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## SUMMARY OF EMN AD-HOC QUERY 2023.52

### Legislation on the acquisition of citizenship for the new generations with migratory background

Requested by EMN Italy on 11 December 2023

#### 1 Introduction and context

In the context of immigration and, specifically, of the regulation citizenship acquisition modalities, in Italy particular attention is paid to how and through which possible pathways the so-called "New Generations" (i.e., children with both parents who are third-country nationals, born in Italy or arriving in Italy before reaching the legal age) obtain or can obtain the Italian citizenship.

These modalities may include: the acquisition of citizenship at birth in the national territory (*iure soli*), before reaching the age of majority (for example in connection with school attendance), upon reaching the legal age, through parents' naturalization (the so-called "extension mode").

It is generally agreed that the appropriate modalities should adequately support and foster integration processes, considering the prerequisites and requirements, as well as the procedural and organizational solutions adopted.

To date, the rules on acquiring citizenship in Italy are dictated by the Law of 5 February 1992, no. 91. According to this legislation, which applies the general principle of *jus sanguinis*, the child of a father or mother who is an Italian citizen is a citizen by birth. In particular, as regards the new generations with migratory background, foreign minors and young people born in Italy can acquire Italian citizenship: a) by residence, if they have resided in national territory legally and without interruption until becoming an adult; b) by descent, following the naturalisation of at least one of the parents who thereby becomes an Italian citizen. Moreover, anyone born in the territory of the Republic is an Italian citizen if both parents are unknown or stateless, or if the child does not follow the citizenship of the parents according to the law of the State to which the latter belong.

In recent years in Italy, draft reforms have been discussed aimed at introducing the so-called **tempered ius soli** (that is, the acquisition of citizenship at birth under certain conditions of integration of the parents) and/or the so-called **ius culturae** (the acquisition of citizenship before becoming an adult in relation to school attendance).

In the wake of the previous EMN study entitled "[Pathways to citizenship for third-country nationals in the EU](#)" (published in July 2020), which provides a comparative

analysis of the current regulatory framework in the Member Countries of the European Union (EU) regarding access to national citizenship, this AHQ survey was launched with the aim of exploring the legal, structural and procedural amendments that occurred in countries belonging to the EMN network between 2020 and 2023, with particular attention to the acquisition of citizenship for the new generations with migratory background. Where significant changes have occurred and were reported even outside the considered timeframe (e.g. EMN Germany), they have been indicated in the footnotes.

## 2 Reference glossary

**Acquisition of citizenship:** Any mode of becoming a national, i.e. by birth or at any time after birth, automatic or non-automatic, based on attribution, declaration, option or application<sup>1</sup>.

**Citizenship:** The particular legal bond between an individual and their State, acquired by birth or [naturalisation](#), whether by declaration, choice, marriage or other means according to national legislation.<sup>2</sup>

**Ius sanguinis:** The determination of a person's nationality on the basis of the nationality of their parents (or one parent or one particular parent) at the time of the target person's birth and at the time of acquisition of nationality by the target person (the two points in time are different in cases of acquisition after birth).

**Ius soli:** The principle that the nationality of a person is determined on the basis of their [country of birth](#).

**Second-generation migrant:** A person who was born in and is residing in a country that at least one of their parents previously entered as a [migrant](#)<sup>3</sup>.

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<sup>1</sup> Art. 3(d) of [Regulation \(EC\) No. 862/2007 \(Migration Statistics Regulation\)](#) refers or relates to the acquisition of citizenship to those persons having their [usual residence](#) in the territory of the EU Member State and having acquired during the reference year the [citizenship](#) of the EU Member State and having formerly held the citizenship of another EU Member State or a [third country](#) or having formerly been a [stateless person](#).

<sup>2</sup> One of the possible ways of acquiring citizenship is through [naturalisation](#), which refers more to the decision / administrative process by the relevant authorities for the granting of nationality.

<sup>2</sup> 1. Whilst in some EU Member States a distinction is made between citizenship and nationality, in the EU context and for the purpose of this glossary, no distinction is made and the two terms are considered to be interchangeable. In countries which distinguish between citizenship and nationality, the term citizenship refers specifically to the legal rights and duties of nationals. The European Convention on Nationality, the [International Organization for Migration \(IOM\) Glossary](#) and the Global Citizenship Observatory (GLOBALCIT): Glossary on Citizenship and Electoral Rights prefer the term 'nationality'.

2. According to Art. 1 of the [Hague Convention on Certain Questions Relating to the Conflict of Nationality Law, 1930](#), it is for each State to determine under its own laws who are its nationals.

3. The tie of nationality confers individual rights and imposes obligations that a State reserves for its population. Nationality carries with it certain consequences as regards [migration](#), such as the right of a State to protect its nationals against violations of their individual rights committed by foreign authorities (particularly by means of diplomatic protection), the duty to accept its nationals onto its territory, and the prohibition to expel them.

<sup>3</sup> 1. This term is not defined in legislation but has a more sociological context; a broad definition encompassing the concept of a 'second-generation migrant' has been used.

2. Strictly this term does not relate to a [migrant](#), since the person concerned has not undertaken a migration, but the term is included as it is commonly used in publications and the media.

3. According to the [Recommendations for the 2010 Censuses of Population and Housing](#), the group referred to as 'second-generation' is generally restricted to those persons whose parents were born abroad, whereas those persons having one parent born in the country and the other one born abroad represent a special case (they form the group of persons with a mixed background). As explained in 1. above, a broader definition was considered more appropriate for the work of the EMN.

**Naturalisation:** Any mode of acquisition after birth of a nationality not previously held by the target person that requires an application by this person or their legal agent as well as an act of granting nationality by a public authority<sup>4</sup>.

### 3 Questions posed to Member States of the EMN network and replies

In more detail, Member States were asked, through the Ad Hoc Query tool:

1. *Since 1 January 2020, have any changes been implemented in laws and regulations in relation to the acquisition of nationality? YES/NO. If the answer is YES, please explain.*
2. *Did the changes concern prerequisites and requirements for the acquisition of nationality? YES/NO. If your answer is YES, please explain.*
3. *If you answer YES to Q.1, did the changes affect the procedure (i.e. simplifying the procedure, introducing options) and the organization of the authority(ies) that take the decision? YES/NO. If your answer is YES, please explain.*

In general, **22 Member States replied to the AHQ** (AT, BE, HR, CY, CZ, EE, FI, FR, DE, HU, LV, LT, NL, PL, PT, SK, SI, ES, SE, RS, UA). Austria and Ukraine provided information, but responses were not for wider dissemination; 3 Member States and 1 observer country (HU, LV, ES, RS) reported that no amendments were made to the laws in the respective national governments in the period under consideration.

#### 3.1 AMENDMENTS TO THE LAWS AND REGULATIONS REGARDING THE ACQUISITION OF NATIONALITY OF THE RESPECTIVE NATIONAL GOVERNMENT

**16 Member States** (BE, HR, CY, CZ, EE, FI, FR, DE, LT, LU, NL, PL, PT, SK, SI, SE) indicated legislative and regulatory amendments regarding the acquisition of citizenship in the respective national contexts starting from 2020. Of these Member States, some reported amendments on the requirements for access to citizenship and on the administrative procedures, which will be illustrated in the subsequent paragraphs for reasons of the systematisation of the text.

3 Member Countries (LT, NL, SE) have implemented amendments that aim to reduce the number of persons in a condition of statelessness. In **Lithuania**, the amendments enable the children of resident stateless individuals to obtain citizenship, irrespective of whether they were born on Lithuanian territory or outside the territory of the Republic of Lithuania, on condition that they do not acquire citizenship of another State at birth. Moreover, a child located or residing on Lithuanian territory, of whom both parents are unknown, is considered to have been born on Lithuanian territory and acquires citizenship of the Republic of Lithuania, unless they can acquire the citizenship of another state. In addition, various amendments concerned the extension of the possibilities for the children of Lithuanian emigrants abroad to acquire or reacquire Lithuanian citizenship, thereby dealing with the problem arising from the fact that, despite the massive diaspora, holding dual citizenship is allowed only as an exception in accordance with Lithuanian law. The law on citizenship was, in fact, amended to allow the children of Lithuanian citizens residing abroad to request Lithuanian citizenship even after becoming an adult and even if they had acquired the citizenship of another state at birth. In the **Netherlands**, amendments have been introduced to the judicial procedures to establish a condition of statelessness, thereby coming into line with

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<sup>4</sup> This definition does not include automatic acquisition that is not initiated by the individual concerned or their legal agent (even in cases where the individual has an option to decline this attribution of nationality) or acquisition of nationality based on a unilateral act by the target person (e.g. acquisition by declaration or option).

international regulations. Furthermore, minors born stateless in the Netherlands without legal residence are allowed to obtain Dutch citizenship after five years of permanent residence. In **Sweden**, the acquisition of Swedish citizenship is guaranteed for stateless children and young adults born on the territory who hold residence permits, even only temporary.

Restriction or limitations on access to citizenship were reported in 3 Member States (FR, DE, EE). In **France**, a significant increase was reported in the linguistic skill requirements, more fully illustrated in the subsequent paragraph. In **Germany**, restrictions have been imposed on the naturalisation of individuals convicted of anti-Semitic, racist or xenophobic offences<sup>5</sup>. In **Estonia**, the introduction was reported of amendments that enable the revocation of citizenship with regard to individuals convicted of crimes against humanity or crimes of aggression, and those who join foreign military, intelligence or security services. An automatic biometric identification database was also established for processing the biometric data collected during the citizenship acquisition or reacquisition procedures.

Some countries reported special conditions to access citizenship for certain categories of persons. In **Belgium**, parental leave will no longer count as an interruption of work for the purpose of acquiring citizenship. The **Netherlands** exempted persons with residence permits issued on the basis of the amnesty of 2007 (Regulation on Settlement of the Legacy of the Old Aliens Act, RANOV) from renouncing their original citizenship and the presentation of certain documents.

Access to citizenship in **Slovakia** without the requirement of length of the residency immediately before submitting the application for citizenship has been extended to individuals with Slovak ancestors, foreigners who have significantly contributed to the Slovak community and that hold the status of Slovak living abroad at the same time and to those who lost citizenship between 17 July 2020 and 31 March 2022, provided that they have resided in the new country for five years. Amendments to the law on citizenship which have been implemented in **Germany** in 2021 aim to implement a “historical redress” by granting a legal right to naturalisation to families persecuted by the Nazi regime.

In 7 Member States (CY, EE, HR, LT, NL, PT, SE), regulations have been introduced to protect minors and young adults. **Cyprus** has granted the possibility of naturalisation to young people if at least one parent is a naturalised Cypriot, even if they became adults on the date the parent was granted naturalisation, assuming they were minors on the date the application of the parent for naturalisation was presented.

**Croatia** has raised the age limit from 18 to 21 for the acquisition of Croatian citizenship by origin for young people born abroad with at least one Croatian parent, in order for them to be able to personally present the citizenship application, in the event the parents had not conducted this procedure until the age of adulthood.

In **Estonia**, following a law that makes the rights of cohabiting couples equal to those of married couples, measures have been adopted to allow the acquisition of citizenship by minors born of cohabiting foreign parents. While the current law allows a minor to obtain Estonian citizenship on the request of a parent when that parent is bringing up the child alone, the amendment specified that the definition of “single parent” includes situations linked to registered cohabitation. In **Lithuania**, the amendments gave the

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<sup>5</sup> Even if it falls outside the timeframe considered by this AHQ, for the sake of clarity with the citizenship reform that entered into force on June 27th, 2024, the explicit mentioning of xenophobic offences has been replaced by the more general wording of other criminal offence evidencing contempt for humanity.

children of Lithuanian citizens residing abroad, who acquired foreign citizenship at birth, the possibility to apply for Lithuanian citizenship even after reaching adulthood.

In **Sweden**, children or young adults with a temporary habitual residence permit in Sweden for 5 years or with a total of 10 years of residency are eligible for Swedish citizenship.

**Portugal** has extended the right to citizenship by simplifying the process for obtaining nationality for the children of holders of residence permits, the grandchildren and spouses of Portuguese citizens. The new regulation permits the acquisition of citizenship by minors – born on national territory – whose parents hold residence permits and have resided in Portugal for at least one year.

In the **Netherlands**, the Minister for Migration revised the reasons for denying citizenship due to doubts about the identity or nationality of origin, regarding in particular actions of the applicant's parents, for the purpose of mitigating disproportional consequences.

**Slovenia** has provided a more precise definition of the conditions for naturalisation through certain regulatory changes but did not specify further.

2 Member States (FI, CZ) report that minor and technical amendments were made to the law and the regulations, which, however, have had no direct impact on the acquisition of national citizenship.

### 3.2 CHANGES CONCERNING THE PREREQUISITES AND REQUIREMENTS FOR THE ACQUISITION OF NATIONALITY

Since 2020, **12 Member States** (BE, HR, CY, EE, FR, LT, LU, NL, PT, SK, SI, SE) have reported reforms regarding the prerequisites and requirements for the acquisition of nationality.

Specifically, these changes mainly concerned the amendments of linguistic and social integration requirements for the acquisition of citizenship (BE, FR, HR, LU, LT, SI, SK), making amendments to the exemptions regarding the production of diplomas or certificates and proof of linguistic knowledge.

In **Belgium**, the threshold has been lowered for meeting the social integration requirement through the completion of a programme of civic integration, simplifying the procedure of meeting the linguistic requirement for illiterate persons. Certain measures have also been simplified concerning the verification of legal residency, the declarations of parents of the citizenship applicants and guidelines have been issued aimed at public officials regarding the verification of the official documents necessary for the procedure.

An extension of the opportunities for acquiring citizenship by young people – in particular changes regarding the extension of the age limit for presenting an application and the requirements of parents – was reported in **Croatia** and **Cyprus**, as mentioned in the previous section.

In **Croatia**, migrants and their descendants are exempt from the obligation to prove knowledge of the Croatian language and the Latin alphabet, Croatian culture and the social order. Proof of belonging to the Croatian nation does not have to be presented

by a person whose parents have been *unequivocally* identified as belonging to Croatian people. This is an exception to the general provision, according to which belonging to Croatian people is inferred from declarations in legal transactions, the affirmation of this belonging in certain public documents, through the protection of the rights and the promotion of the interests of Croatian people and through the active participation in Croatian cultural, scientific and sports associations abroad.

In **France**, an increase was recorded in the level of awareness of the French language required for foreign citizens who wish to acquire French citizenship by naturalisation, reacquisition or a declaration of nationality by marriage to a French citizen, corresponding to level B1 of the common framework of reference for languages (CEFR) both in the spoken and written language. Moreover, the exemptions regarding the production of a diploma or a certificate have been amended, specifically those granted to refugees aged over 70 who have resided in France for more than 15 years and the forebears of French citizens aged over 65 years who are beneficiaries of a specific declaration procedure have been removed. The exemptions are now applied to candidates in possession of a diploma issued by the authorities of one of the four French language countries plus Algeria, Morocco and Tunisia, following studies in French, and who can provide proof of the recognition of their diplomas by producing a "certificate of comparability" issued by the ENIC-NARIC centre, part of France Education International (equal to level 3). Candidates whose disability or chronic state of health makes undergoing a language test under ordinary conditions impossible can also produce a medical certificate justifying the need to adapt the tests or the impossibility of undergoing a language test.

In addition, France has reformed the exemptions regarding linguistic certification and extended the obligation for adults to present an extract from the foreign judicial records. This requirement already existed for declarations issued by the Ministry of the Interior and has been extended to the declarations presented by the Ministry of Justice.

In **Lithuania**, children who acquire citizenship by naturalisation are exempt from undergoing linguistic examinations and on the foundations of the Constitution, as well as the obligation to demonstrate a legitimate means of support. In addition, both children and individuals declared incapacitated by a Court are exempt from swearing an oath to the Republic of Lithuania as part of the process of naturalisation.

**Slovenia** reported amendments to the criteria for meeting the conditions on the means of subsistence, without specifying further.

In two Member States (LU, SK), specific changes were recorded concerning the extension of the field of application of the exemptions and the optional procedures. Specifically, **Luxembourg** has introduced improvements and equivalences of specific courses for accessing citizenship, extending the field of application to include candidates who have completed the modules regarding the life of the Grand Duchy of Luxembourg, as well as those who have fulfilled the obligations of the welcome and integration contract. Secondly, it extends the equivalence of certain courses, allowing persons who have completed specific modules to be exempt from further requirements. In **Slovakia**, certain individuals (older than 65, younger than 14, citizens of the Czech Republic) are exempt from the test of knowledge of the Slovak language and general knowledge about the Slovak Republic. Furthermore, the language verification also considers factors such as education and age, in addition to the state of health.

**Sweden** has simplified the requirements for the acquisition of citizenship for minors born on national territory without citizenship (stateless), bringing specific changes regarding the elimination of the requirement of a permanent residence permit, as illustrated in the previous paragraph. The **Netherlands** has also simplified the requirements for the acquisition of citizenship for stateless minors. Furthermore, minors with RANOV amnesty permits are exempt from the presentation of foreign passports and birth certificates during the naturalisation process. Moreover, while previously a change in personal data or nationality during the five years required as part of the process of naturalisation meant that the five-year period had to be restarted from the beginning, following the amendments this change of data shall not lead to any consequences on the counted period.

6 Member States (CZ, DE<sup>6</sup>, FI, LV, PL, ES) did not report changes concerning the prerequisites and requirements for the acquisition of nationality in the considered timeframe.

### 3.3 CHANGES CONCERNING THE PROCEDURE AND THE ORGANISATION OF THE AUTHORITY (OR AUTHORITIES) THAT TAKE(S) DECISIONS ON THE ACQUISITION OF NATIONALITY

**11 Member States** (BE, HR, EE, FR, LT, LU, NL, PL, PT, SK, SE) reported changes concerning the procedure and the organisation of the authorities for the acquisition of nationality.

In 3 Member States (EE, FR, LT), digital systems have been introduced to simplify and facilitate the procedures of acquisition of citizenship. These systems make possible the collection and processing of biometric data and offer the option of presenting applications online, thereby reducing the administrative burden and improving accessibility. In **France**, the registration of acquisitions of citizenship for certain categories of persons, such as the spouses of French citizens, their forebears or the brothers/sisters of French citizens, has been decentralised. This task now falls within the jurisdiction of the prefect of the Department in which the applicant resides, or the Prefect of Police, if the acquisition is registered in Paris, rather than only under the Ministry of the Interior. However, Ministerial authority is retained in cases in which the local investigative services deem that the legal conditions have not been met or there are reasons for opposition. Furthermore, since February 2023, the applications for access to French citizenship by decision of the public authority (applications for

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<sup>6</sup> Even if it falls outside the timeframe considered by this AHQ, for the sake of clarity the citizenship reform that entered into force on June 27th, 2024 in Germany simplified the requirements for naturalisation by generally allowing anyone to hold multiple citizenships. Required residence times have been reduced from eight to five years. Exceptionally well-integrated foreigners may even benefit from a reduction of required residence times of as little as three years. Children acquire German citizenship at birth if at least one parent has been legally ordinarily resident in Germany for five years (previously eight years) and has a permanent right of residence. "Guest workers" who entered West Germany before July 1st, 1974, or who entered East Germany before October 2nd, 1990, benefit from eased requirements including the waiver of the citizenship test and the need to be able to support themselves as well as relaxed language requirements (oral knowledge suffices). On the other hand, a foreigner now has to confirm his commitment to Germany's special historical responsibility for the Nazi dictatorship and its consequences. Moreover, any criminal offense motivated by antisemitic or racist reasons or contempt for humanity will now hinder naturalisation regardless of the punishment imposed. Lastly, foreigners now need to demonstrate the ability to support themselves unless specific exceptions apply (e.g. for "guest workers").



naturalisation and reintegration of citizenship) presented on national territory<sup>7</sup> have been processed digitally, through the online NATALI service.

**Luxembourg** and **Poland** have extended the terms or deadlines for the presentation of applications for acquisition of citizenship, providing greater flexibility to the applicants and the authorities involved in the assessment of the applications. **Luxembourg** has tackled the challenges of mobility arising from the Covid-19 pandemic by extending the periods for the declaration of reacquisition of citizenship, mainly aimed at the direct descendants of a Luxembourg forebear. These amendments have mostly involved persons who were applying for citizenship and were residing abroad, the entry of whom, due to the need to personally meet the registrar in Luxembourg, was limited.

In **Poland**, the procedural amendments have been finalised to simplify the administrative procedures for the acquisition or loss of Polish citizenship, especially for minors under parental authority. Before the amendment, all declarations had to be personally presented before a consul or an authorised employee of an administrative office, while it is now possible to also do it by correspondence with an officially certified signature.

In **Belgium**, the ruling by the Constitutional Court no. 53/2023 suggested potential procedural changes aimed at simplifying the process for illiterate persons in order to meet the linguistic requirement for the acquisition of nationality. However, currently, these changes have not been implemented through legislation. As a consequence, responsibility is assigned to the authority designated to assess the citizenship application for individually determining whether applicants are able to meet the entire level A2 requirement, including both oral and written components, on a case-by-case basis.

In **Croatia** and **Portugal**, simplifications have been made to the procedure for the acquisition of citizenship, as illustrated above.

Finally, in **Sweden** minor changes have been made for the purpose of adopting the amendments described in previous sections.

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<sup>7</sup> With the exception of the overseas territories: French Guyana, Saint-Martin, Saint-Pierre-et-Miquelon, Wallis and Futuna, French Polynesia and New Caledonia, where the service should open in April 2024.