wautelet, "La nationalité belge en 2014 – l'équilibre enfin trouvé?" in *Droit de l'immigration et de la nationalité: fondamentaux et actualités*, eds. Patrick Wautelet and Fleur Collienne (Bruxelles: Larcier, 2014); Djordje Sredanovic, Implementing Citizenship, Nationality and Integration Policies: The UK and Belgium in Comparative Perspective (Bristol: Bristol University Press, 2022).

Communities, have a prominent role in integration policies,[60] they have little authority to intervene in the regulation of nationality norms and procedures.

Content-wise, nationality law in Belgium is comparable to those of much of Western Europe. It lacks of pure *jus soli*, but has some of guarantees for those born in the country, including double *jus soli* provisions and procedures to obtain nationality with limited additional requirements. For ordinary residence-based applications, the residence requirement is relatively limited (5 years) but these come together with significant integration requirements. Procedurally, however, Belgium offers guarantees that are arguably above the average in Europe. It has a highly codified nationality law, with limited discretionary powers for the officers involved. It codifies most nationality procedures as as-of-right upon the fulfilment of the formal requirements, and a right of appeal for the applicants.[61] Still, as the nationality procedures are decentralised, the interpretation of specific points of the law can change depending on the municipality of residence of the applicant.[62]

2. Conditions for residence-based naturalisation

Residence-based access to nationality in Belgium entails three possible routes: a five-year route which applies to most cases, a 10-year route which reduces some of the integration requirements, and a naturalisation procedure reserved to applicants with exceptional merits and stateless individuals.

A requirement that applies in most cases, with the exception of the children of Belgian nationals, is that the applicant must be legally resident in Belgium at the moment of application. This follows one of the main objectives of the 2012 reform, i.e. avoiding that anyone is able to use the acquisition of Belgian nationality to obtain access to the Belgian territory and legal residence.[63] The title of the 2012 law itself is 'Law modifying the Belgian nationality code in order to render the acquisition of Belgian nationality neutral from the point of view of

60 Ilke Adam, *Les entités fédérées belges et l'intégration des immigrés: Politiques publiques comparées*, (Bruxelles: Éditions de l'Université de Bruxelles, 2013); Sredanovic, *Implementing Citizenship, Nationality and Integration Policies*.

61 Marie-Claire Foblets, Zeynep Yanasmayan and Patrick Wautelet, "Country report: Belgium", [GLOBALCIT], *EUDO Citizenship Observatory*, 2013/27, Country Reports.

62 Djordje Sredanovic, "Barriers to the Equal Treatment of (aspirant) Citizens: The Case of the Application of Nationality Law in Belgium." *International Migration* 58, no. 2 (April 2020): 15-29; Sredanovic, *Implementing Citizenship, Nationality and Integration Policies.*

63 Charles-Louis Closset and Bernadette Renaud, *Traité de la nationalité en droit belge* (Bruxelles: Larcier, 2015), 90.

immigration', where the neutrality refers to removing the right to enter and establish oneself in Belgium unless already enjoyed at the moment of application.

The residence requirement generally speaking involves legal residence, i.e. to the legal inscription in the municipal register. The letter of the law indicated that residence further needs to be based on permits longer than three months, and on a closed list of permits. Such list does not include, for example, those delivered to employees of supranational organisations.[64] However, there is jurisprudence that defined the closed list discriminatory towards the holders of other kinds of permits and allowed the permits of employees of supranational organisations as fulfilling the residence requirement.[65] Some jurisprudence has further indicated that For EU citizens and for refugees that meet the requirements of the Geneva Convention,[66] the period between the introduction of respectively the residence application and the asylum application, and the granting on the same, count towards the residence requirements. This has a limited impact for EU citizens, but, given the much longer duration of asylum procedures, it can improve the access to nationality of refugees. Another specific situation is that of applicants who had a permit shorter than three months, typically when changing their residence from study- to family-based, in the qualifying period. This is a situation less clearly regulated by the law,[67] but that seems to be accepted as fulfilling the requirements by most authorities in practice.[68] On the other hand, a constant physical presence on the territory is normally not verified, although long absences can occasionally be the reason for a rejection of the application.[69] Short interruptions in the residence, for example because the applicant had forgotten to renew a permit, or because of a cancellation on the register's part, can be routinely disregarded by the authorities considering the application, but this seems an area of discretion.[70]

A second general requirement is the absence of 'serious negative facts' on the applicants' part. The definition of such concept has fluctuated significant-

64 AR 14/01/13.

65 See Bernadette Renauld, "Bruxelles, 29 mars 2018 et Trib. fam. Bruxelles, 15 mai 2018. Preuve de la légalité du séjour antérieur à la déclaration acquisitive de nationalité : le système documentaire fermé vole en éclats." *Cahiers de l'EDEM* (June 2018), https://uclouvain.be/fr/instituts-recherche/juri/cedie/actualites/bruxelles-29-mars-2018-et-trib-fam-bruxelles-15-mai-2018.htm.

66 Art. 7 CNB.

67 For some jurisprudence, see Renauld, "Bruxelles, 29 mars 2018 et Trib.fam. Bruxelles, 15 mai 2018".

68 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 68.

69 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 72.

70 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 68.

ly since the introduction of the law. The letter of the law includes under this category the membership of an organisation considered dangerous for national security;[71] fiscal or social fraud,[72] fraud in a nationality application;[73] a marriage annulled as a suspect marriage of convenience;[74] as well as any penal sentence that involved non-suspended jail time (unless a rehabilitation procedure has been obtained), or the fact of being subject to legal proceedings or to an investigation (active for no more than a year) that could end with this kind of sentence.[75] Since the introduction of the 2012 law, there have been doubts whether this list is limitative (i.e. complete and not admitting further cases) or exemplative (i.e. that the concept can be extended to other infractions). The practice of the offices of the royal prosecutors has been to extend significantly the range of infractions behind an opposition to an application, including in some cases traffic fines or investigations closed without further action.[76] However, a 2018 sentence of the Brussels Family Court[77] and a later one of the Court of Cassation from 2022[78] have defined the abovementioned list as limitative, theoretically reducing the latitude in evaluating the applications for serious negative facts.

The decision whether to oppose an application because of 'serious negative facts' is formally left to the magistrates evaluating the nationality application; however, in practice magistrates are unlikely not to oppose an application judged to involve serious negative facts.[79] As serious negative facts are not fully codified and have fluctuated in their definition, there is no clear indication, as in other countries, on how facts remote in time will be considered when deciding on a nationality application, except that sentences of non-suspended imprisonment are to always be considered unless a formal rehabilitation has

71 Art. 1 CNB.

72 Art. 1 CNB.

73 Art. 23 CNB.

74 Art. 23/1 CNB and AR 14/01/13.

75 AR 14/01/13.

76 Sredanovic, "Barriers to the Equal Treatment of (aspirant) Citizens"; Sredanovic, *Implementing Citizenship, Nationality and Integration Policies*, 70-72.

77 Renauld, "Bruxelles, 29 mars 2018 et Trib.fam. Bruxelles, 15 mai 2018".

78 N° C.20.0448.F, 17 June 2022.

79 Djordje Sredanovic, "Mérite et conformité culturelle aux marges de la loi : le cas de la nationalité en Belgique." In *Gérer les migrations face aux défis identitaires et sécuritaires*, eds. Adèle Garnier, Loïc Pignolo and Geneviève Saint-Laurent, (Genève, Université de Genève, 2018); Sredanovic, *Implementing Citizenship, Nationality and Integration Policies*, 70-72.

been obtained.[80]

Belgium does not require to renounce one's existing nationality in order to obtain the Belgian one.[81] The parliamentary debates about the 2012 law [82] show how such a requirement was not introduced also because of the difficulty that some applicants (such as Moroccans, who are one of the major historical migrants groups in Belgium) would have had in complying.

Ordinary residence-based applications are subject to requirements of 'social integration', 'knowledge of one of the three national languages' (Dutch, French or German) and 'economic participation'.[83] These integration requirements can be fulfilled in different ways. Having been uninterruptedly in employment, education or training in the last five years fulfils not only the economic participation, but also the social integration, and the applicant is presumed to know one of the three national languages, which means that the situation on its own fulfils all the requirements for obtaining nationality. For those with interruptions in employment, economic participation needs to be proven through 468 working days in the previous five years. In addition, social integration needs to be proven through an integration course, a diploma or degree, or a training course of a minimum of 400 hours. Finally, the language knowledge requires again a diploma or degree (obtained in Belgium or in an EU member state in Dutch, French or German), an integration course that included a language component, or through passing a language test in a public centre. The required level of proficiency is A2 and tests include speaking, listening, reading, and writing. Any of the official integration courses is considered to fulfil the language requirement. The content of the integration course is also the domain of the Linguistic Communities, but the different courses all focus on one of the national languages, on a citizenship/social orientation component (which includes notions about the Belgian institutions, rights and duties, and, in Flanders and the German-speaking communities, about values), and an employability component. All integration courses are considered completed through attendance only, although there are ongoing debates in Flanders about requiring passing a test at the end of the course.

All the integration requirements are to be fulfilled by specific documentation, and the magistrates involved in the evaluation are not called to any indi-

80 AR 14/01/13.

81 Foblets et al., "Country report: Belgium".

82 Apers, La loi du 4 décembre 2012 modifiant le Code de la nationalité.

83 Art. 12bis CNB.

vidual and subjective evaluation of the applicant's integration. However, the complexity of the requirements leaves space for divergent interpretations of the norms.

All declaration-based applications are both an application and an as-of-right procedure. As detailed in section 5, each declaration application is evaluated by the office of the royal prosecutor of the judicial arrondissement of residence of the applicant. However, the evaluation is limited to the fulfilment of the detailed requirements of the law. In addition to the already highly codified law norms, the procedure is further regulated by royal decrees and by the ministerial circular of 08/03/13. As Belgium has a civil law system, case law does not regulate the activities of public officers as closely as it happens in common law systems; however, magistrates do tend to consider case law, and aim to align their decisions with the interpretation of the judge presiding over appeals locally.

While following the letter of the law, there is very limited space of discretion for the magistrates involved, in practice there are margins of variation, as detailed in section 5.

Applicants who are married to a Belgian national, and who have lived with them at least three years in Belgium, or who are the parent (including adoptive parent) of a minor Belgian national,[84] can have access to nationality with slightly reduced integration requirements. The 'economic participation' is not required, and such applicants have to prove the knowledge of one of the national languages and their social integration. The latter can be proven through a diploma or degree obtained in Belgium, through an integration course, or through economic activity. However, probably because of a legislators' oversight, in the latter case the law requires both 234 (rather than 468) working days in the last five years, *and* a training course of at least 400 hours. The fact that both work and training are required reduces significantly the utility of this provision.[85]

Applicants who have reached the pension age, or who have a certified disability that does not allows them to work have significantly reduced requirements,[86] as they need only five years of residence, without integration requirements. On the other hand, refugees do not benefit from any specific provision, as a previous possibility to apply with a shortened residence requirements was

84 Art. 12bis, 3 CNB.

85 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 61.

86 Art. 12bis, 4 CNB.

cancelled by the 2012.[87]

A separate procedure is available to applicants who have at least ten years of residence.[88] While linguistic requirements are the same, economic and social integration are substituted by a 'proof of participation to the life of the community'. The circular C 08/03/13 is explicit in excluding the participation in the community of migrants with the same background of the applicant as fulfilling such requirement, which is otherwise fluid. Ethnographic data suggest that in most cases the requirement is interpreted largely to include a wide range of possible activities,[89] although in some cases the interpretation can be more limiting.[90]

Finally, outside the declaration procedures, a naturalisation procedure exists for applicants with exceptional merits and for stateless applicants.[91] In the first case, there are no residence requirements except for being resident in Belgium when applying, nor formal integration requirements. Rather, the applicant needs to have a doctorate, to be a sportsperson that holds the requirement to participate to an international competition or is sponsored by a Belgian sport federation, or to be the recipient or finalist of an international prize for cultural or social merits. Further, the applicant with exceptional merits needs to prove the 'almost impossibility' of qualifying for an ordinary declaration. In the case of stateless individuals, the only requirement is at least two years of residence in Belgium. In both those cases the decision is taken by the lower chamber of the Belgian Parliament, the Chamber of Representatives, and in particular by its Naturalisations commission.[92] As a sovereign act of the Chamber, the decision on a naturalisation cannot be appealed (although the applicant can send observations to ask the Chamber to reconsider). The Naturalisations commission has established the rules to follow for its decision in a document, and the law[93] mentions that these include the knowledge of one of the national languages and integration – despite these not being among the criteria listed in art. 19 itself.

87 Wautelet, "La nationalité belge en 2014", 327.

88 Art. 12bis, 5 CNB.

89 Sredanovic, "Mérite et conformité culturelle aux marges de la loi. ", 105.

90 Charlotte Peset, "Acquérir la nationalité belge par déclaration. Une analyse sociologique d'un parcours du combattant en Région Bruxelles-Capitale." (Master's thesis, Université libre de Bruxelles, 2023)

91 Art. 19, CNB; see also Patrick Wautelet, "Naturalisations procedures for immigrants: Belgium", [GLOBALCIT], *EUDO Citizenship Observatory*, NP 2013/16, Naturalisation Procedures Reports.

92 Wautelet, "Naturalisations procedures for immigrants: Belgium".

93 Art. 21 CNB.

3. Citizenship acquisition based on residence/ schooling during childhood

Strictly speaking, there are no facilitated provisions in Belgium for the access to nationality of people who have spent a significant part of their first years in Belgium, but have not been born there. Indeed, as the first requirement of the ordinary nationality application route is to be at least 18, minors who were not born in Belgium have no access to nationality except if one of the parents obtains nationality.[94]

However, a diploma obtained in Belgium from an institution recognised by the linguistic Communities, following teaching delivered in one of the three national languages, is considered both proof of the knowledge of the language[95] and of social integration.[96] As time spent in education or training is equated to time spent in employment,[97] a high school diploma can potentially fulfil all the integration requirements in an ordinary application by declaration introduced after reaching the age of 18.

4. Citizenship acquisition based on birth in a country

Belgium does not have pure *jus soli*, as birth in the country is not on its own a guarantee of access to nationality. There are two possible declaration procedures for individuals born in the country, as well as provisions for those born in the country from at least one parent born in the country.[98]

Before a child born in Belgium has reached the age of 12,[99] if the child has always resided in Belgium, the parents (including adoptive parents) can introduce a declaration procedure.[100] They need however to have *both* resided in Belgium for the previous ten years,[101] and at least one of them needs to have an unlimited residence permit. The parents must normally present the declaration jointly. As Closset and Renauld observe,[102] the requirements are less strin-

94 Wautelet, "La nationalité belge en 2014".

95 AR 14/01/13, ch. I.

96 Art. 12bis CNB.

97 Art 12bis CNN.

98 See also Foblets et al., "Country Report: Belgium".

99 Art. 11bis CNB.

100 Wautelet, "La nationalité belge en 2014".

101 Closset and Renauld, Traité de la nationalité en droit belge, 206-207.

102 Closset and Renauld, Traité de la nationalité en droit belge, 206-207.

gent if one of the parents is unknown, dead, cannot express their will, has been declared absent, or does not live in Belgium, as in these cases the declaration can be introduced by the other parent alone, who will be the only one needing to meet the 10-years residence requirement. As a declaration, this procedure is equivalent to an ordinary procedure based on residence alone: it is introduced at the civil register of the municipality of residence, and evaluated by the local office of the royal prosecutor. Differently from other procedures, however, this declaration is not subject to a fee. Further, in this case, the only reasons available to the magistrates to oppose the application are if the residence requirements of the child or the parents are unfulfilled or, as the law explicitly mentions, if the acquisition of nationality pursues an aim different from the interest of the child. This latter provision seems mostly to target declarations that aim mainly to safeguard the right of the parents to stay in Belgium, although the jurisprudence seems oriented in favour of attributing the nationality even when doubts of this kind exist.[103]

Those born in Belgium, and who have always resided there, can also introduce a declaration on this basis alone after they reach the age of 18.[104] Differently from other countries, there is no upper age limit for such declaration, and as long as the individual does not lose the residence in Belgium, there is a right to introduce the declaration on the basis of the birth in the country. The declaration follows the same principles mentioned for the previous case, with the exception that 'serious negative facts' can in this case be a reason for rejecting the application.

While lacking pure *jus soli*, Belgium does have 'double *jus soli*', that is, attributes the nationality to the children born in Belgium whose parent, although not a national, was also born in Belgium. In this case,[105] at least one parent (who can be an adoptive parent) must be born in Belgium, and must have been resident in Belgium in five of the ten years preceding the birth or the adoption of the child. Contrary to the previous two cases, there is no evaluation on the part of the offices of the royal prosecutors involved, as the access to nationality is automatic and follows the birth registration.

103 Closset and Renauld, Traité de la nationalité en droit belge, 216-217.

104 Art. 12bis CNB.

105 Art. 11 CNB.

5. Procedures for citizenship acquisition

The current Belgian nationality law is based on a documentary system[106] in which all the requirements are verified through the submission of documents, few of which were originally produced for the specific purpose of nationality.

The basic documents required for all declaration and naturalisation applications include a copy of the birth certificate, a residence certificate with the list of addresses, and a copy of the Belgian ID card.[107] The copy of the birth certificate needs to be original and valid. Ethnographic data[108] show that this requirement creates barriers for applicants because of the difficulty of reaching the country of origin due to costs, time, or instability in the area. Exceptions in this sense are established for refugees and stateless persons (who can obtain an equivalent document in Belgium) and for a close list of countries of origin considered to be characterised by serious instability.[109]

Along with these basic documents, different procedures call for documents to prove social, linguistic and/or economic integration, to prove characteristics that exempt from some of the integration requirements (being of pension age, having a disability), or to prove birth in Belgium or being related to Belgian nationals. Ethnographic data have shown issues of interpretation around some of the documents. Diplomas and degrees emitted by recognised educational institutions in Belgium, or in EU member states (in both cases, as long as the teaching is in one of the three national languages of Belgium), are considered proof of social and linguistic integration, and can count toward the economic participation. However, there are doubts among officers whether secondary-level qualifications that are not formally 'diplomas' are acceptable.[110] Certificates of attendance of integration courses organised by the linguistic communities are proof of social and linguistic integration, but there is variation in whether these are accepted when the linguistic component is below the A2 standard, or when the linguistic component of the course has been waived because the individual already had a sufficient knowledge.[111] Finally, economic participation

106 Apers, La loi du 4 décembre 2012 modifiant le code de la nationalité ; Wautelet, "La nationalité belge en 2014".

107 AR 14/01/13.

108 Peset, "Acquérir la nationalité belge par déclaration".

109 Arrêté Royal of 17/01/2013, on the list of countries where the obtention of birth certificates is impossible or involves serious difficulties.

110 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 66.

111 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 67.

needs to be proven by specific documents: individual earnings records (for employees) or proof of social security contributions (for the self-employed). Individual earnings records have been shown in some cases to be difficult to obtain when the applicant has worked for several employers in the qualifying period, and when some of the employers have had a bankruptcy or more generally are difficult to reach.[112]

All declaration procedures have to be introduced at the civil register (i.e. the office mainly involved in the registration of birth, deaths and marriages) of the municipality of residence of the applicant. Registers are charged with examining the 'completeness' of the application, and forwarding it to the local office of the royal prosecutor.[113] This latter office, commonly called *parquet* in French and *parket* in Dutch, has as main activity public prosecution in civil and penal matters. At the office of the royal prosecutor, the application is reviewed by a substitute-prosecutor, in some cases with the assistance of a jurist (that is, an employee of the office with a law background but no magistrate status). The local police can be involved to produce existing security information pertaining to the applicant, or to collect new information.

The degree of involvement of the register is a major issue in the application of the law. The norms are relatively ambiguous on the duties of the registers. They state that registers need to verify that the application is complete,[114] i.e. that there are no missing documents.[115] However, they also state that registers can for example reject an application that manifestly does not reach the minimum number of working days necessary for the economic participation requirement.[116] The degree to which this authorises the register to evaluate the application itself is unclear and the object of a certain controversy.[117] Ethnographic data show that most registers conduct a complete evaluation of the ap-

112 Peset, "Acquérir la nationalité belge par déclaration".

113 See also Foblets et al., "Country Report: Belgium".

114 Art. 15 CNB.

115 Odile Vandenbossche, "Quel pouvoir d'appréciation pour l'officier de l'état civil dans les procédures d'acquisition de la nationalité belge ?" *Tijdschrift voor Belgisch Burgerlijk recht/Revue Générale de Droit Civil Belge* no. 10 (2018): 507-518.

116 Circular of 08/03/13.

117 Vandenbossche, "Quel pouvoir d'appréciation pour l'officier de l'état civil dans les procédures d'acquisition de la nationalité belge ?".

plication to verify whether it meets the requirements.[118] The decision whether to reject an application that, in the opinion of the register, does not meet the requirements, seems to be variable: in most cases registers are oriented to informally dissuade applicants with such a profile, and to still transfer the application if the applicant insists, while formal rejections seem to be less commonly used.[119] If a formal rejection is introduced, it can be appealed in front of the Council of State, which in Belgium acts also as the administrative tribunal.

After the register check, the application is transferred to the local office of the royal prosecutor, which is formally charged with examining the fulfilment of the requirements, as well as evaluate serious negative facts and security issues.[120] Formally the duty of these offices is to express an opposition to an application that does not meet the requirements, or to signal the absence of an opposition, effectively approving the application.[121]

A police interview can be used to verify the applicant's residence, and to collect information about potential security issues linked to the applicant, and/or about whether the applicant meets integration requirements, such as the knowledge of a national language. The use of such interview, routine before the 2000 reform of the nationality law, is among the ordinary powers of the offices of the royal prosecutors, but is not explicitly inscribed in the current legislation. Ethnographic data show that whether the interviews are conducted, and, when conducted, whether they can be used or not in the evaluation of the application, varies from local office to local office.[122]

Civil registers formally have 35 days to complete an application dossier, but it is widespread practice for the registers to start the clock only when the application is already complete.[123] The offices of the royal prosecutors have four months to express an opposition to an application, otherwise the application is deemed accepted.[124] This latter delay is largely respected: registers will usually

118 Sredanovic, "Barriers to the Equal Treatment of (aspirant) Citizens"; Sredanovic, *Implementing Citizenship, Nationality and Integration Policies*; Djordje Sredanovic, "Variable Filters: Local Bureaucracies in Citizenship and Nationality Procedures in the UK and Belgium." in *Migration Control in Practice: Before and Within the Borders of the State*, eds. Federica Infantino and Djordje Sredanovic (Bruxelles: Éditions de l'Université de Bruxelles, 2022).

119 Sredanovic, "Barriers to the Equal Treatment of (aspirant) Citizens"; Sredanovic, *Implementing Citizenship, Nationality and Integration Policies, 64-65.*

120 Foblets et al., "Country Report: Belgium".

121 Wautelet, "La nationalité belge en 2014".

122 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 71-72.

123 Peset, "Acquérir la nationalité belge par déclaration".

124 Art. 15 CNB.

wait some additional days if they have no communication from the office of the royal prosecutor after the four months, but in the case of the continued absence of a communication they will register the nationality as conferred.[125]

Despite the highly codified letter of the law, ethnographic data have shown significant variation in the implementation of the law between different local offices of the royal prosecutor, as well as between different civil.[126] Such variation is not due to differences in evaluating the 'deservingness' of the candidates, but rather caused by different interpretations of the relatively complex nationality norms themselves. There is a certain tendency of civil registers to align to the interpretation of the local office of the royal prosecutor, and of these later to align to the interpretation of the judge competent for the appeals. However, as these are all decentralised institutions, there are limited procedures to harmonise the interpretation of the norms at a national level.[127]

All oppositions to nationality declarations can be subject to appeal, regardless of the motivation. However, the applicant has only 15 days to appeal after the communication of the rejection; together with the cost of a lawyer, and the waiting period for the appeal to be discussed in court (in the Brussels Region close to two years), this limits somehow the number of refusals that end in court. Some ethnographic data suggest that in the case of rejections based on specific missing requirements (e.g. length of residence, number of working days), applicants are more likely to introduce a new application, while rejections based on a penal record are more likely to be appealed in court.[128] Still, the existing jurisprudence, and other ethnographic data show that some refusals based on integration requirements still do end in court, and that judges are willing in some cases to interpret extensively the law.[129]

The fee charged for the nationality application is comparatively limited: 150 euros, to which the register can add a local fee for the creation of the dossier (ranging anywhere from 5 to 80 additional euros).

125 Sredanovic, *Implementing Citizenship, Nationality and Integration Policies*: 65; Peset, "Acquérir la nationalité belge par déclaration".

126 Sredanovic, "Barriers to the Equal Treatment of (aspirant) Citizens"; Sredanovic, *Implementing Citizenship, Nationality and Integration Policies.*

127 Sredanovic, Implementing Citizenship, Nationality and Integration Policies, 76-77.

128 Peset, "Acquérir la nationalité belge par déclaration".

129 Sredanovic, "Barriers to the Equal Treatment of (aspirant) Citizens"; Sredanovic, *Implementing Citizenship, Nationality and Integration Policies 70-71; 75-77.*

6. Information and advice

While all the information on nationality norms and procedures is publicly available (i.e. there are no official tests or guidelines unavailable to the public), information, promotion and counselling on nationality matters on the part of the state are not particularly developed in Belgium.[130]

The main institutions called to give information to the potential applicants are the civil registers of municipalities, the same institutions that are a mandatory step in the presentation of the application itself. An important role in the information about nationality is played by a number of non-profit associations (*association sans but lucratif*/ASBL), which are independent from public authorities, although in some cases in receipt of public funds.

The main exception is the *Agentschap Integratie en Inburgering* (Agency for Integration and 'citizenisation'), a private-law organisation promoted by the Flemish Community, which among other activities offers immigration law advice, including on nationality procedures, in different branches in Brussels and Flanders.

130 See also Wautelet, "Naturalisations procedures for immigrants: Belgium".

Denmark

Silvia Adamo

1. Introduction

The legal framework for the acquisition of citizenship by immigrants and their descendants in Denmark is composed by essentially three legal dimensions: a constitutional, a legal, and an administrative dimension. These dimensions are regulated, respectively, by the Constitutional Act of Denmark[131], the Citizenship Consolidation Act[132], and the Circular Letter on Naturalisation[133], and other legal instruments[134] which will be described and explored in the following.

Acquisition of citizenship in Denmark is based on the premise that it is the Parliament (*Folketing*) that holds the power to bestow citizenship on new members of the society via naturalisation.[135] This legal principle is enshrined in Article 44(1) of the Constitutional Act that recites:

> *§ 44.*
> *No alien shall be naturalized except by statute.*[136]

The consequences of this set-up are mainly two. Firstly, it is of key importance to highlight that the Parliament has the last word in granting citizenship via nat-

131 The Constitutional Act of Denmark of June 5th, 1953 – Danmarks Riges Grundlov.

132 Citizenship Consolidation Act – Bekendtgørelse af lov om dansk indfødsret, LBK nr. 1656 af 23/12/2022, jf. jf. lovbekendtgørelse nr. 1191 af 5. august 2020, med de ændringer, der følger af § 2 i lov nr. 1192 af 8. juni 2021, lov nr. 1193 af 8. juni 2021, lov nr. 2056 af 16. november 2021, § 1 i lov nr. 2057 af 16. november 2021 og lov nr. 453 af 20. april 2022).

133 Circular Letter on Naturalisation – Cirkulæreskrivelse om naturalisation, CIS nr. 9461 af 17/06/2021.

134 See an overview of laws, circulars and executive orders in the reference list for legal documents below.

135 For the purpose of this research paper, I will not go into details into the other modes of acquisition of citizenship in Denmark, which I have described elsewhere, see Silvia Adamo, "The Danish Legal Framework for Migration: Between a Humanitarian Past and a Restrictive Present" in *Law and Migration in a Changing World, eds. Marie-Claire Foblets and Jean-Yves Carlier, (Switzerland: Springer International Publishing AG, 2022).*

136 See also Section 6 in the Citizenship Consolidation Act, stating that "*Citizenship can be acquired by naturalisation according to the constitution.*"

uralisation. This is crystallized in the formal grant of citizenship, which takes place by passing an Act on Communication of Citizenship (*Lov om indfødsrets meddelelse*) proposed as a bill, discussed in Parliament and approved, containing the full names and places of residence of all new Danish nationals.[137] The legislative foundation of naturalisation eliminates the possibility to appeal to the courts in case of denial, and there is a significant political elbow room to decide on individual cases in the Parliamentary Committee. Moreover, since the most detailed rules on naturalization are to be found in a circular letter that is based on a political agreement on citizenship, if the political trends say so, tight naturalisation requirements can be introduced – and have indeed progressively been introduced during the last two decades.

Secondly, the process of acquisition via naturalisation is divided into two steps: one administrative, and one legislative. In the first step of the process, applicants deliver their application package, with all the required documentation, for submitting to the Ministry of Immigration and Integration. During this part of the process, the rules of Danish administration law apply, which entail, *inter alia*, the application of the right to being informed by the authorities.

In the second part of the process, the successful applications are processed in the Parliament. In this phase, the applications which met the requirements are listed in the bill on citizenship, while the ones which have not met the threshold set up in the legislation can be examined – not publicly – in the Parliamentary Committee on Citizenship (*Indfødsretsudvalg*).[138] Here the representatives from the political parties discuss whether an exemption can be granted to the applicants who do not fulfil one or more of the requirements. Finally, the names of all the applicants that are proposed for being granted citizenship are listed in a bill that is discussed as a regular act in the Parliament. At the end of the three rounds of parliamentary debate, the bill is voted on, and the final Act containing the list of new Danish citizens is published alongside other acts. In this part of the process, administrative law rules do not apply.

137 The Acts, passed twice a year, can be found in publicly accessible law databases, such as www.retsinformation.dk. For an example af a citizenship act, see the latest act entered into force in June 2023, see Lov om indfødsrets meddelelse, Lov nr. 723 af 13/06/2023, available at https://www.retsinformation.dk/eli/lta/2023/723.

138 See Chapter 1 in the Circular Letter on Naturalisation, and Section 1 in Chapter 2.

2. Conditions for residence-based naturalisation

The Circular Letter on Naturalisation is the starting point and legal basis for examining applications for citizenship in practice. It includes detailed regulations on the requirements for obtaining Danish citizenship via naturalisation.

In addition to the requirements described below in subsections 2 a-d, the Danish legal setup for naturalisation prescribes that applicants shall also:

- sign a declaration of allegiance and loyalty[139] (where the applicant pledges to comply with Danish law, including the Danish Constitution, and that they will respect fundamental Danish values and legal principles, including the Danish democratic system);
- have not committed a criminal offence or been sentenced for such an offence[140] (fines of more than 3.000 DKK/~400 Euros result in specific waiting times);
- owe no overdue debt to the public sector (due study loans or other benefits that have to be repaid, fines to police, fines to traffic companies of more than 3.000 DKK/~400 Euros, and so forth);
- be self-sufficient[141], defined as not having received cash benefits under the rules of the Integration Act (which applies to refugees and family reunited individuals) or the Act on Active Employment for more than four months in the five years prior to the application for naturalisation;
- have been in active employment[142] for at least three and a half year in the four years prior to the application, and at the moment of being listed in the bill on citizenship (certain categories may be exempted, and they are especially mentioned in the circular, such as pension-

139 Section 2 in the Circular Letter on Naturalisation.

140 This means that one cannot be naturalised in case they are sentenced to suspended or unconditional imprisonment; sentenced to measures under chapter 9 of the Danish Criminal Code; convicted of offences under chapters 12 and 13 of the Danish Criminal Code (including terrorism); sentenced to permanent expulsion from Denmark; convicted of offences under section 136(2) or (3) of the Danish Criminal Code (expression of public support or support during religious teaching to acts of terrorism, bigamy, sexual relations within family members, rape, and sexual intercourse with children); convicted of gang crime (section 81 a of the Danish Criminal Code); and convicted of violence against children under the age of 18 or sexual offences. However, special rules apply to offenders who were under the age of 18 at the time of the offence. See Chapter 5 in the Circular Letter on Naturalisation.

141 Section 23 in the Circular Letter on Naturalisation.

142 Section 23A in the Circular Letter on Naturalisation.

ers, children, stateless applicants, spouses of citizens seconded abroad, and previous Danish citizenship holders; other applicants who may claim to be exempted have to apply for their case to be considered in the parliamentary committee);

» participate in a municipal constitutional ceremony, in order to shake hands with the mayor or local council representative[143], and, in their presence, sign a second pledge, called "declaration of acquisition of Danish citizenship" where the applicant "promises to comply with Danish law, including the Constitution of the Kingdom of Denmark, and to respect fundamental Danish values and legal principles, including Danish democracy" (see the declaration in Annex I).[144]

As the other requirements for naturalisation, the residence requirement has been tightened multiple times over the years[145], and lately the agreement at the base of the most recent version of the Circular Letter on Naturalisation (based on the Agreement on Citizenship of 20 April 2021) introduced *inter alia* the requirement of holding a permanent residence permit for a number of years prior to application, as explained in the following section.

Two remarkable additions in the political agreement at the basis of the Circular Letter on Naturalisation shed light on the direction of the Danish legislation on naturalisation. The first point states that in future bills on citizenship, the Government is committed to list the applicants according to a new categorisation in "area groups": "Nordic countries", "other Western countries", "MENAP countries and Turkey" and "other non-Western countries" on the

143 For an evaluation of the handshake procedure, highlighting how its introduction can be perceived as a manifestation of anti-Muslim racism, veiled by an apparent intent of safeguarding Danish liberal value by law, see Anika Seemann, "The Mandatory Handshake in Danish Naturalisation Procedures: A Critical Race Studies Perspective.", *Nordic Journal on Law and Society, 3(1) (2022).*

144 See section 10 in the Citizenship Consolidation Act, sections 2A and 2B in the Circular Letter on Naturalisation, and Executive Order on the Organisation of Constitutional Ceremonies by Local Councils – *Bekendtgørelse om kommunalbestyrelsernes afholdelse af grundlovsceremonier*, BEK nr. 2546 af 16/12/2021.

145 For a study discussing the effects of strict naturalisation requirements on immigrants, including how these may lead to discrimination and exclusion, see Kristian Kriegbaum Jensen, Per Mouritsen, Emily Cochran Bech & Tore Vincents Olsen "Roadblocks to citizenship: selection effects of restrictive naturalisation rules.", *Journal of Ethnic and Migration Studies, 47:5 (2021), 1062.*

basis of their citizenship.[146] The second point establishes that the Government shall inform the parties to the agreement annually, during the first quarter of the year, about the number of applications in the previous calendar year. The new categorisation in area groups has thus been introduced to monitor the development in the number of applications for Danish citizenship from citizens outside of Europe that fall in the groups MENAP countries and Turkey, and other Non-Western countries. If the Government observes a 'sharp increase' of 25% or more in the number of applications from citizens of countries outside of Europe, compared to the average of the four previous years, the Government undertakes to reopen political negotiations. In this context, measures to counter the increase may be considered – for example, the introduction of a cap on the granting of citizenship, a moratorium, or similar provisions.[147] The origin of this provision is in an agreement by the government parties on citizenship from 2021, and the provision is considered controversial.[148]

a. Residence requirements: residence title and length of residence

The rules regarding residence requirements can be found in Chapter 3 of the Circular Letter on Naturalisation. The first requirement is that the applicant must have residence in the country.[149] Only lawful residence counts towards fulfilment of the residence requirement, thus periods of irregular presence in the country are not taken into consideration.

In addition to having residence, a newly introduced requirement prescribes that applicants must hold a permanent residence permit for a certain period of

146 Agreement on Citizenship, Bill on citizenship (Lovforslag om indfødsrets meddelelse) in the Circular Letter on Naturalisation. In December 2020 the then Minister of Immigration and Integration Mattias Tesfaye introduced the country grouping "MENAP countries and Turkey" (later referred to as MENAPT countries), inspired by a regional country grouping used internationally, e.g. by the International Monetary Fund. The Ministry of Immigration and Integration currently delimits the MENAPT countries to countries in and around the Middle East and North Africa, including: Syria, Kuwait, Libya, Saudi Arabia, Lebanon, Somalia, Iraq, Qatar, Sudan, Bahrain, Djibouti, Jordan, Algeria, United Arab Emirates, Tunisia, Egypt, Morocco, Iran, Yemen, Mauritania, Oman, Afghanistan, Palestine, Gaza, West Bank, East Jerusalem, Pakistan and Turkey. "Other non-Western countries" includes all other non-Western countries. "Western countries" includes EU countries as well as Andorra, Australia, Canada, Iceland, Liechtenstein, Monaco, New Zealand, Norway, San Marino, Switzerland, the United Kingdom, the United States, and the Vatican City State.

147 Agreement on Citizenship, Revision clause (Revisionsbestemmelse) in the Circular Letter on Naturalisation.

148 Silvia Adamo. "Unsettling the Nation: Hidden Racialization in Naturalization Practices in Denmark", Presentation at Law and Society Annual Meeting, 2024.

149 Section 5(1) in the Circular Letter on Naturalisation.

time before naturalisation.[150] General applicants for naturalisation must have held a permanent residence permit[151] for two years, while refugees and stateless individuals must have held a permanent residence permit for one year by the end of the month in which the relevant bill on citizenship is expected to be adopted.

To be granted Danish citizenship an applicant shall have lived in Denmark without interruptions for nine years.[152] Refugees, persons with a similar status as refugees, and stateless individuals can be granted citizenship after eight years of continuous residence in the country.[153] The residence requirement for Nordic citizens is two years. Interruptions of residence in the country can only be allowed if the applicant has a real intention to remain in Denmark, and can only amount to a maximum of one year, or two years if the residence abroad was due to military service in the country of origin, or family visit on grounds of serious illness in the family.[154] An annex to the Circular Letter on Naturalisation specifies the guidelines for admitting applicants to be granted citizenship in case of long-term residence interruptions.[155]

Exceptions to this first requirement can be made for certain categories of applicants.

Firstly, spouses[156] of a Danish citizen can be granted citizenship after six years of uninterrupted residence during the marriage, and if the spouse has been a Danish national for at least three years. If the parties have been married only two years, the residence requirement is seven years, and if the parties have been married one year, the residence requirement is eight years. Up to one year of cohabitation before marriage is counted towards the residence requirement. In case the Danish spouse has been seconded or posted abroad to serve Danish interest, these periods of time will count towards fulfilling the residence requirement (the years abroad count towards the residence requirement, if before the secondment the applicant has had uninterrupted residence for at least three

150 Section 5A in the Circular Letter on Naturalisation.

151 The current requirements for residence in Denmark establish that a foreigner must have resided at least eight years in the country before being granted permanent residence, see Section 11(3) in The Aliens Consolidation Act. Adding the current requirement of holding a permanent residence for a certain period of time entails as a matter of fact that a general applicant must have resided in Denmark for at least ten years before they can qualify for Danish citizenship.

152 Section 7(1) in the Circular Letter on Naturalisation.

153 Section 7(2) in the Circular Letter on Naturalisation.

154 Section 9 in the Circular Letter on Naturalisation.

155 Annex 1 in the Circular Letter on Naturalisation.

156 Section 8 in the Circular Letter on Naturalisation.

years in the country).[157]

Secondly, special rules as regards residence apply to children. This is the case for applicants who have arrived as children and have attended school in Denmark. Applicants who have immigrated to Denmark before they were fifteen years of age can be listed in the bill on citizenship when they are eighteen years old, thus no minimum residence requirement is set for this group of applicants. However, it is stated that any education taken during residence in the country must be of "Danish character".[158] Moreover, adopted children, including stepchildren adoptees, who have not acquired Danish citizenship automatically according to the Citizenship Consolidation Act's rules do not have to fulfil any residence requirement, unless they have been adopted between the age of twelve and eighteen, in which case they must have resided in Denmark for at least two years.[159] Children born out of wedlock by a foreign mother and Danish father are also exempted from the residence requirement (these children do not have to fulfil the general conditions for naturalisation if they are born after 11 October 1993).[160] Another category that does not have to meet the residence requirement are children who were born in a period where they could not receive Danish citizenship via their Danish mothers by declaration (individuals born between 1 January 1961 to 31 December 1978).[161]

Thirdly, the residence requirement for applicants who have had a significant part of their general or professional education in Denmark is five years. The education must again be of Danish character and of a duration of at least three years unless it has ended before that with the passing of an exam.[162]

Finally, relaxed rules on residence apply to people who were previously Danish citizens or of Danish heritage, or who belong to the Danish minority in Southern Schleswig.[163]

157 Section 8, nr. 4-5 in the Circular Letter on Naturalisation.

158 Section 10 in the Circular Letter on Naturalisation.

159 Section 15 in the Circular Letter on Naturalisation.

160 Section 16 in the Circular Letter on Naturalisation.

161 Section 12 in the Circular Letter on Naturalisation.

162 Section 11 in the Circular Letter on Naturalisation.

163 Section 13 in the Circular Letter on Naturalisation, and Section 2, 3, 4 and 5 in Annex 1 to the Circular Letter.

b. Dual citizenship: requirement to renounce previous citizenship(s)

With effect from 1. September 2015, the ban on dual citizenship, which had previously been in force in Danish legislation got lifted. The changes included in the Act had two major elements.

First, the rule[164] that prevented applicants for naturalization to become Danish national without renouncing their previous citizenship was annulled. Until the change, acquisition of Danish citizenship was conditional on the loss of citizenship status in other states, and conversely, Danish citizenship was forfeited when a Danish citizen acquired a foreign citizenship.

Second, two transitional regulations were adopted: i) a five year transitional schemes that allowed former Danish citizens who had lost their citizenship status in connection with the acquisition of foreign citizenship to regain Danish citizenship by submitting a declaration[165]; and ii) a two-year transitional scheme for persons who, up until the entry into force of the new rules on dual citizenship, had been granted citizenship with a requirement for a renunciation of citizenship, but who had not renounced it yet, and where the deadline for renouncing had not expired on 4 June 2014.[166]

164 Previous section 4A (1) in the Citizenship Consolidation Act.

165 Section 3 in the amendment bill – Lov om ændring af lov om dansk indfødsret nr. 1496 af 23. december 2014.

166 Section 4 in the amendment bill. The preparatory work of the bill highlighted a political agreement where the parties considered that, "*in a modern society it must be possible for Danish citizens to retain their Danish identity even if they move to and become citizens of another country, just as foreigners living in Denmark will no longer have to renounce their original citizenship in order to become Danish citizens. This possibility, in the international world which Denmark is a part of, will promote the integration of people from all parts of the world. Against this background, the agreement states that acceptance of dual citizenship must be introduced so that full access to dual citizenship is granted to all Danes and foreigners*." See bill to amend the Act on Danish Citizenship (Acceptance of dual citizenship and payment of fees in Danish citizenship cases) – *Forslag til Lov om ændring af lov om dansk indfødsret – Accept af dobbelt statsborgerskab og betaling af gebyr i sager om dansk indfødsret*, L44/2014. *A critical approach to this change frames dual citizenship also as serving as a tools of securitization, rendering possible future expulsion from Danish territory of inviduals who support or engange in act of terrorism, see Arnfinn H. Midtbøen, "Dual Citizenship in an Era of Securitisation: The Case of Denmark", Nordic Journal of Migration Research, 9(3) (2019), 302. A rebuttal to this position, that does not link the argument of citizenship revocation to the shift towards acceptance of dual citizenship, can be found in Eva Ersbøll, "The Danish Turn towards dual citizenship", in Dual Citizenship and Naturalisation. Global, Comparative and Austrian Perspectives*, eds. Rainer Bauböck and Max Haller (Verlag der Österreichischen Akademie der Wissenschaften, 2021).

c. Integration or assimilation criteria

The legal framework for citizenship via naturalisation in Denmark requires the passing of both a language proficiency test and a citizenship test, demonstrating the knowledge of Danish societal conditions, culture, and history.[167] Both tests are held twice a year, and the cost is 1473 DKK (~ 200 Euros)[168] for the Test of Danish 3, and 847 DKK (~ 113 Euros) for the citizenship test.[169]

The language test for naturalisation (*Prøve i Dansk 3*) demonstrates that foreigners have acquired a level of proficiency in Danish language corresponding to level B2 in the Common European Framework of Reference. This includes speaking, listening, reading, and writing. The test is at the end of the Danish Language Education Programme 3, which usually is reserved to students with a higher educational background (e.g. with a university degree).[170] Other tests may replace this test[171], however, a lower test may imply a higher threshold for employment and self-sufficiency for the applicant.[172] The aim of the teaching offered by the three Danish Language Education programmes is for the course participants to acquire the necessary language skills and knowledge of Danish culture, as well as knowledge of labour market and social conditions in Denmark, in order to achieve employment and self-sufficiency, and to become participating and contributing members of society. The teaching in Danish Language Education Programmes 2 and 3 also aims at qualifying the course participants to undertake further education and vocational continuing education.[173] The high level of language proficiency required is extremely difficult to

167 Chapter 8 (section 24) in the Circular Letter on Naturalisation.

168 Executive Order on Tests within Danish Language Education for Adult Foreigners, etc. – Bekendtgørelse om prøver inden for danskuddannelse til voksne udlændinge m.fl., BEK nr. 347 af 28/02/2023.

169 Executive Order on the Citizenship Test – Bekendtgørelse om indfødsretsprøven, BEK nr. 2069 af 09/11/2021.

170 Silvia Adamo, "What is the Point? – Policies on Immigration and the Language Issue in Denmark. *RECODE Publications No. 04. RECODE: Responding to Complex Diversity in Europe and Canada (2012).*

171 See Annex 3a to the Circular Letter on Naturalisation.

172 Section 24(2) in the Circular Letter on Naturalisation, stating that applicants who apply to fulfil the language requirement with a test *Prøve i Dansk 2 (B1 level in the CEFR, placed at the end of Danish Language Education Programme 2) must not have received benefits from the state for more than three months in the nine years prior to the application for naturalisation.*

173 Section 9 in the Executive Order on Danish Language Education for Adult Foreigners – Bekendtgørelse om danskuddannelse til voksne udlændinge m.fl.*, BEK nr. 1045 af 24/06/2022.*

achieve, especially by refugees.[174]

The citizenship test was introduced for the first time in Denmark in 2007, and its content has been changed along the years since its first version.[175] A successful passing of the citizenship test is a condition for obtaining Danish citizenship via naturalisation.[176] The aim of the Danish citizenship test (the linguistic level of which is on par with the Test of Danish 3) is to document knowledge of Danish social conditions and values as well as of Danish culture and history. The topics that can be covered are the Danish political system and welfare system; Denmark's relationship with the outside world; major significant epochs and specific events in Danish history; central aspects of Danish culture and social life in Denmark; current conditions and events in Danish society, and fundamental democratic values and freedoms in Denmark.[177]

The test has a duration of 45 minutes, and includes 45 questions, of which 35 are within the study material for the citizenship test published by the Ministry of Immigration and Integration. The test also includes five questions relating to current conditions and events in Danish society and five questions about Danish values, the answers to which are not included in the study material, but require the students to be up-to-date with current events, and also have acquired a general knowledge of "Danish values".[178] The latest changes to the questions that cannot be prepared with the help of the study material were adopted with the 2021 Agreement at the base of the Circular Letter on Naturalisation, according to which "*it is of significant importance that an applicant has adopted a number of Danish values. Therefore, the Citizenship Test of 2015 will be amended so that five extra questions on Danish values will be incorporated in the test in the future. This will increase the proportion of unprepared questions in the citizenship test from five to ten questions. The questions on Danish values*

174 See Emily Cochran Bech, Kristian Kriegbaum Jensen, Per Mouritsen & Tore Vincents Olsen, "Hvem er folket? Flygtninge og adgangen til dansk statsborgerskab." *Politica*, 49 årg. Nr. 3 (2017), 237. On the linguistic difficulties that foreigners encounter when learning Danish, see Silvia Adamo, "What comes first, language or work? Linguistic barriers for accessing the labour market" in *EU Citizens' Economic Rights in Action: Re-Thinking Legal and Factual Barriers in the Internal Market,* eds. Sybe de Vries, Elena Ioratti, Paolo Guarda and Elisabetta Pulice (Edward Elgar Publishing, Interdisciplinary Perspectives on EU Citizenship series, 2019).

175 Silvia Adamo, "Northern Exposure: The New Danish Model of Citizenship Test", *International Journal on Multicultural Societies (now 'Diversities'). Special Issue: Citizenship tests in a post-national era, vol.10, no.1 (2008), 10–28, UNESCO.*

176 Section 1 in the Executive Order on the Citizenship Test – Bekendtgørelse om indfødsretsprøven, BEK nr. 2069 af 09/11/2021.

177 Section 10 in the Executive Order on the Citizenship Test.

178 Section 9 in the Executive Order on the Citizenship Test.

can be about freedom of expression, equality, the relationship between religion and legislation, etc."[179]

It is extremely difficult for applicants to get an exemption from the Danish language requirement and the citizenship test requirement.[180] This can only happen in case the applicant is medically diagnosed with a "long-term physical, mental, sensory, or intellectual disability" and because of this disability they are not able (or do not have "a reasonable prospect of being able") to pass the test. The applicant must show at least to have participated in the language training, even at a specially tailored course or at a lower level of proficiency and have tried to pass the tests on special conditions and by using assistive devices.[181] Exemption from this condition is always submitted to the Parliamentary Committee on Citizenship. If an applicant has not participated in language training and not at least tried to take the tests, the only cases that the Committee will hear are those producing documentation that the applicant, "as a result of a long-term physical, mental, sensory, or intellectual disability, is unable to acquire Danish" and that their disability is the reason for not trying to learn Danish and pass the language test and citizenship test. When such documentation cannot be provided, the Committee may assess whether the applicant can otherwise prove that they have "attempted to acquire Danish language skills to a similar extent as Danes at the same level of development and education."[182]

d. Procedure: is there a legal entitlement to naturalise

There is no general legal entitlement to naturalise through registration with public authorities in Denmark, except in specific declaration cases that only apply for certain Nordic nationals, and that are currently under revision to also

179 Agreement on Citizenship in the Circular Letter on Naturalisation – Citizenship Test (Indfødsretsprøve).

180 Few categories of applicants are exempt from the requirement for documentation of having passed the citizenship test, such as children under twelve years of age; children who are twelve years of age or older, who have not yet passed the Danish National School Leaving Examination (see though n. 62 on the requirement for this group of children); adopted children who have not taken up residence in the country; applicants residing in the Faroe Islands and Greenland; Swedish and Norwegian speaking applicants who have passed a final exam from a primary school; Danish-minded South Schleswigians; children applicants residing abroad; and children born within marriage to a Danish mother and a foreign father in the period from 1 January 1961 to 31 December 1978 and who, according to the rules enforced at the time, were not granted Danish citizenship at birth.

181 Section 24(4) and 24(5) in the Circular Letter on Naturalisation.

182 Section 24(4) and 24(5) in the Circular Letter on Naturalisation.

be further limited.[183] Both the Constitutional Act and the Circular Letter on Naturalisation state that the granting of citizenship is a prerogative of the Parliament, and that naturalisation is solely at the discretion of the legislature.[184]

The legal setup for the naturalisation procedure in Denmark prescribes that an applicant must lodge an application that is at firstly considered by the Ministry of the Immigration and Integration, which checks that applicants meet all the requirements for naturalisation. After this first phase, the Parliament enjoys unfettered discretionary powers during the second part of the application process, where the Parliamentary Committee on Citizenship has the power to decide on individual naturalisation cases, and whether to grant or not to grant an exemption to those applicants who do not meet all the requirements to be included in the bill on citizenship.

3. Citizenship acquisition based on residence/ schooling during childhood

Danish legislation does not contain general provisions for citizenship acquisition for persons who have migrated to Denmark before the legal age of majority.[185] In general, applicants who have been residing in Denmark during their childhood years have to fulfil all requirements set up in the legislation. However, in certain cases, children are subject to specific conditions for naturalisation. This can be the case for children who cannot be included in their parents' application for naturalisation as secondary applicants[186], certain adopted children[187], children born out of wedlock to a foreign mother and a Danish father from 11 October 1993 up to and including 30 June 2014[188], and

183 Agreement on Citizenship in the Circular Letter on Naturalisation – Nordic citizens (Nordiske statsborgere). The rules for the declaration system for Nordic citizens are to be found in the Citizenship Consolidation Act, section 3.

184 Chapter 1, Introduction in the Circular Letter on Naturalisation.

185 Usually, foreign children who live in Denmark must apply for a permanent residence permit upon reaching the age of majority, if they do not apply or qualify for naturalisation. Relaxed rules as regards their employment status are in place if they apply between the age of eighteen and nineteen years, but applicants still must fulfil a number of conditions related to the length of their stay (at least eight years), absence of certain criminal offences, self-sufficiency, absence of debt due to the state, continuous active employment or education after primary and secondary school; they must also sign a declaration on residence and self-sufficiency and provide proof of language proficiency. See section 11(12) in the Aliens Consolidation Act.

186 Section 18 in the Circular Letter on Naturalisation.

187 Section 14 in the Circular Letter on Naturalisation.

188 Section 16 in the Circular Letter on Naturalisation.

children who have not become Danish citizens due to termination of cohabitation between their parents. Lastly, a person is exempted from the residence requirement for ordinary naturalisation if they resided in Denmark from the age of 15 and they have reached the age of majority. If educated in Denmark, their education must be of Danish character.[189]

A child who does not have the opportunity to become a Danish citizen with a parent as a secondary applicant must, as a starting point, fulfil all the general conditions for being included on a bill on granting citizenship as the main person. However, the requirement for employment and Danish language skills are not the same as for adults. Thus, the child must fulfil the following conditions: i) being a minor, i.e., under eighteen years of age until the adoption of the bill on which they are listed for citizenship; ii) reside in Denmark iii) have resided in Denmark continuously for nine years; iv) for a child aged fifteen and over, it is a condition that the child has not committed certain types of criminal offences[190]; v) not have overdue debts to the public sector; vi) fulfil the general self-support requirement[191]; vii) for children under the age of twelve, there are no requirements regarding documentation of the child's Danish language skills or knowledge of Danish society, Danish culture, and history. For children over twelve years of age, a difference is made between those who have not yet taken the Danish National School Leaving Examination[192] and who are not expected to take it before the date of the adoption of the bill on which they will be listed,[193] and those who have taken the examination, or are expected to take it before the time of the adoption of the bil[l.194]

The previous declaration system, which could be used by long-term residents who had been spending their childhood in Denmark to "declare their

189 Section 10 in the Circular Letter on Naturalisation.

190 If the child has otherwise been penalised or has received a criminal sanction, the child can only become a Danish citizen after a certain waiting period.

191 The child must not have received assistance under the Active Social Policy Act or the Integration Act within the last two years, and the child must not have received assistance under the Active Social Policy Act or the Integration Act for a period totalling more than four months in the last five years.

192 Folkeskolens afgangsprøve, 9th or 10th grade.

193 For these applicants, a statement from the applicant's school that the applicant's Danish language skills and knowledge of Danish society, Danish culture, and history are at a level corresponding to what can be expected of a child of the same the age is considered sufficient documentation of the child's Danish language skills and knowledge of Danish society, Danish culture, and history.

194 These applicants must pass the final exams in the Danish disciplines with a grade average of at least 6 (according to the 13-point scale) or 2 (according to the 7-point scale). The child must also document that they have passed the Citizenship Test of 2015. See Annex 3a to the Circular Letter on Naturalisation (test for necessary documentation of the applicant's Danish language skills).

intention" to become nationals was amended in 2004. According to the previous legislation[195] foreigners aged between eighteen and twenty-three who had resided in Denmark for a total period of ten years[196] could gain citizenship by lodging an application to the competent administrative authority.[197] This opened a possibility for gaining citizenship based on schooling in the country for foreigners of all nationalities. However, since the 2004 amendment and Act**198**, only adult foreigners from the Nordic countries can acquire citizenship on the basis of a declaration. Thus, a declaration system is in place only for Nordic citizens over 18 years, who have resided in Denmark for seven years prior to the application, and who have not been sentenced to imprisonment.[199]

4. Citizenship acquisition based on birth in Denmark

General provisions on *ius soli* are not present in Danish legislation. The only cases where the principle is applicable are those of foundlings found on Danish soil, unless other evidence is presented.[200] At present day, and within the last twenty years, only one foundling per year (on average) is found in Denmark, and the mother, identified in about half of the cases, is a Danish national in 70% of the cases.[201] There is no documentation that proves that the mothers of

195 Section 3 in the Citizenship Consolidation Act nr. 113 of 20/02/2003.

196 Another condition was the absence of a criminal record.

197 The reasons for the reform of the general declaration system were to be found in a political debate where it was highlighted that young immigrants who could barely master the Danish language were using the system to become citizens.

198 Citizenship Consolidation Act nr. 422 of 07/06/2004.

199 Section 3 in the Citizenship Consolidation Act, comprising citizens in Finland, Iceland, Norway, or Sweden. The Agreement on Citizenship of 20 April 2021 has however set as a goal a revision of the rules that now allow both citizens and naturalised citizens of the Nordic countries to use a declaration system to become Danish. The parties have agreed to to abolish the relaxed declaration access for naturalised Nordic citizens between the ages of eighteen and twenty-three. After the amendment comes into force, only Nordic citizens born in the Nordic countries will be able to use the declaration system. See also Circular Letter on the acquisition of Danish citizenship by declaration (To the State Offices, the High Presidium of Copenhagen, the National Ombudsman in the Faroe Islands and the National Ombudsman in Greenland) (The Declaration Circular) – Cirkulære om erhvervelse af dansk indfødsret ved erklæring (Til Statsamterne, Københavns Overpræsidium, Rigsombudsmanden på Færøerne og Rigsombudsmanden i Grønland) (Erklæringscirkulæret*), CIR nr. 11 af 20/01/1992.*

200 Section 1 (3) of the Citizenship Consolidation Act.

201 Marie Jakobsen, Laura Emdal Navne, Emilie Hjermitslev Jonsen, Lone Bilde & Miriam Wüst, "Indsatser mod forekomsten af hittebørn – Erfaringer fra Frankrig, Holland, Norge, Polen, Storbritannien, Sverige, Tyskland, USA og Østrig". VIVE – Viden til Velfærd. Det Nationale Forsknings- og Analysecenter for Velfærd (2018), 7.

the foundlings were foreigners or irregular migrants.[202]

There are however special rules that ease the conditions for stateless individuals who are born on Danish soil, following Denmark's accession to the 1989 UN Convention on the Rights of the Child and the 1961 UN Convention on the Reduction of Statelessness. In accordance with these conventions, persons born stateless in Denmark can be included in a bill on citizenship without fulfilling the general conditions for acquiring Danish citizenship.[203] However, certain conditions apply to persons covered by these conventions. These include that a stateless applicant must hold residence in the country; the application must be lodged between age eighteen and twenty-one; the applicant must have lived for five years in Denmark immediately prior to the application, or for a total of eight years; the applicant must not have been found guilty of any offence against national security, or been sentenced to imprisonment of five years or more for a criminal offence; and they must have always been stateless.[204] An applicant who has been born stateless in Denmark and applies before reaching the age of eighteen years old can be included in a bill on citizenship if they hold residence in the country, according to the UN Convention on the Rights of the Child.[205]

Moreover, if a child is born to a woman from a country that does not allow them to pass their citizenship to their children[206] the child may be stateless if the father is either stateless or unknown. The child may therefore be covered by the special naturalisation rules for stateless persons born in Denmark.[207]

Finally, it is a prerequisite for being covered by the relaxed rules for stateless persons that an applicant was born stateless in Denmark. However, if an applicant was born stateless but not in Denmark, their case may be submitted to the Parliamentary Committee on Citizenship for consideration according to established practice. This could be the case if e.g. an applicant was born stateless outside Denmark, but their parents were permanently resident in Denmark at

202 Marie Jakobsen et. al, "Indsatser mod forekomsten af hittebørn".

203 Section 17 in the Circular Letter on Naturalisation.

204 Section 26 in the Circular Letter on Naturalisation.

205 Section 27 in the Circular Letter on Naturalisation.

206 The Ministry of Immigration and Integration refers to an indicative list prepared by UNHCR of currently 24 countries where a mother cannot pass on their citizenship staturs to their children on an equal footing as fathers.

207 If an applicant is in doubt about the registration of a child's citizenship, it is possible to contact the authority that issued their residence permit, either the Danish Immigration Service or the Danish Agency for International Recruitment and Integration (SIRI).

the time of their birth.[208] Another accepted case is that of stateless applicants who were not born on Danish soil, but have been placed outside the home by a Danish municipality for an extended period of time while growing up in Denmark, and have been subjected to sexual abuse, violence, or similar neglect during their stay at the placement centre.[209]

5. Procedures for citizenship acquisition

After checking that one's application fulfils the general requirements for the granting of citizenship (or whether an exemption may apply) and gathering the necessary documents, an applicant has to file the application online and pay a fee.

- *Documents*

  The documents required to apply for citizenship in Denmark include:

  - » Copy of passport.
  - » Copy of the permanent residence permit.[210]
  - » Copy of exam certificate as proof of Danish language skills.
  - » Copy of proof of passing the citizenship test of 2015 or the citizenship test of 2021.
  - » Copy of a prospective fine if an applicant has received a fine for a traffic offence.
  - » Copy of conviction if an applicant has previously been convicted of an offence under chapter 25 of the Danish Criminal Code (offences against life and limb).
  - » Any medical documentation if an applicant wishes to apply for exemption from the requirements for Danish language proficiency, cit-

208 Only applicants of less than 18 years of age can be considered in this case, and only if their birth outside Denmark happened by chance or under special circumstances. It is also a condition that the applicants have spent most of their childhood in Denmark and continue to reside in the country.

209 It is a condition that these applicants were born stateless and that they have spent most of their childhood in Denmark and continue to reside in the country.

210 If an applicant is an EU citizen, it is not sufficient to submit a copy of their EU registration certificate.

izenship test, and/or self-sufficiency.[211]

» Documentation for custody if an applicant applies for their child/children to be included in their application.[212]

» Documentation that the applicant's child/children have legal residence in Denmark, if they are to be included in their parent's application.

» Receipt for payment of the application fee of DKK 4.000 (~ 536 Euro).

» If there are any requirements that the applicant thinks they need not to fulfil, this has to be specifically mentioned in the application, and any relevant documentation should be attached to the application.

- *Authority*

Applications for citizenship are handled and processed by the Ministry of Immigration and Integration, which is in charge of examining whether the applicant fulfils the conditions to be included in a bill on citizenship. In addition to the applicant's own information, the Ministry of Immigration and Integration's case-processing is based on information in the Central Personal Register, the Central Claims Register, the "eIncome" Register, and the Central Criminal Register. If necessary, information is obtained from other authorities.[213]

If the applicant fulfils the conditions for Danish citizenship set in the Circular Letter, the applicant will be included in a bill on citizenship. The Ministry of Immigration and Integration will send a letter to the applicant stating that they are expected to be included in the next bill on citizenship if the applicant continues to meet the conditions for Danish citizenship until the bill is passed.

If the applicant does not fulfil one or more of the conditions for obtaining Danish citizenship, the Ministry of Immigration and Integration will examine whether the application can be submitted to the Danish Parliament's Commit-

211 According to section 24(6) in the Circular Letter on Naturalisation, a doctor's certificate attesting that an applicant cannot meet the language requirement cannot be more than two years old, counting from the application's date, and in certain cases of mental disorders, the certificate must be issued by a specialist doctor in psychiatry.

212 If there is joint custody in the marriage, and the applicant is married to the child/children's other parent, there is no requirement to attach documentation of custody.

213 Section 31(2) in the Circular Letter on Naturalisation, cf. section 12(3) of the Citizenship Consolidation Act.

tee on Citizenship.[214] The Committee's task is to assess whether the person in question should be granted exemption from some of the requirements so that the applicant can be included in the bill on citizenship, for example, if an applicant has a serious and permanent disability and is therefore not expected to be able to fulfil the Danish language requirement, or the citizenship test requirement.[215] An applicant's case can only be presented to the Committee if the possibility to submit their case follows directly from the provisions of the Circular Letter on Naturalisation, or from established practice.

Submitting an application to the Committee on Citizenship does not imply that the applicant will automatically be granted an exemption. After reviewing their case, the Committee may decide to pull an applicant from the bill on citizenship, and it is not possible to appeal this political decision. Exemption from the conditions for naturalisation requires that a majority of the Committee agrees on granting an exemption. Whether this is the case will depend on a concrete and individual assessment of each applicant. If the Committee decides to grant an exemption, the applicant will receive a letter from the Ministry of Immigration and Integration, stating that the applicant will be included in the next bill on citizenship, provided that the applicant still meets the conditions for Danish citizenship at that time.

Only the Parliamentary Committee on Citizenship can grant exemptions from the conditions laid down in the Circular Letter on Naturalisation, while the Ministry of Immigration and Integration does not have the authority to grant an exemption. Exemptions therefore require a legal basis in the Circular Letter on Naturalisation, as well as a submission of the applicant's case to the Parliamentary Committee on Citizenship.

If the Minister of Justice notifies the Ministry of Immigration and Integration that the Danish Security and Intelligence Service (PET) assesses that an applicant may be a danger to national security, the case is submitted to the Parliamentary Committee on Citizenship with a recommendation to exclude the person in question from inclusion in a bill on citizenship for a specified period.[216]

Finally, up until the time the bill is passed, the Ministry of Immigration and

214 Information on the Parliamentary Committee on Citizenship can be found on the Parliament's website, available at https://www.ft.dk/da/udvalg/udvalgene/ifu. The information include the names and political affiliation of the members of the Committee, their activities, and documents related to their work.

215 Section 25 in the Circular Letter on Naturalisation.

216 Section 21 in the Circular Letter on Naturalisation.

Integration examines whether the applicants included in the bill still fulfil the conditions for obtaining Danish citizenship.

- *Implementation*

As a general rule, the application for naturalisation is lodged digitally if the applicant is over eighteen years of age and is exempt from using digital services or the Digital Post.[217] However, certain groups of people who are exempt from digital services may use a paper-based application form.[218]

Once the application has been completed, signed with "*MitID*" (the national system for digital identification and signature), and the payment has been made, the applicant must ensure that their application is correctly received by the competent authority, i.e., the Ministry of Immigration and Integration. The guidance on the website is indicative of the high level of digital literacy required in order to correctly file an online application.[219]

In connection with the preparation of the individual bill, the Ministry closes the opportunity for further admissions to the bill approximately two to three months before the bill is submitted. It is normally a requirement that the applicant must fulfil the conditions for Danish citizenship until the time the bill is passed. An applicant must inform the Ministry of Immigration and Integration if their circumstances change and they no longer fulfil one or more of the conditions for naturalisation between the time of application and the

217 Section 28 in the Circular Letter on Naturalisation.

218 These include: children applicants who do not apply for naturalisation with their parents or adoptive parents, children who were born out of wedlock with a Danish father and foreign mother between specific dates from 1993 to 2014, children who have not become citizens on grounds of their parents' termination of cohabitaion, children born stateless in Denmark, persons who live abroad and do not have the digital solution "MitID" to access the application form online, and persons represented by a party representative, for example a lawyer.

219 The guidance on "Submitting an application", on the webpage for foreign applicants for naturalisation (https://uim.dk/statsborgerskab/udenlandske-statsborgere/indgivelse-af-ansoegningen) informs that it is important that the applicant, after filling in the information required, "clicks back" to the application in order to send it to the Ministry of Immigration and Integration. Normally, the applicant will then receive a receipt in their "*e-boks" (national digital mailbox for official correspondence with the authorities), with a copy of the application. However, in some cases, the applicants do not manage to send a receipt and a copy of the application to their e-boks, and thus a message may appear on the screen, informing that "Your application has now been sent. We were unable to send a copy of the application to your digital mailbox". This message is also a confirmation that the application has been submitted to the Ministry of Immigration and Integration. If the applicant does not receive a receipt on their e-Boks, or they do not see the message above on their screen, the application has not been submitted correctly. In this case, the applicant is encouraged to try to submit the application again. If this is not possible, the applicant must contact the Ministry of Immigration and Integration within thirty days of creating the application.*

adoption of the bill.

The Ministry for Immigration and Integration can request that an applicant for naturalisation is interviewed by the Police, if it is deemed relevant to the examination of the case.[220]

Bills on citizenship are presented by the Ministry for Immigration and Integration twice a year, in April and October. A bill on citizenship must be debated three times by the Danish Parliament, and the processing of the bill in Parliament usually takes about two to three months. The Danish Parliament's consideration of the bill is public. The applicant's name and municipality of residence is stated in the bill and the adopted Act, which are published on the Danish Parliament's website and other websites used as public legislative repositories. The personal information of any secondary persons (children of the applicants) does not appear in the bill.

The Ministry of Immigration and Integration discloses personal information about the applicants to the Parliamentary Committee on Citizenship. This includes information that the applicants themselves have provided to the Ministry and information that the Ministry has become aware of in other ways during the processing of the case. When the bill on citizenship has been passed by the Danish Parliament and the Act has entered into force, the applicant will have to participate in a constitutional ceremony in order to receive their citizenship certificate. This ceremony adds more time to the naturalisation procedure. After the ceremony, during which, as stated above, there is an obligation to shake hands with a local council representative[221] and sign a pledge to comply with Danish law, values, and legal principles, the document is sent from the municipality to the Ministry, which will finally issue the citizenship certificate. Participation in the constitutional ceremony is mandatory to complete the naturalisation process. Applicants who cannot participate in a constitutional ceremony on grounds of illness, or physical, mental, sensory or intellectual disability, shall apply for an exemption to the Parliamentary Committee, and

220 Section 29 in the Circular Letter on Naturalisation.

221 During the covid-19 pandemic, the handskake was considered to be a risk of contagion, and a string of ceremonies were canceled, creating delays in naturalisation cases into 2021 (in some municipalities). There has also been some confusion and miscommunication between the municipalities and the Ministry of Immigration and Integration about whether the requirement had to be enforced or not, and if the lack of handskake meant that the naturalisation process was not concluded. The Ministry stated in March 2020 that applicants who were enlisted to be naturalised at that time could be exempted from the handshake requirement, but some municipalities decided anyway to suspend the ceremonies until the society at large had reopened again. At the time of writing, the ceremonies have been fully reinstated.

attach medical evidence to their application.[222]

As regards case processing times, the Ministry of Immigration and Integration informs that the average time for assessing a naturalisation application is currently twenty-two months.[223] There are no formal limits or legislative requirements on how long an application process may take. The Ministry processes the applications in the order in which they are received. However, the Ministry tries to ensure a shorter processing time for applicants who belong to particularly vulnerable groups of people, such as children and stateless persons covered by the 1961 UN Convention on the Reduction of Statelessness and the 1989 UN Convention on the Rights of the Child.

Due to the large number of cases, some time may pass before the Ministry starts processing a lodged application. The applicants receive an acknowledgement letter once the Ministry have registered their application, and then four to six weeks may pass from the time the Ministry starts processing an application until it finishes assessing whether the applicant can be included in a bill on citizenship. If an applicant does not immediately fulfil the conditions for naturalisation and has thus applied for an exemption, an additional four to six weeks' processing time are expected, as the case will have to be submitted to the Parliamentary Committee on Citizenship.

- *Appeal*

Danish law does not provide for the possibility to file appeals on naturalisation cases. If their application is rejected, an applicant can therefore not question the merit of the assessment of whether they could fulfil the requirements for naturalisation. Thus, case law on citizenship is extremely scarce, as courts until very recently have refrained from taking up cases on naturalisation, which were firmly considered a parliamentary prerogative. Court cases would thus have as amounted to an interference with the division of powers. However, EU law and international law obligations have forced the Danish courts in the last few years to hear cases on discrimination on grounds of handicap[224] and cases on

222 Section 2B in the Circular Letter on Naturalisation.

223 As of December 2022. The current expected case processing times are available on the Ministry of Immigration and Integration's website at https://uim.dk/arbejdsomraader/statsborgerskab/sagsbehandlingstider-mv/.

224 U.2017.2469H – Højesteret, Supreme Court; Ø.L.D. af 13. maj 2016. Sag 2. afd., a.s. nr. B-3802-13, B-3804-13 og B-856-14 – Østre Landsret, Eastern High Court; V.L.D. 7. februar 2020 i anke 5. afd. BS-42623/2018-VLR – Vestre Landsret, Western High Court; KEN nr. 9800 af 27/09/2021 – Ligebehandlingsnævnet, The Equal Treatment Board.

losses of citizenship *ex-lege* that impinge on Union citizenship.[225]

- *Fees*

The fee for applying for citizenship is currently 4.000 DKK (~ 536 Euros). The fee is a one-time only fee, which means that applicants are not requested to pay another fee if, for example, they submit a new application after a previous one has been rejected.[226] However, the fee will not be refunded if the application is processed, and the applicants receives a rejection or decides to withdraw their application.[227]

Applicants residing in Greenland and the Faroe Islands must pay a fee of DKK 1,200 (~160 Euros) when submitting an application to their local police. The difference in the amount of the fees compared to applicants residing in Denmark is due to the fact that different legislation on fees for citizenship applications applies to individuals residing in the Faroe Islands and Greenland.

The rules regarding fees are also different for children applying as main applicants and stateless applicants born in Denmark. The general rule is that these categories do not have to pay a fee, unless their application is lodged after they have turned eighteen.

The total fee for applying for citizenship for general applicants, including the mandatory language and citizenship tests as well is thus 6.320 DKK (~ 850 Euros).

6. Information and advice

Information regarding citizenship status and acquisition is provided by the Ministry of Immigration and Integration on a dedicated webpage, in Danish.[228] The page provides information according to the following categories:

Danish citizens who receive citizenship at birth, by means of their parents, marriage, or by adoption. The information also includes the conditions for maintaining Danish citizenship in various situations.

Foreign citizens, who want to apply for citizenship via naturalisation.

Previous holders of Danish citizenship, who may, under certain conditions, be able to regain their Danish citizenship status.

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225 CJEU, Case C-689/21, Judgment of 05 September 2023, *X v. Udlændinge- og Integrationsministeriet* (Perte de la nationalité danoise), ECLI:EU:C:2023:626.

226 Section 12(1) in the Citizenship Consolidation Act.

227 The applicant must show proof of previous payment of the fee in case they want to submit a new application after an original application was unsuccessful, in order to avoid paying the fee again.

228 Available at https://uim.dk/arbejdsomraader/statsborgerskab/.

Nordic citizens, i.e., citizens holding Finnish, Icelandic, Norwegian or Swedish citizenship, who may apply for Danish citizenship by providing a declaration to designated authorities.

As regards (ii) foreign citizens, the dedicated webpage[229] contains well-described sub-pages, providing information on the following topics:

- Requirements for naturalisation
- Lodging of an application
- Processing of applications
- The bill on citizenship
- Children applicants
- Stateless applicants born in Denmark
- The certificate of citizenship
- Participation in the municipal citizenship ceremony
- What happens when an applicant is granted Danish citizenship

The information provided is specific, detailed, and usually up to date with the latest legal requirements. However, the website is divided into sub-categories and sub-webpages, and multiple links refer to information pages that applicants must access in order to get a full picture of the complicated legislation at hand. Not providing an overview in printed form, for example in a pamphlet or booklet, may result in difficulty of understanding the requirements for citizenship acquisition, and in self-assessing whether one's application would be successful.[230]

Another official webpage is the webpage where most public information is shared with citizens and foreigners (*borger.dk*) in plain language and all people living in Denmark are given a (digital) access door to administration services. The webpage offers precise information, in Danish, regarding the naturalisation procedure.[231] Under the title "Only the Danish Parliament can grant Danish citizenship to foreign citizens by law"[232], the information provided covers:

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229 Availble at https://uim.dk/statsborgerskab/udenlandske-statsborgere/.

230 Elements that can create confusion for prospective applicants are for example the many exemptions provided in different sections of the Circular on Naturalisation, in case one does not directly fulfil the requirements in the legislation, and one's case has to be submitted and individually assessed by the Parliamentary Committee on Citizenship.

231 Available at https://www.borger.dk/samfund-og-rettigheder/Dansk-statsborgerskab/udenlandske-statsborgere.

232 "Kun Folketinget kan give udenlandske statsborgere dansk statsborgerskab ved lov".

1. How to gain Danish citizenship via naturalisation – listing the conditions and referring via link to the Ministry of Immigration and Integration's webpage for further deepening of the requirements
2. How to apply – with a link to the digital application solution, and the categories of applicants who are exempted from this requirement and can instead file a paper application or be included in others' applications (typically children)
3. How the application is handled – a brief description of the process, with a link to the Ministry of Immigration and Integration's webpage
4. Special rules for children and for stateless applicants born in Denmark – referring to the Ministry of Immigration and Integration's webpage as well
5. "If you want to complain" – although no complaint procedure is specified, and the explanation only refers to the handling of exemptions from requirements in the Parliamentary Committee on Citizenship
6. Legal documents – links to the Consolidation Act on Citizenship, the Circular Letter on Naturalisation, and the Danish Constitutional Act

There are also available dedicated webpages regarding Danish language acquisition and the citizenship test.[233] Denmark being a highly digitalised country, it is expected that most information to citizens and non-citizens is communicated via web resources. However, these do not provide individualized guidance, thus leaving applicants to either pay for the services of a lawyer or other private actors or resorting to free legal services offered by NGOs supporting immigrants' rights. In-person counselling, with the possibility of asking a person with competencies about one's specific case, can be preferred by applicants who do not know whether they qualify, or, in case their application has been rejected, whether they can apply again. These sorts of questions remain unanswered when information is provided in general terms on a webpage, even when it is detailed and well-worded.[234] Moreover, vulnerable people, older people, and people with disabilities or reduced capability may not be able to

233 Available at https://danskogproever.dk/ og https://integrationsviden.dk.

234 In some cases, the webpage directly states that the Ministry of Immigration and Integration is not able to assess in advance whether an applicant is covered by some specific conditions (for example as regards exemptions from the self-sufficiency requirement that can be presented to the Parliamentary Committee on Citizenship) and that applicants can merely contact the Ministry in case of general questions about the conditions, see e.g. https://uim.dk/statsborgerskab/udenlandske-statsborgere/betingelser/selvforsoergelse.

use digital solutions, or potentially be prone to errors due to limited digital literacy. These categories would especially benefit from in-person counselling and information.

Apart from state-funded language courses and citizenship preparation materials, there are currently no other administrative measures aimed at providing advice and guidance about the conditions related to acquisition of citizenship, e.g. by a dedicated office where to get personal assistance for filing an application, or for getting advice on how to qualify for naturalisation. Instead, these services are provided pro bono by the many NGOs and legal aid centres that help applicants in navigating the rules and lodging an application. These legal services are free of charge and often supported by state funding as well. Being driven by volunteers, on the one hand, entails that foreigners generally are met with helpfulness and approachability by usually well-prepared staff; on the other hand, a foreigner cannot expect or count on a particular level of standards in these free of charge/pro bono settings that is equivalent to that offered by paid legal services providers.

Finally, the 2021 Agreement on Citizenship spells out the political decision not to have active policies of boosting naturalisation rates and encouraging long-term residents to apply, but to leave it to the strict requirements of the law to give guidelines on what steps to take to be integrated in the Danish society so as to be able, eventually, to apply for Danish citizenship:

"The granting of Danish citizenship is not a right. Danish citizenship is something you have to earn. The parties to the agreement therefore fundamentally believe that granting Danish citizenship to foreigners is a great vote of confidence from Danish society. The granting of citizenship should therefore take into account the cohesion of Denmark and be based on strict requirements and thus be reserved for those who have chosen Denmark and fundamental Danish values and legal principles, learnt Danish, have not committed any crime and who have integrated into and wish to be an active part of Danish society. The naturalisation rules can thus act as an incentive and a reward for integrating into Danish society".[235]

235 Agreement on Citizenship between the government party, the Socialdemocratic Party, and The Liberal Party of Denmark (Venstre), The Conservative Party, and Liberal Alliance, included in the Circular for Naturalisation. Author's translation.

France

Jules Lepoutre

1. Introduction

Since 1993, French nationality law has been enshrined in the Civil Code.[236] This inclusion of nationality in the main code of private law is a sign that, in France, the legislature wished to recognise nationality as a right of the individual rather than a prerogative of the State.[237] Nationality is thus laid down in articles 17 to 33-2 of the Civil Code, in Title 1 bis "French nationality." At the time of the French Revolution, the main principles governing the acquisition and loss of nationality were set out in the Constitution. This has no longer been the case since the adoption of the Civil Code in 1804. Ever since, nationality law has had strictly legislative status.[238]

The provisions of the Civil Code are specified at regulatory level by decree no. 93-1362 of 30 December 1993 (hereafter "Decree of 1993").[239] Articles 1 to 76 of this decree are frequently amended in line with legislative reforms. These provisions, adopted by the government, implement the rules and principles

236 On the history of French Nationality, see Patrick Weil, *How to Be French?* (Durham: Duke University Press, 2008). For the main legal literature (in French), see Paul Lagarde, *La nationalité française* (Paris : Dalloz, 2011); Hugues Fulchiron and Amélie Dionisi-Peyrusse, "Acquisition de la nationalité française de plein droit à raison de la filiation ('effet collectif'). – Acquisition de la nationalité française par déclaration à raison de l'adoption simple par un Français ou du recueil par un Français ou en France, et à raison de la possession d'état de Français. – Acquisition de la nationalité française à raison de la qualité d'ascendant de Français et à raison de la qualité de frère ou sœur d'un Français" *in JurisClasseur Civil Code*, Art. 17 à 33-2, Fasc. 40 (2022); "Acquisition de la nationalité française à raison de la naissance et de la résidence en France," *in JurisClasseur Civil Code*, Art. 17 à 33-2, Fasc. 50 (2022); Hugues Fulchiron and Étienne Cornut, "Acquisition de la nationalité française à raison du mariage" *in JurisClasseur Civil Code*, Art. 17 à 33-2, Fasc. 60 (2022); "Acquisition de la nationalité française par décision de l'autorité publique : la naturalisation. – Généralités. – Conditions de recevabilité de la demande de naturalisation" *in JurisClasseur Civil Code*, Art. 17 à 33-2, Fasc. 70 (2022); "Acquisition de la nationalité française par décision de l'autorité publique : la naturalisation. – Formes de la demande de naturalisation. – Décision relative à la demande de naturalisation. – Décret de naturalisation" *in JurisClasseur Civil Code*, Art. 17 à 33-2, Fasc. 71 (2011).

237 On this tension, see Jules Lepoutre, *Nationalité et Souveraineté* (Paris : Dalloz, 2020).

238 The Conseil constitutionnel, France's constitutional court, could, however, recognise constitutional principles in nationality law. Although this has never yet been the case, it could concern the right of nationality, see Jules Lepoutre, "Ius Soli: a French constitutional principle?", *Globaltcit Blog*, February 1, 2019.

239 All sources of legislation, regulations and case law can be consulted on www.legifrance.gouv.fr, official website of the French governement (Direction de l'information légale et administrative).

laid down by the legislator. Other decrees and ministerial regulations (arrêtés) govern specific areas of nationality acquisition (procedures, forms, competent authority, language requirements, etc.).

Through circulars and instructions, the government also adopts guidelines for central and local authorities responsible for implementing nationality law. For example, the circular of 16 October 2012,[240] signed by the Minister of the Interior, sets out the main guidelines for naturalisation, indicating the profiles to be favoured, the assessment of assimilation, language evaluation, etc. Another circular dated 6 May 2019,[241] again signed by the Minister of the Interior, invites prefects to oppose the acquisition of nationality by people who have made racist or anti-Semitic statements. The Minister is thus using its hierarchical power over the prefects responsible for applying the legislative and regulatory rules on access to and loss of nationality. Further administrative interpretation of the nationality rules is provided by "ministerial replies," which the government officially sends to questions from members of parliament.

Litigation relating to nationality is divided between the administrative courts (under the authority of the Conseil d'État, hereafter "CE") and the judicial courts (under the authority of the Cour de cassation). Administrative courts have jurisdiction to examine measures adopted by the government by means of an individual decision (decree of naturalisation, loss and withdrawal of nationality), while judicial courts have jurisdiction for all acquisitions by right (declaration by the individual) or by operation of law (automatic).

2. Conditions for residence-based naturalisation

a. Residence requirements: residence title and length of residence

- *Ordinary Naturalisation*

In principle, five years of continuous residence in France are required before applying for naturalisation.[242] This period is known as the "probationary period" (*durée de stage*). An application for naturalisation cannot be sub-

240 Circulaire, "Procédures d'accès à la nationalité française" October 16, 2012, No. INTK 1207286C.

241 Circulaire, "Conséquences à tirer sur le droit au séjour et l'accès à la nationalité française de propos ou d'actes à caractère raciste ou antisémite tenus ou commis par un étranger" May 6, 2019, No. INTV1911159J.

242 Civil Code, art. 21-17.

mitted if the foreigner is residing in France illegally.[243] Regular residence is required for the five years (with any type of residence permit), as the *Conseil d'Etat* has ruled that without regular residence, residence cannot be considered "stable"[244]. Illegal residence therefore does not count as part of the five years. If it existed before the application was made, it will be considered unfavourably by the administration, but it should not systematically lead to the application being rejected.

This "probationary period" may be reduced to two years for students who have spent two years studying in France, foreign nationals who are likely to make a significant contribution to France, or foreign nationals with an exceptional track record of integration.[245] No training period is required for foreign nationals belonging to the French linguistic and cultural entity or whose mother tongue is French, foreign nationals serving in the French army, foreign nationals who have rendered exceptional services to France or foreign nationals who have been granted refugee status (in application of the 1951 Geneva Convention).[246] In all cases, residence on the date of naturalisation is required.

The "residence" required by the law has been interpreted very broadly by the authorities and confirmed by the courts. Residence is therefore not only the physical presence on French soil, but also the establishment of material and family ties in France (and not abroad), i.e. indications that the applicant will reside in France in the future. With regard to material ties, the applicant must have sufficient personal resources to live on (excluding social benefits), of French origin and have a sufficient degree of stability.[247] With regard to family ties, the applicant's "nuclear" family (spouse and children) must be in France.[248] The presence of such "nuclear" family members abroad will lead the authorities to consider that the foreign national is not established in France.

- *Acquisition by marriage*

The standard period for spouses to obtain French nationality is four years.[249] It is extended to five years in two cases: where the couple reside in France, if

243 Civil Code, art. 21-27.

244 CE, June 15, 1987, No. 74289, *Kermadi*, Lebon 216.

245 Civil Code, art. 21-18.

246 Civil Code, art. 21-19 and 21-20.

247 CE, July 11, 1986, No. 61720, *Époux Prayag*, Lebon 530.

248 CE, February 26, 1988, No. 70584, *Martins*, Lebon 88.

249 Civil Code, art. 21-2.

the foreign spouse has not resided in France continuously and regularly for three years since the marriage was contracted; where the couple reside outside France, if the French spouse has not been registered in the register of French nationals established outside France during the period of cohabitation.[250]

b. Dual citizenship: requirement to renounce previous citizenship(s)

There is no requirement to renounce original nationality as part of the nationality acquisition procedure. Applicants must, however, indicate which other nationalities they retain.[251]

c. Integration or assimilation criteria

- *Ordinary Naturalisation*

French naturalisation can only be granted if the applicant has "assimilated."[252] Assimilation is first and foremost linguistic, and corresponds to at least level B1 of the Common European Framework of Reference for Languages,[253] which the applicant must demonstrate by taking a certified test. This includes testing oral and written language proficiency. Possession of certain French or foreign diplomas (awarded in a French-speaking context) may obviate the need for a certificate (a degree below the baccalauréat is enough).

Assimilation is then cultural, and corresponds to knowledge – "depending on the applicant's condition" – of French history, culture and society, but also of the rights and duties of citizenship, as well as adherence to the essential principles and values of the Republic.[254] This knowledge is based on the contents of a "citizen's booklet" (*livret du citoyen*) given to the applicant.[255] It is assessed during an assimilation interview with a prefecture officer, using questions that fit "into the natural course of conversation."[256] It is therefore not an assessment by means of a questionnaire with a required minimum score. It leaves the discretion to the officer conducting the interview to decide if the candidate has

250 Civil Code, art. 21-2.

251 Civil Code, art. 21-27-1.

252 Civil Code, art. 21-24.

253 Decree of 1993, art. 37(1).

254 Civil Code, art. 21-24.

255 Decree of 1993, art. 37(2).

256 Circulaire, "Procédures d'accès à la nationalité française" October 16, 2012, No. INTK 1207286C, 5.

assimilated, but legal and factual reasons must be given for any unfavourable decision. Assimilation is largely linked to adherence to secularism.[257] A circular of 24 August 2011 states that the radical practice of a religion, if it is "not in accordance with customs and practices," may lead to a failure to assimilate.[258]

- *Acquisition by marriage*

The linguistic assimilation of the spouse of a French national is similar to that required for naturalisation.[259] After the subscription of the declaration (see *infra* d.), an interview takes place[260] during which the administration verifies that the couple is actually living together ("*communauté de vie*") and assesses whether there are grounds for the government to "oppose" by decree ("*décret d'opposition*") the acquisition on the basis of the applicant's unworthiness ("*indignité*") or failure to assimilate ("*défaut d'assimilation*").[261] If there are grounds for the government to oppose the acquisition, it has two years from the subscription of the declaration to issue a decree of opposition (nullifying the acquisition of nationality). In particular, polygamy or genital mutilation are considered by the law to constitute failure to assimilate.[262]

d. Procedure: is there a legal entitlement to naturalise

- *Ordinary naturalisation*

The law sets out a series of admissibility conditions (residence, good character and morals, absence of certain criminal convictions, absence of a deportation order or measure banning the applicant from French territory, and assimilation), but fulfilling these conditions is not sufficient to obtain naturalisation. The authorities have a discretionary power to decide whether to grant naturalisation. This discretion is governed by guidelines set out in circulars. For example, the circular of 16 October 2012 encourages prefects to take better account of "promising" applicants: young graduates with permanent contracts, students and high-level professionals (students at "*grandes écoles*," doctoral candidates

257 See Abdellali Hajjat, Les frontières de "l'identité nationale." L'injonction à l'assimilation en France métropolitaine et coloniale (Paris : La Découverte, 2012); Adrian Favell, Philosophies of Integration. Immigration and the Idea of Citizenship in France and Britain (New York: Palgrave, 2001).

258 Circulaire, "Procédures d'accès à la nationalité française" 3.

259 Decree of 1993, art. 14.

260 Decree of 1993, art. 15(II).

261 Civil Code, art. 21-4.

262 Civil Code, art. 21-4.

with teaching and research contracts, etc.).[263]

The exercise of this discretion is subject to review by the judge, who checks for manifest errors of assessment. The judge thus grants the administration a margin of appreciation in an area in which it has discretionary power. The case law shows both the framework of the discretionary power and the policy of the administration in the context of its discretionary assessment. Thus, considerations of public order (in particular the existence of criminal convictions), membership of extremist movements, the existence of a particular loyalty to the country of origin (in particular the fact of being an employee of a consulate or embassy), delays or defaults in the payment of taxes, etc. regularly form the basis of refusals to naturalise in the exercise of the administration's discretion.[264]

The case law of the administrative courts is rather uneven, sometimes progressive and in favour of the applicant, sometimes more conservative and respectful of the administration's prerogatives. For example, the judge has ruled that the administration cannot use a person's state of health to consider that he or she has not integrated into French society by not working.[265] Similarly, the disability or illness of the applicant cannot lead the authorities to reject the application because the person only has an income from social benefits.[266] Thanks to the judge, the powers of the administration are very limited in these two cases. Conversely, the administrative judge upheld a decision by the authorities to refuse naturalisation to an applicant solely because she was married to a man convicted of genocide.[267] The decision shows how the administration is sometimes given a very free hand in its motivations.

- *Acquisition by marriage*

Acquisition by a spouse is a right (i.e., he or she is entitled to nationality, without discretionary appreciation of the merits), provided that a formal declaration ("*déclaration*") is made to the prefecture or, outside France, to the embassy or consulate.[268] By making this declaration, the foreigner formally expresses his or her intention to become a French citizen. However, the government may

263 Circulaire, "Procédures d'accès à la nationalité française" October 16, 2012, No. INTK 1207286C, 3.

264 Lepoutre, Nationalité et Souveraineté, 716–725.

265 CE, September 26, 2001, No. 206486, *Mme Richard*, Lebon 955.

266 CE, May 11, 2016, No. 389399 and 389433, *Zahti* ; CE, November 29, 2019, No. 421050.

267 CE, April 8, 2021, No. 436264.

268 Civil Code, art. 21-2.

oppose on the grounds of lack of assimilation or unworthiness of the declarant. A circular of 24 August 2011 specifies that unworthiness results from the commission of criminal offences or a lack of loyalty towards public institutions, for example fraud involving family allowances, minimum social benefits, concealed work, etc. [269] Failure to assimilate is based on a rejection of the values of the Republic, in particular equality between men and women. A lifestyle "deliberately opposed to the values"[270] that leads to the (even voluntary) submission of women thus reveals a failure to assimilate. A woman's refusal to shake hands with a French official, for example, justified an objection on the grounds of lack of assimilation, which was upheld by the judge.[271]

3. Citizenship acquisition based on residence/ schooling during childhood

France has recently introduced a system of acquisition based on residence during childhood.[272] It concerns children from the "1.5 generation," i.e., those who arrived with their parents (first-generation immigrants) but who have (at least) one brother or sister born on French soil (second-generation immigrants) and who has acquired French nationality on this basis (see below point 4). This is a recent measure resulting from the law of 7 March 2016[273] (acquisition by "siblings" – *fratrie*). This mechanism is the result of a governmental amendment that was tabled and adopted during the debates in the National Assembly (the lower chamber). At the time, an opposition representative declared that this new mechanism constituted a "ius soli without soli" ("droit du sol hors sol").[274] The Senate (the upper chamber) rejected this measure, but it was was ultimately adopted following the National Assembly's final decision (constitutional power of "final say" over the Senate in legislative matters). This new regulation has not yet been reviewed by the courts.

In France, there is no age limit for children joining their parent through

269 Circulaire, "Contrôle de la condition d'assimilation dans les procédures d'acquisition de la nationalité française" 24 August, 2011, No. IOCN1114306C, 2.

270 Circulaire, "Contrôle de la condition d'assimilation dans les procédures d'acquisition de la nationalité française".

271 CE, April 11, 2018, No. 412462.

272 Civil Code, art. 21-13-2.

273 Loi relative au droit des étrangers en France, March 7, 2016, No. 2016-274, JORF No. 57, March 8, 2016.

274 JORF, Assemblée Nationale, débats, 23 July 2015 (2nd session), p. 7191

family reunification (as long as they have not reached the age of majority [18 years]). Once on French soil, the child must have arrived by the age of six at the latest and have been habitually resident there ever since in order to access citizenship. Provided they have attended all their compulsory schooling in France (up to the age of 16), children may acquire French nationality by declaration when they reach the age of majority, regardless of their parents' situation (esp., there is no need for the parents to reside legally, at any time of the process). In addition, they must have a brother or sister who became French by birth and residence in France (a possibility open from the age of 13, see below point 4). As the declaration is made when the person comes of age, it is the person concerned and not his or her parents who is responsible for it.

This method of acquiring nationality is based on socialisation at school and among French siblings. This leads to a presumption of linguistic and cultural assimilation. However, the conditions are very restrictive and less than 2,000 people benefited from this system in 2022.

This acquisition by declaration (i.e., the individual is entitled to nationality) exempts the individual from the discretionary power of the administration. However, as in the case of acquisition by marriage, the government retains the right to oppose the individual's acquisition by decree on the grounds of unworthiness or lack of assimilation (other than linguistic).[275]

4. Citizenship acquisition based on birth in a country

a. Conditional ius soli

There is no absolute ius soli in France. The acquisition of French nationality is conditional upon residence in France. The provision states that individuals born in France acquire French nationality automatically when they reach the age of majority if they have had their habitual residence in France for at least five years, continuously or intermittently, since the age of eleven.[276] There are no conditions that apply to the parents (esp., there is no need for the parents to reside legally, at any time of the process). In particular, there is no requirement for a parent to be residing regularly at the time of the child's birth.

Minors may acquire French nationality earlier. From the age of sixteen, minors may claim French nationality on their own (without the intervention

275 Loi relative au droit des étrangers en France, by referring to Civil Code, art. 21-4.

276 Civil Code, art. 21-7.

of their parents) by declaration if they have been habitually resident in France for at least five years, continuously or discontinuously, since their eleventh birthday.[277] Similarly, parents may claim French nationality for their child, on his or her behalf and with his or her consent, from the age of thirteen, provided that the condition of habitual residence has been met since the age of eight.[278]

Ius soli is therefore conditional on five years' residence in France, without any requirement of continuity, which corresponds – at least in part – to a period of schooling. Unlike the acquisition of nationality through marriage or siblings, in the case of children born in France to immigrant parents the government has no power to oppose the acquisition of nationality. Nationality is acquired automatically upon reaching the age of majority, or by declaration from the age of thirteen (if requested by parents) or sixteen (if requested by the minor). There are regular debates in France on whether or not nationality should be acquired automatically at the age of majority. From 1993 to 1998, on the initiative of the conservative government, acquisition was no longer automatic and required a declaration by the young person at the age of majority, in line with a concept of nationality described as "elective," i.e., based more on the individual's will.[279]

Specific provisions concern Mayotte, an island in the Comoros archipelago belonging to the French Overseas Territories, where there exist conditions related to parents. Since the law of 10 September 2018, the above-mentioned provisions (automatic acquisition at the age of majority, early acquisition during minority) have been "adapted" for Mayotte alone. For this region alone, the regular residence of a parent for more than three months is required at the time of birth.[280] This means that if both parents are not legally resident at the time of birth, or if they only have a short-stay visa (i.e., valid for less than three months), the child will not be able to acquire French nationality under this mechanism. This system, which largely derogates from common law, was upheld by the Constitutional Court on the basis of the specific situation of the island of Mayotte, which is subject to particularly large migratory flows

277 Civil Code, art. 21-11.

278 Civil Code, art. 21-11.

279 See Favell, Philosophies of Integration., 62–70.

280 For the list of relevant residence permits, see Arrêté, "Justification de la régularité du séjour d'un parent de nationalité étrangère d'un enfant né à Mayotte" March 1, 2019, JORF No. 52, March 2, 2019, text No. 10.

from the Comoros.[281] The legislator's aim was to reduce illegal immigration to Mayotte by preventing any strategic use of nationality rights via children - much like the debates in the United States on "anchor babies." However, although a child's French nationality confers a residence permit on the parent, this cannot be acquired until the child is (at least) thirteen years old (see above), which casts doubt on the real attractiveness of French law on nationality by birth and residence for migrants crossing the border illegally.[282]

b. Double ius soli

The double *ius soli* is an emblematic feature of French nationality law. It enables a child born in France to at least one parent who was also born in France to obtain citizenship automatically (*ex lege*) at birth.[283] There are no other conditions. These rules, introduced in 1851, are based on the presumption of permanent residence in France following two successive births. Since then, the legislator has justified this measure by the concern for equality between children born in France (of French and foreign parents) and attending the same schools. This mechanism is therefore closely linked to the republican tradition of access to nationality.

5. Procedures for citizenship acquisition

- *Documents*

It is up to the applicant for naturalisation or the person making the declaration to provide the documents justifying their claims (esp., birth certificate of the applicant, birth certificates of the children, passport, proof of residence, marriage certificate, official record of criminal conviction, etc.). The 1993 decree sets out various lists, for naturalisation,[284] acquisition by marriage,[285] acquisition by sibling,[286] early acquisition by birth and residence from the age of thirteen,[287]

281 Conseil constitutionnel, Septembre 6, 2018, No 2018-770 DC, Loi pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie, §§ 35–51.

282 See Jules Lepoutre, "La réforme du droit de la nationalité à Mayotte" *Actualités juridiques Droit administratif*, No.. 5 (2019): 285–287.

283 Civil Code, art. 19-3.

284 Decree of 1993, art. 37-1.

285 Decree of 1993, art. 14-1.

286 Decree of 1993, art. 17-3.

287 Decree of 1993, art.15-2.

and early acquisition by birth and residence from the age of sixteen.[288]

- *Authority*

For acquisition by naturalisation, platforms for access to French nationality (*plateformes d'accès à la nationalité française*) are responsible in large territorial units (mainly regional, numbering 42),[289] within a prefecture, for receiving and examining applications.[290] It is then up to the prefect concerned to declare applications for naturalisation inadmissible, reject them on their merits or postpone (*ajourner*) them.[291] In this case, an administrative appeal may be lodged with the Minister of the Interior; the application is then re-examined, at central level, by the sub-directorate for access to French nationality.[292] If the Prefect considers that naturalisation should be granted, it will forward its proposal to the Minister responsible for naturalisation, who takes the final decision. To sum up, Naturalisation is rejected or declared inadmissible by a prefectoral (local) order, and is granted by government decree (central).

For acquisition by declaration, the competent authority varies according to the procedure. In the case of acquisition of nationality by birth and residence in France, the registry of the judicial court (*tribunal judiciaire*) of the declarant's place of residence is responsible for receiving, examining and deciding on declarations of acquisition of nationality from the age of thirteen or sixteen.[293] As an exception, in the case of acquisition by marriage or through siblings, the prefecture of the declarant's place of residence (according to the same system of platforms for access to French nationality as in the case of naturalisation) is responsible for receiving, examining and deciding.[294]

For automatic acquisition of nationality at the age of majority by virtue of birth and residence in France, and automatic attribution of nationality at birth by virtue of the birth in France of the child and one of his or her parents before him or her, no procedure is provided for since nationality is obtained solely by operation of law.

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288 Decree of 1993, art. 15-1.

289 Ministère de l'intérieur, "Les étrangers en France. Rapport au Parlement sur les données de l'année 2020" 2023, ISBN: 978-2-11-167200-0, 146.

290 Arrêté, "Application du décret n° 2015-316 du 19 mars 2015 modifiant les modalités d'instruction des demandes de naturalisation et de réintégration dans la nationalité française ainsi que des déclarations de nationalité souscrites à raison du mariage" March 19, 2015, JORF No. 68, March 21, 2015.

291 Decree of 1993, art. 43 and 44.

292 Decree of 1993, art. 45.

293 Decree of 1993, art. 3.

294 Decree of 1993, art. 3.

- *Implementation*

In the case of early acquisition of nationality by declaration on the basis of birth and residence in France, the registry of the court issues a receipt (*récépissé*) when the declarant submits a complete application.[295] The registry has six months to verify that the legal requirements have been met. If the refusal to register is not notified to the declarant within this period, he or she is given a copy of the declaration of nationality with a note in the margin (*mention en marge*) to indicate that it has been registered.[296]

In the case of acquisition through marriage or on the basis of siblings, the prefectoral authority in charge of the procedure has a period of one year in order to verify the conditions for registration.[297] At the end of this period, if the registration has not been refused, the prefectoral authority will issue a copy of the declaration under the same conditions, noting in the margin that it has been registered. The documents are submitted via a teleservice.[298] In France, the gradual transformation of the entire naturalization procedure to electronic processing has taken place, in which only the interview takes place in person at the prefecture or consulate. Extensive information is available online, including self-checks for naturalisation requirements.[299]

In the case of naturalisation, a receipt is issued when a complete application is submitted by teleservice.[300] The prefectural authorities have eighteen months to examine the application.[301] During this period, an investigation is carried out by the police to assess the applicant's morality and loyalty.[302] The Prefect may declare the application inadmissible, reject it on its merits or adjourn the application, allowing time for a new application to be submitted, with conditions to be consolidated (e.g. professional integration).[303] If the Prefect intends to approve the application, it will forward its proposal to the Minister responsible for naturalisation no later than six months after the receipt has been issued.[304]

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295 Civil Code, art. 26.

296 Civil Code, art. 26-4.

297 Civil Code, art. 26-3.

298 Decree of 1993, art. 5.

299 https://www.service-public.fr/particuliers/vosdroits/N111

300 Decree of 1993, art. 35.

301 Civil Code, art. 21-25-1.

302 Decree of 1993, art. 36.

303 Decree of 1993, art. 43 and 44.

304 Decree of 1993, art. 46.

The time taken to process an application in 2021 was 149 days for a negative decision and 381 days for a positive decision.[305]

As France is a centralised state, naturalisation is not a devolved matter. However, the platforms for access to French nationality, under the authority of the prefects, are the sole decision-makers when it comes to rejecting applications, unless an administrative appeal is lodged. The Minister only receives proposals for naturalisation. Local administrative practices may therefore vary, but the rules are the same.

- *Appeal*

In the case of naturalisation, decisions on inadmissibility, postponement and rejection are subject to administrative appeal to the Minister, and eventually to judicial appeal to the administrative courts. In 2020, 5,919 administrative appeals were lodged with the Minister in naturalisation cases, resulting in 13.9% of decisions being overturned, either because of new information or because of a reconsideration of the prefectoral department's analysis by the central government. In 2020, 1,567 applications were received by the administrative courts (a stable figure). In the same year, these courts issued 866 decisions, of which only 55 were unfavourable to the administration.[306]

With regard to declarations of nationality, irrespective of the procedure (birth and residence, marriage and siblings), the judicial court (*tribunal judiciaire*) is competent to review refusals to register made by the registry services against the declarants. As far as I know, the overall figures are not known. However, the Ministry states that in 2020, 30 judgments ordered registration.[307]

305 Ministère de l'économie et des finances, Projet de loi de finances pour 2023, Projet annuel de performance, Programme 104 : Intégration et accès à la nationalité française, 2022, 13.

306 Ministère de l'intérieur, "Les étrangers en France. Rapport au Parlement sur les données de l'année 2020" 2023, ISBN: 978-2-11-167200-0, 147.

307 Ministère de l'intérieur, "Les étrangers en France. Rapport au Parlement sur les données de l'année 2020".

- *Fees*

Applications and declarations are subject to a stamp duty (*droit de timbre*) of 55 euros.[308] Persons recognised as indigent are exempt,[309] on a case-by-case basis (low-income requirement).

6. Information and advice

The legislator requires courts, local authorities, public institutions and services, in particular educational establishments, to provide information to children born in France to foreign parents.[310] The aim is to provide information on the conditions for acquiring French nationality when they reach the age of majority, but also on the possibility of acquiring it as early as the age of thirteen. This obligation is specified in regulations[311] in the form of a duty to inform, which is incumbent on town halls (e.g. when enrolling children in schools), prefectures (when issuing documents to foreign children who are minors, in particular when issuing the "republican identity card" – *titre d'identité républicain*), French embassies and consulates abroad, judicial protection of juveniles services, schools (generally in lessons for pupils, but also as part of personal information for parents and children),[312] social security organisations and departments (second territorial administrative division in France, with regions and municipalities). The information must be both general in public facilities (e.g., poster) and personalised in all these administrative procedures.[313] The family record book (*livret de famille*) also contains information on the different ways of obtaining French nationality.[314] All these provisions are generally observed in practice.

Foreigners living in France do not receive any general or personalised information on the rules of nationality. In particular, the republican integration contract (*contrat d'intrégration républicaine*) signed between the State and foreigners living in France on a long-term basis does not include a specific module

308 Code général des impôts, art. 958.

309 Code général des impôts, art. 959.

310 Civil Code, art. 21-7.

311 Decree, "Information du public en matière de droit de la nationalité", August 20, 1998, No. 98-719, JORF No. 192, August 21, 1998, art. 2.

312 Circulaire, "Acquisition de la nationalité française: information des élèves par les établissement scolaires" November 13, 20007, No. 2007-171, NOR: MENE0701784C.

313 Decree, "Information du public en matière de droit de la nationalité", art. 3.

314 Decree, "Information du public en matière de droit de la nationalité", art. 4.

on acquiring French nationality[315] in its civic education section.[316] This does not prevent the question from being raised during an appointment with an officer of the French Immigration and Integration Office (*Office français de l'immigration et de l'intégration*).[317]

As an exception, when the marriage is celebrated, the civil registrar must inform the foreign spouse of the possibility of acquiring French nationality, and consular officials are under the same obligation if the marriage concluded abroad is transcribed.[318]

315 Arrêté, "Formations civique et linguistique prescrites aux étrangers signataires du contrat d'intégration républicaine créé par la loi n° 2016-274 du 7 mars 2016 relative au droit des étrangers en France" December 30, 2021, JORF No. 304, December 31, 2021.

316 Code de l'entrée et du séjour des étrangers et du droit d'asile, art. L . 413-3(1).

317 Code de l'entrée et du séjour des étrangers et du droit d'asile, art. L. 413-3(4).

318 Decree, "Information du public en matière de droit de la nationalité", art. 5.

Germany

Maria Martha Gerdes

1. Introduction

According to § 3 (1) of the German Nationality Act (StAG), German citizenship is acquired as follows:

1 By birth (§ 4 StAG),

2. By declaration (§ 5 StAG),

3. By adoption as a child (§ 6 StAG),

4. By the issuance of a certificate for late ethnic German resettlers, of persons persecuted during the National Socialist era and their family members according to § 15 (1) or (2) Bundesvertriebenengesetz (§ 7 StAG), and

5. By naturalisation (§§ 8-16, 40b, and 40c StAG).

The regulations have been partially amended in 2024 through a law for the modernization of nationality law (StARModG) adopted on 22nd of March 2024. The law has been announced on the 26th of March 2024 and will enter into force on the 26th of June 2024.[319] In this report, these recent changes have been taken into account.

2. Conditions for residence-based naturalisation

Until the introduction of naturalisation criteria in the Foreigners Act (AuslR) and the revision of § 85 AuslG (now § 10 StAG) in 2004[320], § 8 StAG served as the fundamental provision for naturalisation in German nationality law. This provision outlined the minimum requirements for naturalisation. However, in contemporary times, this regulation has been diminished in significance. Instead, the German Nationality Act contains more specific provisions for nat-

319 BGBl. 2024 I Nr. 104.

320 Law from 30 July 2004 (BGBl. I S. 1950).

uralisation in §§ 9-14 StAG.

§ 9 StAG governs the naturalisation of spouses or registered partners of German nationals, § 10 StAG outlines the entitlement to naturalisation, § 11 and § 12 StAG specify grounds for exclusion and exceptions, § 13 StAG deals with the naturalisation of former Germans and their minor children residing abroad, and finally, § 14 StAG addresses the naturalisation of foreign nationals with ties to Germany who have their habitual residence abroad.

Of particular practical relevance is the entitlement to naturalisation under § 10 StAG, where the discretion of the naturalisation authority is reduced to zero in individual cases.

a. Residence requirements: residence title and length of residence

Regarding the residence permit and the duration of residence as prerequisites for naturalisation, the basic provision is stipulated in § 8 (1) StAG, which requires that foreign national applicants must have their habitual residence in the country legally.

In § 9 (1) sentence 1 StAG, it is stated that spouses or registered partners of Germans should be naturalised under the conditions of § 10 (1) StAG if they have legally had their habitual residence in the country for three years and the marriage or registered partnership has existed for two years. If the marriage or partnership has existed for a longer period or if the naturalisation application includes minor children of the spouses/ partners, then the duration of residence can be shortened for reasons of public interest (§ 9 (1), sentence 2, sentence 3 StAG). The privilege of naturalisation after three years instead of five (before the 2024 amendment this was eight years) is based on the assumption that living in a family community with a German partner leads to faster integration. The necessary engagement with German living conditions is typically more intense when such a personal connection is present.

To have an entitlement to naturalisation under § 10 (1) sentence 1 StAG, a foreign national must have **legally** and **habitually** resided in the country continuously for five years (exceptions can be found in § 12b StAG); in the case of exceptional integration efforts, three years are sufficient (see § 10 (3) StAG). The figures have not been chosen at random but represent an alignment of the residence periods for naturalisation and settlement permits in accordance with Section 9 of the Residence Act. The law particularly recognizes special integration efforts in the case of outstanding academic, vocational, or professional achievements or civic engagement, provided that the requirements of § 8 (1) no. 4 StAG are met and the language proficiency corresponds to level C1 of the

Common European Framework of Reference for Languages.

The definition of "**habitual residence**" follows the criteria established in administrative court jurisprudence in nationality law. It means that the foreign national lives in Germany not merely temporarily but for an indefinite period and has their centre of life here. The prognosis for habitual residence takes into account both the intentions of the foreign national and their actual circumstances. It must be evident that the residence will continue for an indefinite period. Habitual residence can also be assumed with a temporary residence permit if it allows access to a permanent residence position.[321] § 12b StAG specifies the requirements for habitual residence. For instance, according to § 12b (1) sentence 1 StAG, contrary to sentences 1 to 4, habitual residence generally no longer persists if stays abroad exceed half of the residence duration required of the parent in the case of children born in Germany to foreign parents according to § 4 (3) sentence 1 no. 1 StAG, or in case of naturalisation again half of the residence period required of the applicant.

In addition to habitual residence, the **legality of residence** must also be examined. It is not required for the entire period of a qualified residence permit under § 10 (1) no. 2 StAG; it only needs to be present at the time of the naturalisation decision. The formal possession of a residence permit or an authorised stay without being a residence permit (e.g., according to § 81 (3), (4) AufenthG), even if obtained through deception, qualify as the necessary lawful residence. The foreigner must have a qualified right of residence at the time of the naturalisation decision in accordance with § 10 para. 1 sentence 1 no. 2 StAG. This is the case if foreigners have a permanent right of residence or, as a Swiss national or family member, a residence permit based on the Agreement on the Free Movement of Persons of 21 June 1999 between the EU and its member states and Switzerland, or an EU Blue Card. In the case of third-country nationals, the permanent residence permit (see § 9 AufenthG) and in the case of EU citizens and persons treated as such, the permanent right of residence/EU (see § 4a FreizügG/EU) and the permanent right of residence under Art. 6, 7 ARB 1/80 may be considered. Third-country nationals may also have a permanent right of residence in accordance with Art. 2 letter b of Directive 2003/109/EC (cf. § 9a AufenthG). A temporary residence permit is also sufficient if it has been issued for purposes other than those listed in the provision. The ones listed are not sufficient because they are in principle only issued for

321 Hailbronner/Gnatzy, Staatsangehörigkeitsrecht, edited by Hailbronner/Kau/Gnatzy/Weber, § 10 Rn. 60, Becksche Kurz Kommentare, Band 55, München, 2022.

temporary purposes.[322]

b. Dual citizenship: requirement to renounce previous citizenship(s)

Under the new law naturalisations are generally allowed with acceptance of multiple nationalities. The arguments provided in the draft law for this change include facilitating naturalisation to increase the naturalisation rate (Germany lags significantly behind in European comparisons), Germany's actual naturalisation practice (for over 15 years, more than half of all naturalisations have already been granted with acceptance of multiple nationalities), and the practically negligible conflict potential of multiple nationalities.

c. Integration or assimilation criteria

In the basic provision of § 8 (1) StAG, it is stated that integration into German living conditions must be ensured. The law does not further specify this criterion. But the guidelines of the Federal Ministry of the Interior specify in this regard that the applicant must in particular have sufficient knowledge of the German language.[323] The guidelines serve the proper application of the StAG and are therefore binding for the competent citizenship authorities.

In the entitlement naturalisation under § 10 (1) StAG, other prerequisites are listed: The foreign national must possess sufficient knowledge of the German language (§ 10 (1) sentence 1 no. 6 StAG) and knowledge of the legal and social order and living conditions in Germany (§ 10 (1) sentence 1 no. 7 StAG). § 10 (4) StAG specifies the language requirement. According to this, the conditions of sentence 1 no. 6 are met if the foreign national fulfils the requirements of a language examination at level B1 of the Common European Framework of Reference for Languages. This includes speaking, listening, reading, and writing. For a minor child who has not yet reached the age of 16 at the time of naturalisation, the conditions of sentence 1 no. 6 are met with age-appropriate language development. Simplified language requirements will apply to the guest worker generation by lowering the required language proficiency level. Only oral proficiency (communication in the German language in everyday life without significant problems) needs to be demonstrated, and the obligation to take a naturalisation test is eliminated. This regulation applies to foreign nationals who entered the territory of the Federal Republic of Germany before

322 Hailbronner/Gnatzy, Staatsangehörigkeitsrecht, edited by Hailbronner/Kau/Gnatzy/Weber, § 10 Rn. 66-72, Beckscher Kurz Kommentare, Band 55, München, 2022.

323 Vorläufige Anwendungshinweise des Bundesministeriums des Innern from 1 June 2015, Rn. 8.1.2.1.

30 June 1974, based on agreements for recruitment and placement of workers or as contract workers before 13 June 1990, and who can communicate orally in the German language in everyday life without significant problems. Additionally, a general hardship provision for the language requirement is introduced, allowing the language requirement to be reduced to oral proficiency if it is proven that acquiring sufficient knowledge of the German language at the B1 level of the Common European Framework of Reference for Languages has not been possible despite serious and sustained efforts or is significantly hindered on a permanent basis.

Knowledge of the legal and social order and living conditions in Germany is generally proven through a successful naturalisation test, as stated in § 10 (5) StAG. Preparation courses for this test are offered, but participation is not mandatory. The examination and proof modalities of the naturalisation test, as well as the basic structure and learning content of the naturalisation course, are regulated by ministerial decree of the Federal Ministry of the Interior, based on the topics of the orientation course according to § 43 (3) sentence 1 of the Residence Act, § 10 (7) StAG. However, § 10 (6) StAG provides that the above-mentioned requirements of sentence 1 no. 6 and 7 can be waived if the foreign national is unable to fulfil them due to a physical, mental, or psychological illness or disability, or age-related reasons. Persons who are part of the guest worker generation do not need to take the naturalisation test if they can communicate orally in everyday German language without significant problems or if they represent a hardship case as defined in the new § 4a StAG, where the person has to prove that he*she cannot – despite serious and sustained endeavours – acquire the sufficient language conditions.

Specific exclusion criteria for naturalisation are also listed in § 10 StAG. Examples for these exclusion criteria are if an applicant is married to more than one spouse at the same time or if his*her behaviour shows that he*she is disregarding the equal rights of men and women as laid down in the Basic Law.[324]

d. Procedure: Is there a legal entitlement to naturalise?

Naturalisation in Germany is initiated through an application process.

Naturalisation under § 8 (1) StAG establishes the minimum requirements for naturalisation, and the decision lies within the discretion of the authority ("may be naturalised upon his application").

For the naturalisation of spouses or registered life partners of German na-

324 See justification for Art. 1 no. 7 lit. c StARModG, p. 42.

tionals, § 9 (1) sentence 1 StAG reduces the authority's discretion ("shall be naturalised").

§ 10 (1) sentence 1 StAG defines the entitlement to naturalisation. If the respective prerequisites are met, the authority has no discretion, and the individual must be naturalised.

In the case of § 13 StAG (naturalisation of former Germans with habitual residence abroad) and § 14 StAG (naturalisation of foreign nationals with habitual residence abroad and ties to Germany), the authority retains its discretion.

Authorities must adhere to the jurisprudence of the courts, the General Administrative Regulations, and the Temporary Application Guidelines of the Federal Ministry of the Interior when exercising their discretion. The General Administrative Regulation on Nationality Law (StAR-VwV) served the purpose of providing a uniform interpretation of naturalisation criteria and the consistent application of discretion within the framework of the Nationality Act. It was valid until December 31, 2004, and is now only applied in parts. When the StAR-VwV is no longer applicable, federal states often refer to the non-binding application guidelines of the Federal Ministry of the Interior (BMI). However, these guidelines are binding on authorities internally.

3. Citizenship acquisition based on residence/ schooling during childhood

In German Citizenship law there are no special regulations on the acquisition of nationality on the basis of residence/schooling during childhood anymore.

4. Citizenship acquisition based on birth in a country

In German nationality law, both the principle of ius sanguinis (§ 4 (1), (2) StAG) and the principle of ius soli (§ 4 (3) StAG) apply to the acquisition of citizenship. § 4 (4) StAG phases out birth acquisition through descent if the German parent was born abroad after 1999 and has their habitual residence there, unless the child would thereby become stateless.

According to § 4 (1) sentence 1 StAG, a child acquires German citizenship by birth if one parent holds German citizenship. If the German citizen is the father and acquisition of citizenship by descent under German law requires recognition or determination of paternity, an effective recognition or determination of paternity under German law is also required to assert the acquisition

of citizenship (§ 4 (1) sentence 2 StAG).

Since the year 2000, German citizenship can also be acquired by birth of a child to foreign parents in Germany under § 4 (3) StAG if one parent has had lawful habitual residence in Germany for five years (before the 2024 amendment this was eight years) and holds an indefinite residence permit or, as a Swiss national or a family member, a residence permit pursuant to the Agreement of June 21, 1999, between the European Community and its Member States, on the one hand, and the Swiss Confederation, on the other, on the free movement of persons (BGBl. 2001 II p. 810). For third-country nationals, an indefinite residence permit means either a settlement permit according to § 9 of the Residence Act, a permanent residence permit-EU, or an indefinite residence permit according to §§ 18a-18d, 19, 19c, and 21 of the Residence Act. For Union citizens and other privileged individuals (EEA nationals, Swiss citizens, and Turkish nationals entitled under Article 6 or 7 of the Additional Protocol 1/80), the formal requirement of holding a permanent residence permit, despite their substantively secured permanent residence rights under Union law, means that the birth of their child in Germany only falls under ius soli if they have voluntarily fulfilled the acquisition requirements by applying for such a settlement title. The acquisition of German citizenship is recorded in the birth register in which the child's birth is documented (§ 4 (3) sentence 2 StAG).

The acquisition through ius soli, like the acquisition through ius sanguinis, occurs automatically and leads to the grant of citizenship at the same time. While there is no determination process for acquisition through descent, acquisition through ius soli requires registration due to the later obligation to make a declaration. This registration is not done with the nationality authority but rather with the civil registry office of the place of birth.[325] A note on the acquisition of German citizenship (see § 21 (3) no. 4 PStG) should be entered at the bottom of the birth entry.

Due to the introduction of ius soli in 2000, the so-called "option duty" under § 29 StAG was also included in the StAG as a new reason for loss in order to avoid multiple citizenships. Until 2014 a German citizen who acquired German citizenship through ius soli and hold another citizenship had to decide between German and foreign citizenship upon completing age 21. Since 20 December 2014, ius soli-Germans have been exempt from the option duty if they grew up and attended school in Germany, § 29 (1) no. 2 in connection

325 Kau/Hailbronner, Staatsangehörigkeitsrecht, edited by Hailbronner/Kau/Gnatzy/Weber, § 4 Rn. 90 ff., Becksche Kurz Kommentare, Band 55, München, 2022.

with (1a) StAG. Ius soli-Germans who only have the nationality of an EU country or Switzerland in addition to German nationality also do not have to choose a nationality.[326] This provision has been completely abolished through the law for the modernization of nationality law (StARModG).

5. Procedures for citizenship acquisition

Certain practical steps in the procedure for citizenship acquisition are necessary in order to become a German citizen:

a. Documents

Documents which are required for the naturalisation application in Germany:[327]

- *General Documents:*
  - » Naturalisation Application Form (available at the District Administrative Authority)
  - » One recent passport photo per person to be naturalised
  - » Valid passport (for EU citizens, a valid identity card is sufficient)
  - » Valid residence permit
- *Civil Status Documents (for foreign documents, a German translation is required):*
  - » Birth certificate
  - » Marriage certificate/Civil partnership certificate/Extract from the family register (if applicable, also previous marriages)
  - » Divorce decree or death certificate of the spouse or civil partner
  - » Custody order/Negative certificate from the Youth Welfare Office or adoption decree
- *Proof of German Language Proficiency (for applicants above 16 years):*
  - » B1 certificate or a higher-level certificate (B2 – C2 or TestDaF), issued

326 These changes have been introduced by the Second Act Amending the Nationality Act BGBl. I p. 1714.

327 Application for naturalisation in the city of Frankfurt am Main, Hessen: https://frankfurt.de/service-und-rathaus/verwaltung/aemter-und-institutionen/standesamt/antrag-auf-einbuergerung [accessed on 29.9.23].

by a state-recognized educational institution (Telc or Goethe-Institut)
  - » Secondary school certificate or a higher-level certificate (only school certificates with at least a grade "4" or "sufficient" in the subject "German" are accepted)
  - » DSH exam/PNdS exam/Preparatory college certificate
  - » Vocational school diploma
  - » Diploma from a German university
  - » Certificate of successful completion of the integration course with the "Deutschtest für Zuwanderer" (overall language proficiency result B1)

- *Proof of German Language Proficiency (for applicants under 16 years):*
  - » Current school certificate
  - » All school reports
- *Proof of Knowledge of the Legal and Social Order (for applicants above age 16):*
  - a) At least a German secondary school leaving certificate (only school certificates with at least a grade "4" or "sufficient" in the subject "Politics and Economics" can be accepted)
  - b) Proof of having passed the naturalisation test or the "Life in Germany"-test
  - c) German university degree in legal, social, political, administrative sciences
- *Proof of Income:*
  - » For employees: employment contract/apprenticeship contract and one current payslip
  - » For self-employed individuals: certificate from a tax consultant regarding income from the last 6 months and the latest income tax assessment from the tax office
  - » For recipients of public benefits: With the exception of certain cases, the applicant must be able to support him or herself and the dependants without claiming benefits from social assistance (SGB XII) or basic income support for jobseekers (SGB II). The receipt of social

benefits only does not prevent naturalisation if it affects people who come from the recruitment generation, i.e. so-called guest workers and contract workers who entered the Federal Republic of Germany up to 1974 or the former GDR up to 1990. The other two exceptions concern people who have been in full-time employment for at least 20 months in the past two years or their family members.

- *Proof of Residence in Germany for the Last 5 Years:*
  - » Pension insurance record (from the pension insurance office in the local town) or for self-employed individuals, business registration/tax assessments
  - » Certificate of kindergarten attendance/school attendance/study periods (all study certificates or de-registration)

In this regard, the Authority points out on its website that this list is not exhaustive, and additional documents may be required depending on individual circumstances and the specific requirements of the local naturalisation authority. It is therefore advisable to inquire about all specific requirements and procedures from the local authority before applying.

Certain documents are required for the registration of citizenship by birth under § 4 StAG:

Proof of one parent's lawful habitual residence in Germany for five years must be provided, as well as an unrestricted residence permit at the time of the child's birth.

b. Authority

Anyone wishing to apply for naturalisation must submit a naturalisation application to the relevant authority. In cities and municipalities with 7,500 or more residents, this is the city administrations ("Magistrate" and "Gemeindevorstände"), while in smaller municipalities, applications are handled by the district committees ("Kreisausschüsse der Landkreise"). Once the application documents are complete, the respective administrative authority forwards the documents to the naturalisation authority, the responsible Regional Council ("Regierungspräsidium"). From there, inquiries are made with other authorities, and the application is thoroughly reviewed and decided upon.[328]

328 https://einbuergerung.hessen.de/verfahren/ [accessed on 6.10.23].

c. Implementation

There are no statutory requirements or formal deadlines for the processing time of authorities. The Media Service Integration, an information platform for journalists on the topics of asylum, migration, and discrimination, has inquired in 23 of the most populous cities in Germany about the workload and the measures they have taken to expedite the naturalisation process. Regarding waiting times for naturalisation in these major cities, it is reported that they range from one to one and a half years.[329]

d. Appeal

As a means of complaint, the naturalisation applicant can file an objection (Widerspruch) or a lawsuit (Klage) against the rejection notice issued by the competent authority within the specified timeframe. The choice of the appropriate legal remedy depends on the federal state in which the naturalisation was applied for. In some federal states, the legality of the naturalisation decision can be reviewed during the objection proceedings before the objection authority. In other federal states, a lawsuit must be filed directly with the competent administrative court because objections are not permitted.

e. Fees

The fees for naturalisation are determined by § 38 StAG. According to § 38 (2) No. 1 StAG, a fee of €255 is charged for a naturalisation application. For a minor child who is being naturalised and has no income of their own, the fee is reduced to €51, as per § 38 (2) sentence 2 StAG. Additionally, under § 38 (4) StAG, fee reductions or exemptions can be granted for reasons of equity or public interest.

Furthermore, § 38 (3) StAG lists exceptions to fee requirements. These exceptions apply to naturalisation based on Article 116 (2) Sentence 1 GG (the right to German citizenship for certain groups), naturalisation under § 15 StAG (for persecuted persons during the National Socialist era), and the naturalisation of former Germans who lost German citizenship through marriage to a foreigner.

329 https://mediendienst-integration.de/artikel/mehr-einbuergerungen-noch-mehr-antraege.html [accessed on 6.10.23].

6. Information and advice

In Germany, potential citizenship candidates are not typically actively informed by the authorities. Instead, interested individuals must independently initiate the naturalisation process by submitting an application to the relevant authority. Information about naturalisation, including the required documents and procedures, is available on the websites of various state authorities. It is the responsibility of individuals to inform themselves about the requirements and the process of naturalisation and take the necessary steps to apply for German citizenship.

There are various administrative measures and strategies at different levels of government aimed at providing information and advisory services regarding the conditions for acquiring citizenship. These measures are part of integration policies and aim to provide support and information to immigrants and potential citizens. Here are some examples:

1 Information Portals and Websites: At the federal, state, and municipal levels, there are numerous official websites and information portals that provide information about citizenship acquisition requirements, procedures, and required documents. These online resources are often available in multiple languages to reach a wide range of people.[330]

2. Information Events and Workshops: In some federal states and municipalities, information events and workshops are offered for immigrants and citizenship candidates. Here, they can ask questions and learn about the citizenship acquisition process.

3. Advisory Services: There are organisations and advisory services specialised in supporting immigrants and citizenship candidates. These services offer individual counselling and assistance in preparing citizenship applications e.g. law clinics at the universities.

4. Information Brochures and Materials: Government agencies and integration services often create information brochures and materials explaining the requirements and steps for citizenship acquisition. These materials are frequently printed and distributed in various languages.

330 At the federal level see for example: https://www.bmi.bund.de/DE/themen/verfassung/staatsangehoerigkeit/einbuergerung/einbuergerung-node.html and https://www.integrationsbeauftragte.de/ib-de/ich-moechte-mehr-wissen-ueber/einbuergerung/wann-haben-sie-einen-anspruch-auf-eine-einbuergerung--1865120 At the municipal level see for example: https://im.baden-wuerttemberg.de/de/staatsangehoerigkeit/einbuergerung-und-staatsangehoerigkeit.

5. Partnerships with Migration Organizations: The government often collaborates with migration and integration organizations to disseminate information about the citizenship acquisition process and provide support.

These measures and strategies are designed to ensure that immigrants and potential citizens in Germany are well-informed and can better understand the process of obtaining citizenship.

In various German cities or regions naturalisation campaigns have been launched. In some, mayors have sent letters to persons assumed to be eligible inviting them to apply for German citizenship. Cities or regions have also organised events to inform about naturalisation. In other campaigns volunteers pro-actively go into different communities in order to inform potential citizenship applicants and offer support with the application process and formalities or accompanying the applicants when dealing with the authorities (in Hamburg they have been called "Einbürgerungslotsen", i.e. naturalisation pilots).[331]

331 For the campaign e.g. in Hamburg see: https://einbuergerung.hamburg.de/; in Hannover see: https://www.hannover.de/Leben-in-der-Region-Hannover/Verwaltungen-Kommunen/Die-Verwaltung-der-Landeshauptstadt-Hannover/Dezernate-und-Fachbereiche-der-LHH/Soziales-und-Integration/Fachbereich-Gesellschaftliche-Teilhabe/Einwanderungsstadt-Hannover/Grundsatzangelegenheiten-der-Einwanderung/Berichte,-Themen-und-Projekte/Der-Lokale-Integrationsplan/1.-Controlling-Bericht-des-Lokalen-Integrationsplans/Feld-5-Demokratie-Umsetzung-und-Zust%C3%A4ndigkeit/5.2-Einb%C3%BCrgerung-Umsetzung-und-Zust%C3%A4ndigkeit/Einb%C3%BCrgerungs%C2%ADkampagne-der-Stadt-Hannover; in Rheinland Pfalz see: https://einbuergerung.rlp.de/de/themen/kampagne/.

Italy

Guido Tintori

1. Introduction

Law No. 91 of 5 February 1992 is the main legislative act that regulates Italian citizenship. It constitutes the legal framework that has been governing the acquisition, transmission, and loss of Italian citizenship. It is accompanied by implementing regulations including the Presidential Decree No. 572 of 12 October, 1993 and Presidential Decree No. 362 of 18 April 1994, as well as the directives issued by the Ministry of the Interior that instruct civil servants on how to apply the law.

The Italy section of the GLOBALCIT Country Profiles[332] gathers all the relevant legislation regarding the Italian citizenship, including a chronology of the main amendments, case laws, news items, and analyses by national experts. This report focuses exclusively on the norms and modes concerning the acquisition of citizenship by foreigners residing in the country and their descendants.

According to the latest official statistics, on 1 January 2023, out of the toral population of 58,850,717 residents in Italy, 5,050,257 were foreigners in Italy. The stock of foreign residents thus accounts for 8.6% of the total population, with the number of females slightly exceeding the number of males. Most foreigners (around 60%) live in the North of the country. The number of foreign residents has remained relatively stable for the last four years. Romanians, of whom a million reside in Italy are the largest national group, followed by Moroccans, Albanians, Chinese and Ukrainians (all comprising between 260,000 and 400,000 residents).[333]

Foreign nationals can acquire Italian nationality in the following ways:

- *Residence-based naturalisation (Art. 9). The procedure is through application and it is discretionary. The Law differentiates in terms of required years of residence on the basis of the applicant's nationality or legal status:*

332 All reports are accessible by selecting "Italy" at the following address https://globalcit.eu/country-profiles/.

333 Istat, *Municipal resident foreign population by sex and year of birth* http://dati.istat.it/Index.aspx?lang=en&SubSessionId=2ac8c8e8-da47-401b-b46d-a0a813905af5.

- » 10 for non-EU immigrants;
- » 5 for refugees and stateless persons;
- » 4 for EU citizens;
- » 3 (2 if minor) for immigrants of proved Italian origin.

- *Acquisition by ius soli. This is possible only after birth, with the following conditions:*
  - » (Art. 4.2) by declaration, within one year after coming of age (age 18) and proving uninterrupted and legal residence in Italy since birth;
  - » (Art. 9.1.a) by application and through a discretionary procedure, proving 3 years of legal residence in Italy.
- *By marriage (Art 5.):*
  - » Entitlement to citizenship after 2 years of marriage, if the couple resides in Italy; 3 years of marriage, if the couple resides out of the country. The time limits are reduced by half if the spouses have natural or adopted children.
- *By transmission from naturalised parents (Art. 14):*
  - » Automatic naturalisation of minor children who live together with naturalised parents. After coming of legal age, they can renounce Italian citizenship if they are in possession of other citizenship.
- *By external ius sanguinis (Circular of the Ministry of the Interior K. 28.1, 8 April 1991):*
  - » no generational limit;
  - » entitlement to citizenship if the applicant can demonstrate that the "original Italian ancestor" who emigrated never renounced Italian citizenship voluntarily and in front of Italian authorities.

In their GLOBALCIT Country Report on Italy, Zincone and Basili highlight several key principles of the Law 91 of 1992. These include: a generous application of *ius sanguinis*; a restrictive application of conditional *ius soli*; expression of will for the acquisition and loss of citizenship; and the acceptance of multiple nationality.[334] When the current citizenship law was approved in 1992, it was conceived primarily as an act concerned with emigration. It reinforced provisions of the unconditional transmission of nationality abroad. Nonetheless, the law of 1992 is more restrictive than the previous legislation regarding naturalisation of foreigners.[335] In spite of this, both applications for and acquisitions of Italian citizenship have recorded a rising trend in absolute numbers since the second half of the 2000s and dramatically so after 2012.[336]

Since the mid-2000s, attempts to reform the Law of 1992 have intensified. To a large extent, this was due to the fact that the current law was not in tune with the socio-demographic transformations of the Italian society.[337] Debates have revolved primarily around the children of immigrants born in the country and focused mainly on the possibility of relaxing the requirements for conditioned *ius soli*. The question has recurrently taken centre stage in Italy's political debate and has polarized the country's public opinion.[338]

2. Conditions for residence-based naturalisation

Article 9 of the Italian citizenship law regulates the conditions for residence-based naturalisation. The general rule states that foreign nationals must reside legally in Italy for at least 10 years (Art. 9.f). This means that there should be no interruptions in their legal status and in their inscription in the municipal registry of the resident population. The general rule requiring a 10-year residence applies essentially to non-EU citizens.

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334 Giovanna Zincone and Marzia Basili, "Country Report: Italy", 2013/3. Country Report, RSCAS/EUDO-CIT-CR. [GLOBALCIT], *EUDO Citizenship Observatory. https://hdl.handle.net/1814/19619*

335 Law n. 555 of 1912.

336 Istat, *Migration and calculation of foreign resident population and structure by citizenship*, http://dati.istat.it/Index.aspx?QueryId=19628&lang=en#.

337 Ferruccio Pastore (2004). 'A Community out of Balance: Nationality Law and Migration Politics in the History of Post-Unification Italy'. Journal of Modern Italian Studies 9 (1): 27–48. Zincone, Giovanna (ed). Familismo legale: come (non) diventare italiani. 1. ed. Saggi tascabili Laterza 302. Roma: GLF Editori Laterza, 2006.

338 Guido Tintori 2018. 'Ius Soli the Italian Way. The Long and Winding Road to Reform the Citizenship Law'. Contemporary Italian Politics 10 (4): 434–50. https://doi.org/10.1080/23248823.2018.1544360.

The law also envisages cases in which the residence requirement is shorter. The years are halved to five in the cases of an adult foreigner adopted by an Italian citizen (9.b), as well as stateless individuals and refugees (9.e). Holders of subsidiary and humanitarian protection status do not fall under this provision. They must prove 10 years of legal residence. For citizens of an EU Member State, the residence requirement is four years (9.d) and it is three years for foreigners whose father, mother, or any of the second-degree ascendants in a direct line were Italian by birth. For foreigners born in Italy, the requirement is also three years[339]. Finally, the residency requirement may be waived for the foreigners who have worked for the Italian State (including abroad) for at least five years (9.c), to foreigners who rendered eminent services to Italy, or when there is an exceptional interest of the State (9.2). The procedure for all these paths to citizenship is discretionary.

Furthermore, the law envisages a procedure by declaration for foreign or stateless individuals, whose father or mother or one of their second degree ascendants were Italian nationals by birth, if they had their legal place of residence in Italy for at least two years and declare within one year after reaching the age of majority that they want to acquire Italian citizenship (4.1.c).

The reasons for shortened residency period in these cases include the specific vulnerabilities (stateless and refugees), t ethnic, cultural, biographical, and political kinship (descendants of Italian citizens, foreigners born in Italy, EU citizens), and special services to the country (foreign employees of the Italian State).

a. Residence requirements: residence title and length of residence

All applicants for residence-based naturalisation must prove continuity of registration by providing a record of certified and lawful residence.

Foreign residents are free to move their residency from one Italian municipality to another. Temporary absences from Italian territory for reasons of study, work, assistance to the family of origin or medical treatment are allowed and do not invalidate the citizenship application, provided that the legal residence of the applicant remains in Italy. The applicant must provide documents

339 In this latter case, the law includes a sort of "second-chance clause" for foreigners born in Italy who may fail to comply with the requirement of applying for Italian citizenship by declaration within one year after their eighteenth birthday, or could not prove uninterrupted and legal residence in Italy since birth. However, in this case, as in the other cases of residence-based naturalisation, the procedure is discretionary.

justifying any temporary absence from Italy.[340] If an applicant moves their legal residence abroad, lawful residency in Italy is interrupted, and will lead to the rejection of their application.

Periods of irregular residence by individuals who were already (irregularly) working and living in the country and subsequently obtain a regular residence permit through amnesties do not count towards the residence requirements. Italian governments have traditionally and periodically resorted to amnesties at least since 1982, often regularising large numbers of migrants who have been residing in the country for several years.[341] The inability to count the whole period of stay in Italy affects hundreds of thousands of immigrants, for whom the official count of lawful residency begins much later than their actual entry into the country and its labour market.

Another aspect that may affect the chances of the applicants to comply with the residence requirements is linked to the procedure of renewal of the residence permit. Foreigners must apply for the renewal 60 days before the permit's expiration date.[342] Depending on the type of permit, the procedure can be carried out at the provincial headquarters of the State Police (Questura) or at a local post office. Every time foreigners renew their residence permit, they must simultaneously renew their declaration of habitual residency at the Municipal registry within 60 days, in order to avoid being removed from the resident lists. In case of failure to do so, they fall into the so-called "residency gap", one of the most common issues leading to a rejection of the application for residence-based naturalisation. In fact, the Prefectures, in charge of assessing the applications for naturalisation, have been adopting a "zero toler-

340 As specified in the Ministry of the Interior, Ministerial circular k. 60.1 of 5 January, 2007.

341 Burno Nascimbene, "The Regularisation of Clandestine Immigrants in Italy", *European Journal of Migration and Law 2 (3-4) (2000); Giovanna Zincone, "The making of Policies: Immigration and Immigrants in Italy", Journal of Ethnic and Migration Studies 32 (3) (2006); Paolo Ruspini, "Italy", in REGINE – Regularisations in Europe, eds. Martin Baldwin-Edwards and Albert Kraler, (Amsterdam University Press, 2009); Claudia Finotelli and Joaquín Arango, "Regularisation of Unauthorised Immigrants in Italy and Spain: Determinants and Effects", Documents d'Anàlisi Geogràfica 57 (3) (2011); Gaia Testore, "Migrants Regularisation in Italy: A contested Measure", European Website on Integration, 15 July 2020, https://ec.europa.eu/migrant-integration/news/migrant-regularisation-italy-contested-measure_en.; Andrea Pettrachin, "The Politics of Regularisation of Migrant Labour in Italy" MPC Blog, 22 May 2020, https://blogs.eui.eu/migrationpolicycentre/politics-regularisation-migrant-labour-italy/.*

342 Legislative Decree No. 286/1998 as subsequently amended (Consolidated Immigration Act) - Presidential Decree No. 349/1994 as subsequently amended (Regulation implementing the Consolidated Immigration Act).

ance" approach regarding residence gaps, relying on the registry law[343] which includes an "accelerated" cancellation option for foreigners who fail to renew the declaration of habitual residence.[344]

- *Facilitated provisions for spouses/partners of citizens*

The Italian citizenship law envisages facilitated provisions for spouses of citizens and, since 2017, registered civil partners[345] of citizens, including same sex partners. Art. 5 confers entitlement to citizenship after two years of marriage or registered partnership, if the couple resides in Italy. The requirement is three years of marriage or registered partnership if the couple resides abroad. The time limits are reduced by half if they have natural or adopted children.

Acquisition by marriage had been the mode that recorded most naturalisations of foreigners in absolute numbers until 2008.[346] Since 2009, residence-based acquisition has become the main way by which foreigners naturalise in Italy. It has occasionally matched or even outmatched by foreign children who acquired citizenship through transmission from their naturalised parents or by birth in the country when reaching the age of majority (see Table 1 for the period 2012-2021; the category "other" includes naturalisation by *ius soli* and through transmission from naturalised parents). Together, acquisitions by transmission and those by *ius soli* represent almost 41 percent of all citizenship acquisition procedures in the period 2012-2021 (Table 1).

This change in trend was due to a combination of factors. On the one hand, Act no. 94 of 15 July 2009, the so-called "Security Package", reformed the acquisition of citizenship by marriage and raised the requirement of the marriage duration from six months to two years. It also introduced stricter controls against sham marriages. The enforcement of the new provisions in the rejection of a greater number of applications (over 90 per cent in the years fol-

343 Art. 7.3 of the Presidential Decree of 30 May 1989, n. 223

344 In accordance with Art. 1 Presidential Decree n. 362/1994 and art. 1.2 d.P.R. n. 572/1993. See also, Lazio Regional Administrative Court, sentence no. 9747/2014 of 29 May 2014.

345 As of Feburary 2017, applications for Italian citizenship may be submitted online also by foreign citizens who have established civil partnerships with Italian citizens and registered in the civil status registers of an Italian municipality. In accordance with the Legislative Decrees No. 5, 6 and 7 of 19 January 2017 – adopted pursuant to Art. 1, paragraph 28, of Law No. 76 of May 20, 2016 (Rules and regulations on civil partnerships between same-sex persons and rules and regulations on living together).

346 Giovanna Zincone, "Citizenship Policy Making in Mediterranean EU States: Italy", 2010/01, Reports on Citizenship Policy Making in EU Mediterranean States. [GLOBALCIT], *EUDO Citizenship Observatory. https://hdl.handle.net/1814/19594.*

lowing the introduction of the law). On the other hand, the cohorts of immigrants complying with the ten year residency requirements have become larger.

Table 1. Acquisitions of Italian citizenship, by modes and age groups, 2012-2021.

Mode	Age	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
all modes	total	65,383	100,712	129,887	178,035	201,591	146,605	112,523	127,001	131,803	121,457
	up to 19	20,325	39,294	51,822	70,764	80,520	54,040	39,945	45,741		
	up to 20									43,916	48,324
residence	total	24,573	37,573	58,416	90,591	101,862	62,261	39,453	52,877	66,211	50,973
	up to 19	24	44	3	7	64	5	1	1		
	up to 20										53
marriage	total	20,509	23,889	19,652	16,687	19,273	22,255	24,160	17,026	14,044	14,587
	up to 19							1			
	up to 20										1
other	total	20,301	39,250	51,819	70,757	80,456	62,089	48,910	57,098	51,548	55,897
	up to 19	20,301	39,250	51,819	70,757	80,456	54,035	39,943	45,740		
	up to 20									43,916	48,270

Source: Istat [347]. Note: Figures include only citizenship acquisitions by persons residing in Italy at the time of naturalisation. Restorations of ancestry-based citizenship are not included here.

347 Istat, *Migration and calculation of foreign resident population and structure by citizenship*, http://dati.istat.it/Index.aspx?QueryId=19614&lang=en#.

b. Dual citizenship: requirement to renounce previous citizenship(s) and Integration or assimilation criteria

The law of 1992 formally and explicitly accepts dual citizenship for both the foreigners that acquire Italian citizenship as well as for Italians who obtain another nationality.

There are several integration requirements that applicants (both residence-based and by marriage) must demonstrate. These include absence of convictions for offences[348]; absence of obstacles relating to the security of the Italian Republic; and knowledge of the Italian language at a level no lower than B1 of the "Common European Reference Framework for Knowledge of Languages", certified by one of the authorised bodies (the University for Foreigners of Siena, the University for Foreigners of Perugia, the University of Roma Tre and the Dante Alighieri Society). This includes speaking, listening, reading, and writing. This language certification requirement was introduced in December 2018[349] and modified the practice of assessing the level of civic integration and language proficiency of the applicants by means of an interview with officials of the Questura (Police).

A qualification or certification of knowledge of the Italian language need not be provided by foreigners who have signed the integration agreement, as referred to in Art. 4.bis of the Legislative Decree No. 286 of 1998 (Consolidated Immigration Act). The same applies for marriage-based naturalisation, even if the applicant is resident abroad, and for holders of an EU or EC permit for long-term residents, as referred to in Art. 9 of the Consolidated Immigration Act.

Applicants for residence-based naturalisation must comply with an additional economic integration requirement, which consists in providing proof of an annual income of no less than €8,263.31 for single applicants. This amount is increased to €11,362.05 if there is a dependent spouse, and has the addition of another annual €516.00 for each dependent child.[350]

348 In the case of naturalisation by marriage, Art. 6 of the Law n. 91 of 1992 specifies exactly the types of crimes precluding the acquisition of citizenship: convicting sentences by the Italian judicial authorities for offences that carry a sentence of more than three years' imprisonment; convicting sentences by the foreign judicial authorities that carry a sentence of more than one year for non-political offences; convictions for offences against the State; impediments for the security of the Italian Republic. By contrast, in the case of residence-based naturalisation, the authorities assess and decide case by case if any conviction for offences, including for minor crimes, represent a sign of lack of integration or a danger for the secruity of the State.

349 Legislative Decree n. 113 of 4 October 2018, converted into Law n. 132 of 1 December 2018, with amendements.

350 See, Redditi richiesti per la domanda di cittadinanza per residenza e modalità per la loro indicazione e aggiornamento, 30 November 2021 https://www.prefettura.it/FILES/docs/1173/RedditoImponibile.pdf

c. Procedure: is there a legal entitlement to naturalise?

The procedure for residence-based naturalisation is entirely discretionary. There is a set of publicly available ministerial circulars based on the existing case law and provide instructions to officials on how to assess applications. These circulars clearly state that possession of all the requirements is a necessary but not a sufficient condition for the applicant to receive Italian nationality. The granting of citizenship by residence is not a right, but a "concession". The procedure does not evaluate the applicant's interest to become Italian, but the state's interest to accept the applicant as a new citizen.[351]

Court judgments have limited extensive discretion of the Ministry. They prevent an excessively restrictive approach when assessing the personal character and behaviour of the applicants, their age, residence, (non-)existing links to the country of origin (including problems of re-entry for human rights, political or citizenship reasons). Even so, the same case law confirms a "highly discretionary" power of Ministry of the Interior in deciding on applications.[352]

By contrast, for foreign nationals married to an Italian citizen, the procedure is not discretionary. They are entitled to naturalisation provided that they meet the requirements.

3. Citizenship acquisition based on residence/ schooling during childhood

On 1 January 2023, there were 1,101,089 foreign residents under the age of 18 in Italy. This represents 11.4 percent of the total resident population in that age cohort.[353]

Currently, the Italian citizenship law does not include any provision that entitles foreign children to acquire citizenship based on a certain period of residence during childhood and/or a certain period of schooling in the country. Attempts to amend the Italian Citizenship Law in this regard have existed since the late 1990s. The proposals essentially focused on two issues: the introduction of a conditional *ius soli* at birth (making acquisition of citizenship conditional upon parental long-term residence or birth in the country), and the

351 Ministry of the Interior, Ministerial circular 3250, 12 May 2021.

352 See decisions of the Council of State, section VI, 2 November 2007, n. 5680; 8 August 2008, n. 3907; 26 January 2010, n. 282; 10 January 2011, n 52.

353 Istat, *Resident foreigners by age and sex on 1 January 2023* https://demo.istat.it/app/?i=STR&a=2023&l=en

adoption of *ius culturae* or *ius scholae* (allowing access to citizenship to foreign children, even when born abroad, after the completion of a school cycle in Italy).[354] The dynamics of the political debate on a possible liberalisation of the *ius soli* and the introduction of acquisition based on schooling have also been driven by the substantive increase of foreign children and children born in the country to foreign parents in the period between 2002 and 2012. Despite these initiatives and the increasing activism by associations of foreign residents born in the country,[355] attempts to reform the law have failed.

However, since 2015, many children of foreign origin have acquired the Italian citizenship through transmission from their naturalised parents or by birth in the country when reaching the age of majority (see Table 1, category "other"). Art. 14 of the 1992 law (together with Art. 12 of the Presidential Decree n. 572 of 1993) regulates that parents who have become Italian automatically pass their acquired citizenship onto their minor children on the condition that the parent-child cohabitation is stable and certified with the residence registry. Between 2011 and 2020, almost 400 thousand foreign children acquired citizenship by transmission, compared to 57 thousand who acquired it during the same period through *ius soli* by declaration when coming of age.[356]

4. Citizenship acquisition based on birth in a country

According to the Italian law, foreigners can acquire citizenship based on birth in the country. There are two available options. Both are possible only when the applicant becomes legally adult (18 years old) and both combine birth- and residence-based requirements. They have different conditions, as well as dif-

354 Zincone and Basili, "Country Report: Italy"; Guido Tintori, "Ius Soli the Italian Way. The Long and Winding Road to Reform the Citizenship Law", *Contemporary Italian Politics 10 (4) (2018); Gaia Testore, "New Proposals Try to Overcome Impasse on Reforming Citizenship Law in Italy", European Website on Integration, 4 December 2019, https://ec.europa.eu/migrant-integration/news/new-proposals-try-overcome-impasse-reforming-citizenship-law-italy_en.; Gaia Testore, "Italy: New Attempts to Reform Citizenship Law", European Website on Integration, 23 March 2022, https://ec.europa.eu/migrant-integration/news/italy-new-attempts-reform-citizenship-law_en.; Gaia Testore, "Italy: Government Crisis Means Uncertainty for the Future of Citizenship Law", European Website on Integration, 5 September 2022. https://ec.europa.eu/migrant-integration/news/italy-government-crisis-means-uncertainty-future-citizenship-law_en.*

355 Georgia Bianchi, "Italiani Nuovi o Nuova Italia? Citizenship and Attitudes towards the Second Generation in Contemporary Italy", *Journal of Modern Italian Studies 16 (3) (2011); Dorothy Louise Zinn,* "'Loud and Clear': The G2 Second Generations Network in Italy", *Journal of Modern Italian Studies* 16 (3) (2011); Chiara Milan, "Claiming Rights. The Mobilization of Youth of Migrant Descent for Access to Citizenship Rights in Italy", *Citizenship Studies 26 (3) (2022).*

356 Istat, Rapporto annuale 2022: la situazione del Paese. Roma: Istituto nazionale di statistica., 194.

ferent procedures. Neither *explicitly* mentions parental residence requirements and legal status.

One option is for adult foreigners to apply for Italian citizenship proving 3 years of legal residence in the country.[357] This procedure grants the Ministry of Interior the discretion to decide on the grant of citizenship. The other option states that foreign children born in Italy can apply for citizenship by declaration within one year after their eighteenth birthday and must prove uninterrupted and legal residence in Italy since birth.[358] In this case, the law recognizes the entitlement for naturalization to the foreign citizen. However, as there is no discretion, the requirements for this form of conditional *ius soli* are extremely demanding.

Furthermore, Art. 4.2 *implicitly* includes an 18-year parental residence requirement, since foreign minors' legal status depends on their parents'. In this respect, any event affecting the legal status of the parents, from changes in the country's immigration policies, to economic circumstances, or simply a delay by parents in registering their children at the municipality, would negatively affect the chances of the foreign children born in Italy to acquire citizenship by declaration.

More recently, Italian authorities acknowledged the rigorous requirements of the 1992 law, concerning the foreign children born in the country in this respect. Both the Ministry of the Interior and the Italian legislator acted through ministerial circulars and laws to expedite the procedures and make their implementation more lenient. They make explicit reference to the purpose of protecting primarily the interests of the minor, responding best to sociodemographic developments, and preventing damages due to omissions or delays in the obligations that are the responsibility of parental authority and not attributable to the minor.[359] As a result, the failure to register the birth of the minor, any short interruptions in the municipal registry are not prejudicial for the purposes of acquiring citizenship. However, presence in the country must be demonstrated by producing certificates of school enrolment, certificates of vaccination, medical certificates, etc. The validation of the produced documents has become a responsibility of the municipal offices, which simplifies the administrative procedures leading to faster evaluations of the appli-

357 Art. 9.1. of Law No. 91 of 5 February 1992 on Italian nationality

358 Art. 4.2. of Law No. 91.

359 Ministry of the Interior circular k 64.2/13 of 7 November 2007; Ministry of the Interior circular 22/07 of 7 November 2007; Presidential Decree n. 227 of 19 October 2011; Art. 33 of the Law Decree n. 69 of 21 June 2013.

cations. Finally, municipalities have the obligation to communicate the possibility of requesting Italian citizenship to all foreign minors born in Italy and residing in their territory at the moment they reach eighteen years of age. These developments are an important step to make foreigners born in the country aware of their rights and to, perhaps, a change in bureaucrats' attitudes when implementing the law.

5. Procedures for citizenship acquisition

- *Documents*

In case of applications for residence-based citizenship, the level of information related to the documentation that the applicants must provide is sufficiently clear and available online – if only in Italian.

» The required documentation includes:[360]
» proof of identity and the applicant's ID or passport officially authenticated by the country of origin and translated into Italian;
» proof of residence and residence permits issued by the Italian authorities, or certificate of recognition of refugee or stateless status, or registration certificate for EU citizens;
» family status certifying the composition of the family unit;
» date of first entry into Italy (it is necessary to know the precise date of registration – day, month and year – and any transfer to another municipality; this information must be obtained from the residence registry offices of the municipalities where the foreign citizen has lived for all the years necessary to meet the minimum residence requirement);
» copy of birth certificate with all personal details (for women who acquired their spouse's surname following marriage the birth certificate must contain both the maiden and married surname);
» criminal record in the country of origin and/or any third country of past residence (the document must be translated and legalized by the diplomatic or consular representation of the country of origin, or of stable residence, or apostilled for countries that have joined the

360 Ministerial Decree of November 22 1994; Circular k 60.1 of December 23 1994; Art 4.1.c of the Presidential Decree 572, 10 October 1993, confirmed by the Presidential Decree 362, 18 April 1994 Art. 1.3.d and all following acts and regulations.

Hague Convention);
» tax declarations for the three years preceding the application;
receipt of payment of the application fee.

No renunciation of previous citizenship is required. A declaration of renunciation of diplomatic protection by Italian diplomatic-consular authorities towards the authorities of countries of other citizenships must also be provided.[361] Until 2004, the applicant had to submit what was called a "dichiarazione di svincolo" (declaration of intention to renounce), which was transmitted to countries of other citizenships when their legislation did not provide for automatic loss in case of naturalisation.[362] The measure, which was quite common in citizenship legislations throughout the world until recent years, was meant to protect the Italian state from cases of "illegal" dual citizenship. It forced the applicant to communicate the acquisition of the Italian citizenship to the authorities of the country of origin. The abolition of this provision has reduced the risk of losing the first nationality in case the country of origin does not accept dual citizenship.

In the case of applications for citizenship by birth in the country by declaration, applicants still need to provide the following documentation:

» valid document of identity;
» record of residence permits proving 18 years of uninterrupted and legal residence in the country (in case of gaps in the documentation concerning residence, the applicant can submit alternative evidence certifying their presence in Italy, such as school enrolment, certificates of vaccination, medical certificates, etc.);
» birth certificate;
» receipt of payment of the application fee.

• *Authority and implementation*

Applications for residence-based citizenship can be submitted exclusively online, through the dedicated IT portal.[363] The Italian administration has been adopting the digital option progressively since 2013, with transitional periods

361 Ministerial Decree November 22, 1994.

362 This provision was introduced by the Ministerial Decree of 22 November 1994 and slightly modified by the Ministerial decree 25 May 2002; abolished by the Ministerial Decree 7 October 2004.

363 Portal is available at: https://portaleserviziapp.dlci.interno.it/AliCittadinanza/ali/home.htm

where both submissions of hard copy documents or digital ones were possible, as well as a few changes of IT portals dedicated to the applications. However, the Ministry of the Interior provides detailed information regarding how to submit the application and the documents to attach in a dedicated section (in Italian only).[364] In order to access the IT portal, applicants must obtain an officially recognized digital identity (SPID). Once registered, applicants can submit their application and check the status and progress of their application.

In case of applications for residence-based citizenship, the preliminary assessment of the submitted documentation is a responsibility of the Prefecture and the police headquarters in the province where the applicant resides. After vetting the compliance of all documents, the Prefecture forwards the application to the Ministry of the Interior, including a report from the police headquarters. The Ministry requests the opinion of the Council of State. If the opinion of the Council of State is favourable, the Ministry issues a decree granting citizenship that must be signed by the President of the Republic. The decree is then sent to the Prefecture, which notifies the applicant via their municipality of residence.

The formal time limit for completing the procedure is fixed to a maximum of 48 months for applications submitted before 20 December 2020. For applications submitted after that date, the time limit is 24 months, extendable to a maximum of 36 months.[365]

In the case of applications for citizenship by birth in the country by declaration, the procedure is a competence of the Civil Status Office of the municipality of residence. The municipality verifies the compliance of the documentation with the law and registers that the applicants exercised their right to opt for the Italian citizenship. The municipality has a maximum of 120 days to carry out the procedure.

All applicants, regardless of the mode of acquisition, have 6 months after receiving an official notification of the acquisition of citizenship to take an oath of allegiance. The oath is taken in front of the Mayor or a civil servant of their municipality of residence – an Italian consular civil servant if residing abroad. The applicant needs to read the following statement: "I swear to be loyal to the Republic and to observe the Constitution and the Laws of the Italian State".

364 Section is available at: https://www.interno.gov.it/it/temi/cittadinanza-e-altri-diritti-civili/cittadinanza/cittadinanza-invia-tua-domanda

365 Law n 132 of 1 December 2018; and Art. 4.5 Legislative Decree n. 130 of 21 October 2020, converted with amendments into Law n. 173 of 18 December 2020.

- *Appeal*

The possibility to appeal is regulated differently for applications based on residence, where the procedure is entirely discretionary, from applications based on marriage and birth in the country, where the procedure is based on an entitlement.

In case of rejection of an application for residence-based citizenship, authorities must provide detailed justification supporting their decision, but the applicants have legal guarantees and rights to appeal. The applicants have the possibility to appeal before the Regional Administrative Tribunal of the capital region (Lazio) within 60 days from notification of rejection or directly to the President of the Republic within 120 days. The Regional Administrative Tribunal can only refer the case to the Council of State and back to the authorities in charge. The applicants can apply again one year after the date of rejection.[366]

In the case of denial of an application for citizenship by marriage or birth in the country, applicants have a right to appeal to the Specialized Section on Personal Rights and Immigration of the ordinary Court of the place where they reside.

There is no publicly available record concerning the number of appeals against rejected applications of citizenship based on residence.

- *Fees*

Every procedure concerning Italian citizenship – acquisition (regardless of the mode), renunciation, reacquisition – is subject to the payment of an application fee, introduced for the first time by art. 1.12 of Law n. 94 of 15 July 2009. The original fee of EUR 200 has been increased to EUR 250 by art. 14 of the Legislative Decree n. 113 of 4 October 2018.

However, applicants incur additional costs, such as a revenue stamp, plus undefinable costs for the certified legal translations of all the original documents that must be provided from the authorities of the country of origin.

366 Art.5.2 of Presidential decree 572 of 12 October 1993

6. Information and advice

When it comes to residence-based naturalisation, no national or regional/local administrations have so far run or funded information campaigns. All the information related to the requirements and procedures for ordinary naturalisation are easily found on the websites of the Ministry of the Interior, the Prefectures, some regions and municipalities. The same information is present at the Citizenship Office of the Prefectures and at the various offices providing dedicated services to foreign residents in almost all of the more than 8,000 Italian Municipalities.

Even though the information is mainly a cut-and-paste of the relevant excerpts from the law, and the legal jargon might therefore sometimes seem complex, it may contribute to make the quite cumbersome paperwork necessary for the application more understandable to the applicant.

In the case of citizenship acquisition based on birth in a country, each municipality must communicate to foreign residents born in the country the right to acquire Italian citizenship by declaration by their nineteenth birthday.[367] This communication is sent in writing at least six months before the eighteenth birthday of the foreign resident born in Italy. If the municipality fails to send such a communication, foreign residents born in can exercise their right to citizenship by declaration even after that date.

367 Art. 33 of the Legislative Decree n. 69 of 21 June 2013

Latvia

Aleksandra Ancite-Jepifánova

1. Introduction

Latvian citizenship policy provides a stark illustration of the complexities linked to the reshuffling of borders following the breakup of the USSR. Since Latvia regained independence in 1991, access to citizenship has remained a highly politicised and contested issue that has exacerbated ethnic tensions within the country and has had wide-ranging and long-term implications for Latvian society at large.[368]

The position of former USSR citizens who had relocated to Latvia during the Soviet period from other parts of the Soviet Union has been at the heart of the controversy. This relocation significantly altered the local ethnic composition. By 1991, when Latvia restored its independence, the share of ethnic Latvians had fallen to 52 per cent, with ethnic Russians and other predominantly Russian-speaking minorities comprising 48 per cent of the population.[369] The large Russophone community was perceived as a threat to the re-established Latvian state that had previously experienced independence only for a brief interwar period (from 1918 to 1940) before being forcefully incorporated into the Soviet Union on 17 June 1940.[370]

Such insecurities found reflection in Latvian citizenship policies, built

368 For a general discussion see, e.g., Aadne Aasland and Tone Fløtten, "Ethnicity and Social Exclusion in Estonia and Latvia," *Europe-Asia Studies* 53, no. 7 (2001): 1023-49; James Hudges, "'Exit' in Deeply Divided Societies: Regimes of Discrimination in Estonia and Latvia and the Potential for Russophone Migration," *Journal of Common Market Studies* 43, no. 4 (2005): 739-62; Gulara Guliyeva, "Lost in Transition: Russian-speaking Non-Citizens in Latvia and the Protection of Minority Rights in the European Union," *European Law Review* 33, no. 6 (2008): 843-69; Kristīne Krūma, *EU Citizenship, Nationality and Migrant Status: An Ongoing Challenge* (Leiden, The Netherlands: Brill | Nijhoff, 2013); Lilija Alijeva, "Left Behind? A Critical Study of the Russian-speaking Minority Rights to Citizenship and Language in the Post-Soviet Baltic States. Lessons from Nationalising Language Policies," *International Journal on Minority and Group Rights* 24, no. 4 (2017): 484-536.

369 Statistics available at the Latvian official statistics portal, https://data.stat.gov.lv/pxweb/en/OSP_PUB/START__POP__IR__IRE/IRE010.

370 See, e.g., Kristīne Krūma, "Country Report on Citizenship Law: Latvia", *Eudo Citizenship Observatory, 2015, 6,* https://cadmus.eui.eu/bitstream/handle/1814/34481/EUDO_CIT_2015_06-Latvia.pdf?fbclid=IwAR0abn8uC3zV1UoCwUDtKkyzjpS_O4PwjBmgtRw2PCsGWuXjPmpxZUanq14 (hereinafter Country Report: Latvia).

upon the doctrine of continuity.[371] The Citizenship Law, adopted in 1994, provided that only citizens of the pre-World War II Latvian Republic and their descendants could register as citizens without undergoing a naturalisation procedure.[372] The status of people who settled in Latvia during the Soviet period was clarified in 1995 when, following pressure from Western governments and international organisations, Latvia adopted the Law on the Status of those Former USSR Citizens Who Do Not Have the Citizenship of Latvia or of Any Other State.[373] The Law introduced a special status of 'non-citizens',[374] granted to those who had arrived in Latvia after 17 June 1940 and their descendants, provided that they had a registered domicile in Latvia by 1 July 1992 and did not have citizenship of any other country.[375] As a result, over 700,000 people or nearly one third of the then Latvia's population[376] were effectively transformed from Soviet citizens into quasi-foreigners without leaving their place of residence, even if they were born in the Latvian territory or had been living there for decades.

Despite criticism from UN bodies,[377] the Latvian authorities insist that non-citizens cannot be regarded as stateless persons. This view was upheld by the Latvian Constitutional Court which stated that, although the non-citizen status 'cannot be considered as a mode of Latvian citizenship', its holders enjoy a durable legal bond with Latvia based on mutual rights and obligations.[378] In

371 For a discussion see Ineta Ziemele, State Continuity and Nationality: The Baltic States and Russia. Past, Present and Future as Defined by International Law (Martinus Nijhoff Publishers, 2005).

372 Pilsonības likums [Citizenship Law] (11.07.1994. Latvijas Vēstnesis, no. 93), Section 2.

373 Krūma, Country Report: Latvia, 5-6.

374 A similar status was introduced in the neighbouring Estonia. See Priit Järve and Vadim Poleshchuk, "Report on Citizenship Law: Estonia", European University Institute, Global Citizenship Observatory (GLOBALCIT) Country Report 2019/07), https://cadmus.eui.eu/bitstream/handle/1814/65466/RSCAS_GLOBALCIT_CR_2019_7.pdf?sequence=1&isAllowed=y.

375 Par to bijušās PSRS pilsoņu statusu, kuriem nav Latvijas vai citas valsts pilsonības [On the Status of those Former U.S.S.R. Citizens who do not have the Citizenship of Latvia or that of any Other State] (12.04.1995. Latvijas Vēstnesis, no. 63), Section 1(1).

376 In 1995, there were 724,234 non-citizens registered in Latvia, which accounted for 29 per cent of its population. Latvijas Vēstnesis, no. 21, https://www.vestnesis.lv/ta/id/26771. Non-citizen status holders are issued special passports.

377 See, e.g., Human Rights Comm., Concluding Observations of the UN Human Rights Committee: Latvia, Seventy-Ninth Sess., para. 18, U.N. Doc. CCPR/CO/79/LVA (1.12.2003); Comm. on the Elimination of Racial Discrimination, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Latvia, para 12 U.N. Doc. CERD/C/63/CO/7 (10.12.2003).

378 Latvijas Republikas Satversmes tiesa [Constitutional Court of the Republic of Latvia], 7.3.2005., Case No. 2004-15-0106, paras 17, 20, https://www.satv.tiesa.gov.lv/wp-content/uploads/2016/02/2004-15-0106_Spriedums.pdf.

many respects, non-citizens have rights akin to citizens, such as the right to permanently reside in Latvia without a visa or residence permit, or the right to work without a work permit. [379]

Crucially, however, non-citizens are fully excluded from political rights (such as the right to vote, both in local and parliamentary elections,[380] and the right to establish political parties[381]), are not allowed to occupy certain positions in public sector (such as work as civil servants, solicitors, notaries, judges, diplomats, police officers, etc.),[382] and face other types of restrictions.

To become a Latvian citizen, a non-citizen status holder is required to undergo an ordinary naturalisation procedure, set out in the Citizenship Law and equally applicable to foreign nationals (see Section 2 of this report for more details). Although over the past three decades access to citizenship has been simplified,[383] no fundamental changes have been made. Moreover, since Latvia's accession to the EU in 2004, non-citizens have been disadvantaged in comparison with citizens of other EU Member States residing in Latvia who have a right to vote at local elections under EU law.[384] Whilst the number of non-citizens has significantly dropped, the decline is largely attributed to emigration

379 Non-citizens are not considered foreigners for the purposes of the Latvian Immigration Law and its provisions are not applicable to this group. Imigrācijas likums [Immigration Law] (31.10.2002. Latvijas Vēstnesis, no. 169), Section 1(1).

380 Latvijas Republikas Satversme [Constitution of the Republic of Latvia], (15.02.1922. Latvijas Vēstniesis no. 43), arts. 8, 101.

381 Politisko partiju likums [Law on Political Parties], (22.06.2006. Latvijas Vēstnesis no. 107), art 12(1).

382 See, e.g., Valsts civildienesta likums [State Civil Service Law], (07.09.2000., Latvijas Vēstnesis no. 331/333), art 7(1)(1) which provides that only a Latvian citizen can become a civil servant.

383 Most notably, through the abolishment of the so-called 'window-system' (or naturalisation quota system) which limited the rights of non-citizens to freely choose the timing for naturalisation. The non-citizens were accordingly divided into age-groups eligible to apply for naturalisation in different years starting in 1996 and ending in 2003. The relevant Citizenship Law provisions were recalled in 1998.

384 Consolidated version of the Treaty on the Functioning of the European Union [2012] OJ C326/1, art 22(1). For criticism of the treatment of Latvian non-citizens in this context see Dimitry Kochenov and Aleksejs Dimitrovs, "EU Citizenship for Latvian "Non-Citizens": A Concrete Proposal," *Houston Journal of International Law* 38, no. 1 (2016): 55-97.

and mortality,[385] whereby naturalisation rates have remained low.[386] In 2023, there were over 175,000 non-citizens registered in Latvia who still make up 9.3 per cent of the country's total population of 1,883,000.[387] Further 86,399 (4,6 per cent) Latvian residents are foreign nationals or stateless persons, including refugees.[388]

General conditions for naturalisation, equally applicable to Latvian non-citizens, foreign nationals and stateless persons, are found in the 1994 Citizenship Law which has since been amended several times. The law is complemented by several Cabinet of Ministers regulations which describe the relevant requirements, as well as the application and examination procedure in more detail. The following sections of this report provide an overview of the relevant provisions by focusing on the residence requirements, integration criteria and practical steps for acquiring Latvian citizenship.[389]

2. Conditions for residence-based naturalisation

a. Residence requirements: residence title and length of residence

Under Section 12(1)(1) of the Citizenship Law, a person can apply for nat-

385 Or acquisition of foreign citizenship, mainly Russian. See, e.g., Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report. Universal Periodic Review: Latvia (November 2010), 6, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/session11/LV/UNHCR_UNHighCommissionerforRefugees-eng.pdf.

386 In the period between the start of the naturalisation process in 1995 and 31 December 2022, only 148,830 people were granted Latvian citizenship through naturalisation, including 14,647 minors. Statistics of the Latvian Office of Citizenship and Migration Affairs, https://www.pmlp.gov.lv/lv/media/9591/download?attachment. Surveys suggest that the principal reasons for low naturalisation rates have traditionally been the lack of sufficient Latvian language proficiency to complete naturalisation tests, disappointment at not having been granted citizenship automatically, and easier requirements for travel to Russia. See, e.g., Latvian Office of Citizenship and Migration Affairs, "Latvijas nepilsoņu attieksme pret Latvijas pilsonības iegūšanu" (2020), https://www.pmlp.gov.lv/lv/media/811/download?attachment.

387 Statistics available at the Latvian official statistics portal, https://data.stat.gov.lv/pxweb/en/OSP_PUB/START__POP__IR__IRE/IRE060/.

388 Statistics available on the Latvian official statitics portal, link in the note above. In this report the term 'non-citizen' is used to designate the specific category of Latvian residents defined as such by law. By contrast, the term 'stateless' is used to refer to persons who neither fall within the definition of 'non-citizens', nor hold citizenship of any other country.

389 There is no distinction in the Latvian language between the terms 'nationality' and 'citizenship' as both can be translated as 'pilsonība'. For the sake of consistency, the term 'citizenship' will be used throughout this report.

uralisation if they have reached the age of 15[390] and have been permanently resident in Latvia for at least five years immediately preceding their application. During the qualifying period, total absences of up to one year are permitted, which cannot be the year preceding the application.

Residence must be lawful, meaning that the applicant must have a right to reside in Latvia under the domestic (or EU)[391] law; a period of irregular residence does not count. Where the applicant is a foreign national or a stateless person, the five-year term is counted from the date of the issuance of the permanent residence permit.[392] Section 24(7) of the Immigration Law further specifies that permanent residence can be acquired after five years of residing in Latvia with a temporary residence permit.[393] Accordingly, a person can apply for naturalisation if they have lived in Latvia for ten years – five years with a temporary and a further five years with a permanent residence permit.

Exceptions from the general rule are narrow and include refugees (and their family members) who acquire a permanent residence permit immediately after having been granted a refugee status.[394] Spouses of Latvian citizens are not exempt from the general rule and need to comply with the 5 plus 5 year residence requirements to qualify for naturalisation. A foreigner married to a Latvian citizen can first apply for a temporary and then a permanent residence permit on marriage grounds.[395] Unmarried partners are not considered family members for residence or naturalisation purposes and cannot apply for a residence permit on this basis.[396]

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390 Minors under the age of 15 permanently resident in Latvia can acquire citizenship together with their naturalised parent upon the parent's request without having to pass the naturalisation tests. Citizenship Law, Section 15.

391 The position of EU citizens and their family members who have a right to move and reside freely within the territory of the Member States is specifically covered by the Citizenship Directive (Directive 2004/38/EC), transposed in the Latvian domestic law by Ministru kabineta noteikumi Nr.675 "Kārtība, kādā Savienības pilsoņi un viņu ģimenes locekļi ieceļo un uzturas Latvijas Republikā" [Cabinet of Ministers Regulations No. 675 Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members] (30.08.2011., Latvijas Vēstnesis no. 141).

392 Citizenship Law, Section 12(1)(1).

393 Likewise, citizens of other EU Member States residing in Latvia are issued a residence card of a Union citizen (for a stay between three months and five years) or a permanent residence card of a Union citizen (after five years of residence). Their non-EU citizen family members are accordingly issued a residence permit or a permanent residence permit of a family member of a Union citizen. Regulations No. 675, paras 7-10.

394 Immigration Law, Section 24(1)(9).

395 Immigration Law, Section 25(1).

396 As of 1 September 2023.

b. Dual citizenship: requirement to renounce previous citizenship(s)

The Citizenship Law provides that, to acquire Latvian citizenship, the person needs to submit a proof of renunciation of their former citizenship, an expatriation certificate or a document certifying the loss of citizenship (except refugees). Non-citizens or stateless persons are required to submit a declaration stating that they do not have another citizenship.[397] The relevant documents need to be provided after the person has undergone the naturalisation procedure and has been officially notified that there are no obstacles to granting them Latvian citizenship.[398] Exemption from the renunciation requirement applies to citizens of an EU, EFTA or NATO Member State, Australia, Brazil, New Zealand, or a state with which Latvia has signed a dual citizenship agreement[399] (as of 2023 no such agreement has been signed).

c. Integration or assimilation criteria

To acquire Latvian citizenship through naturalisation, the person must prove they have a command of the Latvian language[400] and know the basic principles of the Latvian Constitution, history and culture, as well as the text of its national anthem.[401] The applicant is considered to have a command of Latvian if they can understand written and spoken language on everyday topics, are able to converse and write simple texts.[402] In addition, all applicants must have a legal source of income.[403]

A detailed description of the applicable examination procedures and criteria are found in the Cabinet of Ministers Regulations No. 973.[404] The latter specify that the assessment of the relevant competences is carried out by an examination committee, set up by the Office of Citizenship and Migra-

397 Citizenship Law, Section 12(1)(6).

398 Citizenship Law, Section 12(4).

399 Citizenship Law, Section 12(2).

400 Citizenship Law, Section 12(1)(2).

401 Citizenship Law, Sections 12(1)(3) and (4).

402 Citizenship Law, Section 20.

403 Citizenship Law, Section 12(1)(5).

404 Ministru kabineta noteikumi Nr.973 "Noteikumi par latviešu valodas prasmes un Latvijas Republikas Satversmes pamatnoteikumu, valsts himnas teksta, Latvijas vēstures un kultūras pamatu zināšanas pārbaudi" [Cabinet of Ministers Regulations No. 973 Regarding Testing the Fluency in the Latvian Language and Knowledge of the Basic Principles of the Constitution of the Republic of Latvia, the Text of the National Anthem, the Basics of the History and Culture of Latvia] (24.09.2013., Latvijas Vēstnesis no. 191).

tion Affairs (OCMA), a body subordinate to the Ministry of the Interior, and composed of OCMA officials.[405]

The Latvian language proficiency test has four parts, during which the committee assesses the applicant's ability to read, understand spoken language (these parts of the test involve multiple choice and open-ended questions), complete a written exercise and hold a conversation on everyday topics (the applicant is asked to orally answer related questions posed by the committee).[406] The required level is equivalent to CEFR level B1. The language test is passed if an applicant has scored at least 16 out of a maximum 25 points for each part.[407]

The Latvian constitution, history, culture and anthem knowledge test can take place either in written or oral form, subject to the applicant's preferences.[408] The applicant will be asked to answer selected questions related to the basic principles of the Latvian constitution, history and culture.[409] If the test is taken in written form, it will involve multiple-choice questions that must be answered in writing. If the examination takes places orally, the applicant must select an envelope containing a set of questions and orally answer them. To pass a written test, the applicant needs to score at least seven out of a maximum ten points in the Latvian history & culture part and at least five out of a maximum eight points on the constitution part.[410] The oral test is passed when the applicant has scored two out of a maximum four points in each of the two parts.[411] In addition, the applicant is asked to write down, recite or sing the national anthem, depending on their preferences.[412] To pass the anthem part of the test, one out of a maximum two points must be scored.[413]

The Citizenship Law and the Regulations list several groups who are fully or partly exempt from the examination:

» Applicants who have reached the age of 65 are exempt from the writing part of the Latvian language test[414] and are allowed to complete the

405 Ministru kabineta noteikumi Nr.973, para 2.

406 Ministru kabineta noteikumi Nr.973, para 11.

407 Ministru kabineta noteikumi Nr.973, para 18.

408 Ministru kabineta noteikumi Nr.973, para 19.

409 Ministru kabineta noteikumi Nr.973, paras 22, 25.

410 Ministru kabineta noteikumi Nr.973, para 27.

411 Ministru kabineta noteikumi Nr.973, para 28.

412 Ministru kabineta noteikumi Nr.973, para 22.

413 Ministru kabineta noteikumi Nr.973, paras 27, 28.

414 Citizenship Law, Section 21(3).

reading and listening parts orally.[415]

» Persons who a) not earlier than five years before submitting an application have passed a centralised state Latvian language exam for primary (1st to 9th grade) and secondary school (10th to 12th grade) graduates, scoring at least 50 per cent and 20 per cent accordingly and b) have completed a higher education degree taught in Latvian are exempt from the Latvian language test.[416] Applicants who have completed primary education (nine years of compulsory schooling) where over half of the curriculum was taught in Latvian are exempt from all tests.[417]

» Applicants with disability are either fully or partly exempt from the tests, depending on the degree and nature of disability. E.g., persons with severe disability, including deafness, as well as disabled minors are exempt from all tests,[418] whilst applicants with speech impairment are exempt from the Latvian language speaking skills test.[419]

No exemptions are specifically provided for spouses of Latvian citizens or refugees.

d. Procedure: is there a legal entitlement to naturalise

As demonstrated above, the grant of Latvian citizenship takes place following an application and is conditional upon fulfilling multiple requirements. In exercising their discretion, however, the public authorities are bound by the Citizenship Law and the accompanying Cabinet of Ministers regulations that are very specific in describing naturalisation requirements, procedure, grounds for refusal, documents the applicant is required to submit and groups of applicants exempt from tests. For example, the Citizenship Law explicitly provides that citizenship must not be granted to a person who has a criminal conviction in Latvia or any other country,[420] or has not fulfilled tax or other financial duties in relation to Latvia.[421]

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415 Ministru kabineta noteikumi Nr.973, para 17.

416 Citizenship Law, Section 21(2).

417 Citizenship Law, Section 21(1)(2).

418 Citizenship Law, Section 21(1)(1).

419 Ministru kabineta noteikumi Nr.973, para 31.

420 Insofar as their conduct constitutes a criminal offence in Latvia. Citizenship Law, Section 11(1)(5).

421 Citizenship Law, Section 11(1)(7).

The authorities nonetheless enjoy a broader discretion in determining who does and does not qualify for citizenship by assessing the candidate's performance in the exam, unless an exemption applies. Further, the authorities may refuse to grant citizenship to a person whose behaviour or actions are deemed to pose a threat to national security, public order, democratic constitutional order, independence or territorial integrity of the Latvian state.[422] Although the Citizenship Law lists a number of criteria specifying what constitutes such a threat,[423] these are not exhaustive. To verify whether the applicant is eligible for naturalisation, the OCMA requests the relevant information from various institutions, including the security services,[424] and is entitled to reject an application thereafter.[425] The final decision on naturalisation is made by the Cabinet of Ministers that enjoys the broadest discretion in this matter. It may refuse to grant citizenship to a person who is considered to pose a threat to the Latvian state even if the OCMA had previously adopted a positive decision.[426] The Latvian Supreme Court has ruled that the relevant Cabinet of Ministers decision is not an administrative act but a political decision which is made by voting and is not subject to appeal. According to the Court, the Cabinet of Ministers has unrestricted competence as regards granting or refusing citizenship to persons who have met the naturalisation criteria, and the ministers are not required to give reasons for their vote.[427]

Children born in Latvia after 21 August 1991 are exempt from the naturalisation procedure if their parents are Latvian non-citizens or stateless persons (see Section 4 below for more details). In that case, citizenship acquisition takes place through registration with public authorities who have little discretion in the matter.

422 Citizenship Law, Section 11(1)(1).

423 Citizenship Law, Section 11(1)(1)(a)-(d).

424 Ministru kabineta noteikumi Nr.1001 "Naturalizācijas iesnieguma pieņemšanas un izskatīšanas kārtība" [Cabinet of Ministers Regulations No. 1001 Procedures for Receiving and Examining Applications for Naturalisation] (24.09.2013., Latvijas Vēstnesis no. 191), para 15.

425 Ministru kabineta noteikumi Nr.1001, paras 21(3) and (5).

426 Citizenship Law, Section 17(5).

427 Decision of the Administrative Department of the Supreme Court's Senate No. SKA 221, 11 April 2006, paras 8.3 and 11.

3. Citizenship acquisition based on residence/ schooling during childhood

There is no specific provision in Latvian law enabling an individual to acquire citizenship solely based on a certain period of residence in Latvia during childhood or a period of schooling in the country. As shown in Section 2.c above, certain categories of persons who have attended a Latvian school or university may nonetheless undergo a simplified naturalisation procedure that fully or partly exempts them from the Latvian language and history, culture and constitutional knowledge tests.

4. Citizenship acquisition based on birth in a country

As noted in the introduction, Latvian citizenship is acquired on the basis of the *ius sanguinis* principle, rooted in the doctrine of continuity with the pre-war Latvian Republic.

The only exception from this rule are children born in Latvia after 21 August 1991[428] if both of their parents are Latvian non-citizens or stateless persons.[429] Up until 1 January 2020, such children could acquire Latvian citizenship immediately upon registration of birth, subject to the request by one of the parents, and provided that the relevant parent resided in Latvia permanently (stateless persons needed to be in possession of a permanent residence permit).[430] Since 1 January 2020, newborns are no longer granted the non-citizen status. The child of a non-citizen is automatically entitled to Latvian citizenship by birth, unless both parents agree that the child will be a citizen of another country.[431] The same applies to children born abroad to Latvian non-citizens, provided that the parents submit a document issued by the host state authorities confirming that the child is not a citizen of the relevant state.[432]

In case the child was born before 2020 and their parents (provided that both of them are Latvian non-citizens or stateless persons) have not done

428 On that day Latvia formally declared independence from the Soviet Union.

429 This also applies to situations where the child's mother is a non-citizen or stateless person and the father is unknown or one parent is a non-citizen or stateless person but another parent is deceased. Citizenship Law, Section $3^{1(4).}$

430 Citizenship Law, Section 31(1).

431 Likums "Par nepilsoņa statusa piešķiršanas izbeigšanu bērniem" [Law On the Termination of the Granting of the Status of a Non-citizen to Children] (17.10.2019., Latvijas Vēstnesis no. 224), Section 2.

432 Likums "Par nepilsoņa statusa piešķiršanas izbeigšanu bērniem", Section 3.

so upon registering their birth, they can still ask for the child to be granted Latvian citizenship by submitting a request to the OCMA.[433] Minors aged 15 to 17 should submit an application themselves and are subjected to additional requirements: a command of the Latvian language and absence of a serious or particularly serious criminal conviction[434] or evidence that they pose a threat to the national security, public order, democratic constitutional order, independence or territorial integrity of the Latvian state.[435]

5. Procedures for citizenship acquisition

- *Documents*

A detailed description of the naturalisation procedure is found in the Cabinet Regulations No. 1001. To begin the process, the person shall contact any OCMA territorial unit, present a valid personal identification document (passport or ID card) and submit the following documents:

an application for naturalisation (found in Annex 1 of the Regulations);

- » proof of permanent residence in Latvia (e.g., a certificate of employment, a document confirming the receipt of social assistance, a letter from a school or university, proof that a person has their domicile in a certain municipality, or proof that the person has conducted economic or financial activities in Latvia during a specific time period).
- » proof of a legal source of income (e.g., a certificate of employment, a document confirming the receipt of social assistance, a pension certificate or a scholarship confirmation letter).
- » a photograph (3 x 4 cm).[436]

Individuals fully or partly exempt from the naturalisation tests shall provide documentary evidence confirming they fall within an exempt category, e.g., a disability card, a primary school certificate with transcript of records, a central-

433 Citizenship Law, Section $3^{1(2).}$

434 Under Latvian law, serious crime is defined as an offence punishable by imprisonment of between three and eight years. Particularly serious crimes are punishable by over eight years of or life imprisonment. Krimināllikums [Criminal Law], (17.06.1998. Latvijas Vēstnesis no. 199/200), arts 7(4) and (5).

435 Citizenship Law, Section $3^{1(3).}$

436 Ministru kabineta noteikumi Nr.1001, para 3.

ised Latvian language exam certificate, or a university diploma.[437]

Applicants who are foreign nationals should submit a document certifying whether or not they have a criminal record, issued by the country of their citizenship not earlier than six months prior to submitting the naturalisation application, or documentary evidence showing that such a certificate is impossible to obtain.[438]

Where a child under the age of 15 is being naturalised at the same time as their parent, the latter shall complete a separate application form and provide a document confirming that the child is permanently resident in Latvia.[439] If the OCMA establishes that the child might have a legal link with another state (the child was born or resided outside Latvia or one of their parents is a foreign national), their parent is asked to a provide a document confirming that the child is not a citizen of the relevant state or confirmation that such a document is impossible to obtain.[440]

After passing an examination, foreign nationals are also invited to submit proof of renunciation of their former citizenship, an expatriation certificate or a document certifying the loss of citizenship (except refugees), unless they qualify for dual citizenship.[441]

- *Authority*

The body responsible for reviewing naturalisation applications is the OCMA. Its tasks include collecting the required documents, carrying out an examination and verifying the applicant's eligibility[442] by requesting the relevant information from other institutions, including the Constitution Protection Bureau, the Security Police, the State Police, the Financial Police, the State Revenue Service, the Prison Administration, the Corruption Prevention and Combating Bureau, the Military Police, and the Military Intelligence and Security

437 Ministru kabineta noteikumi Nr.1001, paras 10-12.

438 Ministru kabineta noteikumi Nr.1001, para 3.4.

439 Ministru kabineta noteikumi Nr.1001, para 6.

440 Ministru kabineta noteikumi Nr.1001, para 7.

441 Ministru kabineta noteikumi Nr.1001, para 18.

442 The full list of the grounds for refusal of Latvian citizenship is found in Section 11 of the Citizenship Law. These include cases where, e.g., the applicant's behaviour or actions pose a threat to the national security, public order, democratic constitutional order, independence or territorial integrity of the Latvian state; the applicant is serving in a military organisation or armed forces of another state without the Cabinet of Minister's permission; the applicant has a criminal conviction in Latvia or another country, insofar as their conduct constitutes a criminal offence in Latvia; the applicant has not fulfilled tax or other financial duties in relation to Latvia, and other situations.

Service.[443] As noted in Section 2.c above, the examination of the applicant's competences (Latvian language proficiency and knowledge of Latvian culture, history, constitution & anthem) is conducted by an examination committee, set up by the OCMA and composed of OCMA officials.[444]

Where an applicant has failed to comply with naturalisation requirements, the OCMA issues a negative decision.[445] Where all the conditions are met, the OCMA prepares a draft Cabinet of Ministers decree on granting the applicant Latvian citizenship.[446] The final decision on the acquisition of citizenship is made by the Cabinet of Ministers.[447]

- *Implementation*

Following an application for naturalisation and submission of the required documents, an applicant takes the Latvian language and history, culture and constitution tests at the time and place assigned by the OCMA. If the applicant fails to pass either of the tests, they can retake the language test a second and third time three months after the last examination (at the earliest). The history and culture test can be retaken for a second and third time one month after their last exam.[448] Where a person fails to pass the test for the third time, they should re-apply for naturalisation.[449]

If the tests have been successfully passed (or the applicant falls within an exempt category), the OCMA verifies whether the applicant meets security-related naturalisation conditions (listed in Section 11 of the Citizenship Law)[450] by requesting the relevant information from other institutions.[451] The relevant institutions shall provide the requested information within 15 days. This period can be extended to six months if further checks are required.[452]

If the OCMA are satisfied that there are no obstacles to granting citizenship, the applicant is invited to sign a pledge of loyalty to the Republic of Latvia.[453]

443 Ministru kabineta noteikumi Nr.1001, paras 15, 16.

444 Ministru kabineta noteikumi Nr.973, para 2.

445 Ministru kabineta noteikumi Nr.1001, paras 20, 21.

446 Ministru kabineta noteikumi Nr.1001, para 22.

447 Citizenship Law, Section 17(5).

448 Ministru kabineta noteikumi Nr.973, para 7.

449 Ministru kabineta noteikumi Nr.1001, para 20(7).

450 Grounds listed in note 450 above.

451 Ministru kabineta noteikumi Nr.1001, paras 15, 16.

452 Ministru kabineta noteikumi Nr.1001, para 17.

453 Ministru kabineta noteikumi Nr.1001, para 19.

If all the conditions have been met, the OCMA prepares a draft Cabinet of Ministers decree on granting the applicant Latvian citizenship and informs the person accordingly.[454] An applicant becomes a citizen with the adoption of the Cabinet of Ministers decree. [455]

The maximum length of the naturalisation procedure is set by the Citizenship Law and should not exceed one year since all the required documents have been submitted.[456] According to the OCMA, however, in practice the procedure is typically completed within a shorter period.[457]

- *Appeal*

A negative OCMA decision (including the decision of the examination committee) can be appealed to the Head of the OCMA within one month. A decision of the OCMA Head can be subsequently appealed in an administrative court.[458] Where the OCMA has refused naturalisation on security grounds based on the information obtained by intelligence agencies, the applicant can lodge a complaint with the Prosecutor General whose decision cannot be appealed.[459] A negative final decision on naturalisation made by the Cabinet of Ministers is equally not subject to appeal.[460]

The statistics of appeals on the relevant grounds are not publicly available.

- *Fees*

As of 1 September 2023, the regular fee charged for a naturalisation application is €28.46.[461] A reduced fee of €4.27 is paid by pensioners; disabled persons of groups II and III;[462] students, low-income applicants; unemployed persons registered with the State Employment Agency; and members of families with

454 Ministru kabineta noteikumi Nr.1001, para 22.

455 Citizenship Law, Section 17(5).

456 Citizenship Law, Section 17(1).

457 Office of Citizenship and Migration Affairs, *Naturalization*, https://www.pmlp.gov.lv/en/naturalization-0.

458 Citizenship Law, Section 17(3); Ministru kabineta noteikumi Nr. 973, para 38.

459 Citizenship Law, Section 17(4).

460 Citizenship Law, Section 17(5).

461 Ministru kabineta noteikumi Nr.849 "Noteikumi par valsts nodevu naturalizācijas iesnieguma iesniegšanai" [Cabinet of Ministers Regulations No. 849 Regulations on the State Fees for a Naturalisation Application] (17.09.2013., Latvijas Vēstnesis no. 183), para 2.

462 In Latvia, persons with a disability are divided into three groups: group I (particularly severe disability), group II (severe disability), and group III (moderate disability).

three or more minor children.[463] Those exempt from the state fee include recognised victims of political repressions; disabled persons of group I; orphans and children left without parental care; and persons admitted to state and municipal social care institutions.[464] If citizenship is being aquired on the grounds described in Section 4 above (children of non-citizens or stateless persons born after 21 August 1991), no state fee must be paid.

6. Information and advice

In addition to the functions described above, OCMA tasks include informing potential applicants about the possibility of acquiring Latvian citizenship through naturalisation and their eligibility. Information about the naturalisation requirements and procedure, including a downloadable brochure[465] and a FAQ section,[466] is found on the OCMA website and presented in a manner that can be easily understood. As of 1 September 2023, however, the information is only available in Latvian and English. No guidelines in Russian are provided. There is also the possibility to ask questions online or use a free info phone line. Further, the OCMA regularly organises info days on the naturalisation procedures[467] and provides a free online tool which offers potential applicants a self-assessment naturalisation test.[468] In addition, the OCMA offers study guides for the naturalisation tests that can be acquired at OCMA territorial units free of charge.

According to a survey among non-citizens, conducted by the OCMA in 2018-2018, over the half of the respondents (57 per cent) considered themselves sufficiently informed about the naturalisation procedure. 23 per cent of those interviewed meanwhile revealed they lacked sufficient information, whilst 20 per cent of the respondents claimed they were not interested in the topic.[469]

The lack of sufficient Latvian language proficiency continues to remain among the main barriers to naturalisation. In 2022, for instance, nearly half of

463 Ministru kabineta noteikumi Nr.849, para 3.

464 Ministru kabineta noteikumi Nr.849, para 4.

465 Available at https://www.pmlp.gov.lv/en/media/5864/download?attachment.

466 See https://www.pmlp.gov.lv/en/naturalization-0.

467 See https://www.pmlp.gov.lv/en/information-days-citizenship-applicants.

468 Available at https://pilsonibasparbaude.pmlp.gov.lv/.

469 Latvian Office of Citizenship and Migration Affairs, "Latvijas nepilsoņu attieksme pret Latvijas pilsonības iegūšanu" (2020), 24, https://www.pmlp.gov.lv/lv/media/811/download?attachment.

the applicants did not pass the Latvian language test.[470] The opportunities to attend a Latvian language course free of charge, however, remain limited. Free language courses are only offered by municipalities or other entities on an *ad hoc* basis.

470 Office of Citizenship and Migration Affairs, PMLP statistika par naturalizācijas procesu (līdz 2022. gada 31.decembrim), https://www.pmlp.gov.lv/lv/media/9591/download?attachment.

Netherlands

Ricky van Oers

1. Introduction

The Dutch Constitution provides in article 2 paragraph 1 that the law determines who is a Dutch national. The current law regulating the acquisition and loss of Dutch citizenship is the Dutch Nationality Act (Rijkswet op het Nederlanderschap), which came into force in 1985 and which was nearly completely revised in 2003.[471] The Dutch Nationality Act is called *Rijkswet op het Nederlanderschap*, '*Rijkswet*' ('Kingdom Act') referring to the fact that it concerns an Act which applies in the whole of the Kingdom (including the 'Caribbean Netherlands': the countries, Aruba, Curaçao and Sint Maarten, and the public bodies Bonaire, Saba and Sint Eustatius). 'Nederlanderschap' refers to the status of being 'Dutch' or a '*Nederlander*' (*Netherlander*).

Six Royal Decrees and three Ministerial Regulations determine in a more detailed manner the regulations concerning acquisition and loss of Dutch citizenship, for example concerning the naturalisation test[472], and the fees of naturalisation applications and for exercising the right of option.[473] A Manual Dutch Nationality Act[474] provides binding instructions for those in charge of applying the provisions of the Act (such as municipal officials and officials working for the Immigration and Naturalisation Service (IND)).[475]

471 Act of 21 December 2000 (*Staatsblad 618).*

472 Decree of 15 April 2002, *Staatsblad 2002, 197, Regulation of 13 March 2003, Staatscourant 2003, 57.*

473 Decree of 17 June 2002, *Staatscourant* 2002, 325.

474 Handleiding Rijkswet op het Nederlanderschap (2003).

475 Accessible via https://wetten.overheid.nl/BWBW33099/2023-10-01 (site accessed 16 October 2023).

2. Conditions for residence-based naturalisation

a. Residence requirements: residence title and length of residence

Article 8 of the Dutch nationality Act (hereafter referred to as DNA) provides for the possibility of the acquisition of Dutch citizenship via naturalisation. Article 8, paragraph 1 under c contains a residence requirement by providing that applicants must have been lawfully residing and having their main residence (*hoofdverblijf*) in the Netherlands (or Aruba, Curaçao, Sint Maarten, Bonaire, Saba or Sint Eustatius) since at least five years immediately prior to the application for naturalisation.[476] From the text of the law follows that the **period of residence** may not have been interrupted.[477] The introduction of the word 'since' in 2003 is meant to indicate that the required term of lawful and main residence applies starting (at least) five years prior to the application, during the procedure, as well as at the moment the application is decided.[478] In practice, the application of those who no longer have lawful and main residence at the time the Immigration and Naturalisation Service (IND) decides on their application will hence be denied, even if they had lawful residence at the time of application.[479] Furthermore, the word 'since' indicates that the period of lawful and main residence may not have been interrupted (not even for one day) both in the period preceding the application and the period between the application until the decision on the application is taken. In both cases, interruptions in the period of lawful residence are not allowed. After an interruption, a new period of five years will start.[480]

476 In the Dutch Nationality Act, when reference is made to residence, the location referred to is the 'European' part of the Kingdom, being the Netherlands, as well as to the countries that are part of the Kingdom, but are not situated in Europe (being Aruba, Curacao and Sint Maarten), or the public bodies that are part of the Kingdom (Bonaire, Saba and Sint Eustatius). In this document, when reference is made of 'the Netherlands', this will include the other parts of the Kingdom.

477 Manual Dutch Nationality Act, explanation to article 8, paragraph 1 under c.

478 Parliamentary proceedings, 28039, nr. 3, p. 2 under G.

479 Manual on Dutch Nationality Act, general explanation of article 8. In case the residence has ceased to be lawful *after the decision has been made by the IND, but before the Royal Decree containing the decision has been signed by the King, Dutch citizenship will be acquired. See Gérard-René De Groot, "The King's autograph will heal every deficiency", in Groene serie Personen- en familierecht, artikel 8 RWN, aant 4.1, 4.1. Algemeen.*

480 Manual Dutch Nationality Act, explanation to article 8, paragraph 1 under c. Certain exceptions to the requirement to have had uninterrupted main residence will however apply (for instance in cases where the applicant will have needed to fulfil obligatory military service abroad and will have returned to the Netherlands within six months after having complied with this service), see Manual Dutch Nationality Act, article 1 paragraph 1 under h.

Lawful residence means that the applicant has obtained a residence permit under article 8 under a – e or l of the Dutch Aliens Act. These residence permits include permits that are temporary in nature (i.e. non-permanent residence permits). Having a permanent residence permit is hence not required. However, article 8, paragraph 1 under b provides that there must be no 'concerns' regarding the applicant's residence for an unlimited period of time in the Netherlands.[481] This means that applications for naturalisations by applicants holding a temporary residence permit will in principle only be granted in case their permit has been issued for a purpose which is not limited in time. Study and exchange for instance are considered to be temporary purposes, whereas family reunification and employment as a highly skilled migrant are not.[482] Whereas paid employment has been designated as being a purpose which is limited in time by the Aliens Decree,[483] appendix 3 of the Manual DNA states that there are 'no concerns' regarding the residence for an unlimited period of time for those who have a temporary employment based residence permit.

The requirement to have five years of '**main residence**' has been introduced to ensure that a certain degree of 'integration' has taken place and that the applicant is inclined to continue living in the Netherlands.[484]

According to article 8 paragraph 2, the residence requirement does not apply in cases where the applicant for naturalisation has at any period in time held Dutch citizenship, has been married to (or has a registered partnership with) and living together with a Dutch national since at least three years, or who has been adopted in the Netherlands, Aruba, Curaçao or Sint Maarten during the age of majority by parents of whom at least one is a Dutch national. According to article 9, paragraph 1 under c, the residence requirement will nevertheless apply in cases where the applicant's main residence is in the country of which they are a citizen.

For those who have been living together with an unmarried Dutch national with whom they are not married (nor have concluded a registered partner-

481 This paragraph was introduced to ensure that the immigration policy, as laid down in the Aliens Act, and the naturalisation policy are in accordance with each other.

482 Article 3.5 under b of the Aliens decree lists the purposes of residence which are considered temporary.

483 Article 3.5, paragraph 2.

484 Manual Dutch Nationality Act, explanation to article 8 paragraph 1 under c. In order to be able to naturalise, the applicant will also need to fulfil the integration requirement of article 8 paragraph 1 under d.

ship with), article 8 paragraph 4 provides that a reduced period of lawful and main residence in the Netherlands of three years applies, provided the relationship is durable and the couple have been living together for a period of at least three years. This article furthermore provides a reduced residence period of three years for those who are stateless (unless they have lost Dutch nationality because of fraud[485]).

Furthermore, according to article 8 paragraph 3, the period of lawful and main residence as required by article 8 paragraph 1 under c is limited to two years (instead of five) for those who have had lawful and main residence in the Netherlands for at least ten years.

Lastly, article 8 paragraph 5 limits the period of lawful and main residence in the Netherlands to three years for those who have become the child of a Dutch citizen through acknowledgement or legalisation without acknowledgement.

Next to obtaining Dutch nationality via naturalisation,[486] those residing in the Netherlands for a longer period of time may be able to acquire Dutch citizenship via article 6 of the DNA, which accords to certain groups of immigrants and their descendants a right to opt for Dutch nationality in case they have:

- reached the age of majority and have been born and have had lawful and main residence in the Netherlands since birth (second generation immigrants);[487]
- have reached the age of majority and have had lawful and main residence in the Netherlands since the age of four (second generation immigrants);[488]
- have reached the age of majority, have held Dutch nationality at any point in time and have had lawful and main residence in the Netherlands for a period of at least one year (unless their Dutch nationality has previously been withdrawn because they omitted to give up their original nationality);[489]
- have reached the age of 65 and have had lawful and main residence in the Netherlands during an uninterrupted period of at least fifteen

485 Article 14 paragraph 1 DNA.

486 Article 8 DNA.

487 Article 6 paragraph 1 under a DNA.

488 Article 6 paragraph 1 under e DNA.

489 Article 15 paragraph 1 under d and e DNA; article 6 paragraph 1 under f DNA.

years;[490] have not yet turned 21, have been born in the European part of the Dutch Kingdom, have had a stable main residence for an uninterrupted period of at least five years directly preceding the option declaration, have been stateless since birth and cannot reasonably acquire another nationality.[491]

b. Dual citizenship: requirement to renounce previous citizenship(s)

Those applying for naturalisation under article 8 of the DNA are in principle required to fulfil a renunciation requirement. For those applying for Dutch nationality via option (article 6), a renunciation requirement will not apply, except for those applying for Dutch nationality under article 6 paragraph 1 under e (applicants who have reached the age of majority and who have had lawful and main residence in the Netherlands since the age of four).

The renunciation requirement has been laid down in article 9 paragraph 1 under b DNA. It provides that applications for naturalisation will be denied in case applicants hold another nationality and have not done what is possible to renounce that nationality or in case they, after the naturalisation has come about, are not willing to do what is possible to renounce that nationality, unless this cannot reasonably be expected.

The Manual Dutch Nationality Act lists 11 categories of applicants of whom renouncing their original nationality cannot reasonably be expected. This applies to:

- Applicants who would automatically lose their original nationality upon acquiring Dutch nationality;
- Applicants who are citizens of states that do not allow for renunciation of nationality;
- Applicants who are citizens of countries that only allow for renunciation of citizenship after they have been naturalised. These applicants will need to renounce their original citizenship after naturalisation has come about;
- Applicants who must pay such a high amount for renouncing their original nationality that they will suffer a substantial financial disadvantage;
- Applicants who will lose property rights by renunciation, as a result

490 Article 6 paragraph 1 under g DNA.

491 Article 6 paragraph 1 under q DNA.

of which they will suffer a substantial financial disadvantage;

- Applicants who can only renounce their original nationality after they have performed military service in the country of their nationality or have bought it off;
- Applicants who cannot be required to contact the authorities of the state of which they are a national;
- Applicants who have special and objectively assessable reasons not to renounce their original nationality;
- Applicants who are a national of a state that is not recognized by the Netherlands;
- Applicants who were minors on the effective date of their right of residence under a 'general pardon' settlement scheme for immigrants who had applied for asylum under the 'old' Aliens Act (in force until 1 April 2001)) and whose naturalisation application was positively decided on or after 1 June 2021 (so-called 'RANOV' status holders);
- Applicants who reached the age of majority on the effective date of their 'RANOV' right of residence and whose naturalisation application was positively decided on or after 1 November 2021;

Furthermore, article 9 paragraph 3 contains a total of four exceptions to the renunciation requirement, stating that the requirement does not apply to:

- Applicants who are citizens of a state which is party to the Second Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality (however except the Netherlands, no other State is a party to this protocol);
- Applicants who are born in the Netherlands;[492]
- Applicants married to (or having a registered partnership with) Dutch citizens;[493]
- Refugees.[494]

For those to whom the 'general rule' of renouncing their original nation-

492 Article 9 paragraph 3 under b DNA.

493 Article 9 paragraph 3 under c DNA.

494 Article 9 paragraph 3 under c DNA.

ality applies, the Manual Dutch Nationality Act provides that, when applying for naturalisation, the applicant is required to declare that they are willing to renounce their original nationality by lodging a declaration of willingness (*bereidheidsverklaring*) which states that they are willing to do what is possible to renounce their other nationality or nationalities upon naturalisation or after the naturalisation has come about. In the declaration, the applicant will state that they will renounce their 'current' nationality once they obtain a notification of their naturalisation which states that they have become a Dutch citizen. The declaration furthermore states that the applicant will send proof of renunciation to the IND.

c. Integration or assimilation criteria

Fulfilling an integration requirement is a condition for naturalisation, as specified in article 8 paragraph 1 under d of the DNA which states that applicants need to be considered integrated based on the fact that they possess knowledge of the Dutch language and of the constitution (*staatsinrichting*) and society, the level of which will be determined by Decree. The Naturalisation Test Decree states that an applicant can be considered to have sufficiently integrated in case they passed a naturalisation test, which according to the Decree is the exam which candidates take in the framework of the 'old' Integration Act which was in force until 1 January 2022.[495] The Manual Dutch Nationality Act states that those who have fulfilled their integration obligation under the former Integration Act will have fulfilled the integration requirement for naturalisation. The Manual furthermore provides that those who have been exempt from the integration obligation under the former Integration Act will in most cases also be exempt from fulfilling the integration requirement for naturalisation. The Integration examination under the former Integration Act consisted of the completion of the participation declaration trajectory, reading, writing, speaking and listening tests at level A2 of the Common European Framework of Reference for Languages and an examination of Knowledge of Dutch Society.[496] Those who would be unable to attain level A2 would be able to be exempt from fulfilling the integration obligation. Exemption could be attained

495 Article 5 paragraph 1 Naturalisation Test Decree.

496 Article 7 paragraph 2 of the 'old' Integration Act. The Participation declaration trajectory entails a trajectory where the newcomer gets acquainted with the rights and obligations and the fundamental values of Dutch society. The trajectory, which is offered by the municipality, will entail a gathering of at least one 'daypart' (a morning or an afternoon) which serves as a preparation for the signing of the participation declaration.

after someone had demonstrated to have made a 'sufficient effort', meaning having followed 600 hours of language tuition and having made at least four attempts to pass (parts of) the integration examination, or having followed 600 hours of language tuition and having taken part in a test which demonstrates that the person concerned does not have the learning capacity to reach the level required.

Whether fulfilling the integration obligation under the current Integration Act 2021 (which applies as of 1 January 2022) is sufficient to fulfil the integration requirement for naturalisation so far has not yet been determined. Many newcomers falling under the scope of this Act will only be able to apply for naturalisation as of 1 January 2027, as they will by then have fulfilled the residence requirement of article 8 paragraph 1 under c DNA (five years of lawful and main residence in the Netherlands).

In the current Integration Act 2021, the language level which is required to fulfil the integration obligation has been raised to level B1. However, those for whom this level is deemed unattainable can follow a separate 'route' towards fulfilling their integration obligation. This so-called Z-route will consist of 800 hours of language and knowledge of society courses. Refugees will furthermore need to follow 800 hours of activities aimed at the ability to provide for oneself, activation and participation in the Dutch society.

Next to the integration requirement of article 8 paragraph 1 under d, since 1 March 2009, new Dutch citizens who acquired Dutch citizenship via option or naturalisation are required to make a 'declaration of loyalty' (*verklaring van verbondenheid*) upon obtaining Dutch citizenship.[497] The text of the declaration is the following: 'I swear (declare) that I will respect the Constitutional order of the Netherlands, its freedoms and rights, and I swear (promise) that I will faithfully fulfil any duties as a Dutch citizen. So help me God (so I declare and promise)'.

For those applying for naturalisation in the 'Caribbean Netherlands', the Kingdom Act of 27 June 2010 (entry into force 1 October 2010) introduced a 'double language requirement'. Until the introduction of this double language requirement, those applying for naturalisation in Aruba, Curaçao and Sint Maarten or Bonaire, Sint Eustatius and Saba were able to choose between a Dutch language test and a test of the language which is used on the island where the applicant is living, meaning, next to Dutch, either Papiamentu or English. However, since 2010, those applying for Dutch nationality living in the Car-

497 Article 6 paragraph 2, article 8 paragraph 1 under e Integration Act 2021.

ibbean part of the Kingdom need to successfully pass two language tests. For Aruba, Bonaire and Curaçao, next to passing a Dutch language test, passing a test of Papiamentu is required. For Sint Maarten, Saba and Sint Eustatius, next to passing a Dutch language test, passing an English language test is required.[498]

d. Procedure: is there a legal entitlement to naturalise

Those interested in obtaining Dutch nationality via option (article 6) need to make a declaration that they want to obtain Dutch nationality. Those who want to obtain Dutch nationality via naturalisation (article 8) need to make an application. In both cases, the authorities will need to make a decision. Furthermore, in both cases there is a right to acquire Dutch nationality in case an applicant meets all the requirements specified in the DNA, with little or no room for officials to apply discretion. Officials deciding on the declaration or the application are bound by the DNA, the applicable Ministerial regulations and Decrees, as well as by administrative circulars (in particular: the Manual Dutch Nationality Act) and case law. In cases where the application for naturalisation will be denied or the declaration of option will be refused, the person concerned can challenge this decision in court.

3. Citizenship acquisition based on residence/ schooling during childhood

Dutch legislation provides for the following possibilities to acquire citizenship based on residence during childhood:

1 applicants who have reached the age of majority and who have been born and have had lawful and main residence in the Netherlands since birth (second generation immigrants; article 6 paragraph 1 under a);

2. applicants who have reached the age of majority and who have had lawful and main residence in the Netherlands since the age of four (second generation immigrants; article 6 paragraph 1 under e);

498 Gérard-René de Groot, *Groene Serie Personen- en familierecht*, art. 8 RWN, Note 6.2: 6.2 Kennis van Papiaments of Engels. For a critical reflection see Gerard-René de Groot and Eric Mijts, "Naar een dubbele taaltoets in de Caraïbische delen van ons Koninkrijk?", *TAR Justicia*, nr. 2 (2009); Gerard-René de Groot andEric Mijts, "De onwenselijkheid van een dubbele taaltoets voor naturalisandi in Aruba en de Ned. Antillen", *MR* (2009): 366-371.

These persons have a right of option for Dutch citizenship. In both cases, the candidate needs to have had 'main residence' in the Netherlands, and the whole residence period needs to have been 'lawful', which means that the applicant needs to dispose of a residence permit under article 8 under a – e or l of the Dutch Aliens Act. Lastly, the Manual Dutch Nationality Act specifies that the residence must have been 'continuous' (i.e. uninterrupted).[499] Integration conditions do not apply. Most minors who are born outside the Netherlands will acquire Dutch citizenship together with their parents when these obtain Dutch nationality via naturalisation. In principle minors cannot apply for naturalisation independent from a parent. In very exceptional cases, naturalisation on the basis of article 10 DNA can be granted, after having heard the opinion of the Council of State.

4. Citizenship acquisition based on birth in a country

Next to the possibility mentioned under 3 for adults who have been born in the Netherlands, who can opt to acquire Dutch nationality, article 3 paragraph 3, also known as the third-generation provision, provides for automatic (ex lege) acquisition of Dutch nationality by *children of mothers or fathers who have their main residence in the Netherlands at the time of birth of the child and who themselves have been born as children of mothers or fathers who had their main residence in the Netherlands at the time of their birth, provided that the child, at the time of birth, has main residence in the Netherlands.*

As regards the residence of the (grand)parents of the child, lawful residence is not required. However, having the main residence in the Netherlands is required.

5. Procedures for citizenship acquisition

- *Documents*

For an application for naturalisation under Article 8 of the DNA, the following documents need to be submitted by the applicant to the municipal authorities:

499 Certain exceptions to the requirement to have had uninterrupted main residence will however apply (for instance in cases where the applicant will have needed to fulfil obligatory military service abroad and will have returned to the Netherlands within six months after having complied with this service), see Manual Dutch Nationality Act, article 1 paragraph 1 under h.

- A valid passport or other travel document.
- A birth certificate from the country of origin.
- A valid residence permit or other proof of lawful residence (unless the applicant has the nationality of an EU or EEA country, or has Swiss nationality; in such cases a residence permit are not required. The municipality will check how long the applicant has lived in the Netherlands via the Personal Records Database (BRP)).
- Integration diploma or other proof of integration. Or proof of (partial) exemption or waiver from the integration requirement.
- A declaration regarding residence and behaviour.[500]
- A declaration regarding the willingness to renounce former nationality once Dutch nationality has been obtained. This declaration includes the possibility for applicants to declare that they are exempt from the renunciation requirement. Those who want to make use of an exemption from the renunciation requirement will need to submit documents to prove that they fulfil the exemption requirements.
- A declaration of having been informed about the naturalisation application fees, including the information that the fees will not be reimbursed in case the application will be denied. If the fee is not paid the moment the IND decides, the application is rejected.
- A declaration that the applicant will make the declaration of loyalty upon obtaining Dutch citizenship.

The municipality will forward these documents to the IND with advice regarding the naturalisation application.

For an application to acquire Dutch nationality via option, the following documents need to be submitted:

- Valid passport or other travel document.
- Birth certificate from the country of origin.
- Valid residence permit or other proof of lawful residence.
- A declaration of option.

500 In the five years (the so-called 'rehabilitation term' prior to the application for Dutch citizenship via naturalisation or option, the applicant may not have been convicted for a crime (Manual Dutch nationality Act article 9 paragraph 1 under a).

» A declaration of residence and behaviour.[501]
» For those lodging a declaration of option under article 6 paragraph 1 under e: a declaration regarding the preparedness to renounce former nationality once Dutch nationality has been obtained. This declaration includes the option for applicants to declare that they are exempt from the renunciation requirement. Those who want to make use of an exemption from the renunciation requirement will need to submit documents to prove that they fulfil the exemption requirements.
» A declaration that the applicant has been informed of the fees related to the option procedure.

- *Authority*

Applicants for naturalisation and option submit their applications to obtain Dutch citizenship in the municipality where they are registered as residents. The municipality will collect the documents required to make the decision. It is the Minister for Justice and Security (in practice the IND) who will decide on the application. The naturalisation will eventually be granted by Royal Decree.

Applicants for option lodge their declaration at the municipality where they are registered. It is the mayor of the municipality who will decide whether the conditions for option are fulfilled.

- *Implementation*

The IND will have to decide on the naturalisation application within a period of 1 year. This term can be prolonged twice with six months in case the IND needs more time to decide on the application.[502]

The municipality will have a maximum of 13 weeks to assess the declaration of option. This term can be prolonged once with an extra 13 weeks (article 6 paragraph 5 DNA).[503]

- *Appeal*

In case an application for naturalisation or option is denied, the general rules of administrative law determine that the applicant can object to this decision

501 In the five years (the so-called 'rehabilitation term' prior to the application for Dutch citizenship via naturalisation or option, the applicant may not have been convicted for a crime (Manual Dutch nationality Act article 9 paragraph 1 under a).

502 Article 9 paragraph 4 DNA.

503 Article 6 paragraph 5 DNA.

within six weeks after it has been taken. The authority that has made the decision (i.e. the IND or the mayor) then has to re-evaluate the decision. In case of a negative outcome, the applicant can appeal this decision with the District Court.

- *Fees*

  Fees for naturalisation applications:
  - » Naturalisation application 1 person € 970
  - » Naturalisation application together with partner € 1238
  - » Co-naturalisation child under 18 € 143
  - » Request by stateless person or asylum permit holder € 722
  - » Request by a stateless person or asylum permit holder together with partner € 991

  Fees for option declarations:
  - » Option declaration 1 person € 206
  - » Option declaration together with partner € 351
  - » Joint option child under 18 € 23

6. Information and advice

Those who are interested in Dutch citizenship can visit the IND website (www.ind.nl) which contains information about the procedures for option and naturalisation. Alternatively, they can turn to the municipality for information. There are no administrative measures or policies (at different levels of government) aimed at providing information or counselling services about the conditions under citizenship can be acquired.

Portugal

Ana Rita Gil

1. Introduction

The current Portuguese citizenship legal framework is mainly regulated by the Nationality Act (NA)[504], which was already amended eleven times[505]. The most important amendment was made in 2006[506]. Until then, the 1981 Act was deeply enshrined in the *ius sanguinis* principle. Although the 2006 reform has maintained and, in some respects, even reinforced the *ius sanguinis* principle, it expanded the ways by which immigrants and their descendants could acquire the Portuguese nationality. It created new ways for the acquisition of citizenship through *ius soli*, with the aim of including the descendants of immigrants (second and third generations) who were living and integrated in Portuguese society. Finally, the 2006 reform created a subjective right to naturalisation, which until then was fully dependent on a discretionary decision made by the Government.

The amendments that took place in the subsequent years have mainly facilitated naturalisation requirements, and also the citizenship acquisition by birth of second and third generations[507]. Nowadays, the Nationality Act has many possibilities for naturalisation and an almost pure *ius soli* principle. Therefore, it can be considered as one of the most generous laws in the European Union as regards acquisition of nationality by immigrants and their descendants.

The Nationality Act must respect the Portuguese Constitutional principles, which set forth important constraints, such as the principle of equality regardless of national origin. According to this principle, all Portuguese citizens have the same rights, irrespective of how they have acquired the citizenship

504 Approved by the Law 37/81 of 3 October 1981.

505 The last amendment was made by Organic Law 2/2020, of 10 November.

506 Organic Law 1/2004 of 15 January.

507 Ana Rita Gil, "Amendments to the Portuguese Nationality Law – towards an (even) more inclusive citizenship", Global Citizenship Observatory (GLOBALCIT), European University Institute – Robert Schuman for Advanced Studies, http://globalcit.eu/amendments-to-the-portuguese-nationality-law-towards-an-even-more-inclusive-citizenship/, july 2018.

(either by birth or by naturalisation)[508]. Moreover, for example, the constitutional principle of sex equality implies that both men and women have the same rights as regards transferring the Portuguese nationality for their children. Finally, Article 26 of the Constitution guarantees citizenship as a fundamental right. This Article grounds that, at least those who comply with the legal requirements, have a subjective right to the Portuguese nationality and cannot have their requests arbitrarily denied[509].

The Portuguese Nationality Regulation (NR) details conditions and outlines procedures for implementing all cases of acquisition of citizenship.[510]

2. Conditions for residence-based naturalisation

The Portuguese Law foresees several naturalisation regimes: in some cases, the individual may hold a subjective right to naturalisation, provided that they fulfil the requirements foreseen in the Nationality Act. In other cases, the Ministry of Justice retains a discretionary power to award naturalisation to the interested persons.

a. Residence requirements: residence title and length of residence

The general rule for naturalisation is enshrined in Article 6(1) NA and foresees a subjective right to naturalisation. There are other possibilities of acquiring citizenship through naturalisation, although all of them are dependent on a discretionary decision made by the Ministry of Justice. Most of them, however, do not concern immigrants or their descendants and are based in other considerations, such as special ties to Portuguese communities[511].

Apart from these special schemes, there are two cases of residence-based

508 The only exception to this principle is the candidacy to the role of President of Republic, which can only be made by a Portuguese-born citizen.

509 Jorge Pereira da Silva, *Direitos de Cidadania e Direito à Cidadania* (Lisboa: ACIME, 2004).

510 Decree-Law 237-A/2006, de 14 December, as last amended by Decree-Law 26/2022 of 18 March.

511 These cases are foreseen in Article 6(6) and encompass discretionary naturalisation of foreigners who have held Portuguese citizenship, who are descendants of Portuguese citizens, members of communities of Portuguese origin, or who have provided or will provide notable services for the Portuguese state or to the Portuguese community. These individuals are exempted from fulfilling the requirements regarding the period of residence and knowledge of the Portuguese language. Finally, the Government may also grant nationality by naturalisation, exempting the requirements on legal residence and Portuguese knowledge to descendants of Portuguese Sephardic Jews. Applicants must prove the belonging to a Sephardic community of Portuguese origin, namely through surnames, family language, direct or collateral descent (Article 6(7)). No residence requirement is foreseen.

naturalisation for adults: the general regime and the regime for the ascendants of Portuguese-born citizens.

- *General regime of residence-based naturalisation for adults:*

For benefiting to a subjective right to naturalisation, the individual must fulfil the following requirements:[512]

a) be of legal adult age or emancipated according to the Portuguese law;
b) have legally resided in Portugal for a period of five years in the territory;
c) have sufficient knowledge of the Portuguese language;
d) not have been convicted, with a final decision, to a prison sentence equal to or greater than three years, for a crime punishable under Portuguese law;
e) not constitute a danger or threat to national security, due to their in volvement in activities related to the practice of terrorism, in accordance with the respective law.

- *Naturalisation regime for the ascendants of Portuguese-born citizens*[513]

In contrast to the general regime, this naturalisation by the ascendants of Portuguese-born citizens based on residence is dependent on a discretionary decision of the Portuguese Government. In this case, naturalisation may be awarded to individuals who fulfil the following requirements:

a) are ascendants of Portuguese-born citizens;
b) have their ancestry established at the time of the birth of the Portuguese citizen;
c) are of legal adult age or emancipated according to the Portuguese law;
d) have resided in Portugal, regardless of holding a legal title, for at least five years before the request;
e) have sufficient knowledge of the Portuguese language;
f) have not been convicted, with final decision, to a prison sentence equal to or greater than three years, for a crime punishable under Portuguese law;
g) do not constitute a danger or threat to national security or defense, due to their involvement in activities related to the practice of terrorism.

512 Article 6(1) NA and Article 19 NR.

513 Article 6(8) NA.

b. Dual citizenship: requirement to renounce previous citizenship(s)

The Portuguese Nationality Act does not require a renunciation or loss of the original citizenship(s) as a condition to acquire the Portuguese citizenship. This applies to all types of acquisitions.

c. Integration or assimilation criteria

In order to be eligible for a subjective right to naturalisation – and also for some discretionary-based naturalisations - the individual must have sufficient knowledge of the Portuguese language. There are no additional requirements to demonstrate civic knowledge or cultural assimilation.

This knowledge is presumed to exist for applicants who are nationals of Portuguese-speaking countries, who, thus, do not need to present special evidence for fulfilling this requirement.

For other nationalities, the level of knowledge is defined in the Nationality Regulation as encompassing the skills indispensable for interacting with the Portuguese community, which corresponds to the A2 level of the Common European Framework of Reference for Languages. This includes speaking, listening, reading, and writing. If the applicant is a person with serious health issues, disability or above 60 years old, who does not know how to read or write, the Portuguese language test shall be adapted to be appropriate to his or her capacity to show his knowledge of the language.[514]

d. Procedure: is there a legal entitlement to naturalise

The Ministry of Justice, through the Registrar of the Central Registry Office, is the competent authority to decide on naturalisation applications. As mentioned, the Nationality Act maintains two types of naturalisations: cases where there is a subjective right to naturalisation and cases where naturalisation is discretionary. In both cases, naturalisation takes place through registration with the Central Registry Office. In the first case, the authorities do not retain discretion during the procedure: as long as the applicant fulfils the requirements, he or she is entitled to acquire citizenship via naturalisation. In the second case, the Ministry's decision is discretionary. Therefore, applicants may be denied naturalisation even if they fulfil the requirements foreseen in the Law, on mere policy considerations, for example if the person is considered not to have a sufficient link to the national community or due to external policy considerations. Nevertheless, this possibility does not happen frequently.

514 Article 25 (6) NR.

3. Citizenship acquisition based on residence/ schooling during childhood

According to the Portuguese Civil Code, all persons aged under 18 years old are considered as minors.[515] Under the Portuguese Immigration Law, in general only minor children who are dependent on the couple or one of the spouses are eligible for family reunification.[516] Also minors who were adopted by the applicant by a decision issued by the competent authority of the country of origin may be reunited - provided that the law of that country recognizes the adopted rights and duties identical to those of natural filiation and that the decision is recognized by Portugal.

- *Extension of parental naturalisation ('coacquisition')*

Children who arrive through family reunification will typically acquire the Portuguese nationality through the extension of naturalisation by one or both parents. Parents acquire citizenship through naturalisation, and then they may extend their citizenship acquisition to their children. This can be made immediately after the parents acquire the Portuguese citizenship. The parents only need to declare that they wish to extend the nationality acquisition to their children.[517] No requirements regarding the children residence in Portugal are made in the Law.

Immigration Law also allows for family reunification of adult children who are dependent on the couple or of one of the spouses, who are single and studying at an educational establishment in Portugal. However, the latter can only acquire naturalisation through the general requirements of residence-based naturalisation for adults, as filial transfer is no longer applicable after they reach 18 years old – unless they are deemed as disabled under the law.

- *Autonomous naturalisation of minors*

The NA also foresees an autonomous naturalisation pathway for minors living in Portugal. In these cases, children may acquire citizenship irrespectively of their parents' nationality or even legal status. However, that can only happen in two cases: (1) when the child was *born* in the Portuguese territory – which

515 Article 122 Civil Code; Decree-Law no. 47344/66, of 25 November, as last amended by Law no. 46/2023 of 17 August.

516 Article 99 of Law no. 23/2007 of 4 July, as last amended by Law no. 41/2023, of 10 August.

517 Article 2 NA.

will be dealt with in the following section, and (2) when the child is an unaccompanied migrant child.

Regarding the second case, Article 6(3) NA sets forth a subjective right to naturalisation for children and youngsters who have arrived as unaccompanied migrant children in Portugal and are accommodated in legally recognized institutions aimed at protecting children and youngsters in danger.

Even in these cases, if the children have already reached the age of criminal responsibility, a criminal record must be presented, and the child shall have not been convicted, in a final judgment, with imprisonment of 3 years or more nor represent a danger or threat to national security or defence by his or her involvement in activities related to the practice of terrorism under the respective law.

The Public Prosecutor's Office is responsible for initiating the procedure, and for guaranteeing that the child's rights are protected throughout all procedures.

In all these cases, the minors have a subjective right to naturalisation and the authorities do not retain any discretion.

4. Citizenship acquisition based on birth in a country

The subsequent amendments of Portuguese Nationality Act have increased the ways by which a person who is born in the country may acquire the Portuguese citizenship, irrespective of the citizenship of their parents. There are two ways of acquiring such citizenship: by birth and by naturalisation.

First, some categories of persons who are born in the country to foreign parents acquire Portuguese citizenship by birth:[518]

1. That is the case for the 'third-generation' with a migrant background who are *ex lege* Portuguese citizens. In order to obtain citizenship at birth, the person must fulfil the following requirements:[519]

a) The individual was born in the Portuguese territory;
b) Their parents are foreigner citizens, but at least one of them was born in Portugal;
c) Such parent was residing in Portugal at the date of birth, regardless of the title of residency (e.g., temporary, permanent, etc.) or whether it is regular or irregular.

518 Article 1 NA.

519 Article 1(e) NA.

2. Also persons of second-generation migrant background may acquire citizenship by birth, if they fulfil the following requirements:[520]

a) They were born in the Portuguese territory;
b) Their parents are foreign citizens who are not in the service of their respective State;
c) They do not declare that do not want to be Portuguese;
d) At the time of birth, at least one of the parents must respect one of the following conditions: either the parent is legally residing in Portuguese territory, irrespective of the time **or** the parent has resided in Portugal, regardless of title, for at least one year.

The child's legal guardians may, nonetheless, preclude this acquisition, by declaring that they do not wish their child to be a Portuguese citizen. In the absence of such declaration, nationality is attributed at the time of registration of the birth at the civil registry office, upon declaration that the parents are not in Portuguese territory serving the respective State and the presentation of a document proving residence of one of the parents (either through a legal title or through any type of document proving that they have been *staying in the country for the past one year*).[521]

Second, the NA also foresees some naturalisation pathways for persons who were born in the country.

1. First, minors who were born in national territory, and who meet the following conditions have a right to naturalisation:[522]

(1) have sufficient knowledge of the Portuguese language. In case of children who have not completed the first cycle of basic education in a school with the Portuguese official curricula, the Portuguese language knowledge may be proven by declaration issued by a Portuguese language education institution.
(2) if have already reached the age of criminal responsibility (16 years old), have not been convicted, in a final judgment, with imprison-

520 Article 1(f) NA.
521 Article 10 (2) NR.
522 Article 6(2) NA.

ment of 3 years or more.
(3) do to not represent a danger or threat to national security or defence by his or her involvement in activities related to the practice of terrorism under the respective law.
(4) being in one of the following situations:

a) one of the parents is resident in Portugal, regardless of any residence permit, for at least five years immediately preceding the application, or
b) one of the parents resides in Portugal with a legal title, or
c) the minor has completed at least one cycle of basic education, secondary education or professional education in Portugal.

2. Second, there is also a pathway to naturalisation by adults who were born in Portugal. This applies to those persons who, although having been born in Portugal, have never acquired citizenship or legal title. They may acquire a subjective right to naturalisation pursuant that they: (1) were born in the national territory (2) to foreigners who were legally residing in Portugal at the time of the birth, (3) have stayed in the territory in the five years immediately preceding the request.[523] Moreover, they must comply with all conditions mentioned above in points a), c), d) and e) for general cases of naturalisation that is: be of legal adult age or emancipated according to the Portuguese law; have sufficient knowledge of the Portuguese language; have not been convicted, with a final decision, to a prison sentence equal to or greater than three years, for a crime punishable under Portuguese law and not constitute a danger or threat to national security, due to their involvement in activities related to the practice of terrorism, in accordance with the respective law.

523 Article 6(5) NA

5. Procedures for citizenship acquisition

- *Documents*

Applications for naturalisation and acquisition of citizenship by birth require the presentation of several documents, which vary according to the legal provision under which the application is made. Some general rules apply.

In cases where a criminal record statement is required, it shall encompass all certificates issued by the country of birth and nationality, as well as from countries where the person has resided after reaching the age of majority of criminal responsibility. However, the record from the country of birth and/or country of nationality is waived whenever the interested party proves that, after reaching the age of criminal liability, he or she has resided in another country.[524] The Portuguese Law does not specify whether a prison sentence of three years or more imply permanent exclusion from naturalisation, or is there a 'rehabilitation period'. However, it must be understood that the general deadlines foreseen for "cleaning" the criminal records established in the Criminal Identification Act shall be applicable[525]. These deadlines depend on the type of crime, and can last from 25 to 5 years.

Documents proving sufficient knowledge of the Portuguese language shall consist of one of the following certificates: (1) of a public or private/cooperative (officially recognised) educational institution; (2) of Portuguese language as foreign language, issued after being approved by an evaluation centre recognised by the Minister of Education.[526] For those who did not attend an educational establishment or do not possess a certificate of Portuguese as foreign language, the government has created a system of diagnostic tests[527]. The certificate of approval on the diagnostic test is issued by the consular services when the applicant resides abroad.

Proof of legal residence may consist of any type of residence titles, visas or authorizations provided for in the immigration law, the asylum law or any other special regime, including from treaties or conventions to which Portugal

524 Article 37/8 NR; according to the Portuguese Criminal Law, the age of criminal liability is 16 years old.

525 Law no. 37/2015 of 5 May, as last amended by Law no. 14/2022, of 2 August.

526 Article 25 NR.

527 These correspond to the model jointly approved by the Ministry of Justice and the Ministry of Education (Portaria n. 60/2011 of 2 February) and are done in one of the referred educational institutions.

is a Party, namely within the scope of the European Union and the Community of Portuguese Speaking Countries.[528]

Proof of habitual residence (non-legal) may be done through several types of documents, such as a certificate of residence issued by the parish council or documents proving compliance with contributory or tax obligations).

When required by the NA, the applicant is exempted from presenting certificates of acts of the national civil registry and of Portuguese criminal records, as well as documents proving a legal stay within the Portuguese territory, as the Public Administration has direct access to this information.[529] In particular situations, the Ministry of Justice may allow an exemption for documents which should be presented for the naturalisation procedure as long as there are no doubts regarding the facts concerned.[530]

- *Residence-based naturalisation*

  In all cases of residence-based naturalisation, applicants must present:

  a) Birth certificate (unless exempted under Article 37 NR);
  b) Criminal record certificates;
  c) Document proving sufficient knowledge of the Portuguese language;

Applicants under the general naturalisation regime for adults (foreseen in Article 6(1) NA), must additionally prove their legal residence (unless exempted under Article 37 NR).

Applicants for naturalisation of ascendants of Portuguese-born citizens[531] must present the documents foreseen in Article 24-B NR:

a) Birth registration certificate of the original Portuguese descendant stating the parentage established by the foreign parent at the time of birth;
b) Document proving sufficient knowledge of the Portuguese language;
c) Documents proving that, in the five years immediately preceding the request, the interested party has habitually resided in the Portuguese territory.

528 Article 19 NR.
529 Article 37 NR.
530 Article 26 NR.
531 Article 6(8) NA.

- *Citizenship acquisition based on residence/schooling during childhood*

1. For the extension of the parental naturalisation to the child ('coacquisition') the parent who acquires Portuguese citizenship must submit a declaration.[532] The declaration must mention the parent's nationality acquisition record. A birth certificate proving the family relationship must be presented, as well as an ID of the parent.

2. Autonomous naturalisation of children and youngsters who have arrived as unaccompanied migrant children requires the following documents:[533]

a) Birth registration certificate;
b) Criminal record certificates;
c) Certificate of the Court decision that applied the definitive promotion and protection measure, which has become final.

- *Citizenship acquisition based on birth*

The acquisition of Portuguese nationality by birth may occur at the time of the birth through *ex lege* acquisition or at a later moment by naturalisation.

1. At the time of the birth, the acquisition procedure takes place at the civil registry services. In such cases, the following documents must be presented so that the child is immediately registered as Portuguese:[534]

a) documents proving the nationality of the parents (if existing);
b) for the third-generation: a certificate of the parent's birth registration, proving that their birth was in the Portuguese territory – which can be exempted under Article 37 NR
c) any evidence proving that the parent was residing in Portugal, in cases where the residence was not legal;
d) any of the legal titles issued by the Aliens and Borders Service that prove that the parent was legally residing in Portugal, when that is the case – which can be exempted under Article 37 NR.

532 Article 13 NR.
533 Article 20-A NR.
534 Article 4 NR.

2. For cases of naturalisation of persons who were born in the country, documents vary depending on the type of application. In both cases, applicants must present a birth certificate and criminal record certificate (after the age of criminal responsibility). Minors must present *one* of the following documents:

a) document proving that, in the five years immediately preceding the request, one of the parents resided, regardless of title, in Portuguese territory
b) document proving the legal residence of the parent (which can be exempted under Article 37 NR) or
(c) document proving the attendance of at least one year of pre-school education or basic, secondary or vocational education by the minor.

Naturalisation of adults who were born in the Portuguese territory is dependent on the presentation of the following documents:[535]

a) Birth registration certificate, stating the residence in Portuguese territory of one of the parents;
b) Document proving sufficient knowledge of the Portuguese language;
c) Documents proving habitual residence in Portuguese territory.

- *Authority*

All acts related to the acquisition and loss of citizenship are subject to registration on the Central Register of Citizenship, which is managed by the Central Registry Office.[536] When the procedures require declarations from the interested persons, these declarations can be made at the local services of the Central Registry Office, at the Conservatories of Civil Registry and at Portuguese consular services.[537]

The Central Registry Office is, then, the authority that is responsible for collecting the information necessary to assess the requirements and also in charge of all procedures. Naturalisations, however, have to be decided by the Ministry of Justice, and must also be registered in the Central Registry Office. Members of the Central Registry Office are official registrars of the Ministry of Justice.

535 Article 23 NR.

536 Article 16 NA.

537 Article 32 (1) NR.

- *Implementation*

Two different procedures apply depending on whether the acquisition occurs at birth or through naturalisation. Acquisitions at birth that require a declaration must have this declaration registered in the Central Registry Office. When no declaration is needed, the acquisition is automatic when the child is registered at birth. In the other cases, the Central Registry Office has the powers of investigation, decision and registration of the declarations that ground the acquisition. The declarations are preliminarily rejected if they do not meet the formalities required or if the documents proving the necessary facts are not presented.[538] The applicant is notified of the rejection and has the right to be heard within 30 days. After analysing the process, the conservator must decide the outcome within 60 days. If he or she concludes that the registration is to be refused, the applicant has the right to be heard within 30 days. After those 30 days, and after analysing the applicant's answer, the conservator issues a decision to authorise the registration or not.[539]

As for the naturalisation procedure, it is initiated through an application addressed to the Ministry of Justice,[540] which is submitted in the Central Registry Offices. The Registrar of the Central Registry analyses the application within 30 days and will refuse it preliminarily if it is incomplete or if the required documents are not included. In such a case, the applicant is notified and has the right to be heard within 30 days.[541]

The Central Registry Office will then request information from other public authorities, such as the security forces. Information must be sent within 30 days. After this information is received, and within 45 days, the Central Registry Office issues an opinion on the viability of the application. If the opinion is negative, the applicant is notified and has the right to be heard within 30 days. After this period, and after taking into consideration the defence of the applicant, the Central Registry Office sends the application to the Ministry of Justice. The naturalisation procedure ends with a decision of the Ministry of Justice who grants or refuses the application. Once the application has been sent to the Ministry of Justice, no deadline is stipulated for his decision. Naturalisation is then finally registered.

538 Article 32 (3) NR.

539 Article 41 NR.

540 Article 18 NR.

541 Article 27(3) NR.

In practice, naturalisation procedures take more than 19 months to be decided[542].

- *Appeal*

All decisions made by the authorities are subject to the general guarantees of the Administrative Procedures Code (APC)[543]. Therefore, applicants may issue a complaint to the competent authority and, when it is the case, an appeal to a higher competent authority, which can be the Ministry.[544] Moreover, all decisions may be judicially reviewed before the Administrative Courts,[545] under the general Code of Procedures of the Administrative Courts[546]. Appeals to the Court are used with some frequency. The competence to deal with matters of nationality pertains to the Lisbon Administrative Court, which has witnessed a considerable increase of the number of judicial procedures regarding decisions on nationality matters.

- *Fees*

The registration fee for the procedures regarding the acquisition of citizenship after birth is 250 Euros for adults and 200 Euros for minors.[547]

6. Information and advice

The Portuguese Law does not expressly mention a duty of the competent authorities to inform people who were born in the country of residence about the possibility of acquiring citizenship.

However, some governmental bodies are especially invested with the task of promoting the integration of migrants. One way of developing their mission is precisely by providing information or counselling services on all matters related to integration – including access to the Portuguese citizenship. That is the case of the High Commissioner for Migration, which is a governmental body working directly under the supervision of the Presidency of the Council

542 Susete Francisco, "Concessão da nacionalidade ultrapassa todos os prazos legais", *Diário de Notícias,* 9 (January 2022).

543 Decree-Law no. 4/2015, of 7 January, as last amended by Decree-Law no. 11/2023 of 10 February.

544 Article 184 ff. APC.

545 Article 61 ff NR.

546 Law no. 15/2002, of 22 February, as last amended by Law no. 56/2021 of 16 August.

547 Article 18 of the Registration and Notary Regulation; Decree-Law 322-A/2001, of 14 December, as last amended by Decree-Law n. 109-D/2021, of 9 December.

of Ministries, and fully developed with the task of promoting integration of migrants in the territory. It has created local migrants' support centres, which provide information and support to the migrants at the local level. These centres offer free legal advice services.

Sweden

Christian Fernández

1. Introduction

Swedish citizenship is based on the principle of descent, ius sanguinis, as stated in the Citizenship Acts of 1894, 1924, 1950 and 2001. The present rules of citizenship acquisition are regulated by the 2001 Citizenship Law,[548] which introduced a facilitated processes of declaration for children of immigrants, formal and complete acceptance of dual citizenship, and gender-neutral rules of descent. This law has been amended several times, most notably in 2014,[549] resulting in a new portal paragraph on the significance of citizenship and an obligation for municipalities to organize an annual ceremony for new Swedish citizens as well as additional aspects of declaration and gender-neutral rules of descent.[550] According to the present legislation, Swedish citizenship by birth is conferred on the child if one parent (regardless of gender and civil status) is a Swedish citizen or if a deceased parent was a Swedish citizen at the time of death.[551]

The 2001 Act was motivated as a necessary modernization of the existing law, which dated back to 1950. Since then, Sweden had become a country of immigration, which called for more liberal rules of citizenship adapted to the reality of inward and outward mobility, as argued by the government at the time.[552] Furthermore, Sweden's accession to the EU in 1995 and the adoption of the 1997 European Convention on Nationality into Swedish law in 2001,[553] created additional pressure for modernization and liberalization of the law.

The rules of naturalization date back to reforms in the mid-1970s that brought about Sweden's first comprehensive integration policy.[554] Since then, five years of residence and good behavior are required to be eligible for Swedish citizenship, and two years for Nordic nationals. A special rule for refugees and

548 Law 2001:82 on Swedish Citizenship.

549 Bill 2013/14:143, A Citizenship based on Affinity.

550 SFS 2014:481, Law on Amendment to the Law on Swedish Citizenship.

551 § 2. Law 2001:82.

552 Bill 1999/2000:147, Law on Swedish Citizenship,16.

553 SÖ 2001:20, 1997 European Convention on Citizenship.

554 Bill 1975/76:136, On Amendment to the Instrument of Government.

stateless people was formalized in 2001, lowering the required number of years to four. The Swedish citizenship laws have never included any language or civic knowledge requirements, although proof of language ability was de facto mandatory until the late 1970s, when it was phased out by new legislation.

A system of independent Migration Courts was established in 2006.[555] They function as an instance of appeal in all matters concerning migration, including citizenship acquisition. The final instance of appeal is the Supreme Migration Court, the decisions of which have prejudicial effects on the interpretation and application of the laws on citizenship. The establishment of the courts implied a clearer separation between the law and politics of immigration, and a more transparent appeal process.

Swedish citizenship legislation has developed through cooperation between the Nordic countries. Already in the late 19th century, a trinational committee (Sweden, Norway and Denmark) was appointed to draft a proposal that laid the ground for the 1894 Citizenship Act in Sweden and the 1898 Citizenship Act in Denmark. After World War II, the cooperation between the three countries intensified, leading to the consolidation of the principles of ius sanguinis, the single citizenship norm and the avoidance of statelessness. Through a series of agreements in the 1950s, the Nordic countries (including Finland, and later Iceland and the Faroe Islands) established a passport union, liberating the countries' nationals from existing passport and residence permit conditions. They also abolished the border controls between Nordic states. While the Nordic countries' accession to the Schengen agreement in 2001 reduced the importance of the Nordic passport union, Nordic citizens are still privileged immigrants, as will become obvious in the sections below.

Several changes to the Swedish citizenship rules seem to be under way. A report commissioned by the previous government (Social Democrats and Green Party) proposes the introduction of both language and civic knowledge tests for Swedish citizenship.[556] A new parliamentary committee has been appointed by the sitting government (Conservatives, Christian Democrats and Liberals) to propose stricter rules for naturalization that, in addition to the previous report, include a longer residency requirement, stricter demands on good behavior and self-sufficiency, and a mandatory oath of allegiance or similar.[557] It is likely that some of these changes will be decided (and perhaps

555 Aliens Law 2005:716.

556 SOU 2021:2, Government Report on Knowledge Requirements of Swedish and Civics for Swedish Citizenship.

557 Government Press Conference, 5 May 2023.

effective) before the next general elections in September 2026, although no bill has been presented to Parliament yet

2. Conditions for residence-based naturalisation

a. Residence requirements: residence title and length of residence

The general residence requirement for naturalization is five years with the exceptions of two years for Nordic citizens and four years for refugees and stateless people.[558] The general requirement was lowered from seven to five years during the big integration reform in the mid-1970s, with the motivation that Sweden now had a more efficient integration policy that facilitated migrants' adaptation to Swedish society (.[559] The same reform also consolidated the fast-track for Nordic nationals, with reference to the "community of culture and societal conditions" that exists between the Nordic countries.[560] A few decades later, the Citizenship Act of 2001 codified an already established practice that refugees and stateless people could be naturalized after four years of residence.[561]

Residence, as applied in Swedish legislation, puts central emphasis on the migrant's intention to stay and build a life in the country. This is often referred to as the "subjective requisite" because it stresses the migrant's intention rather than more visible integration criteria, such as employment, although the two often coincide.[562] The migrant's time of residence is normally counted from the day they apply for residence (provided it is later approved) or, if residence has already been approved pre-arrival, from the day they enter the country. Residence without permit or after the permit has expired does not count as grounds for naturalization, nor do permits that are granted for more specific and limited purposes, such as tourist and student visas.

The period of residence may include travels abroad, meaning that the migrant is not obligated to have one continuous stay within Swedish borders until the required time is reached. Interruptions are permitted but discounted from the total time of residence if they exceed short vacations, family visits and the like abroad. Residence is only considered as terminated if the migrant

558 § 11 Law 2001:82.

559 Bill 1975/76:136, 29.

560 Bill 1975/76:136, 29.

561 § 11 Law 2001:82.

562 DsA 1983:12, Government Department Promemoria on the Calculation of Residence Time in Matters of Maturalization, 17-18.

appears to have emigrated from Sweden, i.e. taken up residence elsewhere. [563]

In addition to five and four years of residence, respectively, immigrants and refugees must have a permanent residence permit to be eligible for naturalization.[564] Citizens from the Nordic countries are exempted from this requirement in accordance with the 1954 Nordic passport agreement (fully effective from 1958).[565] For citizens from the EEA countries, permanent residence is equated with the right to reside according to the free movement directive,[566] which came into force in 2006.[567]

Former Swedish citizens who return to Sweden can be exempted from the residence requirement, especially if they reached adult age before leaving Sweden, in which case naturalization can happen almost immediately.[568] Spouses and cohabitant partners of Swedish citizens can also be exempted from the general rules [569] and naturalize after three years of residence and two years of marriage or partnership.[570] In some cases, the residence requirement has been waived – e.g., for long-time spouses who never lived in Sweden. Children of naturalized migrants may acquire Swedish citizenship with the parent/s if they are under 18 and in the naturalizing parent/s custody.[571]

b. Dual citizenship: requirement to renounce previous citizenship(s)

For a long time, Sweden had a single citizenship policy, according to which dual citizenship should be avoided. The underlying reasons were mainly the doubling of political rights (to vote and run for office) and obligations (to serve in the military), diplomatic complexity and security concerns. According to the 1950 Citizenship Law, the immigrant consequently had a responsibility to show within a given time frame that their original citizenship had been revoked in case this did not happen automatically when taking up Swedish cit-

563 cf. Bill 1999/2000:147, 47.

564 § 11 Law 2001:82.

565 § 20 Law 2001:82.

566 Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

567 Bill 2005/06:77, Implementation of the EC Directives on the Mobility of Union Citizens and the Standing of Permanently Resident Third Country Nationals.

568 § 12 Law 2001:82.

569 § 12 Law 2001:82.

570 Government decision 1989-09-07 U 7345/88.

571 § 13 Law 2001:82; Aliens Appeal Board (UN) decision 95/01812, 27 February 1996.

izenship.[572] Emigrated Swedes who applied for citizenship in another country would lose their Swedish citizenship upon completion of naturalization in the country of residence.[573]

Towards the end of the 1990s, the established consensus on dual citizenship changed drastically, as reflected in the commissioned report that paved the way for the 2001 Citizenship Law.[574] According to the supporters, who represented the overwhelming majority in Parliament, acceptance of dual/multiple citizenship was a natural adaptation to the fact of international mobility and globalization, as well as the value of multiculturalism and multiple national attachments. Moreover, it was a pragmatic normalization of an already existing praxis to allow exemptions from the single citizenship principle – according to estimates, approximately 300,000 Swedes had at least one additional citizenship by the end of the 1990s.[575] When the new law was passed, the old renunciation conditions were abolished, thus ending the single citizenship policy. From then on, dual citizenship has been fully recognized and Swedish authorities do not make any distinction between Swedes with one or more citizenships.

c. Integration or assimilation criteria

The Swedish citizenship law has never included any formal requirements of civic knowledge or language skills, but it did include a proof of language condition that was amended through a form in the 1950 Citizenship Act.[576] According to this form, the applicant should provide documentation – usually a written testimony by a public official – to prove that they could speak, read, and write in Swedish. This praxis became less strict over time and was eventually phased out when the form was revised in the late 1970s. The Swedish integration policy that emerged in the 1970s was based on voluntary integration, in which rights and citizenship were viewed as encouragements rather than rewards for integration.[577] Hence, the courses in Swedish and civic orientation

572 § 6 Law 1950:382 on Swedish Citizenship.

573 § 7 Law 1950:382.

574 SOU 1999:34, Government Report on Swedish Citizenship.

575 Per Gustafsson, "Globalisation, multiculturalism and individualism: The Swedish debate on dual citizenship", Journal of Ethnic and Migration Studies 28, no. 3 (2002), 468.

576 Bill 1950:217, Proposal for Law on Swedish Citizenship.

577 Maritta Soininen, "The 'Swedish model' as an institutional framework for immigrant membership rights." *Journal of Ethnic and Migration Studies* 25, no. 4 (1999) ; Christian Fernández, "The Unbearable Lightness of Being Swedish: Ideological Thinness in a Liberal Citizenship Regime." *Ethnicities* 19, no. 4 (2019).

offered to immigrants (SFI, Swedish for Immigrants) were non-compulsory and free of charge.

The question of language requirements for citizenship has resurfaced on the political agenda in the last decades, however. It was addressed by one commissioned report leading up to the latest Citizenship Act[578] and by another commissioned report ten years ago.[579] Both reports found that language tests are excluding, especially towards elderly, low-educated and female migrants (who are often more restricted to the home environment), and therefore dismissed them as a requirement for citizenship. Notwithstanding, two recent investigations commissioned by the previous Social Democrat-Green government suggest that language and civic knowledge tests be introduced for both permanent residence and citizenship;[580] the stated reason being to achieve more effective integration and to bring Sweden closer in line with the other EU countries. The current center-right government that took office in 2022 on a restrictive migration agenda, has commissioned a new investigation to propose further restrictions, including longer time of residence (seven years), conditions of self-sufficiency and an oath of allegiance.[581] It is likely that some of these changes will be initiated before the next election in September 2026.

At present, however, the only performative-like requirement for naturalization in Sweden is the condition of good behavior. According to 11§ of the Citizenship Law, the applicant "shall have had and be expected to have a decent way of life". This condition dates back to the 1924 Citizenship Law (§ 5) and has been applied ever since then. It refers primarily to law-abidingness but can also include other perceived flaws in the applicants character and actions, such as mismanagement at work or neglect to pay alimony.[582] The consequence of committed felonies and/or misdemeanors depends on the gravity of the offense and the time passed in relation to the application for citizenship. The Swedish Parliament has established the following guidelines for minimal waiting times:[583]

578 SOU 1999:34, Government Report on Swedish Citizenship.

579 SOU 2013:29, Government Report on Swdish Citizenship.

580 SOU 2020:54, Government Report on A Long-term Sustainable Migration Policy and SOU 2021:2, Government Report on Knowledge Requirements of Swedish and Civics for Swedish Citizenship respectively.

581 Government Press Conference, 5 May 2023.

582 Bill 1968:158, Proposal for Law on Amendment to the Aliens Act, 84–85.

583 Migration Agency, 2023, https://www.migrationsverket.se/Privatpersoner/Bli-svensk-medborgare/Ansok-om-medborgarskap/Medborgarskap-for-vuxna.html#skotsam (Retrieved 30 October 2023).

Penalty	Eligibility for Swedish citizenship
30 daily/unit fines	1 year after the offense
60 daily/unit fines	2 years after the offense
100 daily/unit fines	3 years after the offense
Probational sentence	3 or 4 years after the sentence584
Prison 1 month	4 years after the offense
Prison 4 months	5 years after the offense
Prison 8 months	6 years after the offense
Prison 1 year	7 years after the offense
Prison 2 years	8 years after completed sentence
Prison 4 years	9 years after completed sentence
Prison 6 years	10 years after completed sentence

If there is a pattern of repeated criminal behavior, the waiting time is likely to be extended or the application may be rejected altogether.[585] Exemption to the condition of good behavior can be made for former Swedish citizens, and spouses and partners of Swedish citizens.[586]

A semi-performative element of naturalization was amended to the Citizenship Law in the mid-2010s in a general attempt to upgrade the meaning of Swedish citizenship.[587] It became compulsory for the municipalities to organize a yearly welcoming celebration of newly naturalized Swedes wherein the meaning of Swedish citizenship, as expressed in § 1 of the law, is conveyed

584 In Swedish criminal law, there are two kinds of probational sentence, "villkorlig dom" and "skyddstillsyn". One is two years with a condition of good behavior and the other is three years of good behavior with mandatory contacts with the probabtion board during the first year of the sentence.

585 Migration Agency, 2023, https://www.migrationsverket.se/Privatpersoner/Bli-svensk-medborgare/Ansok-om-medborgarskap/Medborgarskap-for-vuxna.html#skotsam (Retrieved 30 October 2023); Håkan Sandesjö and Kurt Björk, *Medborgarskapslagen med kommentarer* (4th ed.), (Stockholm: Norstedts juridik, 2020), 127ff.

586 § 12 Law 2001:82.

587 SOU 2013:29, Government Report on Sedish Citizenship; Bill 2013/14:143.

to the participants;[588] a celebration that in most cases takes place on June 6th, the National Day. The ceremony is semi-performative, however, because it is not mandatory to attend.

d. Procedure: is there a legal entitlement to naturalise

Citizenship acquisition by application (i.e. naturalization) is discretionary in Sweden. This means that there is no absolute right to citizenship even if the conditions of naturalization are met. The burden of proof lies with the applicant, who must show that the conditions for citizenship are satisfied. Based on a "reasonable interpretation" of the Citizenship Law, the state has the exclusive right to decide if a person should be allowed to take up Swedish citizenship or not.[589] In most cases, however, this is a fairly straightforward and routine process in which the officials at the Migration Agency check if the applicant meets the conditions under § 11 of the Citizenship Law. It is mostly with respect to the condition of "good behavior" that some leeway for discretionary interpretation opens up,[590] and, less often, with respect to security concerns. In the former type of cases, decisions can be appealed to the Migration Courts and ultimately to the Supreme Migration Court,[591] the rulings of which offer prejudicial guidance in the application of the law.[592] In the latter type of cases, decisions are appealed directly to the government.[593]

588 § 29 Law 2001:82.

589 Bill 1997/98:178, Citizenship and Identity, 6 and 15.

590 Cf. section 2.c above.

591 § 26 Law 2001:82.

592 See e.g. Migration Supreme Court (MIG) 2007:27, MIG 2007:28, MIG 2017:7 and MIG 2019:2.

593 § 27 Law 2001:82.

3. Citizenship acquisition based on residence/ schooling during childhood

According to the rules on family reunification in the Aliens Act, residence shall be granted to a foreign, unmarried child (i.e. under 18 years of age) who has either one parent who lives or has been granted residence for living in Sweden, or has a parent who is married to or cohabitant partner with someone who lives or has been granted residence for living in Sweden. The same rule applies if the child is adopted or intended to be adopted. [594]

Minors who are stateless, immigrants or children of immigrants can become Swedish citizens without having to go through a process of naturalization if certain conditions are met. So can non-Swedish youths under the age of 21. This option was introduced via the Citizen Act of 2001 and further facilitated by amendments that came into force in 2015.[595] These changes are sometimes referred to as elements of *ius soli* in the Swedish tradition of *ius sanguinis*, although they have less to do with birthplace and more to do with residence. Since the conditions are slightly different for each of the above groups, they will be presented one at a time below. What they have in common, however, is that acquisition of Swedish citizenship takes place through a simplified process of declaration/notification, which is not subject to discretionary assessment. The declaration has to be made by all the legal custodians of the child.

According to § 6 of the 2001 Citizenship Law, a child who was born stateless in Sweden, can acquire Swedish citizenship through a declaration by whoever has/have custody of the child, if the child resides in Sweden and has permanent residence in Sweden. An important motive when this right to citizenship by declaration was introduced, was the goal to minimize statelessness in general and among children in particular, as expressed in the 1997 United Nations Convention on the Rights of the Child. In the original law from 2001, such a declaration had to be made before the child's fifth birthday, but this was later extended to the 18th birthday through an amendment in the mid-2010s.[596] Unlike cases of naturalization, there is no required proof of identity and the ambition is to avoid delays, even if the parents' identities remain unverified.[597] The child is to be considered a Swedish citizen from the day the declaration is

594 3 § Law 2005:716.

595 Bill 2013/14:143.

596 Bill 2013/14:143.

597 Cf. section 5 below.

filed, even if the formal approval comes much later.[598] In 2021, changes were made to the Aliens Act that expand the use of temporary residence permits at the expense of permanent residence permits[599] – reflecting the restrictive turn in Swedish immigration policy post-2015. To curb the detrimental effects for some groups, the condition of permanent residence for citizenship by declaration was dropped for children who have resided in Sweden for five years or an aggregate of ten years, and who have a temporary residence permit.[600]

According to § 7 of the 2001 Citizenship Law, children who do not have Swedish citizenship can become Swedish citizens in a similar fashion as above, even if they were not born here. The condition is that they have permanent residence and have resided in Sweden for at least three years or, if the child is stateless, two years. The residence condition was lowered from five and three years, respectively, in the original law of 2001 through a later amendment.**601** The declaration shall be made by the custodian/s before the child's 18th birthday. If the child is 12 years or older and not stateless, the child must consent to the declaration. No proof of identity is required. The permanent residence requirement does not apply to children who are citizens in any of the EES countries, according to § 20 of the 2001 Citizenship Law.[602]

A foreigner who has turned 18 but not 21 years of age can, according to § 8 of the 2001 Citizenship Law, acquire Swedish citizenship through declaration if they have permanent residence and have resided in Sweden since their 13th birthday or, if the person is stateless, since their 15th birthday. This rule gives young people whose custodian/s for some reason omitted to declare for citizenship on their behalf, the opportunity to do so themselves as young adults. The permanent residence condition does not apply to applicants with citizenship from one of the EES countries.[603] No proof of identity is required. Following changes in the Aliens Act that expanded the use of temporary residence permits, the condition of permanent residence for citizenship by declaration has been dropped for children who were born in Sweden and have been stateless since birth, and who have resided in Sweden for five years or an aggregate of

598 Bill 1999/2000:147, 47 and 75.

599 Bill 2020/21:191, Amended Rules to the Aliens Law; SFS 2021:765, Law on Amendment to the Aliens Law.

600 SFS 2021:771, Law on Amendment to the Law on Swedish Citizenship.

601 Bill 2013/14:143

602 Cf. section 2.1 above.

603 20 § Law 2001:82, cf. section 2.1 above.

ten years, and who have a temporary residence permit.[604]

It should be noted that the right to citizenship by declaration always applies to Nordic citizens, not just to minors or youths under 21. According to § 18 of the 2001 Citizenship Law, citizens from Denmark, Finland, Iceland and Norway can acquire Swedish citizenship through declaration if they have turned 18 years of age, have resided in Sweden for five years without being arrested (good behavior). Notwithstanding, immigrants from Nordic countries who wish to acquire citizenship faster (after two years of residence) may apply for citizenship through naturalization instead of declaration.

4. Citizenship acquisition based on birth in a country

There is not really any birthplace principle of citizenship (*ius soli*) in Sweden. As described in the previous section, conditions of residence (*ius domicilium*) are decisive in determining who has a right to Swedish citizenship if the parents are foreigners. Even children who are born stateless in Sweden have to meet certain residence requirements – just like other children of immigrants – to become eligible for citizenship.[605] In other words, Swedish citizenship through birth is and remains firmly based on descent (*ius sanguinis*). The complementary principle of residence became important in the 1970s, as Sweden adjusted to the realities of immigration. For a number of years, the difference in rights between permanent residents and citizens kept decreasing. So much so, that full political rights for permanent residents, including the right to vote and run for office in national parliamentary elections, were proposed in the 1980s,[606] but never passed in parliament. This relative equalization of permanent residents and citizens have been important to the overall view on citizenship and some of the liberalizing reforms in the last decades, such as the acceptance of dual citizenship and facilitated access to citizenship for minors.[607]

604 SFS 2021:771.

605 See previous section.

606 SOU 1984:11, Government Report on Voting Rights and Citizenship: the Voting Rights of immigrants and Swedes Abroad.

607 See previous sections.

5. Procedures for citizenship acquisition

- *Documents*

According to the 2001 Citizenship Regulation, an application for citizenship through naturalization or declaration shall be made in writing.[608] The Swedish Migration Agency is responsible for the application form, which is accessible on their website. The applicant must ensure that the information given in the application is truthful and it should be accompanied by a certificate of identity from the population register, if the applicant resides in Sweden, or equivalent documentation, if they do not. Children and youths who are eligible for Swedish citizenship by declaration are exempted from the proof of identity requirement, according to §§ 6–8 in the 2001 Citizenship Law.[609]

The concept of identity is not clearly defined in Swedish legislation, but in praxis it should include the applicants name, birthdate and (usually) citizenship.[610] The required documentation is an original passport, or another certificate of identity issued by the country of origin that includes a photograph. If the applicant has resided elsewhere, a certificate of identity issued by the country of residence may also be admissible.[611] The documentation should, generally speaking, be reliable and issued in a satisfactory way, with respect to technical advancement and detail – i.e., sophisticated enough to decrease the risk of falsification. A driver's license, birth certificate and other documents issued for purposes other than proof of identity are usually not admissible. However, many unsatisfactory, "weak" documents may together, taken as a whole, offer sufficient proof of identity. An alternative way is that a close relative (spouse, parent, sibling or adult child) with Swedish citizenship verifies the identity of the applicant.[612] People who are unable to meet these conditions, may still acquire Swedish citizenship after a period of prolonged residence of eight years, if they can show that their stated identity is *likely* to be correct.[613] For such exemption to be possible, the applicant must be able to explain why they are not able to offer proof of identity and the residence time of (minimum) eight years

608 § 2 Law 2001:218.

609 See section 3 above.

610 Migration Supreme Court (MIG) 2019:18.

611 Sandesjö and Björk, Medborgarskapslagen med kommentarer, 106.

612 Sandesjö and Björk, *Medborgarskapslagen med kommentar*er, 107–108.

613 § 12 Law 2001:218.

must be unbroken.[614]

The proof of identity requirement is hard to satisfy for some migrants, especially stateless people whose vulnerability often derives from the fact that they do not formally exist in any public records. Proof of identity is not an explicit requirement to get a Swedish residence permit, although it is assumed that identification of the applicant will be sorted out when they apply for residence. However, for refugees and other humanitarian categories of people, it has been of secondary importance and not really an obstacle for acquiring a permanent residence permit. For citizenship the conditions are much stricter. According to Swedish constitutional law, a Swedish citizen cannot be deprived of their Swedish citizenship, even if it was based on false or incorrect information.[615] Consequently, the developed praxis stresses meticulous scrutiny of the applicant's identity before citizenship is granted.[616]

- *Authority*

The applicant is responsible for providing the necessary documentation for the application. The Migration Agency (as any other Swedish authority) has a duty to guide the applicant in the process and help them act in their best interest, which includes informing the migrant about different options, such as the requirements and benefits of applying for citizenship.[617] Applications for citizenship should be submitted to the Migration Agency, unless the applicant is a Nordic country citizen applying for citizenship through declaration, in which case the application should be submitted to the county council (Länsstyrelsen) in the region where the applicant resides.[618] If the applicant is not registered as a Swedish resident, they should apply to the Swedish embassy or consulate that corresponds to their country and region of residence. The applications are assessed and decided by the authority receiving them. An exception is made for applications for citizenship by declaration from Nordic country citizens, which are only assessed and decided by five (of a total 21) county councils, namely Stockholm, Östergötland, Skåne, Västra Götaland and Dalarna. Applications for naturalization are processed according to the discretionary practice described above (section 2.d) by caseworkers at the Migration Agency.

614 Bill 1997/98:178, Citizenship and Identity, 16.

615 Instrument of Government (1974:152), Ch. 2, § 7.

616 Cf. Bill 1994/95:179, Amendment to the Aliens Act, 57.

617 Cf. § 6 Administrative Law 2017:900.

618 §§ 7-9, 18 and 19 Law 2001:82.

- *Implementation*

While there is no formal time limit for processing citizenship applications, the Swedish Law of Public Administration states that after six months of waiting the applicant has a right to demand (in writing) a decision on their case within four weeks.[619] Apart from this, the law states that all matters should be handled as simply, swiftly, and cost-efficiently as possible without infringements on the due diligence of the law.[620] In 2022, the Migration Agency received 66,000 applications for citizenship by naturalization and 20,000 applications for citizenship by declaration. The average waiting time for naturalization was 519 days and the approval rate 84 %. The average waiting time for declarations was much lower, 82 days, and the approval rate 80 %. The processing of applications is centralized and takes place in two cities/offices (Until recently it was just one).[621] The Migration Agency has been struggling with a substantial yet decreasing backlog since the 2015 refugee crisis, which affects the waiting time. Several other authorities tend to be involved in the processing of applications, such as the police, the security police, and the Swedish Enforcement Service (Kronofogdemyndigheten), which also affect the total waiting time.

- *Appeal*

If an application for citizenship is rejected, the decision can be appealed to the Migration Courts and ultimately to the Supreme Migration Court. This line of appeal is fairly new and was introduced in 2006 to enhance transparency and administrative justice in matters concerning immigration and settlement.[622] In the pre-existing order, the Migration Agency's rejections were appealed to the Aliens Appeals Board (Utlänningsnämnden) and in some cases to the Administrative Court (Förvaltningsdomstolen). The county councils' rejections were always appealed to the Administrative Court. From 2006, all appeals, including those by county councils, shall be lodged with one of the four Migration Courts, located in Stockholm, Göteborg, Malmö and Luleå. The final instance of appeal is the Supreme Migration Court in Stockholm.[623] However, applications that have been rejected for security reasons can only be appealed directly

619 § 12 Law 2017:900.

620 § 9 Law 2017:900.

621 Migration Agency, "Appeals to the Migration Agency. Data from the Unit of Statistics and Analysis" (received 24 October 2023).

622 Bill 2004/05:170, New order of instance and process in aliens and citizenship matters.

623 § 1, Ch. 16, Law 2005:716.

to the government, which is the only instance of appeal in such cases.[624] The Supreme Migration Court only takes up cases (after a leave to appeal has been granted) that concern interpretations of the law, not factual conditions, and its decisions have prejudicial effect.[625]

The 2006 reform of the appeal system has brought about a stricter separation of law and politics. While the Aliens Appeals Board enjoyed judicial autonomy, it included layman jurors selected from the political parties, apart from the judges who presided the work of the board. More importantly, decisions about deportation were the responsibility of the government, which also had the authority to issue secondary legislation and guiding decisions on individual cases.[626] In addition, the judicial procedure related to appeals was viewed as too discretionary and one-sided.[627] The 2006 reform made the appeal system more independent and squarely judicial, and it also introduced a bipartite approach with oral hearings, intended to ensure a more transparent and reliable process of appeal.[628]

Every year, a few thousand rejected naturalization applications and few hundred rejected declaration applications are appealed to Migration Agency, most of which are passed on to the migration courts. In 2022, the numbers were 4235 and 340, respectively, which amounts to 6.5 % and 1.7 % of the applications that year. The same year, the Supreme Migration Court took up 574 and 24 cases for decision.[629]

- *Fees*

Before an application for Swedish citizenship can be processed, an administrative fee has to be paid to the Migration Agency. If the application concerns naturalization, the fee is 1,500 Swedish crowns (SEK) (132 eur in July 2024)[630], except for adopted children under 15 years of age, in which case the fee is 175 SEK (15.50 eur in July 2024). Children who are included in their parents application for naturalization, do not pay any fee. Stateless people with refugee

624 § 27 Law 2001:82.

625 § 11-12, Ch. 16, Law 2005:716.

626 Livia Johannesson, *In Courts We Trust. Administrative Justice in Swedish Migration Courts*, PhD Dissertation (Stockholm: Department of Political Science, Stockholm University, 2017), 69.

627 Bill 2004/05:170, 105.

628 Bill 2004/05:170, 105.

629 Migration Agency, "Appeals to the Migration Agency. Data from the Unit of Statistics and Analysis" (received 24 October 2023).

630 The current rate is approximately 1 euro = 11,50 SEK (July 2024).

status are also exempted from the fee. If the application concerns citizenship by declaration, the fee is 175 SEK (15.50 eur in July 2024), unless it concerns a case of Swedish citizenship that was lost before 2001, in which case the fee is 475 SEK (41.50 eur in July 2024).[631]

Nordic country citizens who apply for citizenship by declaration pay an administrative fee of 175 SEK (15.50 eur in July 2024) to their corresponding county council if they are 20 years of age or less, and 475 SEK (41.50 eur in July 2024) if they are 21 years or more.[632]

6. Information and advice

As previously mentioned, the Swedish Administrative Law states that public authorities have a duty to offer individuals the necessary assistance for them to be able to look after their own interests.[633] Authorities shall also be accessible for contact (via phone and email) with individuals, and inform the general public of how and when such contacts can be made.[634] The Migration Agency does most of this via its website,[635] but also through folders, flyers and the like available at other authorities. The information on the website is offered in 25 languages, including sign language. [636]

The county councils have the website *Information Sweden*,[637] which is run by the county council of Västra Götaland in collaboration with the other county councils as well as other authorities, such as the Employment Agency and the Migration Agency. The website contains information for immigrants about Swedish society in general as well as concrete information about legal matters and how to apply for asylum, residence and citizenship.

The 290 Swedish municipalities are responsible for many functions in the Swedish welfare system and democracy, among them immigrant integration. Municipalities offer (non-compulsory) courses in Swedish and civic orienta-

631 Migration Agency, https://www.migrationsverket.se/Privatpersoner/Bli-svensk-medborgare/Avgifter-for-svenskt-medborgarskap.html (Retrieved 29 September 2023).

632 Stockholm County Council, https://www.lansstyrelsen.se/stockholm/bo-och-leva/livshandelser/medborgarskap.html (Retrieved 29 September 2023).

633 § 6 Law 2017:900.

634 § 7 Law 2017:900.

635 migrationsverket.se

636 As of October 2023, the languages are as follows: Arabic, Dari, Pashto, Persian, Sorani, Yiddish, Amharic, Danish, Northern Sami, English, Spanish, French, Icelandic, Kurmanji, Meänkieli, Norwegian, Romani, Russian, Somali, Swedish, Finnish, Sign language, Tigrinya, Turkish and Ukranian.

637 informationsverige.se

tion that also address questions of asylum, residence and citizenship. While such courses are not designed for the specific purpose of how to acquire citizenship, they offer general guidance for integration. Moreover, many municipalities have offices or integration centers that offer support and guidance to immigrants. This is especially the case in larger cities and metropolitan areas with larger immigrant populations and more available resources.

United Kingdom

Bernard Ryan

1. Introduction

The United Kingdom does not have a written constitution, and its courts do not treat access to nationality as engaging fundamental or constitutional rights under domestic law.[638] Accordingly, its nationality law is based on primary legislation, with most provisions contained in the British Nationality Act 1981 (BNA 1981), as amended. The main implementing legislation is the British Nationality (General) Regulations 2003 (SI 2003 No. 548), as amended.

To aid understanding of current nationality law, a summary of the evolution of British nationality categories, and of the broad outlines of substantive law, are provided first.

- *Categories*

Historically, the common law status of British subject was acquired automatically through birth within the territory of the Crown (unconditional *ius soli*).[639] The geographical reach of that principle included births in overseas colonies and self-governing dominions. Up to the 19th century, the *ius soli* principle was supplemented through provision made by legislation for acquisition by descent, or through naturalisation.

The law relating to the acquisition of British nationality has been governed by comprehensive legislation since the British Nationality and Status of Aliens Act 1914. That Act distinguished between British subjects and aliens, with the latter including a category known as 'British protected persons' who were eligible for United Kingdom passports. The British Nationality Act 1948 (BNA 1948) replaced the 1914 Act, and introduced a new category of 'citizen of the United Kingdom and colonies' (CUKCs) distinct from the citizenships of independent Commonwealth states. Under the BNA 1948, there was a

638 In *R v. SSHD ex parte Fayed [1998] 1 WLR 763 (Court of Appeal), Lord Woolf MR characterised naturalisation as a "privilege" rather than a right (at 776). Similarly, in R (O) v SSHD [2022] UKSC 3, Lord Hodge denied that statutory entitlements to register as a British citizen concerned a "vested fundamental right at common law or replicated in statute" (para 36).*

639 There was also historically a requirement of 'allegiance', which had the effect of excluding the children of foreign diplomats.

residual category of statutory British subjects, and British protected persons were recognised as non-aliens.

The BNA 1981 divided the category of CUKC into three, with effect from 1 January 1983: *British citizens*, who acquired that status through a connection to the United Kingdom itself; *British dependent territory citizens*, who acquired that status through a connection to a specific dependent territory; and, *British overseas citizens*, who were CUKCs who lacked a connection to either the United Kingdom or a dependent territory.[640] *Statutory British subjects* and *British protected persons* both continued to be recognised. Subsequently, the category of *British National (Overseas*) was created for persons who were British dependent territory citizens through a connection to Hong Kong, at the time of its return to China in 1997. In 2002, the category of British dependent territory citizen was renamed 'British overseas territory citizen' (BOTCs), and a regime was put in place whereby almost all BOTCs would also acquire British citizenship. Moreover, through legislation passed in 2002 and 2009, a route to British citizenship was created for persons who possessed any subsidiary nationality status and who were otherwise stateless.

The rest of this report is concerned with the acquisition of British citizenship, as that is the only nationality status which confers the right of abode in the United Kingdom. The focus is on birth and residence in the United Kingdom itself, rather than overseas territories, even though British citizenship may also be acquired through birth there. The specific arrangements for the United Kingdom's crown dependencies (the Isle of Man and Channel Islands), which are assimilated to the United Kingdom in nationality law, are also ignored.[641]

- *Substantive law*

British nationality law deviated from the historic principle of unconditional *ius soli* for the first time when the BNA 1981 came into force. For births from 1 January 1983, to acquire British citizenship automatically through *birth*, it was necessary that a parent was a British citizen or settled at the date of birth. That fundamental change led to a series of further new provisions in nationality law in the BNA 1981 by which United Kingdom-born children may acquire

640 See generally BNA 1981 Part I (ss 1-14), Part II (ss 15-25) and Part III (ss 26-29) for the specific provisions relating to each these three categores. The allocation of persons alive at the commencement of the BNA 1981 was covered by its ss 11, 23 and 26.

641 BNA 1981, s 50(1).

British citizenship through registration.[642] These concerned cases where the parental status changed, the child's own long residence, and the avoidance statelessness. Subsequent reforms enabled acquisition through birth in a qualifying overseas territory (2002); provided for acquisition (automatically and by registration) where a child is born to an otherwise eligible father outside marriage (2006); and, added membership of the armed forces as a qualifying parental status (2020).[643]

When introduced, the 1981 Act also changed the law on acquisition by descent, for children born to British citizen parents outside the United Kingdom, in two ways. One change saw the re-introduction of a rule limiting acquisition to one generation in most cases. The other change was that, for the first time, citizenship could be acquired through a child's mother, in addition to being acquired though a father within marriage. From 2006, provision would be made for acquisition through fathers outside marriage. As the provision for acquisition by descent is less relevant here, it is not considered in detail.[644]

In British nationality law, the term *registration* has generally been used to refer to cases of entitlement to obtain a status by application, and for discretionary grants to children (BNA 1981, s 3(1)). In contrast, the term *naturalisation* refers to the discretionary grant of British citizenship to adults (BNA 1981, s 6). Since 2006, that picture has been complicated by the application of the good character requirement to many registration applicants over the age of 10, in addition to applicants for naturalisation. In applying that requirement, the same approach is taken irrespective of the applicant's age, but with a limited relaxation for offences committed while the applicant was a minor,

642 For a discussion, Solange Valdez-Symonds, 'Children's Rights to British Citizenship' in Devyani Prabhat (ed), *Citizenship in Times of Turmoil? Theory, Practice and Policy (Cheltenham: Edward Elgar, 2019); Solange Valdez-Symonds and Steve Valdez-Symonds, 'Reasserting Rights to British Citizenship through Registration' Journal of Immigration Asylum and Nationality Law 34 (2020):143-146.*

643 In respect of births in overseas territories, see amendments to BNA 1981, s 1 made by British Overseas Territories Act 2002. In respect of fathers outside marriage, see BNA 1981, s 50(9A), inserted by Nationality, Immigration and Asylum Act 2002, and BNA 1981, ss 4F and 4G, inserted by Immigration Act 2014 and amended by Nationality and Borders Act 2022. In respect of the parents in the armed forces, see BNA 1981, s 1(1A) and (3A), inserted by Borders, Citizenship and Immigration Act 2009.

644 In respect of the continuing effects of past discrimination against mothers and unmarried fathers, Alison Harvey, 'Discrimination in British Nationality Law' in Devyani Prabhat (ed), *Citizenship in Times of Turmoil? Theory, Practice and Policy (Cheltenham: Edward Elgar, 2019).*

provided these did not attract a custodial sentence.[645] A further blurring of the line between naturalisation and registration has seen provision since 2022 for the discretionary registration of adults where there are "special circumstances" (BNA 1981, s 4L). Thst power is available when the Secretary of State considers that the applicant "would have been, or would have been able to become, a British citizen but for (a) historical legislative unfairness, (b) an act or omission of a public authority, or (c) exceptional circumstances relating to [the applicant]."[646]

2. Conditions for residence-based naturalisation

The rules governing eligibility for naturalisation, including the possibility for requirements to be waived, are set out in the 1981 Act (BNA 1981, Schedule 1).[647] These rules are somewhat different for what may be termed 'general applicants', and for spouses and civil partners of a British citizen, here termed 'partner applicants'.

There are no special provisions favouring the acquisition of citizenship by refugees in British nationality law. Moreover, the Illegal Migration Act 2023 introduced a 'citizenship ban', whereby an individual who arrived by unlawful means to the United Kingdom on or after 7 March 2023 is precluded from obtaining British citizenship, even if they otherwise meet the legal requirements.[648] This rule will affect in particular individuals who arrive by such means and who are subsequently recognised as refugees. There is an exception from this ban where the Secretary of State considers that its application to exclude a person from British citizenship would conflict with the ECHR.[649] The reason for this provision is that the European Court of Human Rights treats nationality as an aspect of a person's identity, so that individuals are protected against the arbi-

645 Home Office, *Nationality: Good Character Requirement (8 September 2022), 22. For a discussion of the application of the requirement to minors, Valdez-Symonds and Valdez-Symonds (2020):153-155.*

646 BNA 1981, s 4L(1), inserted by Nationality and Borders Act 2022. The concept of "historical legislative unfairness' is defined to include discrimination as between men and women, and against children born to fathers outside marriage: BNA 1981, s 4L(2). The Home Office has not sought to define the scope of section 4L in a comprehensive manner, but has instead published guidance which lists examples of when it would be prepared to approve an application: Home Office, *Registration as a British Citizen in Special Circumstances (14 October 2022).*

647 For a detailed exposition, Laurie Fransman, Adrian Berry and Alison Harvey, *Fransman's British Nationality Law (Haywards Heath: Bloomsbury, 2011), 409-490.*

648 Illegal Migration Act 2023, ss 31, 32 and 36, and related amendments which appear as BNA 1981, ss 4(7) and 6(3).

649 Illegal Migration Act 2023, s 36(2).

trary denial of nationality under Article 8 ECHR.[650]

a. Residence requirements: residence title and length of residence

As regards **immigration status** ('residence title'), applicants for naturalisation must be free of time limits when they apply. In the language of the Act, they must not be "subject under the immigration laws to any restriction on the period for which [they] might remain in the United Kingdom" (BNA 1981, Sch 1, paras 1(2)(c) and 3(c)). For general applicants, this condition must have been met for the twelve months up to the date of application, whereas partner applicants need only be free of restrictions on the date of the application.

In most cases, an applicant will meet this requirement by possessing indefinite leave to enter or remain, including now by holding settled status under the EU settlement scheme. Irish citizens also generally meet the requirement, as they typically do not require leave to enter or remain (Immigration Act 1971, s 3ZA).[651] Other less common possibilities concern nationals of other Commonwealth states who acquired the right of abode before 1983 (original version of Immigration Act 1971, section 2), and persons who are exempt from control under the 1971 Act as consular officials or members of international organisations, or as their household family members (Immigration Act 1971, s 8).[652]

As regards length of residence, the legislation refers to a person's being present in the United Kingdom, or absent from it, rather than to being "resident" as such. The qualifying periods for naturalisation set out in the 1981 Act are five years for general applicants, and three years for partner applicants, viewed retrospectively from the date of application. The applicant must also have been present in the United Kingdom at the start of the relevant period. Across the whole period, the person must not have been absent on average for more than 90 days a year (BNA 1981, Sch 1, paras 1(2)(a) and 3(a)). Moreover, the applicant must not have been absent for more than 90 days in the final twelve months (BNA 1981, Sch 1, paras 1(2)(b) and 3(b)).

In most cases, the minimum period of actual residence prior to naturalisation will be longer than the periods set out in the 1981 Act. For general appli-

650 See *Karassev v. Finland (decision of 12 January 1999), Genovese v. Malta (judgment of 11 October 2011) and Mennesson v. France (judgment of 26 June 2014).*

651 Bernard Ryan, 'Recognition After All: Irish Citizens in Post-Brexit Immigration Law' *Journal of Immigration Asylum and Nationality Law 34 (2020):284-305.*

652 The same possibility does not arise for persons exempt as diplomats or their family household members, or as members of armed forces: Fransman, Berry and Harvey, *Fransman's British Nationality Law, 345-346.*

cants, typically either five years or ten years of residence will have been needed to acquire indefinite leave, followed by a further year without time restrictions. For partner applicants, the minimum period to acquire indefinite leave is five years, and ten years may be required in some cases, and these are therefore the minimum periods before a naturalisation application can succeed. The five- and three- year periods will apply in practice to applicants who do not rely upon indefinite leave to be free of time restrictions: Irish citizens, historic right of abode cases, and persons in exempt categories.

As regards **lawfulness of residence**, there is a statutory requirement not to have been in the United Kingdom in breach of immigration law during the qualifying period. Compliance with this requirement depends upon a person's status coming within a specified list, which includes: any form of leave to enter or remain under immigration law; being an Irish citizen; or possessing a right of abode as a Commonwealth citizen; and being exempt from control under the IA 1971. This requirement precludes reliance upon time spent in the United Kingdom without a specific immigration status or an exemption, such as by an overstayer, or as a United Kingdom-born person without citizenship. Statutory provision is however made for the Secretary of State not to investigate compliance with this requirement where a person previously acquired indefinite leave.

There is no discretion to waive the requirement to be free of time restrictions on the date of the application. The Secretary of State does though have discretion to waive any of the other requirements listed "if in the special circumstances of any particular case [they] think fit".[653]

There is an exception from all of these requirements in the case of a person who, on the date of application, is serving outside the United Kingdom in Crown service.[654] There is also a discretionary power to waive requirements concerning length of residence in the case of the partner of a Crown servant or British citizens working for specified international organisations abroad.[655]

b. Dual citizenship: requirement to renounce previous citizenship(s)

British nationality law contains no restrictions on multiple nationality. Accordingly, there is no obligation to give up a foreign nationality in order to acquire British citizenship, and neither is there any obligation to give up British

653 BNA 1981, Sch 1, paras 2 and 4. For the policy, Home Office, *Naturalisation as a British citizen by discretion (14 August 2023).*

654 BNA 1981, Sch 1, para 1(3).

655 BNA 1981, Sch 1, para 4(d) and s 2(1).

citizenship in order to acquire a foreign nationality.

The tolerance of multiple nationality extends to an entitlement to resume British citizenship through registration (subject to the good character requirement) on one occasion, if the individual previously renounced British citizenship because that was necessary to retain or acquire another citizenship or nationality (BNA 1981, s 41).

c. Integration or assimilation criteria[656]

A requirement of **sufficient knowledge of the English language** has long applied to general applicants, and was extended to partner applicants with effect from 28 July 2004.

- A person may satisfy this requirement in three ways.[657]
- The applicant is the national of one of the eighteen English-speaking countries specified in the Regulations.[658]
- The applicant possesses an academic qualification deemed to meet the standard of a Bachelor's or Master's degree or PhD in the United Kingdom, and the qualification was either obtained in one of those English-speaking countries other than Canada, or was taught or researched in the English language.
- The applicant has, in the previous two years, passed a Secure English Language Test, administered by an approved provider, at a level equivalent to level B1 or above on the Council of Europe's Common European Framework of Reference for Language. For a citizenship application, the test needs to assess speaking and listening abilities.

A requirement of sufficient knowledge about life in the United Kingdom was added to the naturalisation rules with effect from 1 November 2005, for both general and partner applicants.[659] This requirement is usually satisfied by

656 For a discussion of the provisions discussed under this heading, Bernard Ryan, 'Integration Requirements: A New Model in Migration Law' *Journal of Immigration Asylum and Nationality Law 22 (2008): 303-316.*

657 BNG Regs 2003, Reg 5A.

658 These are Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Ireland, Jamaica, Malta (added in 2020), New Zealand, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, and the Unites States of America (BNGR 2003, Sch 2A(2)).

659 BNA 1981, Sch 1, paras 1(1)(ca) and 3(e)).

passing the "Life in the UK Test".[660]

If the applicant is ordinarily resident outside the United Kingdom (presumably as a result of their Crown service or that of their partner), either or both requirements may be met by certification by a person designated by the Secretary of State.[661]

The BNA 1981 permits applicants to rely upon knowledge of the Welsh language or of Scottish Gaelic in a naturalisation application.[662] There is no specific provision in the Regulations or guidance, for applicants who wish to rely upon their knowledge of either language. However, individuals taking the Life in the UK test in Scotland and Wales may request the test in Scots Gaelic or Welsh, respectively.[663] Passing such a test will presumably provide evidence of competence in that language as well.

There is no provision in legislation, Regulations or guidance for interviews to be used to assess either language competence or knowledge of life in the United Kingdom.

It is possible to rely upon past compliance with these requirements, through a qualification or a test, in a previous successful application for indefinite leave. There are exceptions where the Secretary of State has reasonable grounds to suspect that the applicant used deception to obtain a qualification or to pass a test.[664]

The 'Windrush generation' scandal of 2018, which arose out of some long-term Commonwealth residents' difficulty in proving immigration and nationality status, led to a new exemption from the language and the knowledge of life requirements.[665] This benefits an applicant who is a Commonwealth citizen who was resident before 1 January 1973 (the date on which the Immigration Act 1971 came into force), or who is the child of such a person.[666] In either case, the person must currently possess indefinite leave or the right of abode.

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660 BNG Regs 2003, Reg 5A(2).

661 BNG Regs 2003, Reg 5A(1) and (2).

662 BNA 1981, Sch 1(1)(c).

663 Home Office, Knowledge of Language and Life in the UK (24 November 2022), 22.

664 BNG Regs 2003, Reg 5A(1A) and (3).

665 On the Windrush generation scandal, Amelia Gentleman, *The Windrush Betrayal: Exposing the Hostile Environment (London: Faber & Faber: 2019). For an account of the legal issues, Robin White, "The Nationality and Immigration Status of the 'Windrush Generation' and the Perils of Lawful Presence in a 'Hostile Environment'", Journal of Immigration Asylum and Nationality Law 33 (2019): 218-239.*

666 BNG Regs 2003, Reg 5A(5)-(8).

The Secretary of State has discretion to waive either or both of these requirements if they consider that "because of the applicant's age or physical or mental condition it would be unreasonable to expect [them] to fulfil" it.[667] The Home Office policy is that discretion should be exercised in the applicant's favour if they are "suffering from a long-term illness or disability that severely restricts their ability to learn English or prepare for the Life in the UK test" or have "a mental condition which prevents them from speaking or learning English to theequireed standard."[668]

d. Procedure: is there a legal entitlement to naturalise?

The statutory provisions concerning naturalisation in the BNA 1981 define eligibility for naturalisation, but do not create an entitlement. Within the eligibility rules, the Secretary of State has two types of discretionary power. Firstly, they may expand the category of persons who are eligible by waiving specified requirements (see above). Secondly, they may expand or restrict the category of persons who are eligible through the interpretation they place upon the 'good character requirement, which applies to all applicants to naturalisation.[669]

Where the eligibility requirements are met – including that of good character - the statutory provisions state that the Secretary of State "may" grant the applicant a certificate of naturalisation (BNA 1981, s 6(1) and (2)). The Secretary of State therefore retains a discretion to refuse an application (negative discretion) in any event. The scope of the negative discretion has been the subject of different judicial views in recent years. One view has been that it is solely "a backstop to cover the unforeseen eventuality".[670] The alternative is that "Parliament has given the Secretary of State ... a wide discretion" and that any policy need only meet the test of not being irrational.[671] The latter analysis appears more in line with the language of section 6, and with judicial statements in the Fayed case (1998) to the effect that naturalisation is a "privilege".[672]

Where the requirements as regards eligibility are not met, the Secretary of State lacks a discretionary power to grant British citizenship (no positive discretion). This is especially relevant where the good character requirement may

667 BNA 1981, Sch 1, para 2(1)(e) and para 4.

668 Home Office, Knowledge of language and Life in the UK (24 November 2022), 8.

669 *Al Fayed v. SSHD [2001] Imm AR 134 (Court of Appeal).*

670 *MM v SSHD [2016] 1 WLR 2858 (High Court).*

671 *LA and others v SSHD, SN/ 64,64, 65 and 67/ 2015, Special Immigration Appeals Commission, 24 October 2018.*

672 *R* v. *SSHD ex parte Fayed* [1998] 1 WLR 763.

be thought disproportionate in an individual case, due to long residence or compassionate circumstances.[673] An exception concerns applications under the special circumstances' provision (referred above): in that case, the Secretary of State has discretion to take into account whether the applicant is of good character, but is not obliged to do so.[674]

Much of the Secretary of State's policy concerning the exercise of their powers described here is set out in guidance to decision-makers (Home Office officials), which is published online. Information as to the policy may also be found within the naturalisation application form and a related guide for applicants.[675] A failure by a decision-maker to follow this material could in principle be relied upon by an individual whose application was refused, under the administrative law principle of legitimate expectations. In practice, there appear to be no examples of such an action being successful, however. Instead, the Secretary of State may rely upon this material to resist legal claims by applicants that they were not given an opportunity to address points detrimental to their application.[676]

3. Citizenship acquisition based on residence/ schooling during childhood

- *Second-generation children born abroad to British citizens*

The only specific provision in legislation for persons who have moved to the United Kingdom as minors concerns second-generation children born abroad

673 See *Howard (substituted by Rose) v. SSHD [2022] EWCA Civ 1068, where Underhill LJ gave his support to the view that the 1981 Act "imposes an absolute requirement of good character", so that "it is not legitimate to introduce considerations which themselves have nothing to do with character" (para 44).*

674 BNA 1981, s 4L(4). The terms of section 4L suggest that its application to actual or hypothetical applications for naturalisation will however be limited.

675 Home Office, *Form AN Guidance: Application for Naturalisation as a British Citizen (June 2022) available at* https://www.gov.uk/government/publications/form-an-guidance and *Guide AN: Naturalisation Booklet: The Requirements and the Process (October 2022) available at* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1172894/Form_AN_-_Guidance.pdf (both accessed 22 September 2023)..

676 A leading example is *R (Thamby) v. SSHD [2011] EWHC 1763.*

to British citizens.[677] Such a child is entitled to register as a British citizen on the basis of three years' residence in the United Kingdom and qualifying overseas territories while they are a minor (BNA 1981, s 3(5)). The default rule is that the applicant and both parents must have been in the United Kingdom or a qualifying territory three years prior to the date of the application, and not have been absent for more than 270 days in the subsequent three years. A sole parent may meet the test if the other parent is deceased, or the parents' marriage or civil partnership has been terminated, or the parents are separated. The consent of both parents is required, unless one has died, and there is no express power for consent to be waived by the Secretary of State.[678] An application must be made while the child is under 18.

The good character test applies to applicants who are over the age of 10.

- *Other resident minors*

For other resident minors who are not British citizens, applications to become British citizens depend upon the general discretionary power of the Secretary of State to register any minor (BNA 1981, s 3(1)).[679] In principle, this provision may apply both to those born in the United Kingdom, and to those who moved there as minors.[680] The first group may though have better options under the 1981 Act, discussed in section 4 below.

The policy on the use of the section 3(1) power is set out in published guidance for decision-makers.[681] In the case of resident non-British minors, the policy is to register applicants as British citizens in the following cases:

» The minor is applying at the same time as a parent's application for registration or naturalisation, is 'settled' in the United Kingdom, and

677 Fransman, Berry and Harvey, *Fransman's British Nationality Law, 404-405. A second-generation child is also entitled to be registered where their parent who is a British citizen by descent was present in the United Kingdom and qualifying territories for three continuous years prior to the child's birth (BNA 1981, s 3(2)). Such an application must be made while the child is under 18.*

678 BNA 1981, s 3(5)(c) and s 3(6)(b).

679 For a detailed exposition, Fransman, Berry and Harvey, *Fransman's British Nationality Law, 550-567. For a review of current policy, Solange Valdez-Symonds and Steve Valdez-Symonds, 'Reasserting Rights to British Citizenship through Registration: The Section 3(1) Discretion to Register Children' Journal of Immigration Asylum and Nationality Law 37 (2023): 263-270.*

680 The power in BNA 1981, s 3(1) is also used to address gaps in the statutory provisions concerning the acquisition of British citizenship by children, e.g., in relation to adopted children, or children born within surrogacy arrangements.

681 Home Office, Registration as a British Citizen: Children (10 August 2023), 18-38. Information for applicants may be found within Home Office, Guide MN1: Registration as a British citizen – A guide about the registration of children under 18 (August 2023).

is either under two years of age, or has been resident in the United Kingdom for the past two years.

» The minor is applying in their own right, they and their parents have been 'settled' for at least 12 months, and have been lawfully resident in the United Kingdom for at least five years;

» The child has lived in the United Kingdom for at least 10 years, and they and their parents are currently lawfully resident.

For these purposes, to be considered 'settled', an applicant or parent will need to be ordinarily resident, and to have an immigration status which is without time limits.[682] The immigration status of persons involved in such an application is likely to be indefinite leave, although it could also be the case that they possess Irish citizenship or (in the case of a parent) British citizenship. 'Lawful residence' on its own could be based on limited leave, indefinite leave, Irish citizenship or (in the case of a parent) British citizenship.

The discretionary nature of the section 3(1) power means that citizenship may be granted even though these criteria are not met, "if this is justified in the particular circumstances of any case".[683] Other applications may succeed on an individual basis, taking five factors into account: the applicant's future intentions, their parents' circumstances, the applicant's length of residence in the United Kingdom, the applicant's immigration status, and "any compelling compassionate circumstances" which have been raised.[684] The best interests of the child principle, and the requirement to avoid arbitrary or discriminatory refusals of nationality, should also inform decision-making.[685]

Schooling and education as such are not criteria in an application, although they will be relevant both to the applicant's social connections and to the evaluation of compassionate circumstances.

Applications under section 3(1) may be refused even though the published requirements are met. One reason is that applications by children over the age of 10 under section 3(1) are covered by the good character requirement. Secondly, the discretionary nature of section 3(1) decisions permits a policy of refusing applications where it is not considered to be in the public interest to grant citizenship, including "for reasons relating to their actions, behav-

682 BNA 1981, s 50(2).

683 Home Office, Registration as a British Citizen: Children (10 August 2023), 18.

684 Home Office, Registration as a British Citizen: Children, 32-35.

685 Home Office, Registration as a British Citizen: Children, 36-37.

iour, personal circumstances, or associations such as family relationships."[686] Thirdly – looking to the future – the citizenship ban introduced by the Illegal Migration Act 2023 may come into play.[687]

There is no minimum or maximum age for minors to move to the United Kingdom with persons with parental responsibility. An application under section 3(1) must be made while the applicant is a minor (before reaching 18).

The Home Office policy with respect to section 3(1) is that the consent of all persons with parental responsibility is desirable, even though it is not a statutory requirement.[688] Where only one parent supports the application, it may be possible to ignore the other parent's objections.[689] The policy is to allow a minor aged 17 to make an application themselves, if there are good reasons for them to do so, such as a lack of contact with their natural parents.[690]

4. Citizenship acquisition based on birth in a country

- *Automatic acquisition*

Under current law, British citizenship is acquired automatically by a child born in the United Kingdom if, at the time of the birth that person's father or mother is (i) a British citizen or (ii) 'settled' in the United Kingdom, or (iii) a member of the armed forces.[691] A "new-born infant" found abandoned in the United Kingdom is presumed, unless there is evidence to the contrary, to have been born in the United Kingdom to a parent who was a British citizen or settled.[692]

- *Registration entitlements*

There are three cases where a person born in the United Kingdom is entitled to be registered as a British citizen.[693]

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686 Home Office, Registration as a British Citizen: Children, *18-19.*

687 Home Office, Registration as a British Citizen: Children, 39.

688 Home Office, Registration as a British Citizen: Children, 40.

689 Home Office, Registration as a British Citizen: Children, *46-47.*

690 Home Office, Registration as a British Citizen: Children, 43.

691 BNA 1981, s 1(1) and s1(1A). For a detailed exposition, Fransman, Berry and Harvey, *Fransman's British Nationality Law, 361-371 and 375-376.*

692 BNA 1981, s 1(2).

693 For a detailed exposition, Fransman, Berry and Harvey, *Fransman's British Nationality Law, 371-376.*

- While they are a minor, either parent becomes a British citizen, settled or a member of the armed forces.[694] An application must be made while the individual is a minor.
- In the period until they reached the age of 10, they were not absent from the United Kingdom in any year for more than 90 days.[695] Such an application may be made at any age, and in particular does not need to be made while the applicant is a minor. The Secretary of State has discretion to waive the rules concerning absences.[696]
- The individual has always been stateless and is between the ages of 5 and 22 at the date of application.[697] As regards residence, the requirements are that the person was present in the United Kingdom or any British overseas territory five years prior to the date of application, and that the absences from those places in the intervening period did not exceed 450 days.[698] It is also a requirement for eligibility for British citizenship that the number of days spent in the United Kingdom exceeded those in the overseas territories.[699] For applicants aged between 5 and 17 (only), there is a further requirement that the Secretary of State is satisfied that the person is "unable to acquire another nationality". In that context, the question is whether the person has since birth been able to acquire a parent's nationality, and "in all the circumstances, it is reasonable to expect" the relevant steps to acquire that nationality to be taken.[700]

In all these cases, the provision for registration is expressed as an entitlement ("shall be entitled"). Applicants over the age of 10 must satisfy the good character requirement in the first two cases, but not the third concerning the avoid-

694 BNA 1981, s 1(3) and (3A).

695 BNA 1981, s 1(4).

696 BNA 1981, s 1(7).

697 BNA 1981, Sch 2 paras 3 and 3A.

698 There is discretion to waive the 450 days requirement: BNA 1981, Sch 2, para 6.

699 If the number of days in the United Kingdom did not exceed those in the overseas territories, the person would be eligible for British overseas territories citizenship. They could then apply to register as a British citizen on a discretionary basis under BNA 1981, s 4A.

700 BNA 1981, Sch 2 para 3A(2). This additional requirement was introduced by the Nationality and Borders Act 2022, with effect from 28 June 2022. The non-application of this requirement to applicants over 18 reflects the terms of Article 1(2)(a) of the United Nations Convention on the Reduction of Statelessness (1961).

ance of statelessness.[701]

- *Common provisions concerning parents*

The acquisition of British citizenship by a child born in the United Kingdom – either automatically or by registration – through a connection to a British citizen is not subject to further conditions. In particular, it is irrelevant whether the parent is a British citizen by descent, or resident or present in the United Kingdom.

For these purposes, as we same in section 3, above, a parent is 'settled' in the United Kingdom if they are "ordinarily resident" there, and are not "subject under the immigration laws to any restriction on the period for which [they] may remain". By law, a person cannot be 'ordinarily resident' in territory at a time when they are "in breach of the immigration laws". As we saw in section 2, above, a person is in the United Kingdom in breach of the immigration laws unless they are in one of a number of defined legal categories.[702]

The concept of being 'settled' has proved difficult to apply to parents exercising EU free movement rights as a worker, self-employed person, family member, etc, whose right of residence was not permanent. Did such a conditional right of residence involve a "restriction on the period" for which a person might remain? From 1 January 1983 to 1 October 2000, the Home Office's position was that it did not, so that children born to such parents acquired British citizenship automatically.[703] After that position was disapproved by the Immigration Appeal Tribunal, the UK Government altered its position prospectively, with effect from 2 October 2000, so that a parent was considered 'settled' only if they had a long-term status under domestic or EU law.[704] The Home Office did not however apply the change retrospectively, and continued treating children born before 2 October 2000 as having acquired British citizenship automatically if a parent was resident on the basis of EU free movement rights. That left uncertainty concerning acquisition by those born between 1 January 1983 and 2 October 2000, which has recently been resolved by legis-

701 BNA 1981, s 41A.

702 BNA 1981, s 50A.

703 The focus of the law and policy discussion has been on automatic acquisition by children born to EEA national parents. Logically, similar questions could have arisen prior to 2 October 2002 for applications by registration, in the rare case where the EEA national commenced qualifying residence after the child was born.

704 *Gal v. SSHD, Immigration Appeal Tribunal, 26 January 1994 and Immigration (European Economic Area) Regulations 2000 (SI 2000 No 2326), Reg 8.*

lation.[705]

A further question concerns the position of a child born to a parent who is subsequently granted settled status under the EU settlement scheme. The standard position under the 1981 Act is that automatic acquisition depends on a parent having the relevant status on the date of the child's birth. Exceptional provision is however made for the case where a parent was eligible for settled status on 30 June 2021 (the initial deadline under the EU settlement scheme), but obtained it only later. In those circumstances, a child born on or after 1 July 2021, at a time when the parent was ordinarily resident, will obtain British citizenship automatically from the date that settled status is granted.[706]

Complex questions arise as to who counts as a parent for the purposes of acquisition through place of birth.[707] All mothers, and fathers within marriage, have counted fully since 1 January 1981 (when parental status first mattered). Unmarried fathers have counted automatically since 1 July 2006, provided the child's mother was not married to someone else.[708] For other cases involving unmarried fathers - children born before 1 July 2006, or the mother was married to someone else – registration is possible, subject to compliance with the good character test.[709] Special provision is made for the parents of children born in the United Kingdom as a result of assisted reproduction.[710] Finally, a child whose adoption is ordered by a United Kingdom court – including non-British child born in the United Kingdom - becomes a British citizen automatically on the date of the adoption order, if an adoptive parent is a British citizen.[711]

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705 *Roehrig v SSHD [2023] EWHC 3 and the British Nationality (Regularisation of Past Practice) Act 2023. Note that the 2023 Act protects both persons assumed to have acquired British citizenship automatically between 1 January 1983 and 1 October 2000, and any who acquired British citizenship by registration in that period.*

706 BNA 1981, s 10A, inserted by British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021 (SI 2021 No 743).

707 The same legal questions arise in respect of the acquisition of British citizenship by descent, but that aspect is not considered here.

708 See definition of 'father' in BNA 1981, s 50(9A).

709 BNA 1981, s 4E. This was amended in 2022 to remove a requirement that the person's mother was not married to someone else. That amendment was a response to the ruling in *R (K) v. SSHD [2018] EWHC 1834, that the absence of a route to British citizenship in such cases was incompatible with Article 8 and 14 ECHR in combination.*

710 This too is addressed through the definition of 'father' in BNA 1981, s 50(9A).

711 BNA 1981, s 1(5). The principle does not extend to parents who are 'settled', but not British citizens.

5. Procedures for citizenship acquisition

The United Kingdom system for citizenship applications (naturalisation or registration) is now largely online. The application is commenced online.[712] The applicant will then receive instructions (a) as to whether they need to enrol biometric data, and (b) as to the supporting documents to be provided.

- *Documents and other information*

As regards **naturalisation** (section 2 above), the Home Office Naturalisation guide indicates the documents to be submitted, including proof of identity, proof of residence, and compliance with the requirements of knowledge of English and of life in the United Kingdom.[713]

As regards **registration** (sections 2, 3 and 4 above), the documents to be submitted are set out in the following guidance documents, and corresponding application forms[714]:

- » Registration of a child under 18 as a British citizen (Form MN1)
- » Registration as a British citizen of persons born on or after 1 January 1983 who lived in the UK until the age of 10 (Form T)
- » Registration as a British citizen by a UK-born stateless person (Form S3)
- » Registration as a British citizen by a person born before 1 July 2006 whose parents were not married (Form UKF)
- » Registration as a British citizen by a person born after 1 July 2006 to a British father, and whose mother was married to someone else (Form UKF(M)).
- » Registration as a British citizen by a stateless person (Form (S)).

- *Authority*

In the United Kingdom, citizenship procedures are centralised, and involve applications to different parts of the Home Office.

Applications for naturalisation, or for registration as a British citizen, are made centrally to the Home Office, and are considered by a branch of UK Visas

712 Links at https://www.gov.uk/british-citizenship (accessed 22 September 2023).

713 Home Office, Guide AN: Naturalisation Booklet (above).

714 This guidance is available at https://www.gov.uk/government/collections/citizenship-guidance, and the corresponding application forms are available at https://www.gov.uk/government/collections/citizenship-application-forms (both accessed 22 September 2023).

and Immigration in Liverpool.

Several elements of the process involve steps being taken in local offices. The Life in the UK test and language test is administered by designated private companies. Biometric information is 'enrolled' by Visas and Citizenship Application Service (UKVCAS) . For applications made from within the United Kingdom, citizenship ceremonies - where the required oath and declaration are provided - are administered by local authorities. These are separate organisations, which cannot be expected to communicate with one another about applications.

- *Implementation*

There are no distinct steps in the procedure, or formal time limits for decisions. The Home Office does not appear to publish service standards for this work (unlike in the case of immigration case-work). There is no published information as to the length of time applications take on average.

- *Reconsideration and Appeal*

Where a naturalisation or registration application is refused, an applicant may request a reconsideration if they consider the decision to have been in error. Details of how to apply are in a document entitled 'Form NR'.[715]

A refusal decision may be the subject of a judicial review (administrative law) action in the High Court. This is not an appeal, but rather decisions may be challenged on grounds of illegality, irrationality, breach of legitimate expectations, or unfairness of procedures.

The Secretary of State may certify that an application for naturalisation or registration has been refused "wholly or partly in reliance on information which ... should not be made public" in the interests of national security, or the relationship with another country, or "otherwise in the public interest" (Special Immigration Appeals Commission Act 1997, s 2D). In such a case, an application to set the decision aside may be made to the Special Immigration Appeals Commission, which will apply the same judicial review principles, but using a closed procedure to hear certain evidence.

In practice, challenges to refusals are rarely successful. One reason is that they typically concern considerations of good character, or other discretionary decisions, in respect of which the Secretary of State has powers both to set

715 Available at https://www.gov.uk/government/publications/application-for-review-when-british-citizenship-is-refused-form-nr (accessed 22 September 2023).

standards and to evaluate evidence.

There is no published information concerning the extent of use of judicial review, or applications to SIAC, in cases of refusals of a citizenship application.

- *Fees*

Section 68 of the Immigration Act 2014 is the governing legislation for the setting of fees for immigration and nationality applications and related matters. It provides that in setting the level of fees, the Secretary of State may have regard only to a specified list of matters, which include both the cost of exercising a function and the "benefits that the Secretary of State thinks are likely to accrue to any person". It is also stated expressly that the amount of the fee may exceed the costs of exercising the corresponding function.

The level of fees for the registration of minors has recently been the subject of litigation.[716] The Court of Appeal has held that it is unlawful for fees to be set without regard to the best interests of children.[717] However, in the same litigation, because of the statutory provisions, the Supreme Court accepted the lawfulness of fees being set at a level which is intended to produce a substantial surplus over the administrative costs, and which is unaffordable for some potential applicants.[718]

Fees for nationality applications and related matters are currently set out in the Immigration and Nationality (Fees) Regulations 2018, as amended.[719] With effect from 4 October 2023, the following fees will apply:

- *Naturalisation*

  - Application fee: £1,500 (equivalent to 1,770 eur in July 2024)
  - Citizenship ceremony: £80 (equivalent to 94 eur in July 2024)
  - Life in the UK test (if required): £50 (equivalent to 59 eur in July 2024)
  - Language test (if required): no set fee, cost is likely to be around

716 Steve Valdez-Symonds and Solange Valdez-Symonds, "Reasserting Rights to British Citizenship through Registration: Judicial Review of the Registration Fee" (2022) 36 *Journal of Immigration Asylum and Nationality Law 285-299.*

717 R (Project for the Registration of Children as British Citizens and O) v SSHD [2021] EWCA 193.

718 *R (O) v SSHD* [2022] UKSC 3. This confirmed the conclusion reached in the earlier case of *R (Williams) v SSHD [2017] EWCA 98.*

719 SI 2018 No 330.

£150[720] (equivalent to 177 eur in July 2024)

- *Registration*
  - » Application fees: £1,214 (minor) or £1,351 (adult) ((equivalent to 1,432 eur for child or 1,594 eur July 2024)
  - » Citizenship ceremony: £80 (equivalent to 94 eur in July 2024)
- *Reconsideration*
  - » Application fee: £372 (equivalent to 439 eur in July 2024)

6. Information and advice

Individuals born in the United Kingdom are not informed by state authorities about the possibility of acquiring citizenship. Equally, there is no process for advising minors not born in the United Kingdom of their potential eligibility using the discretionary power to register them. Each of these is problematic, since the possibility to register ceases at the age of 18.

Section 4L BNA 1981 (discussed above) permits British citizenship to be granted to a person who previously failed to acquire it due to "an act or omission of a public authority". One such case would be where a local authority responsible for a child failed to investigate, or to act upon, an entitlement to register, or to apply to be registered.[721]

Previously, local authorities provided a 'nationality checking service' to support citizenship applications. In 2018, that was replaced by the Home Office's UKVCAS for applicants in the United Kingdom for extensions of stay, indefinite leave or citizenship. UKVCAS is run by a commercial partner (Sopra Steria), which has approximately 36 service points around the United Kingdom.[722] At these locations, biometric data are enrolled (if required), passports and biometric residence permits (if possessed) are checked, and supporting documents may be uploaded.[723]

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720 https://www.citizensadvice.org.uk/immigration/getting-british-citizenship/applying-for-british-citizenship/ (accessed 22 September 2023).

721 Home Office, Registration as a British Citizen in Special Circumstances (14 October 2022), 12 and 15.

722 A list complied by a firm of immigration advisors is at https://www.whiterosevisas.co.uk/ukvcas-centres (accessed 22 September 2023).

723 It is also possible for documents to be uploaded separately by the applicant.

3. Comparative Synthesis

Ashley Mantha-Hollands

3.1. Introduction

This comparative section combines the information from each of the country reports put together by country experts on their state's citizenship law. The countries included are Austria, Belgium, Denmark, France, Germany, Italy, Latvia, the Netherlands, Portugal, Sweden, and the United Kingdom. This section compares several aspects of the citizenship laws of these states, namely: 1) residence-based naturalisation; 2) citizenship acquisition based on residence/schooling during childhood; 3) citizenship acquisition based on birth in the country; 4) procedures for citizenship acquisition; and 5) information and advice offered by the state to potential applicants. Overall, this section offers general comparisons of the citizenship laws of these eleven states, many of which have exceptions, specificities, or further particularities which are outlined in more detail in the individual country reports.

3.2. Conditions for residence-based naturalisation

Table 3.1. Residence requirement for residence-based citizenship acquisition

Country	Nominal residence requirement	Residence title (at application)	Interruptions allowed
Austria	10 years	Permanent (for last 5 years out of 10)	Max 20 percent of 10 years abroad
Belgium	5 years	Legal residence title	Not monitored but long absence can be reason for rejection
Denmark	9 years	Permanent	If 'real intention' to remain in Denmark – one year absence is allowed
France	5 years	Any legal residence title	'Regular residence' required
Germany	5 years	Any legal residence title	'Habitual residence' required
Italy	10 years	Permanent	Not specified, absences for study, work, family visits, or medical treatment allowed with submission of explanatory documentation
Latvia	5 years	Permanent	Max 1 year of 5 years and cannot be the year before application
Netherlands	5 years	Permanent	Uninterrupted 'main residence'
Portugal	5 years	Any legal residence title	Place of 'main residence'
Sweden	5 years	Permanent	Not specified, 'intention to stay' required
United Kingdom	5 years	'Right to remain'	Max 90 days per year and not more than 90 days in 12 months before application

a. Residence requirements: residence title and length of residence

All eleven states offer the possibility for residence-based naturalisation. However, conditions (length, permissible interruptions, requirement to hold a residence permit) vary across states. The length of residency required ranges from five to ten years. In all the states examined, a legal residence status is obligatory at the time of application for naturalisation.

In terms of length, Belgium, France, Germany, Latvia, the Netherlands, Portugal, Sweden, and the UK have the shortest nominal residency requirement of five years. Belgium has a five-year requirement if all integration requirements are satisfied. However, if the applicant cannot meet the burden of the integration requirements after five years, they can apply after a ten years' residency with a reduced set of other requirements. In France, the residence requirement can be reduced to two years for students who have spent two years of postsecondary study in France, those likely to make a 'significant contribution' to France, or those who are considered exceptionally well integrated.[1] In other cases, such as for spouses of French citizens, the residence requirement can be reduced to four years (with some exceptions).[2] Germany's residency requirement is five years for general applicants. Spouses and registered partners of German citizens can reduce their residency period to three years if they have been married for a period of two years or longer.[3] Latvia requires five years of residence, a person is eligible to apply if they are fifteen years old and have been permanently resident in Latvia for the last five years before submitting their application. In the Netherlands, applicants must have their main residence in the country for five years before the application for naturalisation.[4] There are also exceptions for spouses of citizens, adopted children, and those who have previously held a Dutch passport. Portugal requires applicants to be legally resident for five years; this also includes ascendants of original Portuguese citizens.[5] In Sweden, the general residence requirement is five years. However, this is reduced to two years for citizens of Nordic countries, and to four years for refugees and stateless persons.[6] The UK requires five years of residence except

1 Civil Code, art. 21-18.

2 Civil Code, art. 21-2.

3 § 9 StAG.

4 Manual Dutch Nationality Act, explanation to article 8, paragraph 1 under c.

5 Article 6(1) NA, Article 6(8) NA; and Article 19 NR.

6 Law 2001:82, § 11.

for partners of UK citizens for whom the expected residency is two years.[7]

Longer residency requirements exist in Austria (ten years), Denmark (nine years), and Italy (ten years). There are exceptions in each of these states. In Austria, this is the case for members of the European Economic Area, applicants born in Austria, spouses of Austrian citizens, and those who can demonstrate special integration efforts (better knowledge of German and volunteer work in charitable organisations), or those with 'outstanding achievements.'[8] The residency requirement in these cases is shortened to six years. Denmark allows a one-year reduction to the nine-year requirement for refugees or stateless persons.[9] Other categories of applicants will also have access to a shortened residency requirement. These categories include spouses of Danish citizens (six years) and applicants who have arrived as children and attended school in Denmark.[10] In the case of Nordic citizens, the residency requirement is two years. Italy has a ten-year residency requirement.[11] For some groups, the residency requirement is lowered to five years (for example, refugees or stateless persons), and to four years for citizens of other EU Member States.[12]

The number of permissible interruptions of a required residence period also varies. Some states are numerically specific and calculate a percentage or number of days spent abroad, while other states calculate residency more subjectively by determining 'centre of life' or sufficient 'ties'. In the first case, Austria is one example where the applicant must be continuously resident in Austria, which implies an uninterrupted chain of residence permits and that no more than 20 per cent of the ten-year residence requirement have been spent abroad.[13] Latvia allows absences of no more than a total of one year, which cannot be the year preceding the application. The UK also calculates numerically, and the applicant cannot be absent for more than 90 days a year and not for more than 90 days in the final 12 months before their application.[14] In the second case, in Belgium, ongoing physical presence on the territory is not calculated or monitored. However, very long absences can be a reason for rejec-

7 British Nationality Act, 1981.

8 Art 11a (1) – (5) & Art 15 StbG.

9 Section 7(2) in the Circular Letter on Naturalisation.

10 Section 8 in the Circular Letter on Naturalisation; Section 10 in the Circular Letter on Naturalisation.

11 Article 9(f).

12 Article 9(e).

13 Art 15 (3) StbG.

14 BNA 1981, Sch 1, paras 1(2)(a) and 3(a)

tion of the application. Denmark does not allow interruptions to the residency requirement. If the applicant is deemed to have a 'real intention' to remain in Denmark, a one-year absence is permissible (or two years if the absence was due to military service, or family visits in cases of serious illness).[15] France requires 'regular residence' which is understood as physical presence on French soil as well as material or family ties to France.[16] Similarly, in Germany residence must be 'habitual' and the applicant should have their centre of life in Germany.[17] Temporary absences from Italy for study, work, family visits, or medical treatment will not affect the applicant's overall residency requirement. However, they must submit documentation explaining the reasons for any absences.[18] The residency requirement in Sweden emphasizes the intention to stay and build a life in Sweden.[19] Interruptions are permissible, but if they are longer than what is considered to be short vacations or family visits, such periods will be subtracted from the total time of residence. The Netherlands requires that a person has their main residence uninterrupted in the country; lengthy absences can lead to the revocation of a residence right, making a person ineligible for residence-based naturalisation.[20]

Finally, in all states, residency must be lawful. Austria, Denmark, Italy, Latvia, the Netherlands, and Sweden require applicants to hold a permanent residence permit before they apply (in Austria for the last five years out of ten). Belgium requires applicants to be legally resident with the exception of the children of Belgian nationals.[21] Applicants should be registered on a municipal register and with a residence permit for more than three months. In France, applicants can have any type of residence permit.[22] In Portugal, the applicant must have been legally resident for the five years before naturalisation. Germany requires residence to be legal at the time of the naturalisation decision. Latvia requires that applicants have the right to reside in Latvia under domestic or EU law. In the UK, applicants must not have violated any immigration laws and

15 Section 9 in the Circular Letter on Naturalisation.

16 CE, July 11, 1986, No. 61720, *Époux Prayag*, Lebon 530 ; CE, February 26, 1988, No. 70584, *Martins*, Lebon 88.

17 § 12b StAG.

18 As specified in the Ministry of the Interior, Ministerial circular k. 60.1 of 5 January, 2007.

19 DsA 1983: 12, pp. 17-18.

20 Manual Dutch Nationality Act, explanation to article 8, paragraph 1 under c

21 2012 Law modifying the Belgian nationality code in order to render the acquisition of Belgian nationality neutral from the point of view of immigration.

22 CE, June 15, 1987, No. 74289, *Kermadi*, Lebon 216.

have the right to remain in the UK.[23]

Table 3.2. Requirement to renounce previous citizenship(s) for residence-based citizenship acquisition

Country	Renunciation requirement	Timing during naturalisation process	Exceptional cases*
Austria	Yes	Before or within 2 years of naturalisation	-
Belgium	No	-	-
Denmark	No	-	-
France	No	-	-
Germany	No	-	-
Italy	No	-	-
Latvia	Yes	After notification that there are no other obstacles to acquire Latvian citizenship	EU Member States, EFTA, NATO, Australia, Brazil, New Zealand or any state that has signed a dual citizenship agreement with Latvia
Netherlands	Yes	Applicant must file a declaration that they are willing to renounce their previous nationality once they have obtained Dutch citizenship	Those born in the Netherlands, spouses and registered partners of Dutch citizens, and recognized refugees
Portugal	No	-	-
Sweden	No	-	-
United Kingdom	No	-	-

* Information provided here on exemptions based on substantive groups, such as applicants from specific origin countries or with a particular link to the country (eg through birth or marriage/civil partnership). We do not list here general exemptions, such as where applicants are unable to renounce their citizenship because the origin country law does not allow this or because the applicant is a refugee, or because of individual hardship exemptions.

23 BNA 1981, Sch 1, paras 1(2)(c) and 3(c).

b. Dual citizenship: requirement to renounce previous citizenship(s)

In seven of the states under inquiry, there are no restrictions on dual or multiple citizenship. This list includes Belgium, Denmark, France, Germany, Italy, Portugal, Sweden, and the UK. Austria, Latvia, and the Netherlands are the exceptions in that they have certain restrictions to dual or multiple citizenship. In Austria, renunciation of all previously held citizenships is required either before naturalisation or within two years after the grant of citizenship.[24] However, there are exceptions in cases where the applicant is unable to renounce their citizenship of origin, or when renouncing would cause hardship.[25] Dual citizenship is also exceptionally tolerated in naturalisations for special achievements in the interest of the Republic or of restoration of citizenship to victims of the Nazis and their descendants. It is the responsibility of the applicant to provide proof that all previous nationalities have been relinquished. Latvia requires applicants to submit proof of renunciation. Applicants are required to submit the relevant documentation after they have been notified that there are no other obstacles to grant them Latvian citizenship. Exceptions to the renunciation requirement includes citizens of EU, EFTA, NATO, Australia, Brazil, New Zealand or any other state that Latvia has signed a dual citizenship agreement with.[26] The Netherlands requires applicants to renounce their previous nationality with exceptions, for example for those who cannot be reasonably expected to.[27] These cases include (among others) those who come from states who do not allow for renunciation or those that will suffer financial hardship. [28] There are also three broad categories that do not have to renounce a previous nationality: those born in the Netherlands, spouses and registered partners of Dutch citizens, and recognised refugees.

24 Art 10 (3) StbG.

25 Art 10 (3) & Art. 20 (3) & (4) StbG.

26 Citizenship Law, Section 12(2).

27 The Manual Dutch Nationality Act lists 11 categories of applicants of whom renouncing their original nationality cannot reasonably be expected; or see Article 8 of the DNA.

28 Article 9 paragraph 3 of DNA.

Table 3.3. Integration or assimilation criteria for residence-based citizenship acquisition

Country	Language exam	Language level (written, spoken, listening)*	Requirement	Knowledge test	Test modality
Austria	Yes	B1	Language certificate from recognized institute	Yes	Multiple choice test (written)
Belgium	Yes	A2	1. Employment for five years; or, 2. Integration course; or, 3. Diploma or Degree obtained in Dutch, French, or German	No	-
Denmark	Yes	B2	Language test	Yes	45 questions in 45 minutes
France	Yes	B1	Certified test or diploma awarded in a French speaking context	Yes	Assimilation interview
Germany	Yes	B1	Different types of proof depending on the local naturalisation authority	Yes	Multiple choice, must answer 17 out of 33 questions correct
Italy	Yes	B1	Certified by an authorised body	-	-
Latvia	Yes	B1 (equivalent)	Four-part test (read, understand, speak, and write), must score 16/25 on each part to pass	Yes	Multiple choice, must answer 7 out of 10 correct (written or orally)

Netherlands	Yes	A2	Speaking: watch short films and answer questions (35 mins) Listening: Answer questions about short films/texts (45 mins)Read: Read texts and answer questions (65 mins) Writing: 4 written assignments (40 mins)	Yes	Watch short films about Dutch society and answer questions (45 mins)
Portugal	Yes	A2	Three-part test divided into i) reading comprehension; ii) listening; and iii) speaking skills. The test takes 2 hours and requires a 55% grade or higher to pass	No	-
Sweden	No	-	-	No	-
United Kingdom	Yes	B1	Applicant comes from one of 18 English speaking countries; or, possesses a higher education degree from an English speaking country; or, passes an English language test by an approved provider	Yes	45 minutes to answer 24 questions

* The indicated levels refer to the Common European Framework of Reference for Languages (CEFR)

c. Integration or assimilation criteria

Ten states require a language exam (the only exception is Sweden which does not have a language assimilation requirement). Most of these countries require a B1 level (assessed by the Common European Reference Framework for Knowledge of Language).[29] Exceptionally, Belgium, Portugal, and the Netherlands require an A2 level.[30] Belgium requires that applicants have 'knowledge of one of the three national languages' at an A2 level.[31] The applicant is presumed to know one of the three official languages if they have been uninterruptedly employed for the five years before their application. Otherwise, their social integration can be proven through an integration course, training course (of a minimum 400 hours), or diploma or degree (obtained either in Belgium, or in an EU member state in Dutch, French, or German). If not, the applicant can take a language test in a public centre. The Netherlands requires the passing of a A2 level reading, writing, and speaking test.[32] If this level is deemed unattainable for the applicant, there is a second option, which requires the person to partake in 800 hours of Dutch language and knowledge courses.[33] Austria, France, Germany, Italy, Latvia, and the United Kingdom all assess proficiency at the B1 level.[34] In Austria, applicants are required to be proficient in the German language, this is proven through acquiring a language certificate issued by a recognised language learning institute.[35] If the applicant achieves the higher B2 level of German, they can shorten their residency requirement to six years.[36] France asks for French language proficiency to be proven through a certified test.[37] However, if the applicant has a diploma (baccalauréat) that was awarded in a French speaking context, they may be exempted from the test. The language exam in Germany also tests for sufficient knowledge of the

29 Across these states, the level assessed applies both to written and oral comprehension/expression.

30 Article 25(6) Nationality Regulation.

31 CNB, art. 12bis

32 Article 8 paragraph 1 under d of the DNA.

33 Integration Act 2021.

34 In the Netherlands, a transition period is in place for those who have acquired civic integration diploma before 1 January 2022. These persons can still naturalise based on A2 level. From 2022, the language requirement for civic integration is B1, although certain exceptions are in place (e.g. if this level is deemed unattainable). See also the Netherlands Country Report in this study.

35 Art 10a (1) StbG in conjunction with Art 7 (2) Law on Integration (Integrationsgesetz, IntG), BGBl. I 68/2017 in its latest amendment BGBl. I Nr. 76/2022.

36 Art 11a (6) StbG.

37 Decree of 1993, art. 37(1).

German language.[38] In Italy, the language requirement must be certified by an authorised body, specifically, the University for Foreigners of Siena, the University for Foreigners of Perugia, the University of Roma Tre or the Dante Alighieri Society.[39] The language test in Latvia has four parts, which assess the applicant's ability to read, understand, speak, and write. The language test is considered passed if the applicant scores at least 16 out of 25 points on each part.[40] In the UK, sufficient knowledge of the English language is required. This is proven in one of three ways: 1) the applicant comes from an English-speaking country (there are 18 countries specified in regulations); 2) the applicant possesses a higher education degree from the UK or obtained the same qualification in an English-speaking country (other than Canada); or, 3) the applicant has passed an English Language test by an approved provider.[41] Denmark requires the highest level of language proficiency demanding applicants to pass a B2 level.[42] The language test occurs at the end of the Danish Language Education Programme 3 which is part of the applicants' overall citizenship integration journey.[43]

Seven of these states (Austria, Denmark, France, Germany, Latvia, the Netherlands, and the UK) also require a form of a citizenship knowledge test. There is some variation between states on whether the knowledge test is conducted during an in-person interview or in written form. In Austria, there is an 18-question multiple choice test on the democratic system, history, geography, customs, and culture plus an additional test designed by the nine federal provinces, which are in charge of implementation of naturalisation procedures.[44] The Danish citizenship test requires knowledge of Danish societal conditions, culture, international relations, significant historical events, fundamental dem-

38 § 10 (1) sentence 1 no. 6 StAG; Vorläufige Anwendungshinweise des Bundesministeriums des Innern from 1 June 2015, Rn. 8.1.2.1.

39 Legislative Decree n. 113 of 4 October 2018, converted into Law n. 132 of 1 December 2018, with amendments.

40 Ministru kabineta noteikumi Nr.973 "Noteikumi par latviešu valodas prasmes un Latvijas Republikas Satversmes pamatnoteikumu, valsts himnas teksta, Latvijas vēstures un kultūras pamatu zināšanas pārbaudi" [Cabinet of Ministers Regulations No. 973 Regarding Testing the Fluency in the Latvian Language and Knowledge of the Basic Principles of the Constitution of the Republic of Latvia, the Text of the National Anthem, the Basics of the History and Culture of Latvia] (24.09.2013., *Latvijas Vēstnesis* no. 191).

41 BNG Regs 2003, Reg 5A.

42 Chapter 8 (section 24) in the Circular Letter on Naturalisation.

43 Executive Order on the Citizenship Test – *Bekendtgørelse om indfødsretsprøven*, BEK nr. 2069 af 09/11/2021.

44 Art 10a (1) StbG.

ocratic values, etc.[45] The test takes 45 minutes, and includes 45 questions, of which 35 are based on the study materials published by the Ministry of Immigration and Integration. The remaining ten questions are on current events and Danish values.[46] In France, the applicant is assessed on their knowledge of French history, culture, and the rights and duties of citizenship during an assimilation interview.[47] This knowledge is based on the contents of a citizen's booklet that is given to the applicant.[48] The German citizenship test also asks questions on the legal and social order, and living conditions in Germany.[49] The citizenship test in Latvia can take place either in writing or orally.[50] The written test is multiple choice and the applicant must score at least seven out of ten. The oral test requires applicants to select an envelope and answer each question out loud. The applicant must answer at least two out of four questions in each of the two parts. Finally, the applicant is also asked to write or recite the national anthem. In the Netherlands, the level of integration is determined through a test on knowledge of the constitution and society.[51] And in the UK, sufficient knowledge about life in the UK is tested through the "Life in the UK test."[52] Applicants have 45 minutes to answer 24 questions on British traditions and customs. Italy, Portugal, and Sweden do not require citizenship knowledge tests. In Belgium, applicants are not required to pass a test but fulfil a 'social integration' requirement. This is closely linked to the language requirement, and both can be satisfied by, for example, regular employment or taking an integration course, degree, diploma, or training course. For applicants who have at least ten years of residence, their social integration is substituted by a

45 Section 1 in the Executive Order on the Citizenship Test – *Bekendtgørelse om indfødsretsprøven*, BEK nr. 2069 af 09/11/2021.

46 Section 9 in the Executive Order on the Citizenship Test.

47 Circulaire, "Procédures d'accès à la nationalité française," October 16, 2012, No. INTK 1207286C, 5.

48 Decree of 1993, art. 37(2).

49 § 10 (5) StAG

50 Ministru kabineta noteikumi Nr.973 "Noteikumi par latviešu valodas prasmes un Latvijas Republikas Satversmes pamatnoteikumu, valsts himnas teksta, Latvijas vēstures un kultūras pamatu zināšanas pārbaudi" [Cabinet of Ministers Regulations No. 973 Regarding Testing the Fluency in the Latvian Language and Knowledge of the Basic Principles of the Constitution of the Republic of Latvia, the Text of the National Anthem, the Basics of the History and Culture of Latvia] (24.09.2013., *Latvijas Vēstnesis* no. 191).

51 Article 8 paragraph 1 under d of the DNA.

52 BNG Regs 2003, Reg 5A(2).

'proof of participation in the life of the community.'[53]

d. Procedure: is there a legal entitlement to naturalise?

In eight states the procedure for ordinary naturalisation is discretionary: Austria, Belgium, Denmark, France, Italy, Latvia, Sweden, and the UK. This means that the fulfilment of all naturalisation criteria is necessary but does not legally guarantee the acquisition of citizenship. Some states provide guidance to the administrators on how to interpret the law. In Austria, upon fulfilling all the criteria for citizenship, an applicant may be granted citizenship. The Austrian courts have established that discretionary decisions on naturalisation should be 'reasoned'. Arbitrary denial would thus be contrary to the law. However, many naturalisation criteria are imprecise and vague, leaving room for interpretation by administrators.[54] In Belgium, the integration requirements are evaluated based on specific documentation which means that the magistrates do not have much room for a subjective evaluation of the applicant's integration. However, because the requirements are quite complex, there is still room for interpretation, for example, concerning what is considered an acceptable 'diploma.' The naturalisation procedure in Denmark starts with an application to the Ministry of Immigration and Integration to check that all the requirements have been completed. After this, the Parliament has full discretionary power to decide on individual cases.[55] The Constitutional Act and the Circular Letter on Naturalisation state that naturalisation is the prerogative of the Parliament.[56] In France, guidelines for authorities in their decision making are set out in circulars; the exercise of discretion is subject to judicial review. For Italian officials, there are publicly available ministerial circulars that take into account case law and provide instructions on how to assess applications.[57] Public authorities in Latvia have discretion in assessing the applicant's performance in the citizenship exam. The burden of proof on the fulfilment of naturalisation criteria in Sweden falls with the applicant.[58] There is no absolute right to citizenship, the authorities assess the application and based on 'reasonable interpretation' of the citizenship law, the state has the right to decide

53 Circular C 08/03/13.

54 See for example, Art 11 StbG.

55 Chapter 1, Introduction in the Circular Letter on Naturalisation.

56 Chapter 1, Introduction in the Circular Letter on Naturalisation.

57 Ministry of the Interior, Ministerial circular 3250, 12 May 2021.

58 Bill 1997/98:178, pp. 6 and 15.

whether the application is accepted. In the UK, the Secretary of State has two types of discretionary power: first, s/he can expand the circle of those eligible by waiving requirements; and second, s/he can expand or restrict it depending on how they assess the 'good character requirement.'[59] In contrast, Germany[60], the Netherlands, and Portugal provide an entitlement to naturalise if the applicant fulfils all the requirements. There is little discretion for authorities.

Some states provide a separate entitlement to naturalise for certain categories of applicants when all criteria are fulfilled. This is the case in Austria, Belgium, Germany, Italy, and Portugal. In most of these cases, those that enjoy an entitlement include spouses or minor children. In Austria, this also includes EEA citizens, refugees, persons born in the territory, and long-term residents (after 30 years of residency).

3.3. Citizenship acquisition based on residence/ schooling during childhood

Table 3.4. Citizenship acquisition based on residence/schooling during childhood

Country	Acquisition based on residence/schooling during childhood	Age	Additional requirement	Procedure
Austria	No	-	-	-
Belgium	No	-	-	-
Denmark	Yes	Resident from 15 years or before to 18 years old	Education must be 'of Danish character'	Application
France	Yes	Resident from before 6 years old and attended school up to 16 years old	Must have a sibling that is born in France and has French citizenship	Declaration

59 BNA 1981, s 6(1) and (2).

60 Naturalisation under 8(1) StAG is discretionary while naturalisation under 10(1) StAG is an entitlement. See also the Country Report for Germany in this study.

Germany	No	-	-	-
Italy	No	-	-	-
Latvia	No	-	-	-
Netherlands	Yes	Applicants who have reached age of majority, been born and had lawful residence since birth	-	-
Portugal	No	-	-	-
Sweden	Yes	Children who are permanent resident and have resided in Sweden for at least three years	Declaration made prior to 18th birthday	Declaration
United Kingdom	No	-	-	-

Denmark, France, the Netherlands, and Sweden are the only countries that have a system for citizenship acquisition based on residence/schooling during childhood. However, this only applies to specific circumstances. In Denmark, a person is exempted from the residence requirement for ordinary naturalisation if they resided in Denmark from the age of 15 and they reached the age of 18. If educated in Denmark, the education must be of Danish character.[61] In France, a system of acquisition based on childhood residence has recently been introduced.[62] This provision is for children who arrived in France with their parents and have one sibling that is born in France and has acquired French citizenship. These children must have arrived by the age of six and attended all their schooling in France (up to the age of 16). At the age of majority these children can acquire nationality by declaration. The parents' situation is not taken into account in the decision making. In the Netherlands, there is also a provision for the acquisition of citizenship based on residence during childhood 1) for applicants who have reached the age of majority, been born, and had lawful residence in the Netherlands since birth; and 2) for those who have had their lawful and main residence in the Netherlands since the age of four.[63]

61 Article 10 Naturalisation Circular.

62 Civil Code, art. 21-13-2.

63 Article 6 paragraph 1 under a and e.

In Sweden, children can acquire citizenship if they have permanent residence and have resided in Sweden for at least three years (two years if the child is stateless) and a declaration is made by the custodian/s before the child's 18th birthday.[64]

In all other states, there is no provision for the acquisition of citizenship based on residence or schooling during childhood. However, in the UK there exists a similar provision for specific cases. In the UK, there is a provision for second-generation minors born abroad to British citizens.[65] These children can register as British citizens after they have completed three years of residence in the UK. The applicant, as well as both of the parents, must be resident in the UK (or qualifying territory) three years before the application is submitted and not been absent for more than 270 days in the subsequent three years. For resident minors, schooling during childhood is a relevant factor in establishing the applicant's social connections which depends on the discretion of the Secretary of State during registration.[66] The policy is to register minor applicants as citizens in the following cases: 1) the minor is applying simultaneously with a parent , is 'settled' in the UK, is either under the age of two or has been resident for the past two years; 2) the minor is applying in their own right, they (and their parents) have been 'settled' for at least 12 months, and have been lawfully resident for at least five years; 3) the minor has lived in the UK for at least ten years, and they (and their parents) are currently lawfully resident. The application in these cases must be made while the applicant is a minor (i.e., before the age of 18).

More commonly, minors will apply for citizenship as secondary applicants to their parents' naturalisation requests. In Italy, parents with minor children who have become Italian through naturalisation automatically pass their citizenship onto their children under the condition that the child is a minor, lives with the parents, and the child's residency is registered.[67] In Denmark, applicants for citizenship who have arrived as minors have to fulfil all the requirements set out in the legislation for adults. Mostly, this group of children will apply for citizenship as a secondary applicant to their parents' application. However, there are some exceptions for children who cannot be included in their parents' application, some adopted children, children born out of wedlock to a foreign

64 Article 7 2001 Citizenship Law.

65 BNA 1981, s 3(5).

66 BNA 1981, s 3(1).

67 Art. 14 of the 1992 law (together with Art. 12 of the Presidential Decree n. 572 of 1993)

mother and Danish father (from 11 October 1993 up to an including 30 June 2014), and children who have not become Danish citizens due to the termination of cohabitation between their parents.[68] In Portugal children who arrive as minors will generally acquire citizenship as an extension of their parents' application.[69] In certain cases, however, children can apply for citizenship independently. This is the case for children born in Portugal or when the child is an unaccompanied migrant.[70] In Sweden, family reunification grants residence to minor children who have one parent who lives or has residence in Sweden or has a parent who has a spouse or partner with a person with Swedish residency.[71] Children who are stateless or children of immigrants can become Swedish citizens (without ordinary naturalisation) through a simplified process that is non-discretionary.[72] Exact specifications apply to different categories of minors depending on their circumstances.

68 Section 18 in the Circular Letter on Naturalisation; Section 14 in the Circular Letter on Naturalisation; Section 16 in the Circular Letter on Naturalisation.

69 Article 2 NA.

70 Article 6(3) NA.

71 Aliens Act (2005:716, 3 §).

72 Citizen Act of 2001 and further facilitated by amendments (Bill 2013/14:143).

3.4. Citizenship acquisition based on birth in a country

Table 3.5. Citizenship acquisition based on birth in a country

Country	Acquisition based on birth in a country	Procedure	Parental residency conditions	Age at which can be acquired	Other conditions
Austria	Yes	Application	-	Before age of majority	Six years of lawful and continuous residence
Belgium	Yes	Declaration	Legally resident in Belgium for 10 years and one parent has an unlimited residence permit	Under the age of 12	-
		Automatic	-	Before age of majority	Child born in Belgium has maintained residency till the age of majority
		Automatic	Parent was born in the country	At birth	Parent must also be resident for five of the ten years prior to birth of child
Denmark	No	-	-	-	-

France	Yes	Automatic	none	Before age of majority	If residency was habitual for at least five years since the age of eleven
		Declaration	none	Before age of majority	When child reaches age of sixteen and their residency was habitual for at least five years since the age of eleven; or, at age thirteen parents can claim citizenship for their child if the child has been resident since the age of eight
		Automatic	One parent also born in France	At birth	-
Germany	Yes	Automatic	One parent must have lawful habitual residence for 5 years (indefinite residence permit)*	At birth	-
Italy	Yes	Application	Implicit 18-year parental residency condition	After reaching age of majority	Three years of legal residence
		Declaration	Implicit 18-year parental residency condition	After reaching age of majority	One year after 18th birthday

Latvia	Yes	Automatic	Parent must be Latvian non-citizen and have permanent residence	At birth	Parents must consent
Netherlands	Yes	Automatic	One parent must have been born in the country and have main residence in the Netherlands at time of birth	At birth	-
Portugal	Yes	Automatic	Parents must be legally resident (irrespective of time) or resident for at least one year (irrespective of title)	At birth	-
Sweden	No	-	-	-	-
United Kingdom	Yes	Automatic	Parents must be legally resident	At birth	-
		Application	Child born in UK and by age 10 has not been absent from the UK for more than 90 days	Before or at majority	Must satisfy 'good moral character requirement'

* In Germany, different residence conditions apply for Swiss nationals/citizens of other EU Member States

None of the countries discussed in this report have an unconditional *ius soli* citizenship regime where citizenship is acquired based on birth in the country without any other conditions. In cases where a person is born in the country and where neither parent is a citizen, Austria, Belgium, France, Germany, Italy,

Latvia, Portugal, and the UK all provide options for citizenship acquisition with certain conditions.

In Germany, Portugal, and the United Kingdom, citizenship can be acquired *iure soli* at birth under certain conditions. The German system of *ius soli* requires that at least one parent has had lawful habitual residence in Germany for five years and holds an indefinite residence permit (different regulations apply for Swiss nations or nationals from EU Member States).[73] Citizenship, in these cases, is acquired automatically, however it requires registration with the local civil registry office of the place of birth due to the later obligation to make a declaration in order to avoid dual/multiple citizenship.[74] In Portugal, the second generation can acquire citizenship by birth if they were born in Portugal and their parents are legally resident (irrespective of time), or if the parent has resided in Portugal (regardless of residency title) for at least one year.[75] Finally, British citizenship is acquired automatically at birth if a parent is 'settled' in the UK.[76] Parents are considered 'settled' if they are 'ordinarily resident' and not "subject under the immigration laws to any restriction on the period for which [they] may remain."[77] A child born in the UK to non-settled parents can acquire citizenship if while the person is a minor, the parent becomes a British citizen, settled, or a member of the armed forces. Moreover, a child born in the UK can acquire citizenship if by the age of 10 they were not absent from the UK in any year more than 90 days.[78] This application can be made at any age (even after the age of majority). However, if the applicant is over the age of ten, they will also have to satisfy the good moral character requirement. In these two cases the procedure is through registration.

Those born in Belgium, France, Austria and Italy can acquire citizenship at the age of majority under certain conditions. In France, a conditional *ius soli* regime where individuals born in France can acquire citizenship automatically when they reach the age of majority if they have had their habitual residence in France for at least five years (continuously or intermittently) since the age of

73 § 4 (3) StAG.

74 This 'option-duty' applies only to those who have not spent their childhood or completed their schooling in Germany.

75 Article 1 NA.

76 BNA 1981, s 1(1) and s1(1A). For a detailed exposition, Fransman, Berry and Harvey (2011), pp 361-371 and 375-376.

77 BNA 1981, s 50A.

78 BNA 1981, s 1(4).

eleven.[79] Moreover, these individuals can acquire French nationality earlier – at age 16 (without parental consent) by declaration if they have habitually resided in France for at least five years since their eleventh birthday.[80] Parents may claim citizenship for their child from the age of 13, provided that the residence condition has been met since the age of eight.[81] There are no conditions that require the parent to reside legally or regularly at any time during the process. A child born in Belgium can receive citizenship through a declaration procedure by the age of twelve if they have always resided in Belgium, and both the parents have resided in Belgium for the previous ten years (and at least one of them has an unlimited residence permit).[82]

Persons born in Belgium can acquire citizenship at the age of majority if they have maintained residence there.[83] In Austria, applicants who have been born in the state qualify for a reduced residence requirement of six years of lawful and continuous residence (without the need of a permanent residence permit).[84] . For persons born in Italy, nationality can be acquired based on birth in the country when the applicant reaches the age of majority (18 years). There are two options available for this group of individuals. The first is a discretionary procedure, where the person born in Italy applies for citizenship, they must be able to prove three years of legal residence.[85] The second is by declaration within one year after the person's eighteenth birthday. In this case, residency must have been legal and uninterrupted since birth.[86] While the Italian case does not explicitly factor in a parental residence condition, since minors' legal status is dependent on their parents, there is an implicit 18-year parental residence condition.

Lastly, since 1 January 2020, children born in Latvia to Latvian 'non-citizens' or stateless persons can immediately acquire citizenship when their birth was registered (provided that one of the parents requested and that the parent(s) are permanent residents).[87]

Belgium, France, the Netherlands, and Portugal have further options for

79 Civil Code, art. 21-7.

80 Civil Code, art. 21-11.

81 Civil Code, art. 21-11.

82 CND, art. 11bis.

83 CND, art. 12bis.

84 Art 11a (4) subsection 3 & Art 11a (5) StbG.

85 Article 9.1.a.

86 Article 4.2.

87 Citizenship Law, Section 3(1).

citizenship acquisition based on birth in the country if one of the (non-citizen) parents was also born in the country. Belgium has a system of 'double *ius soli*', This means that a child born in Belgium to at least one parent who was also born in Belgium can obtain citizenship automatically (*ex lege*) at birth. The parent must have been resident in Belgium for five of the ten years prior to the birth. France also has a provision of *double ius soli*.[88] In the Netherlands, there is a 'third generation provision', where citizenship is acquired automatically (*ex lege*) for children of mothers or fathers who have their main residence in the Netherlands at the time of birth, if the mother or father was also born in the Netherlands (with parents who had their main residence there at the time of birth).[89] This is also the case for the third generation born in Portugal, where Portuguese citizenship is also acquired automatically (*ex lege*).[90]

3.5. Procedures for citizenship acquisition

3.5.1. Ordinary residence-based naturalisation

a. Documents

In all states, applicants must provide documentation to support their application for naturalisation. This, most often, includes a valid identification (such as a copy or original of a passport), birth certificates, and proof of residence, or a copy of residence permit. These need to be translated into the language of the host state (and in some cases certified by the home state). Austria, France, Italy, Latvia, and Portugal require criminal record certificates – usually from the home country and every country the person has lived in for more than six months. Danish authorities may ask for similar documentation in special cases, for example if the applicant has had any criminal convictions or received any fines for traffic offences (the applicant must declare these). In Austria and the Netherlands, applicants will generally also need to submit a declaration that they will renounce their former citizenship. In Latvia, such documents have to be submitted in a later stage. Moreover, in cases where there are language or knowledge requirements (namely Austria, Belgium, Denmark, France, Germany, Netherlands, Portugal, and the UK), applicants must prove that they

88 Civil Code, art. 19-3.

89 Article 3.3.

90 Article 1(e) NA.

have completed these tasks to the requested specifications. Austria, Belgium, Germany, and Italy require applicants to prove their economic resources; this can be done through pay slips, employment contracts, pension or insurance certificates, and bank statements. Italy requires three years of tax declarations that precede the time of the application.[91] In states where the process is decentralised to local or regional authorities, exact documentation and procedural processes may differ. This is the case in Austria and Germany.

b. Authority

In the states under inquiry, the authority for naturalisation applications can be decentralised (with a municipal or regional authority), centralised with a Ministry, or a combination of both.

Austria and Germany are the only states with a decentralised process where the municipalities, provinces, or regions are the competent authority and handle the citizenship acquisition process. The provincial governments in Austria are the competent authorities that receive and review and decide on applications for most naturalisations except those in the special interest of the Republic. In Germany, applications are submitted to a relevant local authority: in municipalities with more than 7,500 residents, applications are received at the city administration office, and in smaller municipalities this is done by the District Committee. Once documents are complete, they are sent to a Regional Council where the application is reviewed, and a decision is made.

Denmark, Latvia, Portugal, Sweden, and the UK have centralised systems. The Danish process is centralised, and applications are processed by the Ministry of Immigration and Integration. However, the Ministry will also use information from the Central Personal Register, the Central Claims Register, the eIncome Register, and the Central Criminal Register.[92] The authorities in Latvia that reviews naturalisation applications is the OCMA (Office of Citizenship and Migration Affairs), the State Police, the Financial Police, the State Revenue Service, the Prison Administration, the Corruption Prevention and Combating Bureau, the Military Policy, and the Military Intelligence and Security Service.[93] In Portugal, the system is similarly centralised with applica-

91 Ministerial Decree of November 22 1994; Circular k 60.1 of December 23 1994; Art 4.1.c of the Presidential Decree 572, 10 October 1993, confirmed by the Presidential Decree 362, 18 April 1994 Art. 1.3.d and all following acts and regulations.

92 Section 31(2) in the Circular Letter on Naturalisation, cf. section 12(3) of the Citizenship Consolidation Act.

93 Regulations No. 1001, paras 15, 16.

tions being the responsibility of the Central Register of Citizenship managed by the Central Registry Office, which is a part of the Ministry of Justice that ultimately handles decisions.[94] In Sweden, the Migration Agency is the designated authority on naturalisation applications with the exception of Nordic citizens who apply via declaration to one of five county councils.[95] The UK also has a centralised system where all applications go to different parts of the Home Office. However, some of the steps require the involvement of local offices, such as administering the Life in the UK test or language tests.

In Belgium, France, Italy, and the Netherlands, the systems are mixed. Those applying for Belgium citizenship can do so either directly to the House of Representatives or through the Registrar in their municipality of residence. If the application is submitted to the local registrar, the dossier will be checked for completeness and sent to the House of Representatives who will make the decision regarding the application. In France, applications are submitted to *préfectures* (mainly in regional large territorial units) responsible for receiving and examining applications.[96] Once the prefect has decided to approve the application, s/he will forward it to the Ministry of the Interior for a final decision. In Italy, applications are submitted online, the first examination is done by the responsible *prefettura* and police headquarters in the province where the applicant resides. The application is then forwarded to the Ministry of the Interior who will request the opinion of the Council of State. If the application is approved, then the Ministry issues a decree granting citizenship which then must be signed by the President of the Republic. The decree is sent back to the *prefettura* who will notify the applicant. In the Netherlands, applications are submitted to the relevant municipality who forwards documents to the Ministry of Immigration and Naturalisation that takes the decision.

c. Implementation

The path of a naturalisation application differs between each of the states, and within states depending on whether the process is centralised, decentralised, or mixed.

In the UK, for example, there are no distinct steps once the application is submitted to the Home Office. And in Austria and Germany, the process

94 Article 16 NA.

95 cf. Law 2017:900, § 6.

96 Ministère de l'intérieur, "Les étrangers en France. Rapport au Parlement sur les données de l'année 2020," 2023, ISBN: 978-2-11-167200-0, 146.

differs by municipality or province.

Other states provide a definite pathway of a naturalisation application. For example, in Denmark, a highly centralised system, there are clear steps that an application will follow. First, the application is (mostly) digital, and will be received by the Ministry of Immigration and Integration.[97] If all the conditions are fulfilled and the decision is to approve, the applicant will be included in a bill on citizenship (the Ministry will inform the applicant by letter). Once the bill is passed in Parliament, the Ministry will examine whether the applicants included in the bill still fulfil the conditions. Bills on citizenship are presented to the Ministry twice a year (April and October) and must be debated three times by the Danish Parliament.

In the French mixed system, when a complete application is submitted, a receipt is issued. The prefectural authorities then have eighteen months to examine the application.[98] During this period the police will carry out an investigation to assess the morality and loyalty of the applicant. There is some variation between préfectures in terms of how and in what order requirements are assessed. If the prefect intends to approve the application, s/he will forward the proposal to the Ministry, no later than six months after the receipt has been issued. The Minister will only receive positive proposals for naturalisation; the prefects are the only decision makers for negative decisions.

A naturalisation application in Italy goes through many local and central offices. Once the application is submitted online on the dedicated IT portal, the preliminary assessment is done by the prefettura and policy headquarters of the applicant's province. The application is then forwarded to the Ministry of the Interior (along with the police report) who requests the opinion of the Council of State. If this is favourable, then citizenship is issued by decree and must be signed by the President of the Republic. The decree is sent back to the prefettura who notifies the applicant.

After an application for naturalisation is submitted in Latvia, the OCMA will review all the documents to confirm eligibility. The applicant will then take the Latvia language and citizenship test. If the candidate successfully passes the test, the OCMA will then check for any security related concerns by requesting information from the police and other institutions. If the OCMA decides to grant citizenship, then the applicant must sign a pledge of loyalty and renounce their former citizenship. Once that condition has been fulfilled,

97 Section 28 in the Circular Letter on Naturalisation.

98 Civil Code, art. 21-25-1.

the OCMA will draft a Cabinet of Ministers decree. When this is adopted, the person becomes a Latvian citizen.[99] According to the citizenship law, the whole process should not be longer than one year.[100]

Applicants for naturalisation in the Netherlands will submit their application to the municipality where they are registered as residents. The municipality will manage all the documents and send to the Minister for Justice and Security and the Ministry of Immigration and Naturalisation (IND) who decides on the application. If naturalisation is granted it will be by Royal Decree. A similar process exists in Belgium, where documents are submitted to a local office and then forwarded to the office of the royal prosecutor to make a decision.

Once an application has been submitted the processing time varies between 6 to 48 months between states. Certain states guarantee a specific time in which they will reach a decision. For example, in Austria, once an application has been submitted, the authority has six months to reach a decision.[101] However, in practice, the length can vary due to the volume of applications some provinces (like Vienna) receive. In Italy, for applications submitted before December 2020 the time limit was 48 months and for applications after that the time limit is 24 months (extendable to 36 months).[102] The Ministry of Immigration and Naturalisation in the Netherlands has a year to decide on naturalisation applications. This can be prolonged twice (by six-month increments) if the Ministry needs more time.[103]

In Portugal, the Central Registry Office has the powers of investigation, decision, and registration on the declarations that ground the acquisition. The Office has 30 days to analyse an application; if it is refused or incomplete, the applicant is notified. If the application is considered complete, the Office will then request information from other public authorities (such as the security forces); such information must be sent within 30 days, then the Central registry Offices issues an opinion within 45 days.[104]

The other states have no formal deadlines and processing times are at least a year. In Denmark the average time of processing a naturalisation application

99 Citizenship Law, Section 17(5).

100 Citizenship Law, Section 17(1).

101 Art. 73 General Administrative Law (Allgemeines Verwaltungsgesetz 1991), BGBl. 51/1991 in its latest amandment BGBl. I 88/2023.

102 Law n 132 of 1 December 2018; and Art. 4.5 Legislative Decree n. 130 of 21 October 2020, converted with amendments into Law n. 173 of 18 December 2020.

103 Article 9 paragraph 4 DNA.

104 Article 41 NR.

is 22 months. In France, in 2021, it took 149 days on average to process an application for a negative decision and 381 days for a positive decision. Waiting times in major cities across Germany are reported to be from 1 to 1.5 years. In Sweden, the average processing time in 2022 was 519 days. After six months of waiting, Swedish Law of Public Administration states that the applicant has a right to demand in written form a decision on their case. In the UK, there are no formal time limits set by the Home Secretary.

After a naturalisation application has been accepted, some countries such as Austria, Denmark, and Italy have a further requirement that the applicants participate in a citizenship ceremony and take a pledge/oath of allegiance. In Denmark, the applicant will receive a temporary certificate until the citizenship ceremony, where they must shake hands with the local council representative and sign a loyalty oath.[105] Once signed, the document will be sent to the Ministry which will issue the citizenship certificate. After receiving a positive decision in Italy, the applicant has six months to take the oath of allegiance.

d. Appeal

In all countries except for Denmark there is a possibility for appealing a negative decision. There is variation among the states on who and how appeals are managed. Appeals will go either back to the competent authority, to a higher authority, or to the courts. In Austria, decisions can be appealed to the Provincial Administrative Court. However, if the appeal requires a question of law of 'fundamental significance' then this appeal will go to the Federal Administrative Court. A rejected application in Belgium can be appealed in front of the Council of State. In France, appeals go to the Ministry of the Interior and the application will be re-examined at the central level. An appeal can eventually be heard at the administrative courts. Applicants for naturalisation in Germany can file an objection or lawsuit with the competent authority, however, the choice of legal remedy will depend on the federal state. Appeals in Italy will be heard at a Regional Administrative Tribunal or sent to the President of the Republic. Applicants have 60 days or 120 days respectively from notification of rejection to file an appeal. An applicant in Latvia has one month to appeal a negative decision to the Head of the OCMA. Should the case be refused again

105 See section 10 in the Citizenship Consolidation Act, sections 2A and 2B in the Circular Letter on Naturalisation, and Executive Order on the Organisation of Constitutional Ceremonies by Local Councils – *Bekendtgørelse om kommunalbestyrelsernes afholdelse af grundlovsceremonier*, BEK nr. 2546 af 16/12/2021.

then the decision can be appealed in an administrative court.[106] In the Netherlands, an applicant can appeal a negative decision within six weeks, the Ministry will revaluate the decision. If the application is rejected a second time, it can be appealed to the District Court. In Portugal, applicants have 30 days to be heard in case of a negative decision from the Central Registry Office.[107] After considering the defence, the Office will send the appeal to the Ministry of Justice. The procedure ends with a decision from the Ministry who grants or refuses the application. However, in certain cases appeals can also be judicially reviewed by the Administrative Courts (i.e., the Lisbon Administrative Court). In cases of rejection in Sweden, appeals can be made to the Migration Courts and all the way up to the Supreme Migration Court.[108] There are four Migration Courts in total (Stockholm, Göteborg, Malmö, and Luleå), the final appeal is with the Supreme Migration Court in Stockholm which will only take up cases that concern interpretations of law. If an application is denied for security reasons, however, these are appealed to the government. In the UK, applicants can request reconsideration of their application. There is no formal appeal process, but refusals can be subject to a judicial review in the High Court if challenged on grounds such as illegality or unfairness. In practice, however, challenges are rarely successful.

e. Fees

Table 6.6. Application fees for residence-based citizenship acquisition and acquisition of citizenship by declaration

Country	**Residence-based Naturalisation**	**Declaration**
Austria	Up to €2765.70#	-
Belgium	€230	€230
Denmark	€850	-
France	€55	€55
Germany	€255	-
Italy	€250	€250
Latvia	€28.46	-

106 Citizenship Law, Section 17(3); Regulations No. 973, para 38.

107 Decree-Law no. 4/2015, of 7 January, as last amended by Decree-Law no. 11/2023 of 10 February.

108 Bill 2004/05:170.

Netherlands	€970	€206
Portugal	€250	-
Sweden	€135	€16
United Kingdom	€1745	€1412

*all currencies were converted into euro and reflect rates from December 2023
comprises federal and provincial fees for that vary by province for both the application and the acquisition of citizenship.

All states require naturalisation applicants to pay a fee to start a citizenship application.[109] The fees below have been converted to Euro (as of 16 December 2023) for ease of comparison. In Austria, there are federal and provincial fees that an applicant must pay in order to naturalise and be granted citizenship.[110] The federal fee for discretionary naturalisation is €1,240.90 for adults and €1,383.80 for minors.[111] Provincial fees range from €119.90 to €1,524.80. There are reduced fees in cases of facilitated naturalisation. However, the combined federal fee and highest provincial fee (€2765.70) in Austria makes naturalisation the most expensive among the countries in this study. Furthermore, this does not include other costs, for example, for language courses, collecting or translating documents. After Austria, the UK has the highest fees at approximately €1,745 which does not include additional fees for the citizenship ceremony or the knowledge/language test.[112] Naturalisation fees in the Netherlands and Denmark are roughly similar at €970 and €850 respectively. In Denmark, this includes the language and citizenship tests.[113] Germany (€255), Italy (€250), and Portugal (€250) have similar fees.[114] In Belgium the fee is €150 but there is an additional local fee for the local register which can range from €5 to €80. Naturalisation fees in Sweden are approximately €135

109 For most states the numbers below refer to the naturalisation application fee (other fees such as, for language tests, documents, or fees for citizenship acquisition are outlined in the country reports). Except in the case of Austria, where the fees outlined in this comparative synthesis section represent a combination of both application and acquisition fees (see country report for more detail).

110 Art. 14 Law on Fees 1957 (Gebührengesetz 1957), BGBl. 267/1957 in its latest amandment BGBl. I 110/2023.

111 This amount is calculated based on the €125.60 application fee and the €1,115.30 acquisition fee. In the case of naturalisation entitlement the total federal fee (application + acquisition) is €993.

112 Section 68 of the Immigration Act 2014

113 Section 12(1) in the Citizenship Consolidation Act.

114 For Germany this is regulated by § 38 StAG; Italy by art. 14 of the Legislative Decree n. 113 of 4 October 2018; and Portugal by Decree-Law 322-A/2001, of 14 December, as last amended by Decree-Law n. 109-D/2021, of 9 December.

for ordinary naturalisation. France and Latvia have the lowest fees at €55 and €28.46.[115] Most states provide reduced fees for minors, spouses, or applications by refugees/stateless persons.

3.5.2 Declaration or other procedure

This section outlines the states where there is the option to acquire citizenship through a declaration because of birth in the country or after childhood residence/schooling. Furthermore, this section will show where documents, authority, implementation, appeals, or fees differ from those of residence-based naturalisation described in the section above.

a. Documents

For acquiring citizenship through a declaration, documentation requirements are less rigorous than those for residence-based naturalisation in most cases. Belgium requires the same basic documents as for ordinary naturalisation (copy of birth certificate, residence certificate, and Belgian ID card).[116] In France, each type of citizenship acquisition that requires a declaration entails a different set of documents, which are set out in a 1993 decree.[117] In Germany, the procedure is used for children born in the country one of whose parents has been residing there for at least five years. Thus, proof of one of the parent's lawful habitual residence in Germany must be provided, as well as an unrestricted residence permit at the time of the child's birth.[118] Italy requires a valid identity document, the record of residence permit proving 18 years of uninterrupted and legal residence, birth certificate, and the receipt of payment of the application fee. A similar list of documents is required in Portugal and the Netherlands. In Portugal for a declaration of citizenship based on residence/schooling during childhood requires a birth certificate proving family relationship (along with the naturalisation application of the parent).[119] For acquisition of Portuguese nationality by birth (*ex lege*), the applicant must provide proof

115 France: Code général des impôts, art. 958 ; Latvia : Ministru kabineta noteikumi Nr.849 "Noteikumi par valsts nodevu naturalizācijas iesnieguma iesniegšanai" [Cabinet of Ministers Regulations No. 849 Regulations on the State Fees for a Naturalisation Application] (17.09.2013., *Latvijas Vēstnesis* no. 183), para 2.

116 AR 14/01/13

117 Decree of 1993, art. 14-1; Decree of 1993, art. 17-3;

118 § 4 StAG.

119 Article 13 NR.

of nationality of the parents, certificate of the parent's birth registration (in case of double *ius soli*), and evidence of parental residence.[120] The Netherlands asks for a valid passport, birth certificate, valid residence permit, declaration of option, declaration of residence and behaviour, a declaration that the applicant has been informed of the relevant fees, and in some cases (for applicants under Article 6.1) a declaration to renounce former nationalities once Dutch nationality has been acquired. The fewest documents are required in Sweden and the UK. In Sweden, the declaration should be made in writing to the Swedish Migration Agency, application forms are accessible on their website and should be accompanied by a certificate of identity.[121] The UK requires an application form that corresponds to the specific situation of the applicant.

b. Authority

In most cases, the relevant authority is the same that handles residence-based naturalisation. This is the case in Portugal (Central Registry Office), Sweden (Migration Agency), the Netherlands (local municipality), and the UK (Home Office). All declaration procedures in Belgium must be introduced at the civil register which is the main authority involved in registration of births, deaths, and marriages). The registers will check if the application is complete and then forward it to the local office of the royal prosecutor who will review the application. In France, however, the competent authority varies depending on the procedure. For example, for citizenship by birth, the applicant will register at the judicial court of the place of residence. In cases of automatic acquisition of nationality at the age of majority, there is no procedure as nationality is obtained solely by operation of law. In Italy, the competent authority is the Civil Status Office of the applicant's municipality of residence.

c. Implementation

Overall, the process to receive citizenship by declaration is faster than residence-based naturalisation. Civil registers in Belgium formally have 35 days to examine the completeness of an application. However, in practice the process often takes longer. In Sweden, for example, the average waiting time is only 82 days. In France, a declaration requires registration at the court, which will issue a receipt when the application is submitted.[122] The registry office has six months

120 Article 23 NR.

121 2001 Citizenship Regulation 2001:218, § 2.

122 Civil Code, art. 26.

to verify the requirements. In cases of acquisition via marriage or siblings, the préfecture responsible has one year to verify the conditions for registration, the prefect will issue a copy of the declaration noting that it has been registered.[123] In Italy, the Civil Status Office of the applicant's municipality of residence will verify compliance and will register the applicants right for citizenship. The municipality has 120 days to carry out the procedure. In Portugal and the UK there are no specific processes for when a declaration has been made to the Central Registry Office or the Home Office respectively.

d. Appeal

Appeal processes to declaration decisions are generally the same as residence-based naturalisation. Exceptions are Belgium, France, and Italy. Applicants in Belgium only have fifteen days to appeal a rejection. Due to the long waiting periods to be heard in a court (two years), more often applicants will simply introduce a new application. In France, the judicial court is the competent authority to review refusals to register. In Italy, applicants have the right to appeal to the Specialized Section on Personal Rights and Immigration of the ordinary Court of the place where they reside.

e. Fees

In all cases, fees for registration are significantly lower than with residence-based naturalisation, except in Belgium and France, where the fee is the same. Sweden has the lowest fees at approximately €16, unless it is a case of Swedish citizenship lost before 2001 in which case it is approximately €43. In the Netherlands, fees for option vary depending on the case: i) option declaration for one person is € 206; ii) option declaration together with a partner is € 351; and iii) joint option for a child under 18 is € 23. In Italy, the fee is €250. The highest fees are in the UK which are €1412 (£1,214 for a minor) or €1571 (£1,351 for an adult) plus the citizenship ceremony which costs another €93.

123 Civil Code, art. 26-3.

3.6. Information and advice

a. Information by authorities

In almost all these states, there is no duty to inform individuals born in the country about the possibility of acquiring citizenship. Most states provide information on various websites or in brochures about eligibility and the necessary steps applicants should take to apply. However, it is up to the potential applicant to inform themselves on whether they qualify. The exceptions are France and Italy. In France,[124] the legislator requires courts, local authorities, public institutions, and services to provide information to children born in France to foreign parents about their options for acquiring citizenship. Italy has a similar requirement. Article 33 of the Legislative Decree n. 69 of 21 June 2013 introduced a duty for each municipality to communicate to foreign residents born in the country about their right to acquire Italian citizenship. This must occur six months before their eighteenth birthday.

b. Administrative measures or policies for providing information or counselling services

There are few states that provide information or counselling services about the condition under which citizenship can be acquired beyond information provided on governmental websites. Germany, Latvia, Portugal, and Sweden are the exceptions. In Germany, as a part of various integration policies, there are measures at different levels of government which provide information on the conditions for acquiring citizenship. For example, information portals and websites, information events and workshops, advisory services who specialise in supporting immigrants and citizenship candidates, brochures and information materials. Furthermore, the government has partnerships with different migration organisations who aim to support applicants on their path to citizenship. Various larger cities have organised local naturalisation campaigns. One of the tasks of the OCMA in Latvia is to inform candidates of the possibility of acquiring citizenship. The OCMA provides a free info phone line and a space online to ask questions. Moreover, the OCMA organises information days that explain the naturalisation process and procedures.[125] In Portugal, the

124 Civil Code, art. 21-7.

125 Latvian Office of Citizenship and Migration Affairs, "Latvijas nepilsoņu attieksme pret Latvijas pilsonības iegūšanu" (2020), 24, https://www.pmlp.gov.lv/lv/media/811/download?attachment.

High Commissioner for Migration has created local migrants' support centres. These provide support at the local level with information and counselling on access to citizenship and will even offer free legal advice services. Under Swedish Administrative Law, public authorities have a duty to offer individuals assistance. Authorities must be accessible by phone or email. The county councils also provide information on their website on concrete legal matters. The municipalities are responsible for immigrant integration and offer different courses including language and civic classes.

It should be noted that Denmark is the only state with the reverse information policy. The 2021 Agreement on Citizenship explicitly states that providing information on applications for citizenship acquisition should not be encouraged.

4. Comparative contextualisation

Lucas Van Der Baaren and Maarten Vink

In this comparative contextualisation, we contextualise the findings from the country studies by comprehensively discussing the conditions for citizenship acquisition in 31 European countries for the reference date of 1 January 2022, which is the most recent information included in the latest version of the GLOBALCIT Citizenship Law Dataset.[1] This includes all 27 EU member states, in addition to Switzerland, Iceland, Norway and the UK. We start with a brief description of the purpose and methodology of the GLOBALCIT Citizenship Law Dataset, which we use as basis for the analysis in this section of the report. Subsequently, we present and briefly discuss the main patterns in the regulation of the conditions for citizenship acquisition, focusing on a) conditions for residence-based naturalisation; b) citizenship acquisition based on residence/schooling during childhood; and c) citizenship acquisition based on birth in a country. We provide all information in summary tables and infographics to highlight key differences across Europe.

4.1 The GLOBALCIT Citizenship Law Dataset

The GLOBALCIT Citizenship Law Dataset (Vink et al, 2023)[2] provides systematic information on the ways in which citizenship can be acquired and lost

1 The reference date of 1 January 2022 means that amendments to the citizenship law in 2023 and 2024 in the 31 European countries are not included in the comparative analyses presented in this chapter. This implies that notably the 2024 amendments to the German citizenship law, which are included in the respective country report and comparative synthesis sections of this report, are not systematically included in this section. We highlight key changes for Germany in the text below.

2 Vink, Maarten, Luuk van der Baaren, Rainer Bauböck, Jelena Džankić, Iseult Honohan and Bronwen Manby (2023). GLOBALCIT Citizenship Law Dataset, v2.0, Country-Year-Mode Data ([Acquisition]/[Loss]). Global Citizenship Observatory, https://hdl.handle.net/1814/73190. The Dataset can be also be explored in interactive online databases: https://globalcit.eu/databases/globalcit-citizenship-law-dataset/. An updated version of the Dataset with information up to 1 January 2024 was published in June 2025, after the completion of this report: https://hdl.handle.net/1814/73190.3."

around the world. The Dataset covers 191 states and reflects each state's citizenship legislation as in force on 1 January of each year. This data source is organised around a comprehensive typology of grounds for acquisition and loss of citizenship, capturing 28 ways in which citizenship can be acquired, and 15 ways in which it can be lost. This information provides a global outlook on the current state of citizenship law and facilitates comparison of the rules applicable to similar groups of persons across countries (for a comprehensive introduction to the comparative methodology, see Van der Baaren and Vink 2021).[3] For this comparative contextualisation, we selected six modes through which immigrants and their descendants can acquire citizenship.

The information included in the Dataset is principally provided by GLOBALCIT country experts and GLOBALCIT regional coordinators, who were selected based on their specialist knowledge of citizenship policies in their country or region of expertise, as attested by their (academic) research or policy engagement. In those cases where country or regional expert are not available to provide information on a particular country, we retrieved data from alternative GLOBALCIT sources, including country reports and (translations of) national legislation available in the GLOBALCIT Global Nationality Law Database[4].

The dataset is based on the substantive requirements as set out in relevant national legislation, which means that in practice, the implementation of the law may deviate from these formal requirements.

4.2 Conditions for residence-based naturalisation

In this section we describe the most important conditions for residence-based naturalisation. We focus on residence requirements (including information on facilitated provisions for spouses/partners of citizens and refugees), dual citizenship restrictions, and integration or assimilation criteria.

Residence requirements: length of residence

Residence conditions are composed of three main elements - length of residence, residence status and permissible interruptions. While in this section we focus on the number of years of residence mentioned in the citizenship law, this

3 Van der Baaren, Luuk and Maarten Vink (2021), Modes of acquisition and loss of citizenship around the world: comparative typology and main patterns in 2020, EUI RSC, 2021/90, Global Governance Programme-457, GLOBALCIT - https://hdl.handle.net/1814/73267.

4 The Database can be explored here: https://globalcit.eu/national-citizenship-laws/.

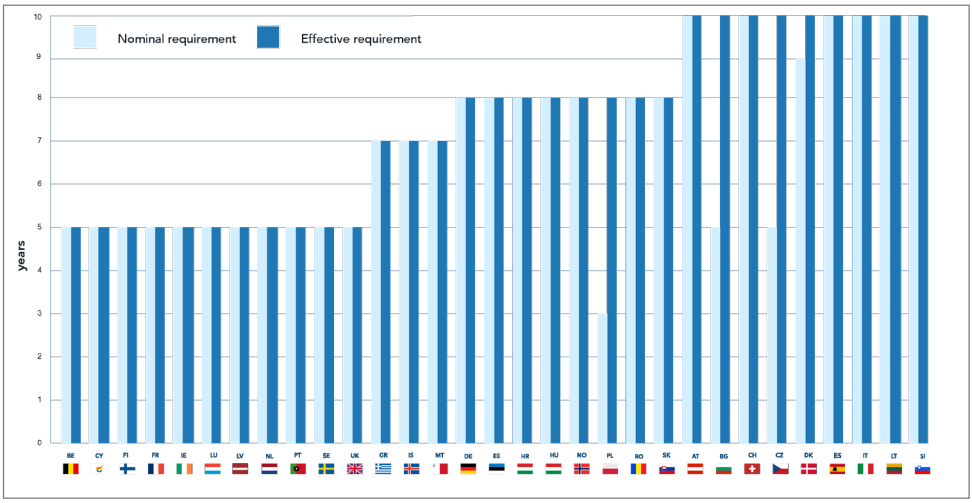
'nominal' residence requirement may be conditioned by the type of residence status a person needs to hold either at the moment of the moment of applying for citizenship or during the residence period. The residence requirement may also be restricted in terms of the interruptions of the residence that are allowed to still qualify for naturalisation. In particular, some countries only count the years in which naturalisation applicants reside in the country with a permanent residence permit. As persons can generally only acquire a permanent residence permit after residing in a country for a certain period, the effective residence requirement in those cases is higher than the nominal requirement suggests. For example, acquiring Czech citizenship requires residence in the Czech Republic for five years with a permanent residence permit (Art. 14(1)(a) Act 186/2013 on Citizenship of the Czech Republic). Obtaining a Czech permanent residence permit generally requires five years of continuous residence in the Czech Republic (Art. 68(1) Act No. 326/1999 on the residence of foreigners in the territory of the Czech Republic). Taken together, this means that Czech citizenship can in principle only be acquired after ten years of residence in total. In the comparative overview visualised in Figure 4.1, we therefore depict both the nominal residence requirement (without permanent residence requirements) as well as the effective residence requirement (with permanent residence requirements).

It is important to note that other requirements can equally affect the scope of the residence condition, such as the duration of permitted absences, or whether residence must be 'legal' or whether a period of irregular residence can also count towards residence-based acquisition. Due to the limitations of the available comparative data, we do not consider these requirements in detail here.

The comparative overview visualised in Figure 4.1 shows that the most prevalent nominal residence requirement is five years (13 out of 31 countries). The remaining countries require a longer period of nominal residence, namely seven years (3 countries), eight years (7 countries),[5] nine years (1 country), or ten years (6 countries). In Poland, Bulgaria, Czech Republic, and Denmark, a permanent residence permit must be held during (part of) the nominal residence period, meaning that the effective residence requirement is higher. Even if the effective residence requirement is taken into account, none of the countries studied here exceeds the maximum residence requirement of 10 years stipulated by Art. 6(3) of the European Convention on Nationality.

5 In Germany the requirement has been lowered from eight to five years with the 2024 amendment of the citizenship law (see country report 'Germany').

Figure 4.1: Nominal and effective number of years of residence required for residence-based citizenship acquisition, 2022



Source: GLOBALCIT Citizenship Law Dataset, v2, A06 and additional information on requirements for permanent residence

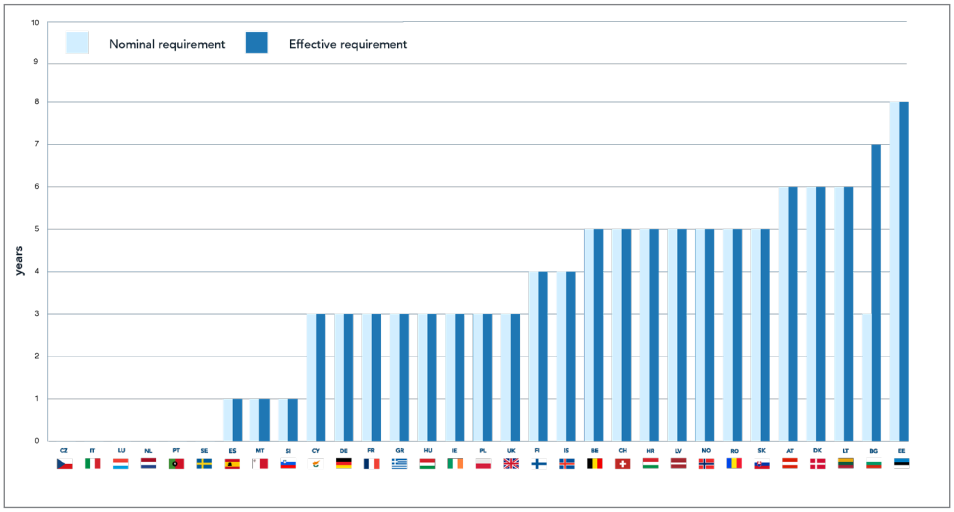
Facilitated provisions

Many states facilitate residence-based naturalisation for certain groups. The comparative overview visualised in Figure 4.2 shows the nominal residence requirement for spouses and/or registered partners of citizens.

In most European states, the nominal residence requirement is lowered for spouses/partners of citizens. We find that the average residence requirement is 3.3 years for facilitated citizenship acquisition, compared to 6.9 years for ordinary residence-based naturalisation. Five European states (Czech Republic, Luxembourg, Netherlands, Portugal, and Sweden) do not require prior residence at all for the naturalisation of spouses/partners of citizens. In many countries, a certain period of cohabitation is also required. For example, the Netherlands does not require spouses and registered partners to reside in the Netherlands in order to make use of facilitated naturalisation, but it does require a minimum of three years of cohabitation (Art. 8(2) Kingdom Act on Dutch Nationality). Only three countries (Belgium, Estonia, and Latvia) have not lowered the residence requirement for spouses. These countries might nonetheless facilitate naturalisation for this group in other ways. In Belgium, for example, spouses of Belgian citizens are subject to the regular residence requirement, but they are exempted from providing proof of economic participation (Art. 12bis (3) Belgian Nationality Code). In Poland, a spouse of a citizen

can acquire a permanent residence permit after three years of residence instead of five years, meaning that the effective residence requirement is reduced from eight years to six years.

Figure 4.2: Nominal and effective number of years of residence required for citizenship acquisition by spouses/partners of citizens, 2022



Source: GLOBALCIT Citizenship Law Dataset, v2, A08 and additional information on requirements for permanent residence

The nominal residence requirement is also lowered in many countries for recognised refugees. These provisions are usually limited to persons who have a residence permit as a refugee and prior residence (e.g. as asylum seeker) is generally not taken into account. When only looking at the nominal residence requirement (as our information does not cover effective residence requirements for recognized refugees), we find that states generally reduce the residence requirement to a lesser extent for refugees than for spouses/partners of citizens. The average nominal residence requirement for refugees is 5.2 years, compared to 6.9 years for ordinary residence-based naturalisation, and 3.3 years for residence-based naturalisation of spouses/partners.

Dual citizenship: requirement to renounce previous citizenship(s)

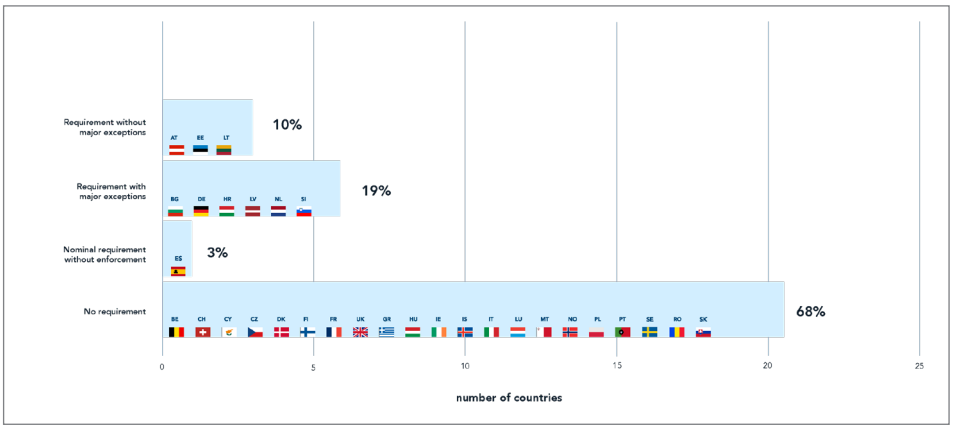
In ten of the 31 countries (Austria, Bulgaria, Croatia, Estonia, Germany[6], Latvia, Lithuania, the Netherlands, Slovenia and Spain), acquiring citizenship through residence-based naturalisation requires that the original citizenship of the applicant is either expressly renounced or that the original citizenship is lost in an alternative way (e.g. through automatic loss as a result of the voluntary acquisition of another citizenship). Most of these ten countries include substantial exemptions to the dual citizenship restriction for naturalising foreigners (see Figure 4.3).

Only Austria, Estonia, and Lithuania require the renunciation or loss of foreign citizenship for residence-based acquisition of citizenship, without any major exceptions beyond those that are commonly required by international law – in particular for refugees or for citizens of countries that do not allow the renunciation of citizenship. Such major exceptions are in place in the other seven states listed above. Bulgaria, Croatia, the Netherlands and Spain do not require that the spouse or partner of a citizen renounces her or his original citizenship. Bulgaria, Germany, Latvia and Spain have a special acquisition provision for citizens of particular states and exempt these groups from the renunciation requirement. In Germany, until the 2024 amendment of the citizenship law that abolished this requirement altogether, citizens of an EU Member State or Switzerland were exempted from the renunciation requirement. In Spain, renunciation of the original citizenship is required by law, but this does not have any apparent consequences as a naturalised person does not need to submit proof of renunciation, and there is no corresponding provision for loss of the acquired citizenship by those who have not renounced their original citizenship.

Note that many of these 10 countries also allow for exceptions having to do with individual circumstances, but since these exceptions are considerably idiosyncratic and difficult to code cross-nationally in a reliable manner we do not consider these as 'major exceptions' here. For example, the Netherlands exempts applicants from the renunciation requirement if they would suffer a substantial financial disadvantage due to the high administrative costs of renouncing their original nationality (in relation to the current income) or if they will lose property rights by renouncing the foreign citizenship (Manual Dutch Nationality Act).

6 In Germany the renunciation requirement has been abolished with the 2024 amendment of the citizenship law (see country report 'Germany').

Figure 4.3: Requirement to renounce other citizenship as condition for residence-based citizenship acquisition, 2022



Source: GLOBALCIT Citizenship Law Dataset, v2, A06b_cat

Integration or assimilation criteria

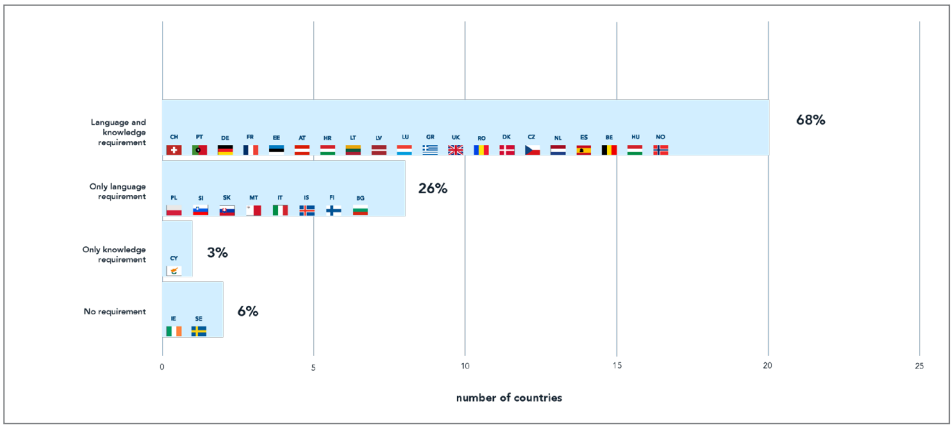
Residence-based acquisition of citizenship often requires that applicants are able to read, speak and/or understand a national language. Out of 31 European countries, Sweden is the only country that has not implemented a language condition for residence-based acquisition of citizenship. In 15 out of 31 states, citizenship legislation does indicate that a language test or certification is required (see Figure 4.4).

Many states also require that applicants demonstrate a degree of civic knowledge or civic assimilation. We distinguish between countries that require certification and/or a residence-based acquisition and those that have a condition without such requirements. As with language conditions, we only take certification and/or test requirements into account if they are expressly included in a country's citizenship legislation.

In total, 21 of the 31 states require civic knowledge or cultural integration for residence-based acquisition of citizenship (Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Portugal, Romania, Spain, Switzerland, and the United Kingdom). If only an oath of loyalty is required, as is for example the case in Ireland and Slovenia, we do not consider this as a civic knowledge or cultural assimilation condition. In 14 states, the citizenship legislation indicates that a language test or language certification is required.

These requirements are more onerousness in some countries compared to others. On the one hand, some states solely focus on civic knowledge, for example requiring a certain degree of knowledge about a country's constitution, its form of government, or a citizen's rights and duties. An example is Lithuania, where knowledge of basic provisions of the Constitution is required for naturalisation. There are also countries that focus more strongly on cultural integration. In these cases, applicants must, for example, prove that they have acquired a certain degree of knowledge about a country's culture, history and/or customs. An example is Greece, where residence-based acquisition of citizenship requires applicants to be familiar with Greek history and geography and to be smoothly integrated into the economic and social life of the country. In other cases, applicants must prove that they actively participated in a country's society. Belgium, for example, requires adequate social integration as well as labour market participation.

Figure 4.4: Language and knowledge requirements for residence-based citizenship acquisition, 2022

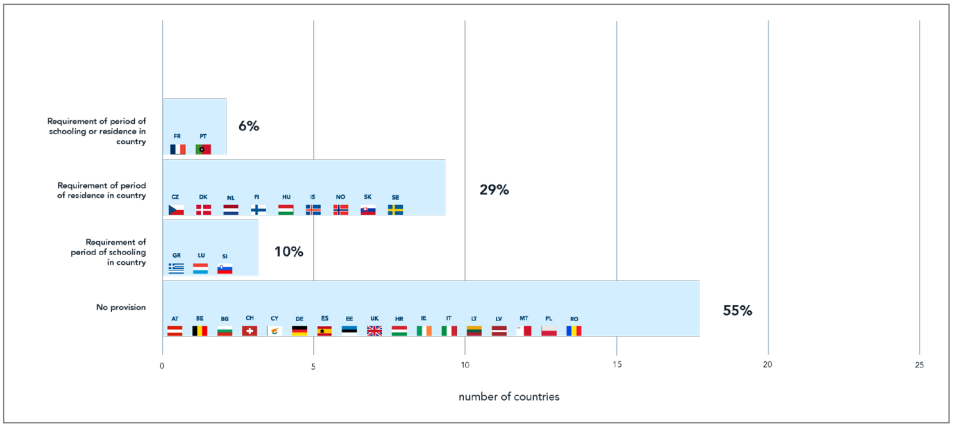


Source: GLOBALCIT Citizenship Law Dataset, v2, A06c_bin, A06d_bin

4.3 Citizenship acquisition based on residence/ schooling during childhood

States can facilitate the acquisition of citizenship for persons who have migrated to a country before reaching the legal age of majority. This generally requires a certain period of residence during childhood and/or a certain period of schooling in the country (see Figure 4.5). In 2022, such provisions existed in 14 European countries (Czech Republic, Denmark, Finland, France, Greece, Hungary, Iceland, Luxembourg, Netherlands, Norway, Portugal, Slovakia, Slovenia, and Sweden). In nine countries, a certain period of residence in the country suffices, while in two countries a certain period of schooling in the country is also required. For example, a person is entitled to Luxembourg citizenship if he/she had seven years of schooling in a public school in Luxembourg and one year of residence in Luxembourg preceding the application date. In addition to the required period of schooling, it is sometimes also required that the person has reached a certain qualification level. In some countries, persons can only apply for citizenship on this ground once they have reached the legal age of majority, even if they have fulfilled the residence/schooling requirement before reaching that age.

Figure 4.5: Citizenship acquisition based on residence/schooling during childhood, 2022

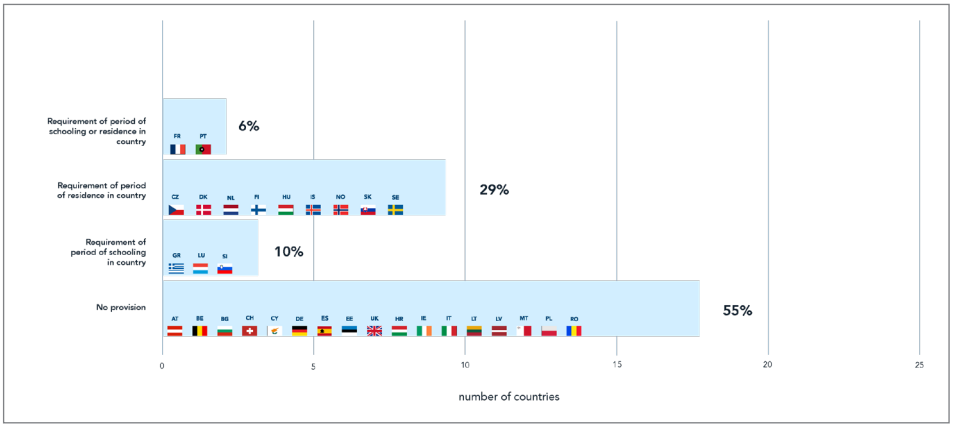


Source: GLOBALCIT Citizenship Law Dataset, v2, A07_cat

4.4 Citizenship acquisition based on birth in a country

Citizenship can in some countries be acquired by birth in the country, irrespective of the parents' citizenship or birthplace. This mode of citizenship acquisition is often referred to as *ius soli*. In the 11 European states where such provisions exist, they are, in all cases, supplementary to other birthright provisions (Figure 4.6). Therefore, the scope of these provisions is generally narrowly defined. These provisions generally facilitate the acquisition of citizenship for the descendants of immigrant populations residing in the country. Such provisions exist in six European countries (Belgium, Germany, Greece, Ireland, Portugal, United Kingdom). In Belgium, for example, citizenship can be acquired by a child born to non-citizens who have lived in Belgium at least 10 years before the birth of the child and who have filed a citizenship claim for the child before the age of 12 years (Art. 11(2) Belgian Nationality Code).

Figure 4.6: Citizenship acquisition based on birth in country (acquisition at birth), 2022



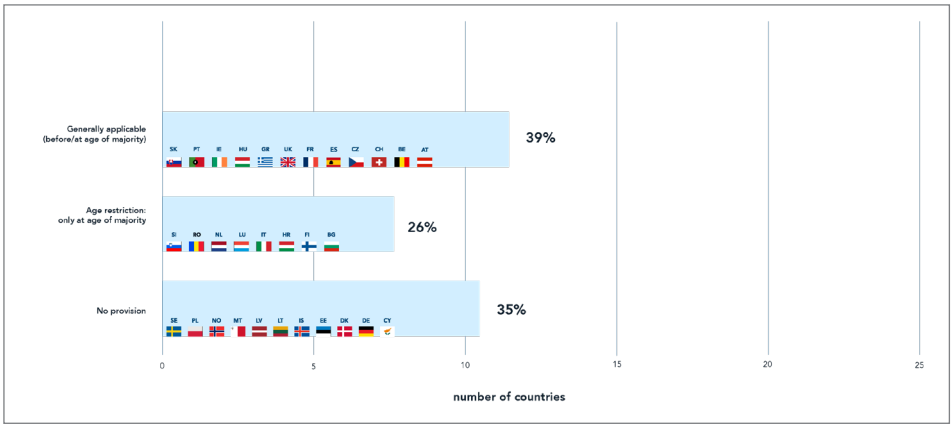
Source: GLOBALCIT Citizenship Law Dataset, v2, A02a, A02b

In eight out of 31 states a person who is born in a country to a parent who was also born in that country can acquire citizenship. These countries are Belgium, France, Greece, Luxembourg, Malta, Netherlands, Portugal, and Spain. Such provisions aim to facilitate the acquisition of citizenship by persons who have a close link to the country due to their generational presence.[7] In four

7 Vink, M., & de Groot, G. R. (2010). Citizenship Attribution in Western Europe: International Framework and Domestic Trends. *Journal of Ethnic and Migration Studies*, *36*(5), 713-734.

states, the provision is generally applicable, meaning that the child acquires citizenship if either the mother or the father was also born in the country (even though further procedural requirements may be in place, e.g. birth registration or other evidence of the place of birth). For example, Spanish citizenship is acquired by operation of law if a person is born in Spain to a person who was also born there. In the other four states, a residence requirement applies to the parent, which usually means that the parent must regularly reside in the country. Such a requirement is in place in Portugal, where citizenship can be acquired by a person who is born in Portugal to a person who was also born there and who is resident there at the moment of application (which can be both regular residence as well as irregular residence).

Figure 4.7: Citizenship acquisition based on birth in country (acquisition after birth), 2022



Source: GLOBALCIT Citizenship Law Dataset, v2, A05

A considerable number of countries also grant facilitated access to citizenship due to birth in the country, but only at a later moment in life (Figure 4.7). In 20 out of 31 states, a person born in a country can acquire citizenship at a later point in time. In 12 states, citizenship can be acquired on this ground before reaching the age of majority. In these cases residence requirements as well as age requirements often apply. The residence requirement usually ranges from three to ten years. In some cases, citizenship can only be acquired if the application is made before a certain age (e.g. Belgium, where the application should be filed before the child reaches the age of twelve), while other countries impose a minimum age threshold (e.g. the United Kingdom, where the appli-

cant must be ten years or older). In 8 states, citizenship can only be acquired on this ground upon reaching the age of majority. This commonly means that citizenship can be acquired immediately after reaching the age of majority, but in some countries, a minimum age is required.

It should be noted that different rules might apply if a child is born stateless in a country. All 31 countries except Cyprus, Romania, and Switzerland provide a special pathway to citizenship for children born in the country who would otherwise remain stateless, although 14 of these states impose additional residence and/or age restrictions in those cases. Special regulations to safeguard against statelessness in the case of foundlings also exist in all countries, except for Cyprus.

4.5 Take-away message from this comparative contextualisation

In this section, we provided an overview of the conditions for citizenship acquisition in 31 European countries (all 27 EU member states, plus Switzerland, Iceland, Norway and the UK) drawing on 2022 data from the GLOBALCIT Citizenship Law Dataset.

For residence-based acquisition of citizenship (often referred to as 'ordinary naturalisation'), the most common nominal residence requirement for citizenship is five years, with an average requirement of 6.9 years; however, the effectively required minimum residence period can be extended by the need for a permanent residence permit. Spouses/partners and refugees often have reduced nominal residence requirements, with averages of 3.3 and 5.2 years, respectively. Only 10 countries still require naturalising foreigners to renounce their previous citizenships and in most cases allow for significant exceptions. Integration and assimilation requirements, such as language proficiency and civic knowledge, are widespread. Except for Sweden, all countries mandate applicants to possess language proficiency, and 21 out of 31 states require evidence of civic knowledge or cultural integration.

European countries commonly facilitate citizenship for children who have lived in or were born in the country, with variations. In 19 states, acquisition of citizenship is facilitated for persons who have migrated to a country before reaching the legal age of majority and resided there for a certain period.

In 10 countries, citizenship can be acquired iure soli by a child born in the country, but generally only if their parents have resided in that country for a certain period. Double *ius soli* provisions (person who is born in a country to

a parent who was also born in that country) exist in eight countries. Facilitated access to citizenship due to birth in the country at a later moment in life is more common, as 20 states provide for citizenship on that ground.

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