



AD HOC QUERY ON 2020.38 Naturalization of persons incapable of performing legal acts

Requested by alexandra apalopoulou on 5 June 2020

Compilation produced on 12 August 2020

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden plus Norway (23 in Total)

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1. Background information

According to a recent amendment of the Greek Nationality Code, adult aliens who are incapable of performing legal acts, ie persons with severe intellectual/mental disabilities may be represented by his/her legally appointed guardian for the submission of the required naturalization declaration and application, and they are additionally exempt from the obligation to take an oath as naturalized citizens. The Greek authorities, in are urgently drafting further regulations/guidelines regarding the implementation of the provision mentioned above. The authorities are interested especially in the procedures that involve

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examination of the applicant's integration in the country via his /her physical presence and interaction (ie naturalization test, language test, oral interview, etc). We are interested in finding out MS practices on this matter.

2. Questions

1. Is it possible for aliens that are incapable of performing legal acts as a result of intellectual/mental disabilities to acquire the nationality of your MS?

2. If yes, by which procedure? (eg automatically, by naturalization, by declaration, etc)

3. Are applicants who have a severe intellectual/mental handicap entitled to apply for naturalization?

Available choices: YES, NO

4. If your answer YES to question 3, who signs and files the application on their behalf?

5. Do your Member State applies any waivers on the conditions/prerequisites required for the application in these cases?

6. Does your naturalization law in these cases provides waivers or even full exemption of requirements which implies the physical presence and interaction of the applicants (i.e. naturalization test, a language test, an oral interview, etc)

7. In case there are waivers/exemptions from the standard naturalization procedure, which documents are requested from the applicant's side as proof of relative intellectual/mental condition? (eg hospital certificate, court decision, etc)

We would very much appreciate your responses by **6 July 2020**.


3. Responses

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¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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| | | Wider Dissemination ² | |
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|  | EMN NCP Austria | Yes | <p>1. Yes.</p> <p>2. In Austria, foreigners can acquire citizenship by naturalization or by notification.</p> <p>3. YES</p> <p>4. In Austria, a legal representative must be appointed for persons who do not enjoy legal capacity themselves. Among other things, this legal representative makes necessary decisions and also represents the person in official dealings with authorities. In such a case, the application for the granting of citizenship must be submitted by the legal representative (Art. 19 para 1 Citizenship Act 1985).</p> <p>5. In principle, the general rules regarding naturalization also apply to individuals with disabilities. However, an exception can be made with regard to demonstrating a secure means of subsistence. In cases in which a disability or a permanent and serious illness means that the individual is unable to secure a means of subsistence, the law does not hold the person accountable for these circumstances and therefore exempts them from the need to provide such evidence (Art. 10 para 1b Citizenship Act 1985). A medical certificate is nonetheless required in such cases. Similarly, individuals with disabilities such as a speech impediment or hearing impairment are exempted from the need to demonstrate a basic knowledge of Austria's democratic system,</p> |

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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| | | | <p>including its underlying principles, as well as of the history of Austria and of the province of residence. A certificate by a public health officer serves as proof (Art. 10a para 2 subpara 3 and 4 Citizenship Act 1985).</p> <p>Special rules also apply to the naturalization of children with serious disabilities. Under certain circumstances, conferral of citizenship onto a parent can be extended to cover a majority-age child with a serious disability. A medical certificate by an Austrian public health officer is a prerequisite for the extension of citizenship (Art. 17 para 3 Citizenship Act 1985).</p> <p>6. In these cases, proof of knowledge of German and basic knowledge of Austria's democratic system, including its underlying principles, as well as the history of Austria and of the province of residence is not required. Correspondingly, the tests required for detection are also omitted. Furthermore, persons who do not enjoy legal capacity themselves, for example, do not have to take a vow (Art. 21 para 2 Citizenship Act 1985).</p> <p>7. See Q5 - a medical certificate must be provided.</p> |
|  | <p>EMN NCP Belgium</p> | <p>Yes</p> | <p>1. Yes. The Code of Belgian Nationality (hereafter: CBN) includes certain provisions which facilitate the acquisition of the Belgian nationality for non-nationals incapable of performing legal acts due to mental disabilities.</p> <p>2. Non-nationals who have reached the age of 18 are able to acquire the Belgian nationality via two principal methods: through declaration, and through naturalisation. Declaration (Article 12bis CBN) This is the common method of acquisition of the Belgian nationality. Acquisition by declaration is possible for applicants who fall under one of the following hypotheses: - (1) Persons, older than 18, who have resided in Belgium during 5 years preceding the</p> |


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| | | | <p>declaration, based on a legal residency permit.</p> <ul style="list-style-type: none">- (2) Persons, older than 18, who have resided in Belgium during 5 years preceding the declaration, based on a legal residency permit, and who are married to a Belgian national provided they have cohabited in Belgium during at least 3 years.- (3) Persons, older than 18, who were born in Belgium and have resided in Belgium since birth, based on a legal residency permit.- (4) Persons, older than 18, who reside in Belgium based on a legal residency permit, and who can either prove they are unable to carry out any employment or economic activity due to disability or invalidity, or who have reached pensionable age.- (5) Persons, older than 18, who have resided in Belgium during 10 years preceding the declaration, based on a legal residency permit. <p>Persons who fall under the first two hypotheses, must provide proof of their linguistic proficiency in one of the three national languages, corresponding to CEFR level A2. They must further provide proof of their economic participation as well as social integration.</p> <p>Naturalisation (Article 19 CBN)</p> <p>Naturalisation is an exceptional means of acquisition, and is granted by the Chamber of Representatives. Naturalisation can only be granted to: persons who are older than 18, who legally reside in Belgium, and:</p> <ul style="list-style-type: none">- Either show proof of having enhanced Belgium's international reputation (or is capable of doing so) through certain accomplishments, such as scientific achievements (obtaining a PhD), particular sport performances, or artistic achievements. The applicant must further explain why it would be impossible to acquire the Belgian nationality through declaration.- Or having obtained the judicial recognition of statelessness, and having resided in Belgium for 2 years prior to the application. <p>Attribution</p> <p>Finally we would like to emphasize that non-nationals who have not yet reached the age of 18, can become Belgian nationals through attribution. Attribution of the Belgian nationality principally operates ex lege upon fulfilment of certain requirements, e.g. by being born of Belgian nationals in Belgium. The question about disability is impertinent with regards to attribution: no procedure is required. A child suffering from a mental disability has, by operation of law, access to the Belgian nationality by means of attribution insofar the necessary conditions listed in the legal provisions applicable to their situation, are fulfilled.</p> |
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| | | | <p>3. YES</p> <p>4. Applicants with a severe mental disability are not categorically excluded from applying for the acquisition of the Belgian nationality through either declaration or naturalization. Concerning access to the Belgian nationality by minors through attribution, we refer to our response provided under the previous question.</p> <p>5. According to Article 7 CBN, persons who are incapable due to their mental health condition can be represented by a legal guardian or representative, to perform a legal act related to nationality.</p> <p>6. Applicants who can prove they are unable to carry out any employment or economic activity due to disability or invalidity, no longer have to provide proof of: linguistic proficiency in one of the three national languages; economic participation; and social integration. (Article 12bis, §1, 4° CBN)</p> <p>7. Applicants submitting a declaration to acquire the Belgian nationality as outlined in our response to the previous question are exempted from fulfilling any conditions which may possibly imply their physical presence and interaction. (e.g.: exemption of proving social integration, which can be proven, among other options, by a certificate of having successfully followed an integration programme)</p> |
|  | <p>EMN NCP Bulgaria</p> | <p>Yes</p> | <p>1. Yes</p> <p>2. The proceedings with reference to the change of citizenship (acquisition, restoration and release of Bulgarian citizenship) are regulated in Chapter Five of the Law on Bulgarian Citizenship and are further developed in Regulation № 1 for applying Chapter</p> |


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| | | | <p>Five of the Law on Bulgarian Citizenship (Regulation № 1).</p> <p>According to the provision of Article 29, Paragraph 1 of the Law on Bulgarian Citizenship, acquisition of Bulgarian citizenship by naturalization, release and restoration of Bulgarian citizenship is carried out with request of the interested person. The request shall be submitted personally to the Ministry of Justice or to the diplomatic or consular mission of the Republic of Bulgaria. When submitting the documents, the person is being interviewed.</p> <p>Article 1 of Regulation № 1 provides for two hypotheses, regulating the procedure for submitting an application for change of citizenship by a person with intellectual/mental disability who is with full or partial disability and respectively an interview is conducted. In case the person is with full intellectual/mental disability, the application for change of citizenship is submitted by his/her guardian. Respectively the interview is conducted with the legal guardian. If the person has limited intellectual/mental disability, the application is submitted personally by him/her and is countersigned by his/her guardian. Respectively the interview is conducted with the disabled person in the presence of the guardian.</p> <p>3. YES</p> <p>4.</p> <p>In case the person is with full intellectual/mental disability, the application for change of citizenship is submitted by his/her guardian. Respectively the interview is conducted with the legal guardian. If the person has limited intellectual/mental disability, the application is submitted personally by him/her and is countersigned by his/her guardian. Respectively the interview is conducted with the disabled person in the presence of the guardian.</p> |
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| | | | <p>5. N/A</p> <p>6. N/A</p> <p>7. N/A</p> |
|  | <p>EMN NCP Croatia</p> | <p>Yes</p> | <p>1. In line with provisions of Law on Croatian citizenship (OG, 53/91, 28/92, 113/93, 130/11, 110/15 i 02/19), incapability of performing legal acts, is not legal condition in order to acquire nationality in Croatia. Persons, who are incapable of performing legal acts, can acquire Croatian citizenship. In line with provisions of Law on Croatian citizenship (OG, 53/91, 28/92, 113/93, 130/11, 110/15 i 02/19), incapability of performing legal acts, is not legal condition in order to acquire nationality in Croatia. Persons, who are incapable of performing legal acts, can acquire Croatian citizenship.</p> <p>2. They can acquire Croatian citizenship by origin and by naturalization.</p> <p>3. YES</p> <p>4. With the exception to the provision according to which the application for the acquisition of Croatian citizenship by naturalisation is submitted in person, if it is a person with a disability, the application may be submitted through a legal representative or authorized representative (Art 24, Para 3 of the Croatian Citizenship Act). For persons who are partially or completely deprived of legal capacity, the actions are performed by a guardian determined by a decision of the competent authority, in accordance with a special legislation.</p> |


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| | | | <p>5. Please see answer to 4.</p> <p>6. Apart from the provisions on procedure of applying for Croatian citizenship, Croatian Citizenship Act does not contain provisions according to which the above categories of persons are exempted from fulfilling the prescribed preconditions for acquiring Croatian citizenship. The legal representative or authorized person and the guardian may make the necessary statements during the procedure of acquiring Croatian citizenship.</p> <p>7. If a person is completely or partially deprived of legal capacity, it is necessary to enclose a court decision on deprivation of legal capacity and a decision of the social welfare center on the appointment of a guardian, in accordance with a special legislation.</p> |
|  | <p>EMN NCP Cyprus</p> | <p>Yes</p> | <p>1. No. 2. N/A 3. NO 4. N/A 5. N/A 6. N/A 7. N/A</p> |


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|  | <p>EMN NCP Czech Republic</p> | <p>Yes</p> | <ol style="list-style-type: none"> 1. Persons with intellectual/mental disabilities can lodge an application to be granted the Czech citizenship through their legal guardian (which is appointed by a Court). The guardian can lodge the application on behalf of the person with intellectual/mental disability and acts on his/her behalf until the legal proceedings are finished. 2. The legal guardian acts on behalf of the person with intellectual/mental disability in all proceedings on acquiring the citizenship (also in cases when the person acquires the nationality ex lege e. g. by birth). 3. YES The person with disability has to have a legal guardian appointed by a Court who acts on his/hers behalf. 4. The legal guardian is appointed by a Court. 5. The Act No. 186/2013 Coll. on Citizenship of the Czech Republic allows in these cases to not fulfil all conditions necessary for granting the Czech citizenship. For instance, the person with intellectual/mental handicap is not obliged to prove knowledge of the Czech language, history and geography of the Czech Republic. In these cases, it is also not necessary to provide a proof of financial resources of the applicant etc. To the application has to be attached documents which confirm that the person has intellectual/mental disability and is worthy of special regards. 6. Please see above. Additionally, in cases of special regards the Oath of Citizenship is not required as well as the personal lodging of the application. 7. If the applicant is limited on his/her legal capacity because of his/her intellectual/mental condition, the legal guardian will present medical certificates and court certificate that proves the applicant's legal incompetence and at the same time specifies the range of responsibilities of the appointed legal guardian. |
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|  | <p>EMN NCP Estonia</p> | <p>Yes</p> | <p>1. Yes.</p> <p>2. The procedures are same for all applicants. Estonian citizenship could be acquired at birth by a child, where at the moment of their birth at least one of the child’s parents is an Estonian citizen, obtained by naturalisation or reinstated in case of persons who lost Estonian citizenship as minors.</p> <p>3. YES</p> <p>4. If person has a severe intellectual/mental disability the court will decide on the person's ability to make decisions or whether to allocate these rights to their legal representative. The legal representatives can be their parent(s) or their guardian who is an Estonian citizen.</p> <p>5. Taking into account the term “severe mental/intellectual handicap” used in this query it could refer to different groups mentioned within the Citizenship Act: to persons with restricted active legal capacity or to persons who for health reasons are unable to comply or fully comply with the requirements for acquiring the citizenship. Namely, the restriction of legal capacity is not determined based on the existence of a disability or any diagnosis, but rather is solely based on the ability of a person to comprehend the nature and consequences of their actions. Under no circumstances can the active legal capacity of a person be restricted merely because the person has a physical, sensory, mental or intellectual impairment. Adults with restricted active legal capacity who apply for Estonian citizenship are exempt from compliance with some conditions for acquiring the citizenship, such as:</p> |
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| | | | <ul style="list-style-type: none"> • being proficient in the Estonian language in accordance with the requirements provided in the Act; • knowing the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements provided in the Act; • having a permanent legal income; • being loyal to the Estonian state; • taking an oath: " Taotledes Eesti kodakondsust, tõotan olla ustav Eesti põhiseaduslikule korrale. " [In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia.] <p>Persons who, for health reasons, are unable to comply with the conditions of being proficient in the Estonian language in accordance with the requirements provided in the Act and knowing the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements provided in the Act, are exempt from complying with these conditions.</p> <p>Persons who, for health reasons, are unable to fully comply with the conditions of being proficient in the Estonian language in accordance with the requirements provided in the Act and knowing the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements provided in the Act take the examination of Estonian language and Estonian Constitution and Citizenship Act to an extent and in a manner that the state of their health allows.</p> <p>For applicants under 15 years of age there are no waivers on the conditions/prerequisites in place for acquiring citizenship in these cases as for them acquiring citizenship depends on the citizenship of their parent(s)/guardian and/or whether their parent(s) are applying for Estonian citizenship.</p> |
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| | | | <p>6. Adults with restricted active legal capacity are exempted from a language test and test on Estonian Constitution and the Citizenship Act. Their legal representative also files and signs the application.</p> <p>Persons who, for health reasons, are unable to comply with the conditions of Estonian language proficiency and knowing the Estonian Constitution and Citizenship Act for acquiring the citizenship are exempted from the language test and the test on Estonian Constitution and the Citizenship Act.</p> <p>Persons who, for health reasons, are unable to fully comply with the conditions of Estonian language proficiency and knowing the Estonian Constitution and Citizenship Act for acquiring the citizenship take the language test and the test on Estonian Constitution and the Citizenship Act to an extent and in a manner that the state of their health allows. For additional information see the answer to question number 5.</p> <p>7. If the person has intellectual/mental disability the court will decide on the person's ability to make decisions or whether to allocate these rights to their legal representative. If the person is unable to comply with the conditions for acquiring the citizenship due to health reasons a decision from expert committee is needed which has the authority to make a decision which exempts the person from complying with the requirements needed to acquire citizenship. If the person is unable to fully comply with the conditions for acquiring the citizenship due to health reasons an expert committee takes a decision regarding the manner in which the person is capable of taking the examination and the part of the examination that the person is exempted from. In order to have recourse to an expert committee, the persons unable to comply or fully comply with the conditions for acquiring the citizenship due to health reasons submit a statement of the attending physician which confirms the person's inability, due to their state of health, to comply in</p> |
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| | | | part or in full with the previously mentioned requirements. |
|  | EMN NCP France | Yes | <p>1. For access procedures to French nationality, the state of health is not a condition for admissibility. Moreover, it is not taken into consideration at the stage of assessing whether the acquisition of citizenship is appropriate, since decisions refusing to grant the French citizenship to foreign nationals because of their state of health were annulled by the administrative courts in the early 2000s. It is therefore possible for disabled persons with a disability or a pathology, which affect their intellectual or mental abilities to acquire French citizenship.</p> <p>2. Although it is permissible for those foreign nationals to acquire French citizenship, the question of their assimilation to the French Community nevertheless arises. The condition of assimilation into the French community is provided for in article 21-24 of the Civil Code. Foreign nationals must prove their assimilation through a sufficient knowledge of French language, history, culture and society and the rights and duties granted by French citizenship as well as by adherence to the essential principles and values of the French Republic. As regards the level of knowledge of the French language, article 37 - 1 of the Decree of 30 December 1993 provides that persons whose disability or chronic inadequate health condition makes their language assessment impossible are exempt from the requirement, on production of a medical certificate, the model of which is determined by governmental order. Access to citizenship is adapted to the situation of the applicant.</p> <p>The same type of provision exists for acquisitions of French citizenship by marriage, namely Article 14 - 1 of the Decree of 30 December 1993.</p> |


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| | | | <p>On the other hand, as regards the knowledge of French history, culture and society, if disability or the alteration of mental or intellectual capacity prevents the evaluation, this may constitute an obstacle to the acquisition of citizenship.</p> <p>3. YES</p> <p>4.</p> <p>A distinction should be made as to whether the person has a judicial protection measure (judicial safeguard measure, curatorship or guardianship):</p> <ul style="list-style-type: none">— either the judicial protection measure put in place does not provide for assistance or representation for acts affecting the person or concerns only certain acts, including the signing of a declaration of citizenship or the application for citizenship, the adult protected will not be able to be assisted or represented and must sign up to the declaration on its own. However, if the major does not appear to be suitable for signing, an alert may be issued to the public prosecutor pursuant to Articles 430 and 431 of the Civil Code.<ul style="list-style-type: none">• or the protective structure provides for assistance or representation in respect of all acts affecting the declarant, citizenship applications shall, as appropriate, be subscribed by the protected adult assisted by the person responsible for protecting him or her or by the person responsible for protecting him or her, acting on behalf of the protected adult.— either the applicant has designated in advance one or more persons to represent him or her. That protection mandate does not deprive the applicant of its legal capacity. He or she can therefore continue to perform only acts falling within the scope of the mandate. However, if the applicant clearly does not appear to be fit to subscribe, an alert may be issued to the public prosecutor pursuant to Articles 430 and 431. <p>5.</p> <p>As indicated above (see question 2), the Decree of 30 December 1993 provides for a distinct language assessment modality for people with a disability or a chronic poor state of health. The</p> |
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| | | | <p>evaluation procedures are in fact eased, or even the evaluation may not be carried out, depending on the degree of disability or the chronic deficient health status.</p> <p>6. Same answer as above.</p> <p>7. The applicant's state of health justifying a derogation in the procedures for the language test, or a test waiver, must be justified by a medical certificate, the model of which is laid down in a joint order of the Minister for Foreign Affairs, Minister for Citizenships and the Minister for Health. The applicant's state of health may also be examined by a doctor appointed by the prefect.</p> |
|  | <p>EMN NCP Germany</p> | <p>Yes</p> | <p>1. Yes.</p> <p>2. No special procedure.</p> <p>3. YES</p> <p>4. A custodian can be legally appointed for people with a mental illness or a physical, mental or emotional disability. If the legal appointment of the custodian for the naturalization procedure provides for a reservation of consent, the consent of the custodian is required for the effectiveness of the procedural actions.</p> <p>5. No.</p> <p>6. Sufficient knowledge of German and legal and social order are required for naturalization. If this requirement cannot be met due to a physical, mental or psychological illness or disability, no evidence is necessary.</p> |

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| | | | 7. For the recognition of the exceptions according to number 6, a specialist certificate is regularly required, which must show the basis on which the diagnosis is based and how the impairment is presented in the specific case. |
|  | EMN NCP Greece | Yes | <p>1. yes</p> <p>2. This is normally done by naturalization.</p> <p>3. YES</p> <p>4. Their legally designated guardian, who is appointed by court order who in principle may be a family member or even a third party.</p> <p>5. At the moment they are merely exempt from the obligation to take an oath as naturalized persons.</p> <p>6. No. At the moment not.</p> <p>7. Not available.</p> |
|  | EMN NCP Hungary | Yes | <p>1. According to Section 15 of Act LX 1993 on Hungarian citizenship (hereinafter: Ápt.) the petition for citizenship shall be submitted in person if the petitioner has legal capacity, or by the legal representative if the petitioner has limited legal capacity or if incompetent.</p> |


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| | | | <p>2. By naturalization or repatriation.</p> <p>3. YES According to Ápt. the petition for citizenship shall be submitted in by the legal representative if the petitioner has limited legal capacity or if incompetent. In connection with a petition for naturalization and repatriation, or a declaration of reunification, the petitioner with limited legal capacity shall also be heard.</p> <p>4. See answer to Question 1.</p> <p>5. See answer to Question 6.</p> <p>6. The following shall not be required to take the Basic Constitutional Studies Examination:</p> <ul style="list-style-type: none">• Minors of limited legal capacity• Persons whose legal capacity has been limited by court in respect of citizenship matters• Incompetent persons• Persons who graduated in the Hungarian language school or educational institution or institute of higher education• Persons sixty years of age at the time of submission of the application• Persons who are able to verify of lacking capacity to take the exam due to suffering in a permanent irreversible sickness <p>Persons naturalized under Subsections (3), (3a), (6) and (7) or under Section 5 of Ápt. may ask – at the latest on the fifth day before the date specified for the citizenship oath or pledge of allegiance – to take it at a place other than the one indicated in the notice. If the naturalized person is legally</p> |
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| | | | <p>incompetent, the oath or pledge of allegiance shall be taken in his/her name by his/her guardian.</p> <p>Proof of proficiency in the Hungarian language may not be required in the case of persons who are legally incompetent.</p> <p>7. According to Subsection 6 of Section 3 of Government Decree No. 125/1993 (IX. 22.) for applications for naturalization which are based upon Subsections (1), (2) and (4) of Section 4 of the Ápt., if Subsection (2) of Section 4/A of Ápt. applies, the following shall be provided:</p> <ul style="list-style-type: none"> • Birth certificate of an incompetent minor • The ruling of guardianship or conservatorship of an incompetent adult • As regards a person of limited capacity provided for in Paragraph a) of Subsection (2) of Section 4/A of Ápt. <ul style="list-style-type: none"> ○ The birth certificate, if a minor ○ The ruling of guardianship or conservatorship, if a person whose legal capacity has been partially limited by court in respect of citizenship matters ○ The certificate or diploma from a school or educational institution or institution of higher education, or a certificate issued by the institution in question ○ A certificate from the competent healthcare service provider as proof of the applicant's health condition |
|  | EMN NCP Italy | Yes | <p>1. Yes.</p> <p>2. The law n. 91/1992 provides different forms of acquisition of citizenship. The only type of acquisition which is automatic regards cases of birth or adoption by Italian parents. The other types depend on application, such as acquisition for marriage or naturalization.</p> |


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| | | | <p>Persons with severe intellectual/mental disabilities can acquire the nationality through all the forms provided by law.</p> <p>There are no special procedural rules for persons with severe intellectual/mental disabilities: however, in practice, they are exempt from some requirements or duties (see Q.6).</p> <p>3. YES</p> <p>4. In case of severe intellectual/mental handicap, the applicant has to be represented by a legal tutor or a support administrator (“amministratore di sostegno”), appointed by a magistrate.</p> <p>5. Yes.</p> <p>6. First at all, we must reiterate that there is no a special procedure laid down by law. However, in practice and thanks to jurisprudence, some waivers have been provided.</p> <p>1) The decree granting Italian citizenship is effective only if the person to whom it is referred takes the solemn oath of allegiance to the Italian Republic (committing to respect the Constitution and laws) within six months from the notification of recognition decree (art. 10 of law 91/92). However, according the decision 258/2017 of the Constitutional Court, in case of persons with severe intellectual/mental disabilities such an obligation would constitute discrimination which prevent the effective social integration of the migrant. So, persons affected by severe intellectual/mental handicap are exempted by the duty of oath.</p> <p>2) For the same reason, also the requirement of a knowledge of Italian language may appear discriminatory in connection with disabled people.</p> <p>In general, according to art. 9 of law 91/92, the applicant has to demonstrate an Italian language knowledge equivalent to B1 level (art. 9.1 recently introduced by law n. 113/2018). Only holders of long-term residence permit and foreigner who subscribed the integration agreement.</p> |
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| | | | <p>Nevertheless, as expressly clarify on the governmental website (www.integrazionemigranti.gov.it), this agreement is not applied to some vulnerable categories, among which “people suffering from illnesses or disabilities which seriously limit self-sufficiency and determine serious linguistic and cultural learning difficulties (also unaccompanied minors, victim of human trafficking, exploitation or violence)”. So, it is reasonable to assume that also for the application for naturalization, persons with severe intellectual/mental disabilities are exempted from passing a certified Italian test.</p> <p>7. As said below, disabled people with severe mental intellectual/mental disabilities have to be assisted by a legal tutor or a supporting administrator, appointed by a judge, who has previously verified the truth and the severity of the declared disease (i.e. the incapacity of performing legal acts) on the basis of a medical evaluation.</p> |
|  | <p>EMN NCP Latvia</p> | <p>Yes</p> | <ol style="list-style-type: none"> 1. Persons with Group I and Group II disability and children with disability are released from testing the fluency in the Latvian language and knowledge of the basic principles of the Constitution of the Republic of Latvia, the text of the National Anthem, the basics of the history and culture of Latvia. 2. 1) Naturalization procedure; 2) Registration procedure for Latvian or Liv if in 1881 or later his or her ancestor had been permanently living in the territory of Latvia as it existed until 17 June 1940; 3) A child after reaching 15 years of age. 3. YES 4. If person severe intellectual/mental handicap court decides about person's ability to make |


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| | | | <p>decision or the right to legal representative to make decision.</p> <p>5. Mentioned categories are released from testing of language, knowledge of the basic principles of the Constitution, knowledge of the text of the National Anthem, the basics of the history and culture of Latvia.</p> <p>6. Application should be submitted in person or can be submitted by legal representative. As mentioned before, person is released from testing of language and basic knowledge of Latvia. Pledge of Loyalty to the Republic of Latvia upon Acquiring Latvian Citizenship should be given in person.</p> <p>7. If person severe intellectual/mental handicap court decides about person's ability to make decision or the right to legal representative to make decision.</p> |
|  | <p>EMN NCP Lithuania</p> | <p>Yes</p> | <p>1. Yes, such foreigner can apply for citizenship through a legal representative.</p> <p>2. Such foreigner has the right to acquire the citizenship of the Republic of Lithuania on all the grounds for acquiring citizenship provided by the Law.</p> <p>3. YES</p> <p>4. A legal representative.</p> <p>5. Yes.</p> <p>6. Persons for whom the level of high or medium special needs has been established in accordance with the procedures established by law, as well as persons with severe chronic mental and behavioral disorders, do not need to take examination of the Lithuanian language and the basic knowledge of the Constitution.</p> |

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| | | | <p>7. No specific document is required, but legal representative must provide a document certifying that such person has special needs, severe chronic mental or behavioral disorder. This certificate can be from a medical institution or a court decision appointing a legal representative (guardian) or similar.</p> |
|  | <p>EMN NCP Luxembourg</p> | <p>Yes</p> | <p>1. Yes.</p> <p>2. Those aliens are entitled to become Luxembourg nationals by all sorts of procedure. The following text however refers to the standard naturalization procedure.</p> <p>a) In accordance with articles 15(4) and 16(4) of the amended law of 8 March 2017 on Luxembourgish nationality, in case a person has intellectual or physical difficulties in learning a language or in acquiring knowledge, the law foresees the possibility to give reasonable accommodations to the person with special educational needs to reduce obstacles due to an impairment.</p> <p>The following reasonable accommodations can be made:</p> <ul style="list-style-type: none"> • <input type="checkbox"/> the layout of the classroom and/or the pupil's desk; • <input type="checkbox"/> a separate room for testing; • <input type="checkbox"/> an appropriate presentation of the questionnaires; • <input type="checkbox"/> increased time allowed for tests; • <input type="checkbox"/> additional breaks during the tests; • <input type="checkbox"/> relocation of tests outside the school to the home or an institution; • <input type="checkbox"/> use of technological aids and human aid to compensate specific impairments. <p>A reasoned request on reasonable accommodations can be introduced by the candidate a1) for the Luxembourg language test before the Director of the 'Institut National des Langues' (INL), a public administration under the authority of the Minister for Education, Children and Youth (article 15(4) of the Law).</p> <p>a2) for the test on the course on "Living together in Luxembourg" before the Director of the Department of Adult Education (SFA) of the Ministry for Education, Children and Youth.</p> |


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| | | | <p>On these requests, the respective Director decides or, if necessary, adapts or suspends, the reasonable accommodations for the Luxembourg language examination or for the test "Living together in Luxembourg". In order to do so, the director may seek the advice of the Reasonable Accommodation Commission.</p> <p>b) In accordance with articles 15(5) and 16(5) of the amended law of 8 March 2017 on Luxembourgish nationality, in case the physical or mental health condition makes it impossible for the person to learn the Luxembourg language or to acquire knowledge in the matters of the course "Living together in Luxembourg", the law foresees that upon reasoned request, the Minister of Justice may exempt the applicant from the Luxembourg language examination (article 15(5) of the Law) as well as from the course or the test on the course "Living together in Luxembourg" (article 16(5) of the Law).</p> <p>A certificate from a medical specialist must be attached to the request. The applicant may be heard by the Minister's delegate. In case of doubt, the Minister of Justice may order a medical expertise.</p> <p>3. YES</p> <p>4. Yes. See answer to question 2. The Minister of Justice may exempt the applicant with a disability from the Luxembourg language examination and from the course/ test "Living together in Luxembourg".</p> <p>5. See answer to question 2. The Minister of Justice may exempt the applicant with a disability from the Luxembourg language examination and from the course/ test "Living together in Luxembourg". In order to decide on the above-mentioned exemptions, the Minister of Justice will evaluate all the applicants' request after having received the medical certificate from a specialist and if necessary, in case of doubt, the medical expertise.</p> <p>6. See answer to questions 2 and 5.</p> |
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| | | | <p>7. In cases of a “legal” mental or physical handicap (tutelle), the naturalization application will be signed by the Court appointed guardian (tuteur), which can be a family member or a third person.</p> |
|  | <p>EMN NCP Netherlands</p> | <p>Yes</p> | <p>1. Yes.</p> <p>2. By naturalization. An applicant who is incapable of performing legal acts as a result of intellectual/mental disabilities can apply for Dutch nationality through an authorized person, provided that sufficient certainty can be obtained about the identity of the authorized person. The authorized representative must appear in person and must provide the necessary security of identity by presenting a valid proof of identity. The authorization must be written and signed by the person whose appearance in person is required. The authorized representative must provide a valid foreign travel document of the person concerned (together with the other information necessary for the assessment of the case).</p> <p>3. YES</p> <p>4. See the answer to question 2. An authorized person signs and files the application on the behalf of the applicant who has a severe intellectual/mental handicap.</p> <p>5. See the answer to question 6.</p> <p>6. Yes. Naturalization: - An applicant who is incapable of performing legal acts or who has a severe intellectual/mental or physical handicap does not have to appear in person when submitting a naturalization request; - An applicant does not have to come to the naturalization ceremony and does not have to</p> |


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| | | | <p>make the so called 'declaration of commitment' in person at the naturalization ceremony in case of severe intellectual/mental or a physical handicap.</p> <p>- Integration exam: If an applicant wants to become a Dutch citizen through naturalization, he/she must pass the integration course. In a number of cases a person who is incapable of performing legal arts does not have to take an integration exam.</p> <p>7. Naturalization: The Dutch legislation and regulations do not state how proof of intellectual/mental condition is demonstrated for the naturalization request.</p> <p>Integration exam: If the applicant has a serious mental or physical disability and cannot take the integration exam (with or without adapted exam circumstances) within five years, he/she will be relieved from the entire exam. The applicant must demonstrate that he/she is eligible for exemption.</p> <p>The applicant can demonstrate this with the following documents: Medical advice, not older than six months, from an independent medical advisor appointed by the Minister of Social Affairs and Employment. A decision by an integration officer of the Education Executive Agency (DUO) on behalf of the Minister of Social Affairs and Employment, stating that the applicant is permanently unable to pass the integration exam due to a mental or physical disability. This decision is not older than three years old.</p> |
|  | <p>EMN NCP Poland</p> | <p>Yes</p> | <p>1. Yes. it is</p> <p>2. Intellectually / mentally handicap may apply for the acquisition of Polish citizenship on the general principles set out in the Act of 2 April 2009 on Polish Citizenship (Journal of Laws of 2018,</p> |

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| | | | <p>item 1829, amended later. It does not provide for a separate procedure to be followed for persons unable to perform legal acts. However, it should be noted that in the special procedure of acquiring Polish citizenship via granting it by the President of the Republic of Poland, there is no obligation to present a certificate of knowledge of the Polish language, that is necessary in the procedure of acquiring Polish citizenship by recognition as a Polish citizen (administrative decision taken by a voivode/province governor)</p> <p>3. YES</p> <p>4. Legal guardian</p> <p>5. There are no separate provisions governing/regulating the application for the acquisition of Polish citizenship by such persons</p> <p>6. No, but it is worth mentioning that there are no such requirements under the procedure of granting Polish citizenship by the President of the Republic of Poland</p> <p>7. N/A</p> |
|  | <p>EMN NCP Portugal</p> | <p>Yes</p> | <p>1. YES. A minor or incapable children of a father or mother who acquires Portuguese nationality can also acquire it, upon declaration. The Central Registry Office has understood that, even in the case of naturalization, it is possible for a person with a disability to acquire nationality .</p> |


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| | | | <p>It has been understood that article 6, paragraph 1 of the Nationality Law stipulates that the government grants Portuguese nationality, by naturalization, to foreigners, who “are older”, it refers to people over 18, even though the interested party may be restricted in the capacity to exercise (exercise capacity) by itself, the right that the law grants him / her, of which he / she has the capacity to enjoy, being therefore legally represented.</p> <p>2. By declaration and the situation must always have been decreed by judicial decision, in order to define the legitimacy to file the application.</p> <p>3. YES</p> <p>4. Their legal representative</p> <p>5. In exceptional situations it is possible to request exemption, at the reasoned request of the interested party, from the presentation of any document that should instruct the request for naturalization, provided that there are no doubts about the verification of the requirements that this document was intended to prove, under the terms of the Article 26 of the Portuguese Nationality Regulation.</p> <p>6. In terms of proof of requirements, namely knowledge of the Portuguese language, it can be adapted to your ability to demonstrate knowledge of it, under the terms of paragraph 6, of article 25 of the Portuguese Nationality Regulation. In exceptional situations, it is still possible to request exemption, at the reasoned request of the interested party, from the presentation of any document that should instruct the request for</p> |
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| | | | <p>naturalization, provided that there are no doubts about the verification of the requirements that this document was intended to prove, under the terms of article 26 of the Portuguese Nationality Regulation.</p> <p>7. A reasoned request by the interested party, to submit any document that should instruct the application for naturalization, provided that there are no doubts about the verification of the requirements that this document was intended to prove, under the terms of article 26 of the Portuguese Nationality Regulation. The situation must always have been decreed by judicial decision, in order to define the legitimacy to file the application.</p> |
|  | <p>EMN NCP Slovakia</p> | <p>Yes</p> | <ol style="list-style-type: none"> 1. yes 2. by naturalization 3. YES 4. According to Art. 16a of the Act of the National Council of the Slovak Republic No. 40/1993 Coll. on Nationality of the Slovak Republic as amended, applications pursuant to Art. 8 on behalf of persons with court-restricted legal capacity or without legal capacity shall be filed by a court-appointed caretaker. 5. According to the Act of the National Council of the Slovak Republic No. 40/1993 Coll. on Nationality of the Slovak Republic as amended, mastering the Slovak language shall be verified by means adequate to the health condition of the applicant. The vow shall not be taken by children aged less than 14, by persons for whom it is impossible due to their health condition and persons |


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| | | | <p>without legal capacity.</p> <p>6. According to the Act of the National Council of the Slovak Republic No. 40/1993 Coll. on Nationality of the Slovak Republic as amended, mastering the Slovak language shall be verified by means adequate to the health condition of the applicant.</p> <p>7. A medical certificate, court decision</p> |
|  | EMN NCP Slovenia | Yes | <p>1. Yes.</p> <p>2. By naturalisation.</p> <p>3. YES</p> <p>4. The application is submitted by the legal representative or guardian for the special case.</p> <p>5. No.</p> <p>6. A person does not have to pass an exam in the Slovenian language due to health impairments that prevent daily communication.</p> <p>7. Hospital certificate or expert opinion.</p> |
|  | EMN NCP Spain | Yes | <p>1. Yes.</p> <p>2.</p> |


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| | | | <p>There are two possible situations:</p> <ul style="list-style-type: none"> • If the applicants are legally declared incapable, they are not required to pass any examinations, at all. • If their disability is not sufficient to be legally declared incapable, examinations adapted to the specific disability are available at the Instituto Cervantes, unit responsible for the integration exams (language and social and cultural knowledge) <p>3. YES</p> <p>4. Their legal representatives (parents or court appointed).</p> <p>5. They may be exempted of the integrations exams, if legally declared incapable, or they may be authorized to pass adapted exams.</p> <p>6. As for now, physical presence is required for the exams; however, other options are being studied for future implementation.</p> <p>7. If the applicant has been declared incapable, the court sentence is required. In cases of disabilities, certificate of the Autonomous Community (regional authority) granting the degree of disability and a medical certificate.</p> |
|  | <p>EMN NCP Sweden</p> | <p>Yes</p> | <p>1. Yes. In Sweden persons cannot be incapable of performing legal acts.</p> <p>2. Same as for everyone else.</p> |

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| | | | <p>3. YES</p> <p>4. Either the applicant him/herself or his legal guardian/deputy.</p> <p>5. No</p> <p>6. Sweden has no requirements of this kind for naturalization.</p> <p>7. Not applicable.</p> |
|  | <p>EMN NCP Norway</p> | <p>Yes</p> | <p>1. Yes, it is possible for aliens that are incapable of performing legal acts as a result of intellectual/mental disabilities to acquire nationality in Norway, but only through a guardian – see below.</p> <p>Please note: Anyone in Norway, who has reached the age of 18 and who is unable to attend to his or her interests due to mental illness, including dementia, mental retardation, intoxication, severe gambling addiction or severely impaired health, may be placed under guardianship if necessary.</p> <p>If a guardian is appointed for the person and they object: to the extent that the person has the legal capacity to retain, he or she can take legal action to regain control of his/her independence.</p> <p>A person may be deprived of legal capacity in personal matters in certain areas if there is a significant risk that he or she will act in a manner that is materially responsible for damaging his or her interests.</p> <p>A person deprived of legal capacity in personal matters cannot dispose of his or her own funds or undertake legal action unless otherwise decided. Such a person can therefore not represent himself in citizenship cases. It is the guardian who acts on behalf of the person.</p> |

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| | | | <p>2. Foreign nationals who are incapable of performing legal acts can be granted Norwegian citizenship by naturalization.</p> <p>3. YES</p> <p>4. Yes, as long as they fulfill the requirements for Norwegian citizenship.</p> <p>The guardian can submit an application for citizenship on behalf of the person placed under guardianship. He or she shall, as far as possible, hear the wishes of the person placed under guardianship before submitting the application for naturalization.</p> <p>If the applicant themselves is able to give written consent to becoming Norwegian, the authorities request that this document be included with the application. If the person under guardianship is deprived of the legal capacity, the guardian must emphasize what he or she thinks. Spouse or cohabitant should also make a statement.</p> <p>5. No, exceptions to the requirements for Norwegian citizenship are not made solely on the grounds that the applicant is deprived of legal capacity. See note below. If citizenship is denied to someone, it is <u>not</u> done so because a person is under guardianship.</p> <p>Please note: Anyone in Norway, who has reached the age of 18 and who is unable to attend to his or her interests due to mental illness, including dementia, mental retardation, intoxication, severe gambling addiction or severely impaired health, may be placed under guardianship if necessary.</p> <p>A person deprived of legal capacity in personal matters cannot dispose of his or her own funds or undertake legal action unless otherwise decided. Such a person can therefore not represent himself in citizenship cases. It is the guardian who acts on behalf of the person. (citizenship if denied, is <u>not</u> done so because a person is under guardianship)</p> |
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| | | | <p>6. Persons who are unable to complete the Norwegian language tuition within three years because they are seriously or chronically ill (or for reasons related to cognitive/learning abilities/old age), can be granted exemption from the requirement to have completed the tuition. We will also consider whether to grant the person an exemption from the requirement to have passed the test.</p> <p>7. Applications for citizenship filed by the guardian because the applicant is deprived of legal capacity, must contain the legal decision on guardianship.</p> |
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