

# EMN

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## Pathways to citizenship for third-country nationals in Belgium

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The European Migration Network Belgium is a multi-institutional entity composed of experts from the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), Myria - the Federal Migration Centre, and Fedasil - the Federal Agency for the Reception of Asylum Seekers. It is coordinated by the Federal Public Service Home Affairs.

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*The European Migration Network (EMN) is coordinated by the European Commission with National Contact Points (EMN NCPs) established in each EU Member State plus Norway.*

## **Belgian study and EU comparative study**

**Belgian report:** This is the Belgian contribution to the EMN focused study on Pathways to citizenship for third-country nationals in the European Union. The EMN National Contact Points (NCPs) of 25 countries (AT, BE, BG, CY, CZ, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SK, UK and NO) contributed to the EU report.

**Common Template and Synthesis Report:** The different national reports were prepared on the basis of a common template with study specifications to ensure, to the extent possible, comparability. On the basis of the national contributions of 25 NCPs, a Synthesis Report was produced by the EMN Service Provider in collaboration with the European Commission and the EMN NCPs. The Synthesis Report gives an overview of the topic in all the (Member) States.

**Aim of the study:** The objective of the present study is to provide an overview of the approaches in Belgium regarding third-country nationals' acquisition of citizenship. It focuses in particular on the ordinary naturalisation for new migrants and therefore largely excludes the acquisition of citizenship through special naturalisation. Ordinary naturalisation is considered to be "any acquisition after birth of a citizenship not previously held by the person concerned that requires an application to public authorities and a decision by these".

**Scope of the study:** The study focuses on citizenship matters as defined in the EMN glossary or otherwise commonly used. It shall cover the acquisition, by a third-country national, of the citizenship of an EU Member State. The study covers the broad category of third-country nationals who immigrated to the EU as first generation ('new migrants') and thus excludes second- and third-generation migrants. EU citizens acquiring the citizenship of another EU Member State are not covered. The acquisition of citizenship of an EU Member State by persons living in a third country is also outside the scope of this study.

**Available on the website:** The Belgian report, the Synthesis report and the links to the reports of the other (Member) States are available on **[www.emnbelgium.be](http://www.emnbelgium.be)**

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# Executive summary

## *Context*

Historically, the acquisition of citizenship is a matter regulated in Belgium by the Belgian Nationality Code. In this regard, the Law of 4 December 2012 brought important changes to the Code, in particular to the rules governing the acquisition of Belgian nationality through long-term residence in Belgium. A modified Code entered into force on the 1st of January 2013, containing stricter rules, with a view to guarantee that acquisition is only possible after 'integration' of a foreigner in Belgium.

The main political drivers for this change was a sentiment, which was however not substantiated by any in-depth (comparative) research, that the rules in force until 2012 were too generous and allowed acquisition of Belgian nationality by third-country nationals without sufficient requirements. There was also a concern to bring the rules governing acquisition of nationality in line with rules on access to the territory. The reform was clearly intended to postpone any acquisition of nationality to a stage where the third-country national is legally residing in Belgium for a number of years, thereby giving migration rules priority above rules on acquisition of nationality. It is worth noting that during the lengthy discussions which led to the enactment of the reform, very little mention was made of EU law or international law.

## *Types of acquisition*

For first generation migrants, acquisition of Belgian nationality is possible after a five year period of legal residence, with permanent residence status required at the moment the application is filed (see below). A shorter residence period applies to persons who have been recognised as stateless, although their applications could be rejected on discretionary grounds.

Since the 2012 reform, one main procedure is available for third-country nationals who wish to acquire Belgian nationality. This procedure requires third-country nationals to file an application with supporting evidence. The procedure is not administered at the central level: rather, it is handled by the local government under the supervision of the local office of the public prosecutor. This leaves room for divergent applications of the same rules. Applications are not handled electronically and have not been digitalised. In principle, applications are handled in a time frame of four to six months. However, if the application is rejected and the applicant challenges the rejection in court, it is not unusual for the court proceedings to extend over a longer period of time (between 12 and 24 months).

## *Procedures*

In Belgium, the ordinary naturalisation as defined for the purposes of the present study corresponds to the acquisition of nationality through declaration, as provided for by Article 12bis of the Belgian Nationality Code.

For a third-country national who is not born in Belgium, there are two possibilities: a regular track after five years of residence and a longer track after ten years of residence. In both cases, the person concerned has to have a residence permit of unlimited duration and needs to prove –his/her knowledge of one of the three official languages (Dutch, French or German at the A2 level of the Common European Framework of Reference for Languages CEFR).

The other requirements differ:

- Regular track: a person who wants to acquire the Belgian nationality after five years of legal residence, needs to show – in addition to the requirements mentioned above – evidence of his/her civic integration (a certificate of advanced secondary education, a vocational training of at least 400 hours or an integration course) and of economic participation (having worked 468 days in the 5 years preceding the application). Some nuances apply for certain categories of third-country nationals, e.g. persons married to a Belgian citizen, or whose child possesses Belgian nationality, handicapped or retired persons.
- Long track: a person who wants to acquire the Belgian nationality after ten years of legal residence, can only acquire the Belgian nationality if he/she can prove, by all legal means, his/her participation 'to the economic and/or socio-cultural life of the host community' (in addition to the two requirements mentioned above).

There is also an (exceptional) special naturalisation (as provided under article 19 of the Code) for one category of third-country nationals, i.e. those who can demonstrate so-called 'exceptional achievements'. This covers various categories, such as scientific achievements (obtaining a PhD), particular sport performances (e.g. being selected to participate in an international competition) or artistic achievements. Special naturalisations are within the sole, discretionary competence of the House of Representatives and are exceptional in nature.

No special treatment is reserved for specific groups of third-country nationals. Refugees, citizens of neighbouring third countries and even citizens of former colonies are subject to the same general rules as all other foreigners. The lack of special treatment for refugees is remarkable, as it may be in contradiction with the international obligations undertaken by Belgium (Article 34 of the 1951 Geneva Convention). There is no privileged access to Belgian nationality, which would target refugees or other groups significantly represented in the Member State (e.g. children, citizens of neighbouring third countries, stateless people and investors).

### *Dual citizenship*

Belgium allows dual citizenship for third-country nationals acquiring Belgian citizenship. This is a general policy, which is not reserved to nationals from certain countries. This policy applies without any consideration of the way in which Belgian nationality is acquired (voluntary process based on an application or automatic acquisition).

### *Citizenship and integration*

From an institutional perspective, there is a clear disconnection between acquisition of citizenship and immigrant integration, as these questions fall within the competence of different levels of government. However, the rules on acquisition of Belgian nationality bridge the gap between the two institutional levels as acquisition of Belgian nationality is facilitated for those third-country nationals who have successfully passed an integration course.

# 1. Introduction: rationale, aims and scope

The integration of third-country nationals has become an important policy topic in many Member States, not least as a result of the large number of new migrants who arrived in the EU in 2014-2016 and received international protection. When, how and under which circumstances a third-country national can acquire the citizenship of an EU Member State is an essential dimension of integration processes. The acquisition of citizenship can be seen as the final step of an individual's successful integration process, as an incentive for individuals to become part of a new society or both. According to Eurostat, roughly 825 000 individuals became citizens of a Member State of the EU in 2017, most of them in Italy, the United Kingdom, Germany and France. As the EMN has not previously conducted a comparative study on the acquisition of citizenship, the proposed topic will fill a significant gap in the thematic activities of the network.

## 1.1. Policy and legal background in the EU

Awarding citizenship is a prerogative of the Member States, which they must exercise having due regard to EU law. Indeed, Member States solely are responsible for laying down the conditions for the acquisition of citizenship. However, citizens of a Member State also enjoy the rights of EU citizenship, including that of mobility and free movement across all Member States. As such, the determination of citizenship by one Member State implies a responsibility to all others. In this sense, citizenship has an important EU dimension. As pointed out by the Court of Justice of the EU, while laying down the conditions of acquisition and loss of citizenship falls within the remit of national competence, in doing so Member States must have due regard to EU law.

Three main modes of naturalisation exist:

- **Ordinary naturalisation** – residence-based naturalisation, which does not foresee any waivers of conditions normally envisaged for applicants;
- **Discretionary naturalisation** on grounds of national interest – fully discretionary naturalisation, where authorities waive all or almost all naturalisation conditions;
- **Discretionary facilitated naturalisation** on grounds of national interest – discretionary naturalisation, where authorities waive some but not all naturalisation conditions.

## 1.2. Study aims

The **European Convention on Nationality**, signed in 1997, establishes principles and rules relating to the acquisition and loss of nationality and issue of multiple nationality. To date, 20 Member States have signed the Convention, while 13 EU Member States have ratified it. Although awarding citizenship is a prerogative of the Member States, national regulations have to be implemented with due regard to EU law.

This EMN study aims at mapping and comparing the various approaches of Belgium regarding third-country nationals' acquisition of citizenship. It will focus in particular on the ordinary naturalisation for new migrants and therefore largely excludes the acquisition of citizenship through special naturalisation.

### 1.3. Key definitions

According to the European Convention on Nationality, "**nationality**" means the legal bond between a person and a State and does not indicate the person's ethnic origin. A case of the Court of Justice of the EU further defined nationality as "the special relationship of solidarity and good faith between [a Member State] and its nationals and also the reciprocity of rights and duties, which form the bedrock of the bond of nationality".

"**Multiple nationality**" means the simultaneous possession of two or more nationalities by the same person. For the purpose of this study, the term "dual citizenship" is used.

According to the EMN glossary, the term "**citizenship**" is defined as "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." It is noted that, as per the EMN Glossary, in some Member States, a distinction is made between citizenship and nationality, whereas in the EU context, no distinction is made, and the two terms are considered interchangeable. In those countries which distinguish between citizenship and nationality, the term citizenship refers specifically to the legal rights and duties of nationals.

"**Acquisition of citizenship**" refers to "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".

This study explores the acquisition of citizenship through naturalisation. "**Naturalisation**" means "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". As per a recent report published by the European Parliament, a distinction is made 'between ordinary naturalisation – when the primary grounds of acquisition of citizenship is a certain period of residence in the country, and special naturalisation – when the acquisition of citizenship is based on other considerations, such as family links, ethno-cultural connections or special contributions'. The first definition will be used for the purpose of this study, meaning that the emphasis is on the third-country nationals acquiring citizenship on the basis of an application process following a minimum period of legal residence.

***Ius sanguinis*** refers to "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)".

In contrast to this, ***ius soli*** refers to "the principle that the nationality of a person is determined on the basis of their country of birth".

In contrast to this, *ius soli* refers to "the principle that the nationality of a person is determined on the basis of their country of birth". The different categories of *ius soli* are defined as follows:

- Unconditional *ius soli*: on the basis of birth. Citizenship is automatically granted to individuals born in the country, regardless of any other conditions;
- Conditional *ius soli*: on the basis of certain conditions, e.g. minimum period of residence in the country of the parents;
- Automatic double *ius soli*: on the basis of parental birth in the country. Children born in the country to foreign citizens can automatically acquire citizenship at birth if at least one of their parents was also born in the country;

- Conditional double *ius soli*: on the basis of certain conditions and parental birth in the country. Children born in the country to foreign citizens can acquire citizenship at birth if at least one of their parents was also born in the country under certain conditions, e.g. minimum period of residence for parent.

## 2. Legal and policy overview

### 2.1. Reference to international law

Belgium only acceded to the **1961 UN Convention on the Reduction of Statelessness** in 2014. The major impetus for the accession of Belgium was the UNHCR campaign encouraging States to adhere to the Convention. Before this campaign, the government did not seem to pay much attention to this Convention.

Regarding the 1997 European Convention on Nationality, the government has indicated that accessing to the 1997 Convention would first require Belgium to modify some of its rules on acquisition and loss of nationality. In the early 2000's, it was argued that Belgium should first modify its rules on loss of Belgian nationality following voluntary acquisition of a foreign nationality before accessing to the Convention. When these rules were modified in 2008 (following the denunciation by Belgium of Chapter I of the Council of Europe Convention of 6 May 1963), the government argued that there were other obstacles to the accession, i.e. the practice of the House of Representatives which has exclusive competence to grant naturalisation. According to the government the fact that decisions of the House of Representatives are not reasoned and that no challenge may be brought against decisions of the House constitute obstacles to the accession to the 1997 Convention. The government indicated that a global analysis would be made of the challenges raised by a possible accession to the Convention. It is, however, not known whether this analysis was effectively carried out. Its results have in any case never been published<sup>1</sup>.

### 2.2. Main legal instruments covering the acquisition of citizenship for third-country nationals

The main legal instrument covering the acquisition of citizenship for third-country nationals in Belgium is the **Belgian Nationality Code**, which was adopted with the Law of 28 June 1984 (*Belgian Official Gazette* of 12 July 1984, hereinafter BNC). The BNC replaced the old legal framework which -was adopted in 1932. The Belgian Nationality Code is structured around three categories of rules:

1. General provisions (Articles 1-7; Articles 24bis to 30);
2. Provisions on the acquisition of the Belgian nationality (Articles 8 to 21);
3. Provisions relating to the loss and the recovery of the Belgian nationality (Articles 22 to 24).

The acquisition of citizenship for third-country nationals is dealt with under Chapter III: "Acquisition of Belgian nationality", within Section I: "Acquisition of Belgian nationality through declaration". Article 12bis BNC deals with the general requirements whilst Article 15 BNC deals with the procedural requirements.

It must be noted that the BNC was not specifically meant to address the position of third-country nationals. This BNC intends to provide rules on all aspects of acquisition and loss of Belgian nationality and is not limited to the position of third-country nationals.

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<sup>1</sup> Parliamentary Question N° 3-586, 17 February 2005, Senate, Session 2004-2005; Parliamentary Question N° 3-916, 23 June 2005, Senate, Session 2004-2005; Parliamentary Question N° 5-6196, 4 May 2012, Senate, Session 2011-2012; Parliamentary Question N° 5-4464, 11 February 2014, Senate, Session 2013-2014

The **Constitution of Belgium** only contains very general principles in relation to the acquisition of nationality. Article 8 provides that rules on acquisition and loss of nationality should be established by law. Article 9 stipulates that the legislative branch has exclusive competence to grant naturalisation.

### 2.3. Changes regarding the procedures or requirements of the acquisition of citizenship

No major change has taken place during recent years. However, it is worth mentioning that a major change occurred in 2012: the Law of 4 December 2012 has brought important changes to the BNC, in particular to the rules governing the acquisition of Belgian nationality through long-term residence in Belgium<sup>2</sup>. The Law of 4 December 2012 introduced much stricter requirements for such acquisition, with a view to guarantee that acquisition is only possible after '**integration**' of the foreigner in Belgium.

The main drivers for this change were internal: there was a general feeling<sup>3</sup> that the rules in force until 2012 were too generous and allowed acquisition of Belgian nationality by third-country nationals without sufficient requirements. Another driver was the concern to bring the rules governing acquisition of nationality in line with rules on access to the territory. The reform was clearly intended to postpone any acquisition of nationality to a stage where the third-country national is legally residing in Belgium for a number of years, thereby giving migration rules priority over rules on acquisition of nationality. It is worth noting that during the lengthy discussions which led to the enactment of the reform, very little mention was made of EU law or international law.

### 2.4. Debates about third-country nationals holding or acquiring citizenship

In general the public debate on nationality in Belgium focuses strongly on the **acquisition or loss of Belgian nationality** as such, without paying much attention to the link between Belgian citizenship and EU citizenship. As a consequence, the rights enjoyed by third-country nationals who have acquired Belgian citizenship have not been part of the public debate.

A recurrent debate in the media relates to the possibility for third-country nationals to acquire Belgian nationality without relinquishing their original nationality. The possibility of becoming a **dual national** has been questioned time and again in the media and by some policy-makers. Until now however, the draft bills introduced in Parliament to limit the possibility for foreigners to keep their nationality when acquiring the Belgian citizenship were never discussed. This is probably due to the fact that these bills were introduced by far-right parties (i.e. Vlaams Belang).

Another issue which has been much debated in recent years relates to the **possibility to deprive citizens of their Belgian nationality** if it is demonstrated that they have been involved in terrorist activities. This has given rise to both public debate in the general public and media and discussions within Parliament.

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<sup>2</sup> Law of 4 December 2012 modifying the Belgian Nationality Code, *Belgian Official Gazette*, 14 December 2012

<sup>3</sup> Report of the debates N° 53-476/015, 24 July 2012, Justice Committee, House of Representatives, Session 2011-2012

## 2.5. Distinction between nationality and citizenship

From a legal perspective, there is a **clear distinction** between the two concepts as they are used in Belgian law. The only concept used to designate the formal link between a person and the Kingdom of Belgium is that of nationality.

The concept of citizenship (*'citoyenneté'* in French, *'burgerschap'* in Dutch) is used in a very different fashion: it refers to the idea of exercising rights as a member of a community. It is in this sense that it is used e.g. by the Decree of the French Community of 8 March 2018 *'relatif à la promotion de la citoyenneté et de l'interculturalité'* (Decree on the promotion of citizenship and interculturality). According to Article 1, 1 of this Decree, Citizenship may be defined as *"la jouissance et l'exercice actif des droits humains (civils, politiques, sociaux, culturels, économiques et environnementaux) dans le cadre d'une démocratie basée sur les valeurs de liberté, d'égalité et de la solidarité"*<sup>4</sup>.

## 2.6. Basis for the acquisition of citizenship

The acquisition of citizenship in Belgium can be considered as a **mixed *ius soli* and *ius sanguinis***.

From the start, acquisition of Belgian nationality *ius sanguinis* was heavily favoured. During a long period, it remained the premier acquisition method, leaving little room for acquisition by other means and in particular acquisition *ius soli*. In 1985, the legislator started leaving more room for acquisition *ius soli*. However, acquisition *ius sanguinis* remained the predominant mode of acquisition.

The predominance of acquisition *ius sanguinis* is reflected in the fact that it applies automatically to both children born in Belgium and children born abroad. In addition, no qualification has been made in relation to the possible acquisition by the child of another nationality or the mode of establishment of paternity/maternity. Further, persons who have acquired Belgian nationality *ius sanguinis* are protected against deprivation of Belgian nationality (as organised by Article 23 BNC). Finally, acquisition *ius sanguinis* (after birth) is automatic for children of foreign nationals who acquire Belgian nationality.

Against this background, the legislator has reserved more and more room to acquisition *ius soli*. Today, acquisition *ius soli* is possible both under the form of acquisition simple *ius soli* and double *ius soli*. In both cases, acquisition is conditional upon certain requirements being met. Those requirements relate predominantly to the quality and the length of the residence of the parents in Belgium – and they vary depending on the mode of acquisition: for acquisition double *ius soli*, a period of five years of residence is necessary before birth; for acquisition simple *ius soli*, a period of ten years of residence is necessary. In addition, acquisition *ius soli* does not always operate *ex lege*. Acquisition double *ius soli* requires that the parents file a request in order for the acquisition to take place. This request is subject to scrutiny by the Public Prosecutor.

Finally, the Belgian nationality can be obtained by children, born on Belgian territory, who at any point before the age of 18 risk being stateless.

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<sup>4</sup> Translation: "the enjoyment and active exercise of human rights (civil, political, social, cultural, economic and environmental) in a democracy based on the values of freedom, equality and solidarity"

Hence, the legislator has embraced acquisition *ius soli* without jeopardizing the primacy of acquisition *ius sanguinis*.

## 2.7. Modes of acquisition

Clearly, **acquisition by declaration** based on Article 12bis BNC is the most common way for third-country nationals to obtain Belgian nationality. Figures for the period 2014-2018 show that acquisition based on Article 12bis represent more than 50% of all acquisitions. Unfortunately, it is not possible to distinguish among the various scenarios included in Article 12bis (i.e. acquisition after five or ten years of legal residence)<sup>5</sup>.

### 2.7.1. By ordinary naturalisation

In Belgium, the ordinary naturalisation as defined for the purposes of the present study corresponds to the **acquisition of nationality through declaration**, as provided by the Article 12bis BNC.

### 2.7.2. By special naturalisation

Special naturalisation<sup>6</sup> is available under Belgian law for one category of third-country nationals, i.e. those who can demonstrate so-called '**exceptional achievements**'. This covers various categories, such as scientific achievements (obtaining a PhD), particular sport performances (e.g. being selected to participate in an international competition) or artistic achievements.

Third-country nationals who have reached the age of 18 and reside legally in Belgium may apply for special naturalisation. They are required to explain what type of achievement they have accomplished. Article 13, 6° of the Royal Decree of 14 January 2013 provides a list of documents which may be filed in order to demonstrate such achievements<sup>7</sup>. One may e.g. file a copy of a PhD degree or a document showing that the person concerned meets the selection criteria for an international or European championship.

It must be noted that the specific achievements must have contributed to the "international reputation of Belgium". In addition, the applicant must explain why it is "practically impossible" for him/her to acquire Belgian nationality through declaration.

Mention should also be made of the possibility for persons who have been recognised as **stateless** (within the meaning of the 1954 Convention) to apply for the acquisition of Belgian nationality. Although the possibility to apply is opened, there is no guarantee that the person concerned will effectively acquire Belgian nationality, as the decision is taken by the House of Representatives which enjoy unlimited discretion in considering applications.

Acquisition of Belgian nationality further to a declaration of nationality is possible in a variety of cases. Article 12bis BNC, which is the main provision in this respect, sets out

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<sup>5</sup> Federal Migration Centre Myria, *Migratie in cijfers en in rechten – La migration en chiffres et en droits*, 2018

<sup>6</sup> Article 12bis Belgian Nationality Code

<sup>7</sup> Article 13, 6° Royal Decree of 14 January 2013 implementing the Law of 4 December 2012 modifying the Belgian Nationality Code, *Belgian Official Gazette*, 21 January 2013

general requirements applicable to all cases of acquisition through declaration. It also adds special requirements which apply specifically to each category.

The general requirements are that the third-country national should have reached the age of 18 and that he/she should have established his/her main residence in Belgium on the basis of a legal title. This residence should further be covered by a residence title, the nature of which varies depending on the moment at which one examines the position of the third-country national.

Article 12bis further sets out some particular requirements whose content varies depending on the circumstances. These requirements relate to the knowledge of one of the national languages, social integration and participation in the economic life of the country. They will be further detailed in the next section.

Article 12bis contemplates different scenarios which may lead to acquisition. Two main categories of third-country nationals must be distinguished: the first category concerns third-country nationals born in Belgium and having lived in Belgium until they reached the age of 18. They are not subject to requirements relating to their employment, language skills, etc. Such applicants only need to fulfill the general requirements. The second category includes third-country nationals born abroad. For this category, acquisition of Belgian nationality is only possible provided various particular requirements are met.

### *2.7.3. Other circumstances*

Persons who have **lost their Belgian nationality** in the past, can recover it under certain conditions<sup>8</sup>. Article 24 BNC requires that a person who lost his/her Belgian nationality must be 18 years old and must have established his/her main residence in Belgium since at least 12 months in order to recover it. Recovery is excluded in case the nationality was lost through deprivation.

In another scenario, Article 17 makes it possible for persons who have been **granted the Belgian nationality by mistake**, to apply for the acquisition of Belgian nationality when their nationality is challenged, provided they demonstrate that they have been treated as Belgian nationals by Belgian authorities for a period of at least 10 years. The person must have been of good faith when receiving the Belgian nationality.

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<sup>8</sup> Articles 17 and 24 Code of Belgian Nationality

## 3. Conditions and requirements for the acquisition of citizenship through ordinary naturalisation

In cases where citizenship is not acquired at birth, third-country nationals have to fulfil specific requirements and conditions to obtain citizenship.

Third-country nationals may acquire Belgian nationality by filing a declaration on the basis of Article 12bis BNC. Article 12bis sets out various requirements for acquisition through declaration. The general requirements include an **age requirement** (the third-country national must be at least 18 years old), and a **residence requirement** (the third-country national must have established his main residence in Belgium on the basis of a legal title).

The third-country national must also be **authorised to reside in Belgium**. Article 7bis BNC distinguishes between two stages. At the moment of the request or declaration, the applicant must be admitted or authorised to stay in Belgium without any limitation in time or to settle in Belgium in accordance with the Immigration Act. The residence during the period of time which qualifies for acquisition must be covered by a residence title which makes it possible for the foreigner to reside in Belgium for longer than three months or to settle in Belgium in accordance with the Immigration Act. Further details on the residence and residence title will be provided below.

Article 12bis BNC also includes more specific conditions, inter alia an evidence of knowledge of one of the national languages, of social integration, or of economic participation.

### 3.1. Eligibility

#### 3.1.1. *Period of residence*

Several categories can be distinguished:

The **first category** includes third-country nationals who have attended some sort of formal education in Belgium and who have worked in Belgium during a certain period. They have access to Belgian nationality after a residence period of **five years**<sup>9</sup>.

The same period of residence (i.e. five years) applies for special categories, i.e. where the third-country national suffers from a handicap or a medical condition making it difficult or impossible for him/her to work or has reached the retirement age<sup>10</sup>.

The **second category** includes all other third-country nationals, i.e. those who have never worked in Belgium, or have worked during an insufficient period of time, or have not attended any type of education in Belgium or whose school career or vocational training falls short of the requirements. They only have access to Belgian nationality after a period of residence of **ten years**<sup>11</sup>.

This period or residence is based on legal residence. The BNC subjects acquisition through declaration to the demonstration that the applicant has been legally resident in Belgium during a certain period. Mere habitual residence cannot be taken into account as such, even if it covers a long period of time and is documented by official documents such as tax filings. Mere presence is certainly not sufficient. This requirement is not specific to third-

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<sup>9</sup> Article 12bis, § 1, 2° BNC

<sup>10</sup> Article 12bis, § 1, 4° BNC

<sup>11</sup> Article 12bis, § 1, 5° BNC

country nationals. It applies in general to all foreigners who want to acquire Belgian nationality through the declaration procedure.

The BNC upholds its own definition of what is meant by 'legal residence'. This specific definition does not coincide with the definition upheld in other domains.

According to Article 7bis BNC, a residence is only legal provided that:

- 1) at the time the third-country national makes the declaration, he/she is admitted to stay in Belgium without any limitation in time or is settled in the Kingdom in accordance with the Immigration Act<sup>12</sup>;
- 2) during the period preceding the declaration, the third-country national must in addition be admitted to stay in Belgium without any limitation in time or to settle in the Kingdom in accordance with the Immigration Act<sup>13</sup>.

In addition to this definition, the Royal Decree of 14 January 2013 introduced a special system whereby **only certain documents are accepted** in order to demonstrate that the third-country national meets the requirements of Article 7bis. This closed system offers an exhaustive list of the documents which may be used to demonstrate that one meets the requirements of Article 7bis. This system is quite peculiar in that a limited number of documents proving a valid residence title are not taken in consideration<sup>14</sup>.

This period of residence is also based on **effective residence** (physical presence necessary). The BNC requires that the third-country national has established his/her 'main residence' ('*résidence principale*' in French, '*hoofdverblijfplaats*' in Dutch) in Belgium in order to qualify for acquisition through declaration. The concept of 'main residence' is defined in BNC<sup>15</sup> as the place where a person has been registered in one of the three administrative registers existing in Belgium (i.e. the main register, the register for foreigners and the provisional register) and kept by local municipalities. Registration in one of these registers can only occur after a request thereto is filed with a local municipality. The municipality will verify whether the person concerned effectively lives on the local territory before allowing registration. Hence, merely holding a residence permit will not suffice. The third-country national will therefore need to effectively reside on Belgian territory for at least a certain period of time in order to qualify. Further, the third-country national must also possess a residence title. Many of the residence titles taken into account by the BNC require that the beneficiary effectively resides in Belgium. This is the case for residence titles delivered to students and workers. Finally, the fact that the BNC makes allowance for a certain interruption of the residence of the applicant on Belgian territory confirms that the principle is that the third-country national must effectively reside on Belgian territory.

### *3.1.2. Proofs required to demonstrate the minimum period of residence*

As already explained, the BNC sets up a distinctive **system of documentary evidence** in relation to the residence requirement. Under this system, only certain documents may be taken in account in order to demonstrate legal residence. The documents which may be taken into account differ depending on what needs to be demonstrated: legal residence at

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<sup>12</sup> Article 7bis, § 2, 1° BNC

<sup>13</sup> *Idem*

<sup>14</sup> *Idem*

<sup>15</sup> Article 1, § 2, 1° BNC

the time the third-country national makes a declaration or legal residence during the required period of residence which forms the basis for the acquisition.

There are two kinds of legal residence requirement:

1) At the time of the declaration:

Article 3 of Royal Decree of 14 January 2013 lists the documents which may be produced to demonstrate that the third-country national is legally residing in Belgium when making the declaration, i.e. that he/she is admitted or authorised to stay in Belgium without any limitation in time:

- Residence permit B – Certificate of inscription to the foreigners’ registry – unlimited duration;
- Residence permit C – Foreigner identity card;
- Residence permit D – EU long-term resident;
- Residence permit F – Family member of a Union citizen;
- Residence permit F+ – Family member of a Union citizen – permanent residence.

2) During the period preceding the declaration:

Article 4,4° of the Royal Decree of 14 January 2013 lists the documents which may be produced to demonstrate that the third-country national has resided legally in Belgium during the period of residence which is required for the acquisition, i.e. that he/she was admitted or authorised to stay in Belgium for more than three months:

- Residence permit A – Certificate of inscription to the foreigners registry – limited duration;
- Residence permit B – Certificate of inscription to the foreigners registry – unlimited duration;
- Residence permit C – Foreigner identity card;
- Residence permit D – EU long-term resident;
- Residence permit H – EU Blue Card;
- Annex 15 – Document covering stay of applicant during administrative procedures (under certain conditions).

For family members of Union citizens and for refugees, other specific documents are taken into account.

This period of **residence can be interrupted**. The BNC provides expressly that the residence period required to trigger the acquisition through declaration may be interrupted. According to the BNC<sup>16</sup>, an interruption of **maximum six months** is tolerated. This may cover one period of absence of six months or several shorter periods combined. There is another limitation: at most the interruption cannot exceed one fifth of the periods required by the BNC for the acquisition of nationality.

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<sup>16</sup> Article 7bis, § 3 BNC

### 3.1.3. *Pre-existing legal residence status*

#### *Permanent residence permit*

Having a permanent residence permit, i.e. a residence permit which is **not limited in time**, is a requirement which third-country nationals have to fulfil when making a declaration in order to be eligible for the acquisition<sup>17</sup>. It is, however, sufficient that the third-country national holds a residence permit on the day the application is filed. It is not necessary that the third-country national has held the permanent residence permit during any given period of time before the application is filed. Once the application is filed, the third-country national should keep his/her permanent residence status during the whole procedure. This may take some months, or even years if the matter is taken to court.

#### *Refugee status*

Having been recognised as refugee under the 1951 Geneva Convention **does not create any special entitlement** to acquire Belgian nationality. Third-country nationals who have been recognised refugee cannot use that capacity to speed up acquisition or even to justify acquisition of Belgian nationality. Hence, the pre-existing legal residence status as refugee does not have to be held for a number of years in order to acquire Belgian nationality.

#### *Temporary residence permit*

In order to be eligible to acquire the Belgian nationality, a third-country national must have held temporary residence permit during a certain period preceding the declaration. This period may vary depending on the scenario, but will in any case **extend over five years**. During those five years, the third-country national must possess at least a temporary residence permit.

## 3.2. Conditions

### 3.2.1. *Language*

The BNC provides that the applicant **must demonstrate his knowledge of one of the three national languages**, i.e. Dutch, French or German, save for applicants who were born in Belgium and always resided in Belgium and applicants who suffer from a handicap or a medical condition making it difficult or impossible for them to work or who have reached the retirement age<sup>18</sup>.

The required level of knowledge has been set at **A2 on the Common European Framework of Reference**<sup>19</sup>. Evidence of sufficient knowledge must be demonstrated using one of the various means of evidence which are listed in a Royal Decree.

It must be noted that evidence of knowledge of one of the national languages is not one of the requirements for foreigners who apply to acquire Belgian nationality through naturalisation<sup>20</sup>. It may, however, be taken into account since the decision is taken by the

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<sup>17</sup> Article 12bis BNC

<sup>18</sup> Article 12bis, § 1er BNC

<sup>19</sup> Article 1, § 2, 5° BNC

<sup>20</sup> Article 19 BNC

House of Representatives which enjoy a wide (near unlimited) discretion in deciding on naturalisation applications.

In this regard, Belgium has set up a peculiar system in order to allow third-country nationals to demonstrate the required knowledge of one of the national languages. This system is based on a **closed list of means of evidence**, which are the only ones admissible to demonstrate the required knowledge<sup>21</sup>. The means of evidence which are deemed to be admissible fall into four categories, which are listed in Article 1 of the Royal Decree of 14 January 2013.

The **first category** includes a number of **certificates, diplomas and other documents issued by educational institutions**, certifying that the third-country national has successfully attended some formal training. The formal training does not have to be directly aimed at improving the third-country national's knowledge of a language. It may aim at improving the applicant's general education or give him some training in a trade or profession. It may even concern vocational training. The legislator assumes that the person will also improve his command of one of the national languages as the training must be organised on Belgian territory in one of those languages.

The **second category** includes **documents certifying that the person has completed a so-called integration course**. These are courses organised to give first generation migrants the basics on life in Belgium. The courses include a language component although it is not exclusively focussed on improvement of language skills. It must be noted that these programmes are organised at the level of the (language) Communities, and not on a national level.

The **third category** includes **documents showing that the third-country national has worked during a certain period of time** in Belgium. The person concerned must have worked for five years. No evidence is required that the work was conducted in a Dutch-, French- or German-speaking environment.

Finally, the **last category** relates to **documents directly linked to language education**: a third-country national may demonstrate a sufficient command of one of the languages if he/she has followed a language course or passed a language test.

All in all, many instances bear therefore responsibility to assess the language level of third-country nationals. Further, there may be situations where the document put forward by an applicant does satisfy the language requirements even though it is clear that the applicant does not possess a sufficient knowledge of any of the national languages. This will for instance be the case if a native English speaker works in Belgium for a company where the office language is English. The tension between the self-declared aim of the legislator and the measures adopted to implement this objective has been apparent in court decisions dealing with cases in which third-country nationals did not possess a sufficient knowledge of any of the languages even though they could produce one of the documents required by law.

### *3.2.2. Citizenship tests and commitments*

Belgium has **not introduced a citizenship or integration test** as such. However, this does not mean that third-country nationals who want to acquire Belgian nationality do not need to demonstrate their integration. Rather the **integration is tested through other**

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<sup>21</sup> Article 1, § 2, 5° BNC

**means** than a test or exam. Social integration may indeed be demonstrated by showing for instance that the applicant has attended formal education and has obtained a diploma which should at least be of the final level of secondary education. The applicant may also demonstrate social integration if he/she has worked over the past five years. Rather than a classic test, integration is therefore verified by reference to what the applicant has actually done in Belgium over the period of five years preceding the application. It must be noted, however, that several of the requirements tied to integration, such as social integration and knowledge of one of the national languages, may also be fulfilled if the applicant successfully participates in an integration programme. Such programmes are organised by the Communities. This leads to discrepancies where following an integration programme may be mandatory for immigrants in one Community, as has been the case in the Flemish Community, but not in another.

Nevertheless, the applicant is required to **legally or symbolically commit to certain values or norms**. Applicants are required to sign a declaration included in the application form. In this declaration, applicants declare that they will abide by the Constitution, the laws of Belgium and the European Convention on Human Rights. By doing so, the applicant commits to the values enshrined in the Convention. These values are, however, not described, nor are they listed. They are merely defined by reference to the Convention which is deemed to be an instrument embodying the most important values. This is a symbolic gesture, as no control whatsoever is exercised on the applicant's knowledge of or effective commitment to the Constitution, laws or Convention.

### 3.2.3. *Good conduct*

Third-country nationals are expected to be of good conduct. The good conduct of the applicant is exclusively verified by looking at his/her criminal record. No other requirement is made. In particular, no requirement is made in relation to the applicant's health or track record of paying taxes.

The key concept which is put forward, is that of "**serious personal fact**". The Public Prosecutor is required to advise negatively on the application if it is found that the applicant has committed such serious personal fact<sup>22</sup>. The concept of 'serious personal fact' used to be undefined. It was therefore left to courts to appreciate whether a given conduct amounted to a serious personal fact. The 2012 reform has brought some more certainty on what can qualify as a serious personal fact.

First, the BNC lists a number of situations which are deemed to indicate that the applicant has committed serious personal facts<sup>23</sup>. The list includes the fact that the identity of the applicant or his/her main residence cannot be verified or that he/she is supporting a movement or association which is deemed to be dangerous to public order.

In addition, Article 2 of the Royal Decree implementing the Law of 4 December 2012 lists a number of conducts which are deemed to constitute serious personal facts. Unsurprisingly, the list includes any criminal conviction leading to effective jail time. This is not further qualified by reference to any type of offence: any criminal offence which leads to a jail sentence amounts to a serious personal fact.

The list is, however, longer: it also includes facts which could lead to a conviction to effective jail time and which are under investigation by the public prosecutor, provided the

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<sup>22</sup> Article 15 § 3 BNC

<sup>23</sup> Article 1, § 2, 4° BNC

investigation was opened no later than a year before the application is made, or which are subject to a judicial investigation. In addition, concluding a marriage of convenience in order to obtain a residence permit also constitutes a serious personal fact, provided a court has concluded that a marriage was indeed entered into for such purpose.

It is worth noting that there is some uncertainty in practice on the question whether the two lists put forward are meant to be limitative or whether other facts could be added. Another area where uncertainty exists relates to the question whether courts have any discretion in assessing whether a given fact, which falls within one of the categories listed in the BNC or the Royal Decree, indeed constitutes a serious personal fact.

The third-country national applying to acquire Belgian nationality through declaration or naturalisation is not required to produce any document in relation to his/her good conduct. Since good conduct is linked mainly to the (potential) criminal record of the applicant, the office of the Public Prosecutor will carry out the necessary investigation to obtain information on the applicant's criminal record. This must be understood in a broad sense, since lack of good conduct may be linked not only to formal convictions, but also to instances where the applicant has been arrested or investigated even if this did not lead to a formal conviction.

#### *3.2.4. Economic resources*

The economic situation of the applicant is **taken into account if acquisition is sought through declaration**<sup>24</sup>. It does not play a role for third-country nationals who wish to acquire Belgian nationality through naturalisation, nor is it taken into account in case of applications to recover Belgian nationality.

For acquisition through declaration, the economic and financial situation is only taken into account for one of the categories of third-country nationals who fall under Article 12bis. The economic or financial situation is not taken into account for third-country nationals born in Belgium and having lived in Belgium until they reached the age of 18, or for third-country nationals who apply after ten years of residence in Belgium.

The only category for which the economic and financial situation is relevant is that of third-country nationals having resided in Belgium for five years. It must be noted that the Belgian legislator looks at the economic and financial situation of the applicant not in general, but through a narrow perspective. The BNC indeed requires that the applicant demonstrates his so-called "**economic participation**"<sup>25</sup>. This may be done by showing that the applicant has worked during a certain period of time (468 days over the course of the last five years if one works as an employee or civil servant). The analysis carried out does not, in other words, concern the income earned by the applicant or his assets. No minimum level of income or assets is required. It is sufficient that the applicant has effectively worked during the required period of time, even if the applicant is currently unemployed and does not earn any professional income. The standards of living of the applicant are not taken into account. Applicants who have not worked during the last five years and depended exclusively on social security benefits, will not fulfil the requirements for acquisition of Belgian nationality. Likewise, an applicant who has worked during a long period of time, but cannot demonstrate having worked during 468 days over the last five years, will not fulfil the requirements.

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<sup>24</sup> Article 12bis BNC

<sup>25</sup> Article 12bis§ 1, 2

As the economic and financial situation of the applicant is exclusively based on the fact that he/she has worked during a certain period of time, the documents required all relate to the professional situation of the applicant. The Royal Decree of 14 January 2013 lists a number of documents which the applicant must submit: these documents all relate to the employment situation of the applicant<sup>26</sup>. If the applicant has been employed for example in the private sector, he must file so-called 'individual accounts', which are documents established by the employer indicating the exact number of days a person has worked.

Moreover, Article 12bis makes it possible for third-country nationals who have resided for at least ten years in Belgium to acquire Belgian nationality. Besides demonstrating a legal residence during a period of ten years, applicants who fall under this category must also demonstrate that they have been involved in the life of the host community. The exact meaning of this requirement remains unclear. Article 12bis goes on to add that the applicant must demonstrate that he has taken part in "the economic and/or social and cultural life of the host community". In practice courts have interpreted this requirement as meaning that the applicant should demonstrate that he/she has contacts outside his/her own community.

### 3.2.5. *Security*

As already explained, applications for ordinary naturalisation will be refused if the applicant has committed '**serious personal facts**'. This concept is rather broad and may even include road traffic violations (in case of repetition of such violations). Its content has been defined both by the BNC and a Royal Decree. A person may be found to have committed serious personal facts even if these facts never led to a formal conviction. Repeated arrests by the police or being subject to investigations may amount to serious personal facts.

The concept may be used to exclude applicants involved in **activities which threaten national security**. According to Article 2 of the Royal Decree implementing the Law of 4 December 2012, the fact that a person is engaged in any activity that threatens or could threaten the fundamental interests of the State constitutes a serious personal fact.

Threats to the fundamental interests of the State are further defined by Article 7 of the Law of 30 November 1998 on the Intelligence and Security Services<sup>27</sup>. According to Article 7, the activity must threaten the internal or external security of the State, the robustness of the democratic and constitutional order, the State's international relations or the economic or scientific resources of the State.

Whatever the threat or disorder, only those facts which may be qualified as serious personal facts may be used to exclude an applicant from the benefit of the Belgian nationality.

### 3.2.6. *Specific groups of third-country nationals*

**Refugees** used to benefit from a fast-track naturalisation procedure, whereby the required period of residence was brought from three to two years. This privileged access to nationality was abolished in 2012. Since then refugees do not benefit from any special treatment. In order to acquire Belgian nationality, they must use one of the acquisition

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<sup>26</sup> Article 7, 5° of the Royal Decree of 14 January 2013

<sup>27</sup> Law of 30 November 1998 on the Intelligence and Security Services, *Belgian Official Gazette*, 18 December 1998

procedures which are available to all other third-country nationals. They are in particular not exempted from the payment of the fees required for acquisition.

During the period 2012-2018, uncertainty existed on a crucial point for refugees who wished to acquire Belgian nationality. Third-country nationals applying to be recognised as refugee usually have to wait during a period of time before obtaining the status of refugee. This period can extend from a few months to a couple of years. Starting in 2012, the question arose whether this period could be taken into consideration to fulfil the requirement of five years of residence. The majority position was that such residence could not be taken into account since it was evidenced by a document which was not included in the list of documents evidencing a legal residence.

The BNC was adapted in June 2018: a new provision was introduced<sup>28</sup>, which provides that for refugees recognised as such, “the period between the date on which their application for international protection was lodged and the date on which refugee status was recognised by the competent minister is treated as an authorised stay”. This should, however, not be taken to mean that refugees benefit from a privileged access. In fact, the new provision merely confirms that refugees are subject to the general regime, which is clarified in light of their specific situation.

No special regime exists for **other beneficiaries of international protection**. They are subject to the same rules and requirements as all other third-country nationals.

The **third-country national who is married to a Belgian citizen, or who is the parent of a child with Belgian nationality**, benefits from a special regime. Acquisition through declaration is possible after five years of legal residence in Belgium and provided the required knowledge of one of the national languages has been demonstrated, but the third-country national does not have to demonstrate that he/she has worked during a minimum period, as is the case for other third-country nationals. This exemption should in principle make it slightly easier for this category to obtain Belgian nationality. However, Article 12bis adopts a different definition of the requirement of “social integration” for this category: whereas the general regime provides that the applicant must have either worked for five years or followed a vocational training course of 400 hours in order to demonstrate social integration, Article 12bis provides that foreign spouses of Belgian citizens must have done both: social integration is only considered to be demonstrated if the applicant has attended a vocation training course (of 400 hours) and has worked for a minimum period (which is, admittedly, shorter than for the general regime).

**Third-country nationals who suffer from a handicap or a disability or who have reached the statutory retirement age**, also benefit from a special regime. They are exempted from the requirement to demonstrate that they have mastered one of the three national languages. They are also exempted from the requirement to demonstrate their social integration and economic participation. If one leaves aside the need to demonstrate their handicap or invalidity, the only substantial requirement is that they must have resided legally in Belgium during five years.

A final category has already been mentioned: **third-country nationals who have resided legally in Belgium during ten years** also benefit from a special regime: they are exempted from the requirement to demonstrate their social integration and economic

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<sup>28</sup> Article 7bis, § 2, 2, introduced by the Law of 18 June 2018 containing various provisions, *Belgian Official Gazette*, 2 July 2018

participation. They must, however, demonstrate that they have mastered one of the three national languages and are involved in the life of the host community.

**Persons recognised as stateless** under the 1954 Convention and having a legal residence benefit from a special fast-track application procedure: they may apply for naturalisation after two years of residence in Belgium<sup>29</sup>. Not much is known about the profile of persons who acquire Belgian nationality through this procedure, as the application is made to and the decision taken by the House of Representatives<sup>30</sup>. The House is not required to justify its decision, which may not be challenged in court.

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<sup>29</sup> Article 19 BNC

<sup>30</sup> UNHCR, *Report on Mapping Statelessness in Belgium*, 2012

## 4. Procedural aspects for the acquisition of citizenship

### 4.1. Procedure for ordinary naturalisation

The BNC regulates the procedure for acquisition of Belgian nationality for third-country nationals. The procedure is structured around **three stages**<sup>31</sup>:

1. In a first stage, third-country nationals must file an application with the **local authorities of the municipality** in which they reside. The application should include all necessary documents and supporting evidence. Applicants are required to pay a non-refundable fee (150 euros). The civil status registrar of the applicant's main residence verifies whether the application is complete;
2. Once the application is found to be complete, the civil status registrar sends it to the **Public Prosecutor**. The Public Prosecutor is required to verify whether the applicant complies with all requirements. If the Public Prosecutor finds that the application may be granted, a notification to that effect is sent to the local municipality which is required to register the acquisition of nationality in the public records.
3. If the Public Prosecutor finds that the application should not be granted, the applicant may in a last stage, challenge the public prosecutor's decision before courts. The **Court of First Instance** will then review the public prosecutor's decision. The decision of the Court of First Instance may be appealed.

### 4.2. Children of parents granted citizenship

The BNC provides that as soon as a foreigner obtains Belgian citizenship through a process of voluntary acquisition, his/her **children younger than 18 years will benefit from the acquisition**<sup>32</sup>. The acquisition operates *ex lege*, without any need for an additional procedure. This extension of acquisition is, however, reserved to children who actually reside in Belgium and requires that the parent who obtains Belgian nationality exercises parental responsibility over the child.

### 4.3. Public authorities involved

Several authorities are involved in the process of acquisition. Their role is described in Article 15 BNC:

1. The **Civil status registrar (CSR)** is the main actor in the declaration procedure. The declaration must be made before the CSR. The CSR must verify whether the application is complete. The registrar also informs the applicant of the possibility to complete the file if necessary and indicates which documents are missing. When a declaration is complete, the CSR issues a receipt and sends a copy of the complete file to the Public Prosecutor of the Court of First Instance, as well as to the Immigration Office and the State Security.
2. If the CSR finds that the declaration is inadmissible because it is incomplete there is a possibility of challenging this decision before the **Council of State**, the

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<sup>31</sup> Article 15 BNC

<sup>32</sup> Article 12 BNC

highest administrative court. The Council of State has a limited jurisdiction and cannot decide on the merits of the case. In practice, very few cases are brought before the Council.

3. The **Public Prosecutor** plays a major role in the procedure. Its main mission is to review the application and verify whether the applicant complies with all requirements. The scope of this review is described at a very general level by the law. Hence, there may be differences in the way public prosecutors carry out this mission. If the Public Prosecutor finds that there is no impediment to the acquisition, he/she is required to notify the CSR thereof, so that the declaration may be recorded in the public registers.

4. If the Public Prosecutor advises negatively and finds that there is an obstacle to the acquisition, the applicant may challenge this opinion before **the Court of First Instance**<sup>33</sup>. The Court of First Instance reviews the file from the outset and must decide whether the obstacle brought forward by the Public Prosecutor indeed justifies denying the declaration. A decision of the CFI may be appealed by the individual as by the Prosecutor.

It is to be noted that applications for citizenship **cannot be made online**. Communications with the local municipality will occur through exchange of written documents. But the communications between the local municipality and the Public Prosecutor will usually occur electronically.

#### 4.4. Documentation required in order to submit the application

**Documents are key** in the system put in place in 2012: since **no interview is taken** of applicants and no tests are administered, applications to acquire Belgian nationality are mainly, if not exclusively, based on documents. Applicants are required to file a large number of documents with their application. For the most part, the required documents are listed in the Royal Decree of 14 January 2013.

Most of the documents which must be filed relate to the requirements that applicants must meet in order to acquire Belgian nationality – e.g. language requirements, so-called ‘economic participation’ or ‘social integration’. Because situations can be very diverse, for most requirements the Royal Decree lists a **number of alternatives**. It is sufficient that the applicant meets one of the alternatives. Experience has shown, however, that this system leaves some questions unanswered: for some of the substantial requirements such as language skills or legal residence, other documents than those included in the lists may offer a solid evidence of the requirements concerned. The question remains, however, whether these documents may be taken into account given that they are not included in the list.

As far as the basic, general requirements are concerned, applications should include at a minimum a birth certificate, evidence that the application fee has been duly paid and a document evidencing the legal residence of the third-country national<sup>34</sup>.

In practice, many applicants find it difficult to produce a **true copy of their birth certificate**. The legislator has provided a fall-back procedure for those who are unable to

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<sup>33</sup> Article 15, § 5 BNC

<sup>34</sup> Article 5 of the Royal Decree of 14 January 2013

produce this document. This procedure differs depending on the country of origin of the applicant. Applicants born in a limited number of countries, listed exhaustively in a Royal Decree<sup>35</sup>, may produce an equivalent document issued by the diplomatic or consular authorities of the country of birth. All other applicants should avail themselves of the special procedure organised by the BNC<sup>36</sup>. This procedure requires an application to be filed with the local justice of peace who delivers a so-called 'notoriety certificate' after hearing two witnesses. This certificate must then be submitted to the Court of First Instance (Family Court) for homologation. The whole procedure may extend over several months, if not more.

All submitted documents which have been issued by foreign authorities must be legalised or apostilled and translated.

#### 4.5. Legally prescribed maximum time period

The BNC contains detailed rules on the various stages of the procedure, outlining for each stage what are the relevant time periods.

The procedure will at least extend over **a couple of months**. This is mainly due to the fact that public prosecutors are not able to deliver their advice immediately. Rather, public prosecutors will need in general two to three months to handle a case. It is not uncommon for a Public Prosecutor to issue his/her opinion on the last day of the prescribed period. In addition, the first stage of the procedure, which involves the civil registrar verifying the declaration, may also take a couple of weeks. Adding up these two stages, one easily comes to a duration of six months.

The process will be significantly longer if the Public Prosecutor finds that the acquisition should be denied. In that case, the applicant must go to court to challenge the public prosecutor's opinion. The proceedings before court could last anywhere between six months and two years, depending the court's docket. In a recent case, a third-country national filed a declaration on 2 March 2017. The Public Prosecutor issued a negative opinion on 30 June 2017. The applicant brought the matter to court and the CFI issued a ruling on 21 February 2019, almost two years after the declaration was filed<sup>37</sup>. This is not an exceptional case. In another case, a declaration was filed on 3 July 2014. The Public Prosecutor issued a negative opinion on 3 November 2014. The applicant brought the matter to court and the CFI issued a ruling on 5 October 2017, i.e. more than three years after the declaration was filed<sup>38</sup>.

Looking at the various delays built in the procedure, one notes that:

- From the date of the declaration, the civil registrar has one month to check whether the file is complete. If it is not complete, the civil registrar must inform the applicant about the missing documents. The applicant then has two months to complete his/her file<sup>39</sup>.

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<sup>35</sup> Royal Decree of 17 January 2013 determining the list of countries where obtaining a birth certificate is impossible or very difficult, *Belgian Official Gazette*, 30 January 2013

<sup>36</sup> Article 5 BNC

<sup>37</sup> Court of First Instance Hainaut – Charleroi, 21 February 2019, *Revue de Jurisprudence de Liège, Mons et Bruxelles*, 2019, p. 1042

<sup>38</sup> Court of Appeal Brussels, 29 March 2018, *Revue de Jurisprudence de Liège, Mons et Bruxelles*, 2019, p. 1019

<sup>39</sup> Article 15 § 2 BNC

- Once the file is complete, the applicant receives an acknowledgment of receipt. From the date of this acknowledgment of receipt, the Public Prosecutor has four months to submit his opinion. If at the end of this period, no notice has been sent, the applicant must be registered as a Belgian citizen in the public registers<sup>40</sup>.
- If the Public Prosecutor issues a negative opinion on an application, the applicant must lodge an appeal within fifteen days. No maximum is set on how long the court proceedings may last.

There is no special category of cases enjoying priority or fast-track treatment.

#### 4.6. Costs for the application for citizenship

Applications to acquire Belgian nationality will only be taken into account if the applicant has paid the registration fee of **150 euros to the registration office**. This applies both to the application to acquire Belgian nationality through a declaration<sup>41</sup> and to naturalisation<sup>42</sup>. No waiver is provided even for those applicants without any financial means. Applications must be filed with local municipal authorities. Most authorities require a fee to be paid. **Fees can be set freely by the municipalities** and range from 5 € (e.g. municipality of Lasne), to 15 € (e.g. municipality of Kortrijk), 30 € (e.g. municipality of Etterbeek), 50 € (e.g. Municipality of Woluwe-St-Pierre) or even 82 € (e.g. municipality of Woluwe-St-Lambert).

#### 4.7. Other evidence requirements

As already explained, the procedure for the acquisition of Belgian nationality through a declaration is **heavily document-based**. Applicants must submit a series of documents together with their application.

Besides all documents which have already been mentioned, applicants whose claim to Belgian nationality is based on a ten-year legal residence, must submit **evidence that they have been involved in the life of the host-community**. There is no (closed) list of documents (determined by the law or royal decree) which may be used to demonstrate such involvement. Rather, applicants are free to produce all documents they deem relevant. In practice, applicants could produce pictures relating to events to which they participated or file testimonies written by friends or acquaintances.

#### 4.8. (Limited) discretion in the decision-making process

In order to find out whether there is some element of discretion in the process, one should distinguish between **three stages**.

In a **first stage**, the **civil registrar is in charge of receiving the application** and making sure that the application is complete. In principle, the civil registrar **enjoys no discretion** whatsoever in assessing the application. In practice, however, the registrar has some limited room for manoeuvre, as there remains some uncertainty on the scope and

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<sup>40</sup> Article 15 § 3 BNC

<sup>41</sup> Article 12bis BNC

<sup>42</sup> Article 21, § 3 BNC

meaning of some of the requirements for acquisition and in particular on the weight and relevance to be given to certain documents.

In a **second stage**, the **Public Prosecutor must review the application**. His **discretion is again limited**, since the BNC specifies in details all the requirements for acquisition. Again, however, the Public Prosecutor enjoys a limited, conditional discretion, as there is no certainty on the exact meaning of all requirements which must be met for acquisition (e.g. different interpretations of the concept of "serious personal facts").

In a **third stage**, the **Court is asked to review the assessment of the public prosecutor**. Although the court is bound by the requirements imposed by the BNC, courts enjoy some **limited discretion** in that they have the possibility to interpret the various requirements, in particular when it appears that the exact meaning of a requirement is not clear<sup>43</sup>.

#### 4.9. Challenges in the verification of the identity of applicants

The first challenge relates to the requirement that applicants produce a **certified copy of their birth certificate**. In practice, this has caused much difficulties. A first difficulty is that the law remains silent on the question whether the certified copy should be a recent one. Municipalities have adopted very different positions on this issue: in a number of municipalities, certified copies have been accepted if they are not older than twelve months; in other municipalities, copies older than six months have been refused. In the absence of a clear general policy on this issue, no guarantee can be given that applicants will be treated equally.

More generally, applicants have frequently faced serious difficulties in obtaining a certified copy of their birth certificate. In the past, applicants could produce an equivalent document issued by the diplomatic or consular authorities of the country of birth. This possibility has been limited in 2018 to a limited number of countries (four). It should be noted that no decision can be taken on a case-by-case basis on the question whether it is truly impossible for an applicant to obtain a certified copy of his/her birth certificate and that the decision has been taken by way of general measure in light of the characteristics of some countries and not of the actual situation of applicants. To give but two examples, Yemen and Syria do not appear in the list of countries established by Royal Decree, even though these countries have been torn apart by serious internal conflicts for years.

The BNC provides a special procedure allowing applicants who face serious difficulties in obtaining a copy of their birth certificate to obtain an alternative document. This procedure has, however, never been thoroughly evaluated. In certain judicial districts, this can take up to one year.

Another important obstacle concerns the situation in which **applicants' identity and in particular their names (surname, family name) have been recorded in different fashions in various administrative documents**. This occurs quite frequently because the process of transliteration of family names may lead to different outcomes depending on the authority concerned. The difficulty in this respect is that Article 15 BNC requires that the names of the applicant be identical in all documents produced. It is enough that a difference, even a minor one, exists in the way the applicant's name is written in various documents, for the application to be stayed. The applicant must then attempt to obtain

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<sup>43</sup> O. Vandenbossche, "Quel pouvoir d'appréciation pour l'officier de l'état civil dans les procédures d'acquisition de la nationalité belge?", *Revue générale de droit civil*, 2018, 10, pp. 507-518

that his/her name be written in the same way in every document. This process can be quite long and uncertain.

#### 4.10. Legal challenge in case of refusal of citizenship

When a third-country national has filed a declaration, the Public Prosecutor must issue an opinion on the application requesting the acquisition of Belgian nationality. If the opinion of the Public Prosecutor is negative, the declaration is not granted. The applicant may, however, **request that the matter be examined by a court**. Technically, the applicant is not required to file an appeal against the public prosecutor's opinion, as one would do in normal civil proceedings. Rather, the applicant must request the registrar of civil status, by registered letter, to transfer the file to the family court<sup>44</sup>. Once the file is transmitted, this will serve as appeal and the **Court of First Instance** is deemed to be seized. The applicant has fifteen days to file such a request with the registrar of civil status. The matter will then be decided by the family chamber of the Court of First Instance. The family court will issue a reasoned decision after having heard the applicant (or given him/her the possibility to be heard). The decision of the CFI may be appealed before the Court of Appeal.

When issuing his/her opinion on the request for declaration, the Public Prosecutor is required to provide information about the grounds for refusal<sup>45</sup>. The Public Prosecutor must specify if the negative opinion is based on the existence of serious personal facts and, if so, which one. Likewise, if the Public Prosecutor finds that the applicant does not fulfil one or several basic requirements for the acquisition, he/she must explain which ones and why. In practice, the public prosecutors provide short explanations of their opinion, which are not elaborated in details but are sufficient for the applicant to understand why the application was denied.

#### 4.11. Common grounds for a negative citizenship application decision<sup>46</sup>

It is very difficult to provide a list of the common grounds for a negative decision. This is because **data collection on citizenship application is very rudimentary**. At most, data is collected on the number of applications and on the identity of the applicants (such as country of origin). No thorough data collection exists which would make it possible to ascertain why certain applications are denied. At most, anecdotal evidence can be gathered from court cases which have been published. This evidence may, however, only represent a small part of all applications, since there is no data available on the number of applicants who file a request to court after their application has been denied by the public prosecutor, compared to the total number of applications.

Intuitively, one could expect that only a limited number of applications are turned down, as the application process forces applicants to prepare their application with great care and pay attention to all details. An incomplete application will indeed not pass the civil registrar's office and be turned down immediately.

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<sup>44</sup> Article 15, § 5 BNC

<sup>45</sup> Article 15 § 3 BNC

<sup>46</sup> Court decisions; Federal Migration Centre Myria, *Migratie in cijfers en in rechten – La migration en chiffres et en droits*, 2017, pp. 169-178

As the BNC has undergone a major reform in 2012, the first years of application were characterised by some uncertainty on the precise meaning of the new rules. There was much debate on some of the requirements for acquisition by declaration. One could expect that once the uncertainty has been lifted, the number of applications which are turned down decreases.

In the period preceding the reform, one of the main reasons explaining why applications are rejected is the fact that the applicant has a criminal record which is deemed to be too important. This has always been one of the main reasons why applications would fail and it seems that this ground for rejection has not lost its importance.

## 4.12. Support provided during the application process

### 4.12.1. *Information provided to third-country nationals to consider applying for citizenship*

Third-country nationals seeking information on the process to acquisition of Belgian nationality will find **information provided by public institutions**. The federal government provides a general overview of the main grounds for acquisition<sup>47</sup>. This information is far from complete, but provides a good starting point for potential applicants. Additional information is provided by many local municipalities, whose websites very often include some information on the acquisition by declaration. The quality of this information varies significantly, with some municipalities only providing minimal information and others more elaborated information.

Public authorities **do not encourage third-country nationals to consider applying** to obtain the Belgian nationality. No general campaign has been launched over the last decades to provide such encouragement. Moreover, even on an individual level, encouragements to consider applying to obtain the Belgian nationality are not provided by the authorities. At most, when advice is sought by a potential applicant, local government officials will provide explanations on the process and the various requirements but will refrain from providing encouragements to potential applicants.

### 4.12.2. *Governmental support during the application process*

There is **no specific support** put together by government to help applicants during the application process. The federal government, nor local governments provide specific support to third-country nationals who wish to apply to acquire Belgian nationality. Potential applicants may benefit from more general form of support or assistance, which is meant to help the needy deal with legal matters, such as the pro bono system financed by the government, whereby attorneys provide legal advice to people in need. This is, however, not specifically set up for nationality issues.

### 4.12.3. *Integration measures facilitating the acquisition of citizenship*

The federated entities (the so-called 'Communities') organise and finance integration courses. These courses are **not meant primarily to facilitate the acquisition of citizenship**. Rather, their aim is to prepare newcomers to life in Belgium and speed up

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<sup>47</sup> [https://justice.belgium.be/fr/themes\\_et\\_dossiers/personnes\\_et\\_familles/nationalite](https://justice.belgium.be/fr/themes_et_dossiers/personnes_et_familles/nationalite)

their integration. In some of the federated entities, attendance of these courses is mandatory, at least for some categories of newcomers. Attendance of these courses will facilitate the acquisition, as evidence of such attendance (and completion of the exam) may be used to demonstrate so-called 'social integration'.

## 5. Dual citizenship

The third-country national is **not required to renounce his/her other citizenship** in order to acquire or hold citizenship in Belgium. Before the entry into force of the Belgian Nationality Code in 1985, third-country nationals who applied to obtain Belgian citizenship were required to demonstrate that they had waived their original citizenship. This requirement, which applied both to adults and children who voluntarily acquired Belgian nationality, was abandoned in 1985. Since then, the absence of requirement to waive one's existing nationality applies across the board to all methods of acquisition.

Remarkably, the change adopted in 1985 was adopted without much debate. In the Draft Belgian Nationality Code which was presented by the government to Parliament, the change in policy was barely mentioned. In fact, the bill presented to the Parliament by the government specifically indicated that one of the key principles of the Draft Code was the prohibition of dual nationality<sup>48</sup>. During the discussions, attempts by MPs to reintroduce a requirement that the foreigner waived his/her original nationality were strongly resisted by the Government<sup>49</sup>.

### 5.1. Benefits or challenges brought by dual/multiple citizenships

The benefits of allowing dual citizenships have never been thoroughly researched in the Belgian context. In particular, the question whether the absence of any requirement to waive one's previous nationality facilitates the integration of foreigners residing in Belgium because such absence increases the willingness to request the nationality, has to our knowledge never been researched specifically for Belgium.

Occasionally some challenges raised by the policy are brought to the surface. The **exercise of consular protection** is one of them: Belgian citizens holding another nationality have been faced with the refusal by Belgian authorities to extend consular protection in situations where the person resides in the country of his/her other nationality. This policy has been challenged in court, most recently in a case involving a dual Belgian-Moroccan national. The Constitutional Court will deal in the coming months with this issue<sup>50</sup>.

A challenge which has been unaddressed is that of **registration**. Even though Belgium has allowed foreign citizens who acquire Belgian citizenship to hold their foreign nationality, no procedure was adopted to record the foreign nationality of Belgian citizens. It is only in 2008 that a possibility was created to register the foreign nationality of Belgian citizens<sup>51</sup>. This came, however, with important limitations. The registration is only compulsory for Belgian citizens who voluntarily acquire a foreign nationality and keep their Belgian nationality. Belgium does not register the nationality of foreign citizens who acquire Belgian citizenship.

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<sup>48</sup> Bill N° 756/1, 17 October 1983, House of Representatives, Session 1983-1984, , p. 17

<sup>49</sup> Report N° 756/21, 1 March 1984, House of Representatives, Session 1983-1984, , p. 110-111

<sup>50</sup> Court of Appeal Brussels, 9 September 2014

<sup>51</sup> Royal Decree of 9 May 2008 modifying the Royal Decree of 8 January 2006 determining the information types, *Belgian Official Gazette*, 28 May 2008

## 6. Citizenship and integration

### 6.1. Integration policy

Belgium does not have a national integration action plan. Integration of third-country nationals falls **under the competence of the 'Communities'**, i.e. federated entities. Each of them has developed its own integration policy. The federal government remains, however, solely responsible for the rules on access to territory and the acquisition of nationality.

This has led to the development of a diversity of policies: one federated entity (i.e. the Flemish Community) developed early on a policy of mandatory integration course while the other one (the French Community) did not develop a full-fledged integration programme, but merely encouraged local actors to develop their own integration programme. It is only recently that the French Community has started to develop its own programme of integration.

This makes it **difficult to link the integration policy with the acquisition of citizenship**, as both fall under the competence of different levels of government. The federal level has, however, made clear that the acquisition of Belgian nationality should be the end point of a process of integration. The link between the two has been made with the major reform of 2012: the new, stricter requirements introduced in 2012 for acquisition by declaration aim to ensure that third-country nationals who effectively acquire Belgian nationality, are fully integrated in Belgium. In this sense, one may say that acquisition of nationality is deemed to be the end point of an integration process, even if the integration process is not organised in the same way in different parts of the country.

### 6.2. Evaluation of the acquisition of citizenship to facilitate integration

A study carried out in 2011<sup>52</sup> showed that acquisition of citizenship is associated with better labour market outcomes for non-Western migrants in general. This study concluded to the existence of a **citizenship premium**. This research was, however, precisely based on the fact that at that time, no assessment was made of the integration efforts of third-country nationals who sought to acquire Belgian nationality. Since the legal framework has changed substantially in 2012, one must be cautious when extending the results of this research to the current situation. It remains, however, that the study found such a strong link between citizenship acquisition and job market participation that one may assume the link still exists today, even if it is less prevalent and more difficult to measure. The link is even more obvious for jobs in the public sphere, as some of these jobs can only be exercised by Belgian nationals (or nationals of other EU Member States).

Large scale research shows that there is a large gap in job market participation between persons who have Belgian roots and those who do not (research carried out by Unia and the Federal Public Service Employment – the so-called 'Socio-economic monitoring'). Many factors may explain the existence of this gap. It is certainly not excluded that the possession of Belgian nationality could play a (limited) role in this context.

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<sup>52</sup> V. Corluy, I. Marx and G. Verbist, *Employment chances and changes of immigrants in Belgium: the impact of citizenship*, Working Paper No. 11/07 of the Centre for Social Policy, 2011; Unia / Federal Public Service Employment, *Socio-economische monitoring: Arbeidsmarkt en origine – Monitoring socio-économique: marché du travail et origine*, 2017

In one segment of the labour market, acquisition of Belgian citizenship will greatly facilitate access to jobs: the public sector. Indeed, a large portion of public jobs is reserved for Belgian citizens and citizen of other EU countries. These jobs will therefore not be accessible for third-country nationals.

## 6.3. Citizenship versus permanent or long-term residence

### 6.3.1. *Participation in regional or national elections*

In Belgium, the **exercise of political rights is reserved to nationals**. Non-nationals may not vote, nor may they be elected for regional or national elections. Permanent residents may, however, take part in local (municipal) elections. EU citizens may also take part in elections for the EU Parliament. This is the main difference between the status of nationals and that of permanent resident or long-term resident.

### 6.3.2. *Access to certain types of employment*

Access to **government jobs** may be reserved to nationals and EU citizens. This is stated in Article 10 of the Constitution. This applies for most high-level government jobs and also to all jobs which are directly linked to the exercise of public power (such as the judiciary or the military). An effort has, however, been made by some regional governments to open up most jobs to non-nationals (and non EU citizens)<sup>53</sup>.

### 6.3.3. *Other differences or advantages*

Some **social security entitlements** are in principle subject to a nationality requirement. This is for instance the case for the so-called '**Income Replacing Benefit**' and the '**Integration Benefit**', both of which aim at persons with a disability; it also applies to the '**GRAPA**', a mechanism aimed at increasing the income of senior citizens. Please note, however, that these entitlements are not reserved exclusively to Belgian citizens. They may also be granted to EU nationals and even to citizens of a number of third countries with which Belgium has concluded bilateral agreements (such as Algeria, Morocco, Norway, Switzerland or Tunisia). Long-term residents from third countries may be subject to additional requirements in order to benefit from these entitlements.

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<sup>53</sup> Decree of the French Community of 20 June 2013 on the withdrawal of the nationality requirement for teachers

## 7. Conclusions and lessons learned

Belgium has undertaken a **major reform** of its rules on acquisition of nationality in 2012. The new rules have been in force since January 2013.

One of the main innovations of the 2012 reform was the introduction of an **integration requirement** for third-country nationals applying to obtain Belgian nationality. The system adopted by Belgium in 2012 is quite peculiar: instead of relying on an integration test or assessment, Belgium has chosen to examine the production by applicants of **documents as evidence** in relation to various dimensions of integration. As regards the economic participation, the Belgian Nationality Code only takes into account what applicants have undertaken during the five years preceding the application.

Two main difficulties have been identified in relation to the current legal framework for acquisition of nationality by third-country nationals. First, experience has shown that there is a large **implementation gap**: the highly codified system which was put in place does not address all situations. Authorities have been faced with a series of situations which were not addressed in the regulations. One example is that of a third-country national who has worked during the five years preceding the declaration but whose work has been interrupted for a few weeks or month as a consequence of the end of contract. As nor the Belgian Nationality Code, nor the Royal Decree of 14 January 2013 address this type of interruption in employment, authorities have struggled to address this situation.

The second potential problem is that the system put in place in 2012 creates a **risk of unequal treatment**: as decisions on applications for acquisition must be taken by various actors, who must apply a highly codified legal framework but one which leaves many questions unaddressed, there is room for divergent treatment of similar applications. Analysis has already shown that the risk of diverging solutions is real. The assessment of some of the requirements for acquisition of citizenship proceeds along different lines depending on the authority concerned.

It is striking that no thorough evaluation has been carried out of this major reform. Until now, the only assessment which has been carried out is a limited quantitative evaluation which focuses exclusively on the numbers – i.e. number of applications, number of requests granted, gender distribution of applications, etc. This evaluation (carried out by Myria in its annual reports<sup>54</sup>) has allowed to uncover some general trends, such as a relative decline of the representation of women in the number of applications and declarations granted.

The magnitude of the 2012 reform and the peculiar nature of the system it put in place **call for a robust evaluation**. Such evaluation is even more pressing since the developments in court practice has revealed the weaknesses of the system adopted by the legislator. Courts have indeed taken issue with various aspects of the system and in particular with the closed character of the various lists of documents to be produced by the applicant.

At this stage, no clear outlook exists on possible policy developments in the coming years. If one looks at the various draft bills pending in Parliament, most of them concern minute issues such as the fee to be paid when applying to acquire the Belgian nationality or the process to be followed in order to deprive a citizen of his/her citizenship. In the general public debate, the only issue which regularly emerges in relation to nationality is that of dual nationality. While the possibility to keep one's nationality upon acquiring Belgian

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<sup>54</sup> Federal Migration Centre Myria, *Migratie in cijfers en in rechten – La migration en chiffres et en droits*

nationality is often decried in the media, no political party has suggested to reintroduce a general waiver requirement for third-country nationals acquiring Belgian nationality. It therefore does not seem that Belgium is heading for major changes in its nationality law.

## Annex 1: Relevant sources and literature

Recent reports and EMN Ad-hoc queries on the topic of nationality and citizenship:

- EMN Ad-Hoc Query 2019.23 on investor schemes (golden passports)
- EMN Ad-Hoc Query 2015.709 on fees for citizenship application
- EMN Ad-Hoc Query 2015.669 on exceptions to an obligation to be released from the old citizenship before acquiring a new one
- EMN Ad-Hoc Query 2015.719 on the establishment of identity in connection with naturalisation
- EMN Ad-Hoc Query 2012.399 on citizenship tests
- EMN Ad-Hoc Query 2012.402 on dual citizenship
- European Commission, Report on Investor Citizenship and Residence Schemes in the European Union, January 2019
- European Parliament, Briefing on Acquisition and Loss of Citizenship in EU Member States, July 2018
- Milieu, Factual Analysis of Member States Investors' Schemes Granting Citizenship or Residence to Third-Country Nationals Investing in the said Member State, 2018
- OECD, Settling In 2018: Indicators of Immigrant Integration, 2018
- OECD, Naturalisation and the Labour Market Integration of Immigrants, 2010
- Fundamental Rights Agency, Second European Union Minorities and Discrimination Survey – Main Results, December 2017

### Legislation

- Belgian Nationality Code, adopted with the Law of 28 June 1984, *Belgian Official Gazette*, 12 July 1984
- Law of 30 November 1998 of on the Intelligence and Security Services, *Belgian Official Gazette*, 18 December 1998
- Law of 4 December 2012 modifying the Belgian Nationality Code, *Belgian Official Gazette*, 14 December 2012
- Law of 18 June 2018 containing various provisions, *Belgian Official Gazette*, 2 July 2018
- Decree of the French Community of 20 June 2013 on the withdrawal of the nationality requirement for teachers, *Belgian Official Gazette*, 23 July 2013
- Decree of the French Community of 8 March 2018 on the promotion of citizenship and interculturality, *Belgian Official Gazette*, 2 May 2018
- Royal Decree of 9 May 2008 modifying the Royal Decree of 8 January 2006 determining the information types, *Belgian Official Gazette*, 28 May 2008
- Royal Decree of 14 January 2013 implementing the Law of 4 December 2012 modifying the Belgian Nationality Code, *Belgian Official Gazette*, 21 January 2013
- Royal Decree of 17 January 2013 determining the list of countries where obtaining a birth certificate is impossible or very difficult, *Belgian Official Gazette*, 30 January 2013

### Parliamentary documents

- Bill N° 756/1, 17 October 1983, House of Representatives, Session 1983-1984, p. 17

- Report N° 756/21, 1 March 1984, House of Representatives, Session 1983-1984, p. 110-111
- Report of the debates N° 53-476/015, 24 July 2012, Justice Committee, House of Representatives, Session 2011-2012
- Parliamentary Question N° 3-586, 17 February 2005, Senate, Session 2004-2005
- Parliamentary Question N° 3-916, 23 June 2005, Senate, Session 2004-2005
- Parliamentary Question N° 5-6196, 4 May 2012, Senate, Session 2011-2012
- Parliamentary Question N° 5-4464, 11 February 2014, Senate 2013-2014

### *Court decisions*

- Court of First Instance Hainaut – Charleroi, 21 February 2019, *Revue de Jurisprudence de Liège, Mons et Bruxelles*, 2019, p. 1042
- Court of Appeal Brussels, 29 March 2018, *Revue de Jurisprudence de Liège, Mons et Bruxelles*, 2019, p. 1019
- Court of Appeal Brussels, 9 September 2014

### *Other sources*

- V. Corluy, I. Marx and G. Verbist, *Employment chances and changes of immigrants in Belgium: the impact of citizenship*, Working Paper No. 11/07 of the Centre for Social Policy, 2011
- Federal Migration Centre Myria, *Migratie in cijfers en in rechten – La migration en chiffres et en droits*, 2017
- Federal Migration Centre Myria, *Migratie in cijfers en in rechten – La migration en chiffres et en droits*, 2018
- UNHCR, *Report on Mapping Statelessness in Belgium*, 2012
- Unia /Federal Public Service Employment, *Socio-economische monitoring: Arbeidsmarkt en origine – Monitoring socio-économique: marché du travail et origine*, 2017
- O. Vandenbossche, “Quel pouvoir d’appréciation pour l’officier de l’état civil dans les procédures d’acquisition de la nationalité belge?”, *Revue générale de droit civil*, 2018, 10, pp. 507-518

## Annex 2: Publications by EMN Belgium (2009-2020)

The present annex lists the studies and reports published by EMN Belgium between 2009 and 2019. The other EMN National Contact Points produced similar reports on these topics for their (Member) State. For each study, the EMN Service Provider, in cooperation with the European Commission and the EMN NCPs, produced a comparative Synthesis Report, which brings together the main findings from the national reports and places them within an EU perspective.

The Belgian reports mentioned below are available for download on [www.emnbelgium.be](http://www.emnbelgium.be).

The reports from the other NCPs as well as the Synthesis Reports are available on:

[http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/index_en.htm).

### 2009

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<i>April 2009</i>	The Organisation of Asylum and Migration Policies in Belgium
<i>June 2009</i>	Annual Report on Asylum and Migration Policy in Belgium – 2008
<i>July 2009</i>	Unaccompanied Minors in Belgium - <i>Also available in French and Dutch</i>
<i>October 2009</i>	Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries - <i>Also available in French and Dutch</i>
<i>December 2009</i>	EU and Non-EU Harmonised Protection Statuses in Belgium

### 2010

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<i>January 2010</i>	Annual Report on Asylum and Migration Policy in Belgium – 2009
<i>August 2010</i>	Satisfying Labour Demand Through Migration in Belgium

### 2011

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<i>January 2011</i>	Temporary and Circular Migration in Belgium: Empirical Evidence, Current Policy Practice and Future Options
<i>March 2011</i>	Annual Report on Asylum and Migration Policy in Belgium – 2010
<i>May 2011</i>	EU and Non-EU Harmonised Protection Statuses in Belgium (update)
<i>October 2011</i>	Visa Policy as Migration Channel in Belgium

## 2012

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<i>January 2012</i>	Practical Measures for Reducing Irregular Migration in Belgium
<i>March 2012</i>	Annual Report on Asylum and Migration Policy in Belgium – 2011
<i>April 2012</i>	Misuse of the Right to Family Reunification: Marriages of Convenience and False Declarations of Parenthood in Belgium - <i>Also available in French and Dutch</i>
<i>September 2012</i>	Establishing Identity for International Protection: Challenges and Practices in Belgium - <i>Also available in French and Dutch</i>
<i>September 2012</i>	The Organization of Migration and Asylum Policies in Belgium (update)
<i>October 2012</i>	Migration of International Students to Belgium, 2000-2012
<i>December 2012</i>	Intra-EU Mobility of Third-Country Nationals to Belgium - <i>Also available in French</i>

## 2013

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<i>May 2013</i>	Annual Report on Asylum and Migration Policy in Belgium – 2012
<i>July 2013</i>	Attracting Highly Qualified and Qualified Third-Country Nationals to Belgium
<i>August 2013</i>	Organisation of Reception Facilities in Belgium
<i>October 2013</i>	Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures in Belgium

## 2014

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<i>February 2014</i>	Migrant Access to Social Security – Policy and Practice in Belgium - <i>Also available in French and Dutch</i>
<i>June 2014</i>	Good Practices in the Return and Reintegration of Irregular Migrants: Belgium’s Entry Bans Policy and Use of Readmission Agreements
<i>June 2014</i>	Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Belgium
<i>July 2014</i>	Annual Report on Asylum and Migration Policy in Belgium – 2013
<i>October 2014</i>	Policies, Practices and Data on Unaccompanied Minors in Belgium (2014 Update)
<i>December 2014</i>	Admitting Third-Country Nationals for Business Purposes in Belgium

## 2015

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- June 2015* Determining Labour Shortages and the Need for Labour Migration from Third Countries in Belgium - *Also available in French*
- July 2015* Annual Report on Asylum and Migration Policy in Belgium – 2014
- August 2015* Dissemination of Information on Voluntary Return: How to Reach Irregular Migrants Not in Contact with the Authorities in Belgium

## 2016

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- May 2016* Changes in Immigration Status and Purposes of Stay in Belgium
- May 2016* Integration of Beneficiaries of International Protection into the Labour Market in Belgium
- June 2016* Annual Report on Asylum and Migration Policy in Belgium – 2015
- December 2016* Returning Rejected Asylum Seekers: Challenges and Good Practices in Belgium
- December 2016* Resettlement and Humanitarian Admission in Belgium

## 2017

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- June 2017* Annual Report on Asylum and Migration Policy in Belgium – 2016
- July 2017* Family Reunification with Third Country National Sponsors in Belgium
- August 2017* Illegal Employment of Third Country Nationals in Belgium
- November 2017* Challenges and Good Practices for Establishing Applicants' Identity in the Migration Process in Belgium

## 2018

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- May 2018* Changing Influx of Asylum-Seekers in 2014-2016
- July 2018* Effectiveness of Return in Belgium: Challenges and Good Practices Linked to EU Rules and Standards
- August 2018* Annual Report on Asylum and Migration Policy in Belgium – 2017
- September 2018* Labour Market Integration of Third-Country Nationals in Belgium

- September 2018* Impact of Visa Liberalisation on Countries of Destination
- December 2018* Socio-Economic Profile and Socio-Economic Careers of People Granted International Protection in Belgium, 2001-2014

## **2019**

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- June 2019* Annual Report on Asylum and Migration Policy in Belgium – 2018
- July 2019* Beneficiaries of International Protection Travelling to their Country of Origin: Challenges, Policies and Practices in Belgium

## **2020**

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- April 2020* Comparative overview of national protection statuses in Belgium 2010-2019
- June 2020* Annual Report on Asylum and Migration Policy in Belgium – 2019