

Pathways to citizenship by third-country nationals in Poland

The report was prepared by the European Migration Network in Poland, as part of the work on the synthetic report on Pathways to citizenship by third-country nationals in the EU.

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The report was prepared by the European Migration Network in Poland. Opinions expressed therein do not necessarily reflect the point of view of the institutions comprising the EMN and the European Commission. These entities are also not bound by the conclusions formulated in the report.

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Introduction

The current report is a national guide on the paths to obtain citizenship by third-country nationals. It was based on the 2019 European Migration Network study¹ which aimed to analyze and compare the different approaches taken by the EU Member States with regard to the acquisition of citizenship in a Member State by third-country nationals. The study focused in particular on the ordinary naturalization of new migrants in the EU and therefore largely precludes the acquisition of citizenship through special naturalization. Ordinary naturalization is "any acquisition of a citizenship after birth which the person did not previously hold, requiring submission of an application to public authorities and issue of a decision by them". This survey included an overview of the conditions and requirements for naturalization (e.g. length of legal stay, definition of legal stay, language skills, economic situation and housing) and the administrative procedures used by the Member States in order to establish whether a person qualifies for the acquisition of citizenship. Additionally, the study analyzed whether the Member States allow double (or multiple) nationality and - if they do - under what conditions. The study also aimed to examine how the acquisition of citizenship is linked to the integration policies of Member States, and whether naturalization is considered the final stage of the integration process or whether the acquisition of citizenship is intended to facilitate the integration process.

The European Convention on Citizenship², signed in Strasbourg in 1997, lays down the rules and regulations for the acquisition and loss of citizenship and the issue of multiple citizenship. So far, the convention has been signed by 20 EU Member States and Norway, while 13 EU Member States have ratified it. Poland signed the 1997 European Citizenship Convention in 1999, but has not ratified it.

While granting citizenship is a prerogative of the Member States, national legislation should be implemented with due regard to the EU law. This is particularly important because by establishing citizenship of the EU in 1992 under the Maastricht Treaty, all persons who are nationals of an EU Member State were granted a number of rights and privileges. Examination and comparison of specific provisions and rules in the Member States is important as the right of free movement of Union citizens means that a state's decision as to whom to grant or refuse citizenship can affect all the other Member States as well. In recent years, the acquisition of citizenship, along with the need to integrate migrants, has been under discussion in many of the Member States.

In Poland, the acquisition of Polish citizenship by third-country nationals is regulated by the following laws: the Act on Polish citizenship of April 2, 2009 (Journal of Laws of 2020, item 347), the Constitution of the Republic of Poland of April 2, 1997. (Journal of Laws of 1997, No. 78, item 483), the Act on Repatriation of November 9, 2000 (Journal of Laws of 2019, item 1472), the Act on the Polish Card of 2007 (Journal of Laws of 2019, item 1598) and the Code of Administrative Procedure of June 14, 1960 (Journal of Laws of 2020, item 256).

Pursuant to the Polish legal order, Polish citizenship may be acquired in the following procedures: by granting Polish citizenship, by being recognized as a Polish citizen, and by restoring Polish citizenship.

As in most of the EU Member States, the principal method of acquiring citizenship is by birth to parents who have Polish citizenship, irrespective of the place of birth. The *ius sanguinis* principle arises directly from the provisions of the Polish Constitution³ as well as the Act on citizenship⁴.

1. Report „Pathways to citizenship for third-country nationals in the EU Member States“ EMN Synthesis Report for the EMN Study 2019 https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_emn_study_synthesis_report_citizenship_final_en_0.pdf

2. The full text of the European Convention on Citizenship is available here: <http://libr.sejm.gov.pl/tek01/txt/re/1997c.html>

Recognition as a Polish citizen is made by issuing of an administrative decision, taken by a competent voivode at the request of a foreigner. The voivode's decision is not discretionary. The voivode is obliged to issue it when the conditions enumerated in the act are fulfilled, confirming the foreigner's actual ties with Poland. The refusal to be recognized as a citizen may only be issued on the grounds of constituting a threat to defense or security or the protection of public safety and order⁵. The administrative decision is subjected to judicial review, which, together with clear statutory requirements, is a guarantee of the predictability of the process of acquiring the citizen status.

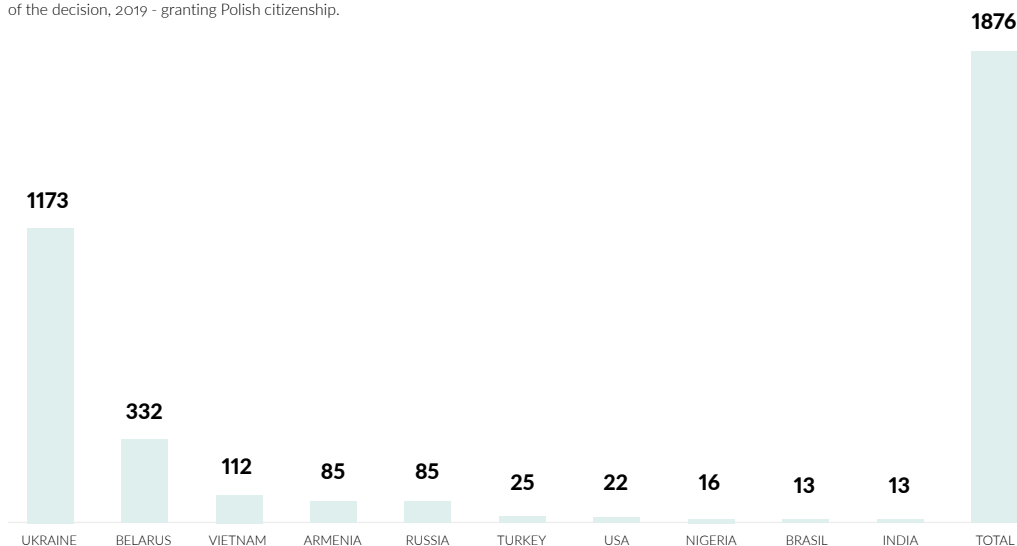
A significant change affecting the eligibility of applications for recognition as a Polish citizen is the requirement introduced in 2009 by the Citizenship Act. It requires an applicant to demonstrate knowledge of the Polish language at B1 level or to have a graduation certificate from a school in Poland or

abroad where Polish was the teaching language⁶.

Another scheme for obtaining Polish citizenship is the procedure of granting it by the President of the Republic of Poland. Notably, the President has discretionary power and is completely autonomous in granting of the citizenship. The decision of the President does not require the countersignature of the Prime Minister and is not subject to appeal to administrative courts, because the provisions of the Code of Administrative Procedure and the Act on proceedings before administrative courts do not apply here.

CHART 1

Number of people who acquired Polish citizenship by the date of the decision, 2019 - granting Polish citizenship.



3. The Art. 34.1. of the Constitution of the Republic of Poland clearly states that "Polish citizenship is acquired by birth to parents who are Polish citizens".

4. Art. 14 of the Act on Polish Citizenship: a minor acquires Polish citizenship by birth if: 1) at least one of the parents is a Polish citizen.

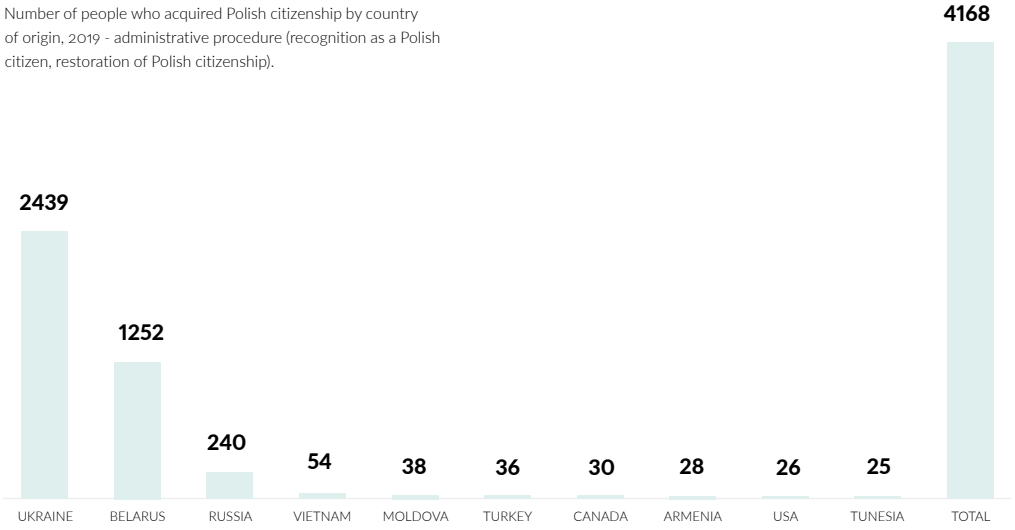
5. Article 31 of the Act on Polish Citizenship: A foreigner shall be re-

fused recognition as a Polish citizen if [...] 2) the acquisition of Polish citizenship by him constitutes a threat to the defense or security of the state or the protection of public safety and order.

6. Art. 30, point 2 of the Polish Citizenship Act.

CHART 2

Number of people who acquired Polish citizenship by country of origin, 2019 - administrative procedure (recognition as a Polish citizen, restoration of Polish citizenship).



1

Definitions

1.0 Definitions

According to the European Convention on Nationality, "**nationality**" means the legal bond between a person and the State and does not indicate that person's ethnic origin⁷. In a case before the Court of Justice of the EU, nationality was more precisely defined as "the special relationship of solidarity and loyalty between [a Member State] and its nationals and the reciprocity of rights and obligations underlying the bond of citizenship"⁸.

"**Multiple citizenship**" means the simultaneous possession of two or more citizenships by the same person. For the purposes of the study, the concept of "dual nationality" is used.

According to the EMN glossary⁹ the term "citizenship" is defined as "a specific legal bond between a person and his State, acquired through birth or naturalization, whether through declaration, choice, marriage or otherwise in accordance with national law".

It should be noted that according to the EMN glossary, some Member States distinguish between citizenship and nationality, while in the EU context the two terms are not distinguished and considered interchangeable. In countries where citizenship and nationality are distinguished, the concept of citizenship refers in particular to the rights and obligations of citizens, rights and obligations arising from the law.

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It is worth mentioning that, according to the definition from the Dictionary of the Polish Language, nationality means belonging to a given nation, as well

as a sense of belonging. Under Polish law, the concept of nationality has been defined in Art. 2 point 6 of the Act of 4 March 2010 on the 2011 National Population and Housing Census (Journal of Laws, item 277). In the aforementioned Act, nationality - national or ethnic affiliation - is understood as a declarative, based on a subjective feeling, individual feature of each person, expressing his emotional, cultural or parental relationship, a specific nation or ethnic community. The subjective sense of a specific nationality is therefore not a fact or a legal status. Therefore, it does not meet the threshold of the definition of nationality proposed by the European Migration Network, in which nationality is presented as a formal bond between a person and a state unrelated to ethnic origin. Also, the terms multinationality and dual citizenship in Polish are not identical and cannot be used interchangeably.

"**Acquisition of nationality**" refers to "any means of becoming a citizen, i.e. by birth or at any time after birth, automatically or non-automatically, by granting, declaration, option or request".

This study deals with the acquisition of citizenship through naturalization. "**Naturalization**" means "any method of acquiring citizenship after birth by a person who did not have a previous citizenship, which requires the submission of an application by that person or their legal representative, as well as an act of granting citizenship by a public authority". According to a recent report published by the European Parliament, a distinction is made between 'ordinary naturalization' - where the main grounds for the acquisition of citizenship is a specific period of residence in the country and 'special naturalization' - where the acquisition of citizenship is based on other considerations, such as family, ethnic / cultural ties or a special contribution¹⁰. Do celów niniejszego badania

7. Art. 2 a) European Convention on citizenship, full text available here: <https://rm.coe.int/168007f2c8>

8. Judgment of 2 March 2010, Rottmann, C-135/08, available here: <http://curia.europa.eu/juris/liste.jsf?num=C-135/08>.

9. Asylum and Migration Glossary 6.0, available here: https://www.emn.at/wp-content/uploads/2018/06/emn-glossary-6-0_en.pdf

10. European Parliament (2018 r.). Acquisition and loss of citizenship in EU Member States - Key trends and issues, available here: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2018\)625116](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2018)625116)

stosowana będzie pierwsza definicja, co oznacza, że nacisk kładzie się na obywateli państw trzecich nabywających obywatelstwo na podstawie procesu składania wniosku po upłygnięciu minimalnego okresu legalnego pobytu.

"Law of blood" refers to the "determination of citizenship"¹¹ of a person based on the citizenship of their parents (or one of the parents or a specific parent) at the time of birth and the acquisition of citizenship by that person (these two points in time differ when citizenship is acquired after birth).

In turn, **"law of the land"** refers to "the principle according to which a person's citizenship is determined on the basis of his country of birth". The different categories of law of the land are defined as follows:

- unconditional law of the land: based on birth.
Citizenship is automatically granted to those born in a state, notwithstanding any other conditions;
- conditional law of the land: based on certain

conditions, e.g. minimum period of residence in the parents' state;

- automatic dual law of the land: based on the birth of parents in the state. Children born in the state to foreigners may automatically acquire citizenship at birth if at least one of their parents was also born in that state;
- conditional dual law of land: based on certain conditions and the birth of parents in the state. Children born in the state to foreigners may acquire citizenship at birth if at least one of their parents was also born in that state, after meeting certain conditions, e.g. the minimum period of stay of parents.

11. According to the definition from the Asylum and Migration Glossary 6.0, citizenship/nationality: https://www.emn.at/wp-content/uploads/2018/06/emn-glossary-6-0_en.pdf

2

Legal overview

2.0 Legal overview

The law on Polish citizenship is regulated by the Act of April 2, 2009 on Polish citizenship (Journal of Laws of 2018, item 1829). It contains general principles and regulates the procedure and conditions for acquiring and losing Polish citizenship, confirming its possession or loss, as well as the competence of the authorities in these matters.

The act indicates the basic principle of acquiring Polish citizenship by birth, i.e. based on the principle of the law of blood (*ius sanguinis*). The principle of the law of the land (*ius soli*) remains as complementary, which effectively prevents cases of statelessness of children born or found in Poland, whose parents are unknown or who do not have any citizenship. The issue of preventing statelessness will be dealt with in more detail later in this report. In Poland, the rights of stateless persons referred to in the Convention are governed by the Act on Foreigners and the Act on Polish Citizenship.

Third-country nationals may obtain citizenship of a Member State in the following ways:

a) ordinary naturalization where, as mentioned above, the main basis for acquiring citizenship is a specific period of residence in the country. It is possible to distinguish the following procedures::

- granting by the President of the Republic of Poland - the President of the Republic of Poland is not limited in his constitutional powers by any conditions and may grant Polish citizenship to any foreigner, upon their request. (a prerogative resulting from Article 137 of the Constitution of the Republic of Poland).
- recognition as a Polish citizen (administrative decision of the competent voivode).

Polish citizenship may be acquired in an administrative procedure (by an administrative decision of a competent authority, i.e. a voivode). Foreigners who meet the conditions specified in the Act on Citizenship may apply for Polish citizenship by recognition (recognition

as a Polish citizen).

b) special naturalization where, as also mentioned above, the acquisition of citizenship is based on other considerations, such as family ties, ethnic and cultural ties or special circumstances. Among these procedures we distinguish the following:

- repatriation - a simplified path of acquiring Polish citizenship addressed to people of Polish origin displaced in the past on the territory of the former USSR and their descendants. Persons of Polish origin and their family members residing permanently in the territory of the present Republic of Armenia, the Republic of Azerbaijan, Georgia, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan or the Asian part of the Russian Federation may apply for repatriation. The procedure is initiated by submitting an application at a Polish consulate for a national visa for repatriation, which is then sent to the Ministry of Interior and Administration for approval. After fulfilling the statutory requirements, the consul issues a national visa for repatriation to the interested party. Crossing the border of the Republic of Poland on the basis of this visa results in the acquisition of Polish citizenship by the power of law.
- restoration of Polish citizenship - addressed to people who had Polish citizenship in the past and who lost it before January 1, 1999, pursuant to the provisions of the Act on citizenship.

It is worth mentioning that in Poland, third-country nationals most often obtain Polish citizenship through ordinary naturalization, both by administrative decision and by granting Polish citizenship by the President of the Republic of Poland.

3

Eligibility

3.0 Eligibility

3.1 Conditions and requirements for the acquisition of citizenship after birth through ordinary naturalization

Pursuant to the Art. 30 (1) of the Act on Polish Citizenship, a third-country national may acquire citizenship in administrative procedure if:

- He has resided continuously on the territory of the Republic of Poland for at least 3 years on the basis of a permanent residence permit, the EU long-term residence permit or permanent residence right and who has a stable and regular source of income in the Republic of Poland and the legal title to occupy a dwelling;
- He has resided continuously on the territory of the Republic of Poland for at least 2 years on the basis of a permanent residence permit, the EU long-term residence permit or permanent residence right, and at the same time:
 - a) has been married to a Polish citizen for at least 3 years or
 - b) has no citizenship;
- He has resided continuously in the territory of the Republic of Poland for at least 2 years pursuant to a permanent residence permit obtained on the basis of a refugee status granted in the Republic of Poland;
- He has resided continuously and legally in the territory of the Republic of Poland for at least 10 years and who meets all of the following conditions:
 - a) has a permanent residence permit, a long-term EU-resident permit or permanent residence right;
 - b) has a stable and regular source of income in the Republic of Poland and a legal title to occupy a dwelling;
- He has resided continuously in the territory of the Republic of Poland for at least a year on the basis of a permanent residence permit, which he obtained in connection with his Polish origin or with the Polish Card. The conditions for granting a permanent residence permit are specified in the Act on foreigners of 12 December 2013.

The statutory requirement to recognize a person as a Polish citizen is an uninterrupted stay. It depends on the type of permit obtained, which is certified with a residence card, the decision of the competent authority to grant a residence permit in the territory of the Republic of Poland.

Pursuant to the Act on foreigners (Journal of Laws 2020 item 35), the stay of a foreigner on the territory of the Republic of Poland, which is the basis for granting him a permanent residence permit, is considered uninterrupted, if none of the breaks in it was longer than 6 months and all breaks did not exceed a total of 10 months within the periods constituting the basis for granting him a permanent residence permit, unless the break was caused by:

- a foreigner's performance of professional duties or the provision of work outside the territory of the Republic of Poland on the basis of an agreement concluded with an employer whose seat is in the territory of the Republic of Poland, or
- accompanying the foreigner referred to in point 1 by his spouse or minor child, or
- a special personal situation requiring the foreigner's presence outside the territory of the Republic of Poland and lasted no longer than 6 months, or
- leaving the territory of the Republic of Poland in order to take part in internships or participate in classes provided for in the course of studies at a Polish uni

In the case of granting Polish citizenship by the President of the Republic of Poland - there is no requirement for the foreigner to be physically present in the territory of the Republic of Poland, hence the application for granting Polish citizenship by the President of the Republic of Poland may be submitted by a foreigner who does not meet the residence criteria (e.g. with a temporary residence permit or living outside Poland).

3.2 Necessary conditions for the acquisition of citizenship by a foreigner through administrative procedure

A foreigner applying for Polish citizenship is required to know the Polish language at a language proficiency level of at least B1. Assessment of the knowledge of the Polish language is made on the basis of a certificate confirming the knowledge of the Polish language (official certification, specified in the Act of 7 October 1999 on the Polish language), or having a certificate of graduation from a school in Poland or a school abroad with the Polish language of instruction. In the case of an application for Polish citizenship granted by the President of the Republic of Poland, knowledge of the Polish language is not required.

Persons applying for citizenship are not obliged to take the citizenship test for naturalization procedures, and Polish regulations do not provide for taking an

oath of allegiance to the state.

A foreigner applying for recognition as a Polish citizen or for granting Polish citizenship by the President of the Republic of Poland is obliged to document the sources of income (the Act on citizenship does not specify the minimum income necessary to acquire Polish citizenship). Documents confirming the source of income are a certificate of employment and earnings, employment contract, documents attesting conducting a business, tax declarations, etc. Additionally, a foreigner applying for recognition as a Polish citizen must have a place of residence, which is confirmed by a proof of purchase or a flat rental agreement. This requirement does not apply to cases of granting Polish citizenship by the President of the Republic of Poland.

3.3 National security

A foreigner is refused to be recognized as a Polish citizen if the acquisition of Polish citizenship by him constitutes a threat to the national defense or security of the state or the protection of public safety and order. The verification procedure in relation to a foreigner applying for the acquisition of Polish citizenship is carried out ex officio. Before issuing a decision on recognition as a Polish citizen, the administrative authority (the voivode competent for the place of residence) is obliged to apply to statutory authorities (Voivodship Police Chief, Director of the

Internal Security Agency's delegation, and, if necessary, other authorities) for information on whether the acquisition of Polish citizenship by a foreigner does not constitute a threat to the defense or security of the state or the protection of public safety and order. In the procedure of granting Polish citizenship by the President of the Republic of Poland, the body responsible for the verification procedure is the Minister of the Interior and Administration.

3.4 Specific groups of third-country nationals

There is a certain group of foreigners for whom the requirements for uninterrupted stay in the territory of the Republic of Poland are different. Pursuant to Art. 30 par. 1 point 3 of the Act on Polish Citizenship, foreigners who obtained refugee status in Poland must meet the requirement of uninterrupted stay in the territory of the Republic of Poland for at least 2 years on the basis of a permanent residence permit.

A foreigner who does not meet the conditions for granting the refugee status is granted subsidiary protection.¹² A foreigner who obtained subsidiary protection after receiving a residence permit may obtain Polish citizenship only on the basis of being granted by the President.¹³ Foreigners with a tolerated stay permit apply for Polish citizenship on general terms. A separate group are the people of Polish origin who, in order to obtain Polish citizenship by

¹² Act on granting protection to foreigners within the territory of the Republic of Poland, art. 15.

¹³ Act on Polish Citizenship art. 18.

recognition, must meet the requirement of uninterrupted stay in the territory of the Republic of Poland for at least 1 year on the basis of a permanent residence permit obtained in connection with Polish descent or the Polish Card.¹⁴

A separate, special group of foreigners in the context of obtaining citizenship in Poland are stateless persons. In September 2019, the UNHCR office in Poland prepared a document detailing the situation of stateless persons in Poland, the procedures for determining statelessness and the rights of stateless persons¹⁵. The material also analyzes why Poland is not a party to the statehood conventions of 1954 and 1961 and presents the obligations arising from these acts. Nevertheless, in the context of this report it should be noted that the current Art. 14 par. 2 of the Act on Polish Citizenship grants Polish citizenship by virtue of law by naturalization, that is by birth, in the case of children born on the territory of the Republic of Poland, whose parents are unknown, do not have any citizenship or their citizenship is unknown. Art. 15 of the Act also allows for the acquisition of Polish citizenship by a minor who has been found on the territory of the Republic of Poland and his parents are unknown.

In the above-mentioned UNHCR document, a stateless person may acquire citizenship through the procedure of granting it by the President of the Republic of Poland or the administrative procedure of recognition as a Polish citizen conducted by a voivode. The proceedings before the President are discretionary and do not provide for any formal requirement. The provisions of the Act on Polish Citizenship of 2009 are very general and only indicate that the President of the Republic of Poland may grant Polish citizenship to a foreigner. Another option for a stateless person is the procedure before a voivode. Pursuant to the Act, the voivode competent for the place of residence of the foreigner recognizes as a Polish citizen a foreigner who resided in the territory of the Republic of Poland uninterruptedly and legally for at least two years on the basis of one of the permanent residence permits (permanent residence permit, the EU long-term residence permit or permanent residence) and without any citizenship. However, an important issue which introduces some limitations to the use of the above-mentioned options by stateless persons is the requirement of documented, legal stay, which in the case of stateless persons often cannot be met.

14. Act on Polish Citizenship art. 30 par. 1 point 7.

15. Full text of the report available here: https://www.unhcr.org/pl/wp-content/uploads/sites/22/2016/12/UNHCR-Statelessness_in_Poland-POL-screen.pdf

4

Procedural aspects of the acquisition of citizenship in the Member State

4.0 Aspekty proceduralne dotyczące nabywania obywatelstwa w państwie członkowskim

4.1 Procedure of the acquisition of citizenship by third-country nationals through ordinary naturalization

Recognition as a Polish citizen

Recognition of a foreigner as a Polish citizen takes place at his request, which the foreigner submits to the voivode competent for the place of residence of the person/foreigner involved in the proceedings. The procedure ends with an administrative decision issued by the voivode.

A. Public bodies involved in procedures for the acquisition of Member State citizenship by third-country nationals:

- The voivode competent for the foreigner's place of residence in Poland: accepts the application, carries out a verification procedure, issues an administrative decision.

B. Required Documents

- documents confirming data and information presented in the application,
- official certificate of at least B1 level command of the Polish language, a certificate of graduation from a school in the Republic of Poland or a school abroad where Polish was the language of instruction.

The application for being recognized as a Polish citizen includes:

- the foreigner's personal details;
- address of residence;
- information on the foreigner's sources of livelihood in the Republic of Poland, his accommodation, professional achievements, political and social activity;
- personal details of the foreigner's spouse;
- information on the foreigner's previous applications for Polish citizenship, if any, and whether he held Polish citizenship.

C. Legally defined duration of the procedure

The procedure of the recognition as a Polish citizen (proceedings governed by the provisions of the Code of Administrative Procedure) lasts 2 months. The duration of the administrative procedure depends on the waiting period for responses from the authorities which the voivode asks for information, i.e. from the Voivodship Police Chief, the Commander of the Podlasie Border Guard Unit, the Director of the Internal Security Agency Delegation, the National Criminal Register). The actual waiting time for the voivode's decision does not exceed several months. Polish regulations do not provide for an accelerated proceedings under this procedure.

D. Costs

- Around 40 euro.

E. Right to appeal/grounds for appeal in case of refusal to grant citizenship/grounds for refusal

- Proceedings for recognition as a Polish citizen and proceedings for the restoration of Polish citizenship are conducted in accordance with the provisions of the Code of Administrative Procedure. Decisions issued in this regard are, as administrative decisions, subject to administrative as well as judicial control.
- A foreigner is refused recognition as a Polish citizen if he does not meet the obligatory conditions specified in the Act or if the acquisition of Polish citizenship by him constitutes a threat to the defense or security of the state or the protection of public safety and order.

Granting citizenship by the President of Republic of Poland

A. Public bodies involved in procedure of the acquisition of Member State citizenship by third-country nationals:

- The voivode or consul, depending on the foreigner's place of residence (foreign nationals living in Poland submit their applications for Polish citizenship through the voivode competent for the place of residence of the person concerned, while those living abroad – through the competent consul) – shall accept the application and forward it to the minister competent for internal affairs.
- The minister competent for internal affairs – conducts the verification procedure, prepares an opinion and submits it to the President of the Republic of Poland.
- The President of the Republic of Poland – issues a decision.

B. Required documents

- the foreigner's personal details;
- address of residence;
- information on the foreigner's parents and further ascendants, if they held Polish citizenship;
- information on having held Polish citizenship in the past, having lost it and the date of acquiring the citizenship of another country;
- information on the foreigner's sources of livelihood, his professional achievements, political and social activity;
- information on the foreigner's command of the Polish language;
- personal details of the foreigner's spouse;
- information on the foreigner's previous applications for Polish citizenship, if any.

C. Legally defined duration of the procedure

There is no legally binding time limit for completing the procedure of granting Polish citizenship by the President of the Republic of Poland (proceedings are not covered by the provisions of the Code of Administrative Procedure). The actual waiting time for the decision is currently up to 2 years (data from September 2019). Since the President is not limited in his constitutional powers by any conditions, including time limitations, he may grant citizenship, at his discretion, also in a short time.

It is important to mention that in proceedings for recognition as a Polish citizen, no discretion is applied (a foreigner who meets the requirements specified in Article 30 of the Act on Polish Citizenship can be considered to be a Polish citizen). Moreover, pursuant to Art. 36 sec. 2 of the Act on Citizenship, the voivode,

before issuing the decision, requests the Voivodship Police Chief, the director of the Internal Security Agency's branch office, and, if necessary, other authorities, for information whether the acquisition of Polish citizenship by a foreigner does not pose a threat to the defense or security of the state or the protection of public safety and order. If the acquisition of citizenship by a foreigner constitutes a threat to the state defense and security or the protection of public safety and order, a negative decision is obligatorily issued.

D. Costs

- There are no costs for applying in Poland. When applying abroad the cost is 360 euro.

E. Right to appeal/grounds for appeal in case of refusal to grant citizenship/grounds for refusal

- In the procedure of granting Polish citizenship by the President of the Republic of Poland the provisions of the Code of Administrative Procedure do not apply and the President's decisions are not subject to appeal to the administrative court. Therefore, it is not possible to verify the decision of the President of the Republic of Poland on the legal basis. Therefore, there is no information about the reasons for refusing to grant Polish citizenship.
- The application for granting Polish citizenship by the President of the Republic of Poland is filed by a person residing in Poland through the voivode competent based on the place of residence of the person concerned, and living abroad - through the competent consul. The voivode and the consul immediately forward the application to the President of the Republic of Poland through the minister responsible for internal affairs (the minister is a consultative body). The procedure ends with the decision of the President of the Republic of Poland.
- Granting Polish citizenship to parents and recognizing them as Polish citizens applies also to a minor remaining under their parental authority.

Granting Polish citizenship to one of the parents or recognizing them as a Polish citizens applies to the minor remaining under their parental authority if the other parent declares his consent or if the other parent does not have parental authority.

Procedure for the acquisition of citizenship by third-country nationals by special naturalization

- 4.2 A. Public bodies involved in procedures for the acquisition of Member State nationality by third-country nationals:
- a. Consul - accepts the application (persons residing in Poland may submit the application directly to the minister responsible for internal affairs);
 - b. The minister competent for internal affairs - carries out a verification procedure, issues an administrative decision.
- B. Required documents:
- foreigner's personal details;
 - address of residence;
 - a declaration of having Polish citizenship in the past and information about the circumstances of its loss;
 - an address of the last place of residence on the territory of the Republic of Poland before the loss of Polish citizenship;
 - curriculum vitae.

The application for restoration of Polish citizenship shall be accompanied by:

- documents confirming identity and citizenship;
- documents confirming the change of name and surname, if any;
- documents confirming the loss of Polish citizenship;
- a photograph of the person covered by the application.

The application for the reinstatement of the Polish citizenship is submitted on the form specified in the regulations.

C. Legally defined duration of the procedure
According to the Code of Administrative Procedure, the procedure lasts up to 2 months. If the documents are properly completed and there are no indications for the need of explanatory proceedings, in practice

Reinstatement of Polish citizenship

the deadlines are usually kept. The Internal Security Agency and the Police Headquarters have 30 days to respond to the issue of threats to public safety or order (Article 43 (3)).

D. Costs

- Approx. 40 euros.

E. Right to appeal/grounds for appeal in case of refusal to grant citizenship/grounds for refusal

- As in the case of recognition as a Polish citizen, there is no possibility of appealing against the decision. However, the act provides for submitting an application to the Minister of Interior and Administration for reconsideration of the case, and following that, the applicant has the right to appeal to administrative courts.

Repatriation

A. Public bodies involved in procedures for the acquisition of Member State citizenship by third-country nationals:

- Consul - accepts an application for a national visa for the purpose of repatriation, issues a decision on the applicant's Polish origin¹⁶, after obtaining the consent of the minister responsible for internal affairs issues a national visa for the purpose of repatriation or a decision on qualifying for a national visa for the purpose of repatriation;
- Minister responsible for internal affairs - carries out a verification procedure, gives consent to the consul to issue a visa or a decision on qualifying for a national visa for the purpose of repatriation. Crossing the border of the Republic of Poland on the basis of this visa results in the acquisition of Polish citizenship under the law.a.

B. B. equired documents to be attached to the

16. Art. 5 of the Repatriation Act: 1. A person of Polish origin is a person who declares Polish nationality and meets all of the following conditions: 1) at least one of his parents or grandparents or two

great-grandparents were of Polish nationality; 2) is able to prove his connection with Poland.

application

- an up-to-date photograph of the applicant, undamaged, in color, 35 mm × 45 mm in size, taken in the last 6 months prior to the date of submitting the application, of good quality, showing the image of the face from the top of the head to the top of the shoulders, so that the face accounts for 70-80% of the photograph, clearly showing the eyes and face against a uniform light background; the photo has to show a person without a hat and glasses with dark lenses, facing forward, looking straight ahead with open eyes, uncovered hair, with a natural expression and closed mouth;
- the applicant's curriculum vitae;
- a copy of the applicant's birth certificate;
- documents proving the applicant's current marital status;
- documents proving the place of permanent residence in the territory referred to in art. 9 sec. 1 point 3 of the Repatriation Act, i.e. the Asian part of the former USSR;
- evidence confirming Polish origin, as specified in art. 6 of the Repatriation Act¹⁷;
- other documents confirming the circumstances specified in the application for a national visa for the purpose of repatriation;
- a declaration that data contained in the application are true, under pain of criminal liability for making false statements.

A national visa for the purpose of repatriation may be issued to a person who - irrespective of the fulfillment of other conditions for issuing this visa - presents evidence of possession or ensuring conditions for settlement in the Republic of Poland, i.e. housing and livelihood (Article 12 (1) of the Act on repatriation).

The proof of meeting the conditions for settlement is a document confirming the legal title to a dwelling for a period of not less than 12 months and a declaration of employment or an employment contract for

a period of not less than 12 months.

An evidence that conditions for settlement are ensured is:

- a decision of the Government Plenipotentiary for Repatriation on granting a place in the adaptation center for repatriates;
- a resolution of the district council containing an obligation to ensure settlement conditions for a period of at least 2 years;
- a declaration of a Polish citizen, legal person or organizational unit without legal personality, established in the territory of the Republic of Poland, containing an obligation to ensure settlement conditions for a period of at least 2 years. The declaration of a Polish citizen may only refer to ascendants, descendants or siblings of that person.

C. Legally defined duration of the procedure

The provisions of the Act of 9 November 2000 on repatriation do not specify the time limit for issuing a national visa for the purpose of repatriation. The issuing of such a visa is the final element of a multi-stage procedure involving many authorities and the duration of which cannot be predicted.

An important factor influencing the duration of the procedure for issuing a national visa for the purpose of repatriation is the requirement for the applicant to present evidence confirming possession or ensuring conditions for settlement in the Republic of Poland, i.e. housing and sources of income. Only upon submission of such evidence, a consul may issue a visa. A person who meets the other conditions for issuing the above-mentioned visa, but does not meet the requirements to settle in Poland, cannot obtain a national visa for the purpose of repatriation. In such case of such a person, the consul issues a decision on qualifying for a national visa for the purpose of repatriation, and the visa will be issued only after presenting the conditions for settlement in Poland. The waiting period for the applicant to present the

¹⁷ Art. 6 of the Repatriation Act: 1. Documents confirming Polish origin may be documents issued by Polish state or church authorities, as well as by the authorities of the former Union of Soviet Socialist Republics, concerning the applicant or his parents, grandparents or great-grandparents, and in particular: 1) Polish identity documents; 2) marital status records or their copies or baptism records confirming the relationship with Poland; 3) documents confirming completion of military service in the Polish Army, containing an entry informing about Polish nationality; 4) documents confirming the fact of depor-

tation or imprisonment, containing an entry informing about Polish nationality; 5) identity documents or other official documents containing an entry informing about Polish nationality. 2. Other documents may also constitute evidence of Polish origin, in particular: 1) the rehabilitation of the deported person, containing an entry informing about his Polish nationality; 2) documents confirming the persecution of a person due to his Polish origin.

settlement conditions may be up to several years, especially in the case of repatriates applying for the possibility of settling in a specific location in Poland.

In addition, bearing in mind that crossing the border of the Republic of Poland on the basis of a national visa for the purpose of repatriation is associated with the acquisition of Polish citizenship and - in the case of some countries of origin - with the loss of citizenship held so far, as well as transferring their domicile to Poland, there are recorded cases of people who, after submitting an application for a national visa for repatriation, declare their will to come to Poland at a later date.

D. Cost

Consular activities undertaken on the basis of the Act of 9 November 2000 on repatriation are not subject to fees (Article 112 point 6 (b) of the Act of 25 June 2015 Consular Law - Journal of Laws of 2020, item 195 as amended).

The costs of participation in the Polish language course may be covered by the consul in case of persons awaiting repatriation who have consular decision to qualify for a national visa for repatriation (Article 18 (1) of November 9, 2000 of the Repatriation Act). These courses are organized at a request of the Ministry of National Education (Article 18 (3) of the Repatriation Act).

If a person who has been issued a national visa for the purpose of repatriation does not have sufficient funds to cover the costs of travel to the Republic of Poland, the consul may provide assistance to cover the costs of travel or flight and property transport to Poland (Article 17 (4) in conjunction with Article 17 (1) (1) of the Repatriation Act).

E. Right to appeal/grounds for appeal in case of refusal to grant citizenship/ grounds for refusal

A national visa for the purpose of repatriation will not be issued if:

- the applicant does not meet the statutory conditions for its issuance;
- the applicant has not presented sufficient resources for settling in Poland (in this case a visa will be issued only after submitting documents confirming sufficient resources or ensuring required conditions (Art. 12 in conjunction with Art. 11 of the Repatriation Act);
- there are grounds excluding issuing of a national

visa for the purpose of repatriation (Article 10a of the Repatriation Act), i.e. when the person concerned:

- 1) lost Polish citizenship acquired through repatriation, or
- 2) repatriated from the territory of the Republic of Poland or the Polish People's Republic on the basis of repatriation agreements concluded in the years 1944-1957 by the Republic of Poland or by the Polish People's Republic with the Belarusian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Lithuanian Soviet Socialist Republic or the USSR to one of the countries that are party to these agreements, or
- 3) acted to the detriment of the fundamental interests of the Republic of Poland during the stay outside the territory of the Republic of Poland, or
- 4) participated in or participates in the violation of human rights, or
- 5) their data are in the Schengen Information System for the purposes of refusing entry, or
- 6) it is required for reasons of national defense or security or for the protection of public safety and order, or
- 7) the data of the person is entered into the list of foreigners whose stay in the territory of the Republic of Poland is undesirable.

Consul's decision to refuse to confirm the Polish origin may be appealed against to the minister responsible for internal affairs, who is a higher instance authority in the above-mentioned cases (Article 5 (5) of the Repatriation Act). The appeal must be submitted through the consul issuing the decision within 14 days from the date of delivery of the decision (Articles 88 and 89 of the Consular Law Act).

An appeal against the decision of the minister responsible for internal affairs to refuse to grant consent to issue a national visa for repatriation or to issue a decision on qualifying for a national visa for the purpose of repatriation is an application for reconsideration, which must be submitted within 7 days from the date of service of the decision (Art. 106 § 5, Art. 141 § 1 and 2 and Art. 127 § 3 in connection with Art. 144 of the Code of Administrative Procedure).

Pursuant to Art. 52 § 3 of the Act of August 30, 2002 - Law on proceedings before administrative courts (Journal of Laws of 2019, item 2325), if a party has the right to refer to the authority that issued the

decision with a request for reconsideration of the case, the party may bring an appeal against that decision without exercising this right. Pursuant to Art. 53 § 1 and Art. 54 § 1 of this Act, a complaint may be brought to the Provincial Administrative Court in Warsaw through the Minister of Interior and Administration within 30 days from the date of delivery of the decision.

5

Double and multiple citizenship; citizenship and integration

5.0 Double and multiple citizenship; citizenship and integration

In Poland, dual citizenship is allowed, however, in accordance with the Citizenship Act (Article 3) - a Polish citizen who is also a citizen of another country has the same rights and obligations towards the Republic of Poland as a person who has only Polish citizenship. A Polish citizen may not invoke the simultaneously held citizenship of another country and the rights and obligations arising therefrom against the Polish authorities. However, it must be remembered that some professions (e.g. related to the defense of the country) are available to people who have only Polish citizenship.

The state integration policy treats the acquisition of Polish citizenship as the final stage of integration. At the moment, there are no studies or assessments showing that acquiring citizenship facilitates integration. Nevertheless, having Polish citizenship may be

a condition for access to certain professions (including legal professions), the possibility of holding offices and positions (civil service, police, etc.). The Electoral Code of January 5, 2011 (Journal of Laws of 2019, item 684) specifies in detail the provisions on electoral law. They regulate that only Polish citizens have right to vote in the parliamentary election, in the elections for the President of the Republic of Poland, as well as the elections for county councils and voivodship parliaments.

The Polish state does not undertake any special measures after granting Polish citizenship, aimed at supporting the new citizen in fulfilling their role of a citizen.



Summary

Summary

Polish legislation contains strictly regulated rules for the acquisition of Polish citizenship by third-country nationals. The unique nature of the procedure of granting citizenship, which lies within the exclusive competence of the President of the Republic of Poland, allows foreigners to apply for citizenship if they cannot meet certain conditions necessary to obtain citizenship in administrative procedure. As shown by this report, such a possibility is often used by third-country nationals, mainly from the former USSR countries. This happens despite the relatively long, on average, two-year waiting period for a decision.

Nevertheless, this procedure, due to the impossibility of contestation and appealing against the

President's decision to administrative courts, is a disputable matter, e.g. in the context of Poland's ratification of the citizenship convention.

As a rule, the acts of granting Polish citizenship and decisions on recognition as a Polish citizen are presented in a solemn manner, but it is not obligatory and it does not result from the provisions of law, but only from the practice of the authorities.

Publicly available information on the methods of acquiring Polish citizenship is published on the websites of state institutions.

Currently, no changes to the law regulating the issue of obtaining Polish citizenship by third-country nationals are envisaged.

