



EMN Ad-Hoc Query on Ad Hoc Query on decision making authority regarding naturalization

Requested by ELENi SIOPI on 12th January 2017

Miscellaneous

Responses from Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Spain, Sweden, United Kingdom, Norway (21 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.



Background information:


According to the Greek Nationality Code, the Hellenic Ministry of Interior is the decision making authority (final signatory) for the approval of an application for acquisition of the Greek citizenship by naturalization. Submission of application and collection of required documents takes place in the decentralized administration level, but then the application file is forwarded to the Ministry of Interior. The Ministry of Interior proceeds in reviewing the application on terms of legal requirements and issues the relative decision (rejection/approval). The Citizenship Directorate of the Hellenic Ministry of Interior would like to know which is the decision making authority (final signatory) for acquisition of citizenship by naturalization in the other member states, whether the relative jurisdiction is delegated and if so, to which administrative level. Furthermore, in case there is a delegation of decision making, what are the means and tools that the competent central authority (ie Ministry) applies in order to monitor policy implementation and scrutinize decisions of other administrative level.






Questions




1. Which administrative authority / level is the decision making authority (final signatory) for the approval of an application for acquisition of citizenship by naturalization? [(a. Central government (i.e. Ministry), b. Decentralized Administration, c. Local/Self Government (i.e. Municipality)]
2. In case the decision making is delegated / decentralized, how does the central government (i.e. the competent Ministry) monitor policy implementation and scrutinize whether the delegated competence is exercised in accordance with legal requirements and policy goals? More specifically:
a. What monitoring tools are used (i.e. risk based inspections, regular inspections, random checks, regular reporting & evaluation, management of complaints)?
b. What is the nature of scrutiny (i.e. judiciary: control over the content/substance of the decision, check of legality issues, alignment with broader policy objectives or procedural: delays in processing, poor level of service, poor performance etc)?
c. What sanction policy is the central government allowed to apply in cases of infringements, misjudgments by other administrative level (repeal of decision, financial penalties/fines, disciplinary actions, etc)?






Responses



	Country	Wider Dissemination	Response
 	Austria	Yes	1. 1. c (Provincial Government). 2. a. Regular review of decisions by the Federal Ministry of the Interior. b. Complaint by the Federal Minister of the Interior with the Provincial Administrative Courts against decisions of the provincial governments and appeal of the Federal Minister of the


			<p>Interior with the High Administrative Court against decisions of the Provincial Administrative Courts. The Federal Minister of the Interior is also entitled to apply for reopening of the naturalization procedure and for withdrawal of citizenship. c. Initiation of annulment of decisions in legal review proceedings (see above). Source: Federal Ministry of the Interior.</p>
	<p>Belgium</p>	<p>Yes</p>	<p>1. 1. Answer c. The standard procedure for acquiring Belgian nationality (for a foreigner who is not born in Belgium) is via a ‘nationality declaration’. It is the civil registrar of the local government (the municipality) who registers the declaration. However, he needs to ask the advice of different authorities and he can only register in the absence of a negative advice of the Public Prosecutor. The advice of the Public Prosecutor is binding. In the absence of negative advice, the civil registrar can register the declaration of nationality and notify this to the concerned foreigner. Different authorities intervene in the process of nationality acquisition : - The Municipality of the place of residence receives the nationality application (“nationality declaration”) from the foreigner. The civil registrar verifies if the file is complete and if the registration fee has been paid. If the file is incomplete, he/she possibly requests missing documents. If the file is complete, he/she issues a receipt evidencing the admissibility of the file and transfers the file to the Public Prosecutor, the State Security and the Immigration Office. - The State Security services investigates possible crimes and offences committed by the TCN against the state security. - The Immigration Office verifies if residence related conditions are fulfilled - The Public Prosecutor takes into account information from the State Security and the Immigration Office. Moreover, it verifies if the other requirements (including social integration, language knowledge and economic participation) are fulfilled and who can submit a negative opinion (if conditions aren’t fulfilled or if the applicant has committed offences considered as serious personal acts). As said, the advice of the Public Prosecutor is binding. In the absence of negative advice, the civil registrar can register the declaration of nationality and notify this to the concerned foreigner. 2. a + b + c The ministry of Justice does not intervene in the procedure itself. However, different authorities are involved and the advice of the Public Prosecutor is binding (see 1). The procedure is foreseen by law, and there are guidelines from the ministry of Justice for the execution. Against a rejected application for a nationality declaration, the foreigner can appeal for the court of first instance. Legal terms to answer are foreseen by the law for the Public Prosecutor to give decision (4 months and 5 months in exceptional circumstances).</p>



	Croatia	Yes	1. 1. The procedure of acquiring Croatian citizenship on grounds of naturalization or international treaties is handled and the decision on the acquisition of Croatian citizenship is made by the Ministry of Interior. 2. N/A.
	Czech Republic	Yes	1. 1) The Ministry of the Interior, therefore the central authority, is the administrative authority responsible for this approval. The application is submitted at the competent regional authority according to the place of residence of the applicant. The regional authority transfers the application together with all necessary documents to the Ministry of the Interior within the time period laid down by the law. The Ministry of the Interior is then responsible for the examination of the application and for making a decision in the matter of acquisition of citizenship. 2) N/A
	Estonia	Yes	1. 1. According to the Citizenship Act section 20 subsection 1, decisions on the grant or restoration of Estonian citizenship are taken by the Government of the Republic, except where Estonian citizenship is acquired under section 13 subsection 4 of the Act. 2. N/A
	Finland	Yes	1. 1. a: The Finnish Immigration Service is the only authority in Finland in charge of decision-making for citizenship applications, including applications for acquisition of citizenship by naturalization. The Finnish Immigration Services operates under the Ministry of the Interior. 2. b: The Finnish Immigration Service operates under the Ministry of the Interior. Each year the Finnish Immigration Service provides the Ministry of the Interior with a report on monitoring of legality in the Finnish Immigration Service. The report includes a section on random checks that have been conducted on naturalisation decisions.
	France	Yes	1. 1. Any adult foreign national who holds a residence permit may submit an application for naturalisation by decree. The request is first examined by the prefecture of the applicant's place of residence. The prefecture gives an opinion and transmits the application file to the Minister of the Interior, responsible for naturalisation requests, who takes the decision. The responsible administrative authorities in France are c) local governments (prefectures) and a) the central government (Ministry of the Interior). 2. N/A. The final decision is not delegated or decentralised.

	Germany	Yes	<p>1. 1.The implementation of the citizenship law is carried out by the German Federal States in the form on their own remit. Thus the German Federal States organize the enforcement of the citizenship law under their own responsibility and partly in different ways. A delegation of the enforcement, however, regularly takes place at the lower level of state administration at districts and district free cities, yet the performance of tasks through the administrative authorities at the middle level and the highest state authorities (ministries) is regulate in part. The Federal Office of Administration is the federal authority in charge in the case of a permanent residence abroad of the person concerned. 2. a) The higher authorities exercise the legal and substantive supervisory power over the subordinate authorities. Furthermore the decisions taken by the lower administrative bodies are reviewed in the case of objections of the persons concerned filed against the higher authorities. Incidentally, it is for the relative federal state to select the methods of verification that it considers appropriate. 2. b) The federal states decide on the nature and the extent of the verification under their own responsibility. Central issues of the verification, however, will always be the effectiveness and lawfulness of the public administration and its actions. 2. c) The higher authorities have the right of instruction against the subordinate authorities and can thus, if required, instruct the latter to repeal decisions made. It is also possible to undertake organisational sanctions, such as the devolution of tasks or consequences for personnel by means of redeployment.</p>
	Hungary	Yes	<p>1. 1) From 1 January 2017, the Department of Citizenship and Native registry of the Government Office of the Capital City Budapest is responsible for citizenship matters and for change of name procedures and acts as a registration authority for applications for gender or forename changes. From 1 January 2017, the State Secretariat for Territorial Administration of the Prime Minister’s Office acts as the central governing body for native registry matters and as the registration authority for applications for registration of forenames not included in the register of the Hungarian Academy of Sciences. 2) The nature of scrutiny is mainly procedural, the judiciary scrutiny is managed by the Budapest Court of Public Administration and Labour. The sanctions (apart from disciplinary sanctions) are also set out by the Budapest Court of Public Administration and Labour.</p>
	Ireland	Yes	<p>1. A. Central government. In Ireland decisions on naturalisation applications are made by the Minister for Justice and Equality in accordance with the Irish Nationality and Citizenship Act 1956 (as amended). Processing of applications is carried out by the Irish Naturalisation and Immigration</p>

			Service (INIS) which is a division of the Department of Justice and Equality.
	Latvia	Yes	1. 1. The decision making authority for the approval of an application for acquisition of citizenship by naturalization is the Cabinet of Ministers. The competent body for naturalization process is the Office of Citizenship and Migration Affairs (OCMA) - under the Ministry of the Interior. Applicants can submit application for naturalization in 30 regional divisions of OCMA. Applications are examined centrally in the head office of OCMA. If there are no legal obstacles for naturalization, OCMA submits information to the Cabinet of Ministers via the Ministry of the Interior. The Cabinet of Ministers takes the political decision on naturalization. 2. Not applicable
	Lithuania	Yes	1. 1. The President of the Republic shall grant citizenship of the Republic of Lithuania through naturalisation (“Granting of citizenship of the Republic of Lithuania through naturalisation” means the granting of citizenship of the Republic of Lithuania to a person who meets the conditions for granting citizenship of the Republic of Lithuania as laid down in the Law on Citizenship.) 2. N/A
	Luxembourg	Yes	1. 1. In Luxembourg, in accordance with article 11 of the Law of 23 October 2008 on Luxembourgish nationality, the administrative authority that takes the final decision on naturalisation applications is the Minister of Justice (Central government). 2. N/A.
	Malta	Yes	1. There is no delegation for the decision regarding an application for acquisition of Maltese citizenship by naturalization. Only the Minister responsible for citizenship matters has the power to approve or refuse such applications. 2. There is no delegation for the decision regarding an application for acquisition of Maltese citizenship by naturalization. Only the Minister responsible for citizenship matters has the power to approve or refuse such applications.
	Netherlands	Yes	1. 1A. The first procedure: The municipality looks at whether you meet all the conditions for naturalization and gives a recommendation to the Immigration- and Naturalization Service (IND). After submission of the application forms and collection of all the documents the municipality sends

			<p>the complete file to the IND. The IND checks whether you meet all the conditions required and makes a decision. The IND has to make a decision within a period of 12 months. The IND is an organization part of the Dutch Ministry of Security and Justice and therefore part of the Central Government. In conclusion, the decisive authority concerning the application for acquisition of citizenship is done by the central government. Source: Dutch Immigration- and Naturalization Service There are estimatey 25.000 applications a year. 1B. Not applicable 1C. The second procedure (option-procedure) is via the municipality. The municipality assesses whether you meet all the conditions. The municipality must make a decision within a period of 13 weeks. The difference with the first procedure is concerning the fact that the second procedure holds less conditions. This is related to the fact that people who can apply for the option-procedure reside for a long period in the Netherlands. For instance people who are born in the Netherlands or people that receive "AOW" (state pension) and live in the Netherlands longer than 15 years. Due to the reduced conditions, the costs for this procedure are less. In short, most people follow the first procedure, stated under A. There are estimatey 6.000 applictions a year for the option-procedure. 2A. The "option procedure" needs to be monitored by the IND. There is a regular reporting & evaluation carried out by the Immigration- and Naturalization Service, which is done every couple of years. The aim of the research is to find out if the option procedure is carried out in a proper way by the Dutch Municipalities and if they are in line with the laws and protocols concerning this procedure. 2B. During these investigations there is a focus on the completeness of the "option files" with the IND and municipalities. Additionally it has paid attention to the legality of the issued "option confirmations" and it shows insights into the questions of how the process of option provision is implemented in the various municipalities. 2C. Not applicable</p>
	Poland	Yes	1. in attachment
	Slovak Republic	Yes	1. 1. a. Central government – the Ministry of Interior is the decision making authority (final signatory) for the approval of an application for acquisition of citizenship by naturalization. 2. N/A
	Spain	Yes	1. 1) In Spain it is the central Government, and specifically the Ministry of Justice, the competent authority for the resolution of applications for the acquisition of nationality. In cases of applications

			<p>for nationality on the grounds of residence or by Government discretion, the Ministry of Justice is the body responsible to process and decide upon the applications. As regards cases of acquisition of Spanish nationality by “option” (benefit that Spanish law offers to foreigners under certain conditions in order to acquire Spanish nationality) by “consolidation” (persons who have held and used this nationality for ten years, on a continuous basis, in good faith, based on a title registered with the Civil Registry) or with a value of simple presumption (the Spanish Civil Code considers Spanish nationals of origin those born of Spanish father or mother and those born in Spain in the legislation of neither of the two attributes a nationality to the infant) applications for the acquisition of Spanish nationality and the appropriate documentation is processed and decided upon by the Civil Registries, bodies under the Ministry of Justice. 2) In order to ensure the homogeneity of nationality acquisitions resolutions adopted by the Ministry of Justice, through the Directorate General of Registries and Notaries – body under the Ministry of Justice responsible for all matters regarding Civil Registration – a series of resolutions, instructions and circulars are issued with guidelines to be followed in matters of nationality which are published for dissemination and knowledge. There is also an inspection procedure of the Civil Registry Offices by the Directorate General of Registries and Notaries and by the Justice Administration on which Civil Registries hierarchically depend at present. Likewise, a system of legal remedies as a form of revision and control of resolutions adopted by the responsible bodies.</p>
	Sweden	Yes	<p>1. In Sweden decisions on naturalization is made by a decision maker at the Swedish Migration Agency. In Sweden the principles of Government differs from that of most other countries in that Ministerial rule is prohibited. The agencies must apply the laws and carry out the activities decided by the Riksdag and Government. In addition to the general system of rules on financial management and the agencies' powers and obligations, the Government decides on the preconditions for the individual agency's operations. This is effected on the one hand in the annual appropriations directives and, on the other, by ordinances. The practical work of producing appropriation directives and ordinances is done in the Government Offices. The appropriations directives set out, among other things, the goals an agency is to reach in its operations, how much money the authority has at its disposal and how the money is to be distributed between its different activities. The ordinances contain various general administrative provisions concerning how the agencies are to carry out their work. The Government, in other words, has quite substantial scope for steering the operations of</p>

			<p>government agencies. However, it has no powers to intervene in an agency's decisions in specific matters relating to the application of the law or the due exercise of its authority. In many other countries, it is common for an individual minister to have the power to intervene directly through a decision in an agency's day-to-day operations. This possibility does not exist in Sweden, however. Collective Government decision-making and the ban on instructing agencies on individual matters are expressions of the prohibition of 'ministerial rule', as it is often called. The Riksdag is responsible for monitoring to ensure that ministerial rule does not occur. Should the Government consider that an agency has not applied a law correctly its only remedy is to seek to amend the relevant legislation. 2. All negative decisions can be appealed to the Migration Court. There are also independent state auditors (Swedish National Audit Office) that can monitor the operations of the Migration Agency (and other agencies and government bodies). If a person thinks that he/she has been mistreated by an authority he/she can make a complaint to the Parliamentary Ombudsmen. If an official is not fulfilling his/her duty in any way he/she can be tried in an internal Agency staff disciplinary Board. But the central government itself has no possibility of sanctions since we do not have ministerial rule.</p>
	United Kingdom	Yes	<p>1. The Home Office, specifically the UK Visas and Immigration Department, is responsible for approving all citizenship applications.</p>
	Norway	Yes	<p>1. 1. The Norwegian Directorate of Immigration (a part of the central government administration) makes decisions regarding citizenship applications - also in the case of naturalization. The Directorate is organized under the Ministry of Justice and Public Security. 2. N/A</p> <p>2. 1. The Norwegian Directorate of Immigration (a part of the central government administration) makes decisions regarding citizenship applications - also in the case of naturalization. The Directorate is organized under the Ministry of Justice and Public Security. 2. N/A</p>