

EUDO CITIZENSHIP OBSERVATORY

NATURALISATION PROCEDURES FOR IMMIGRANTS ESTONIA

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February 2013

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Naturalisation Procedures for Immigrants

Estonia

Vadim Poleshchuk

1. Promotion

Estonia regained independence in 1991. In 1992, the Estonian Supreme Soviet by its decision¹ reinforced the Citizenship Act of 1938. Those who came to Estonia during the Soviet period, almost one third of the entire population in 1992² (mostly ethnic minority members), were not automatically recognised as Estonian citizens and became “people with undetermined citizenship” or (de facto) stateless. However, they were provided with the opportunity to naturalise.

The new Citizenship Act was adopted in 1995 (entered into force on 1 April 1995³). In addition to an Estonian language test (Article 8⁴) the new Act introduced a test on the knowledge of the Estonian Constitution and the Citizenship Act (Article 9). The simplified naturalisation procedure was offered to minors under 15 in case of naturalisation of their parents (Articles 13-14). Some exceptions were foreseen for disabled and persons born before 1 January 1930 (Article 34). After heated debates the Citizenship Act also introduced simplified naturalisation procedure for stateless minors under 15.⁵ In recent years any changes of the Citizenship Act have been predominantly technical.

There was no sizable immigration to Estonia after 1991. From 1992 - June 2012, a total of 154,349 persons acquired Estonian citizenship through naturalisation (most of whom used various simplified procedures). By September 2012, the number of stateless residents had fallen to 92,351 or about 7 per cent of the entire population. There were also 94,638 citizens of the Russian Federation, 5,412 Ukrainian citizens, 4,650 Finnish citizens, 2,788 Latvian citizens, 1,803 Lithuanian citizens and 1,513 Byelorussian citizens residing in Estonia. The total percentage of non-citizens in the registered population was about 16 per cent.⁶

In 2012, the percentage of ethnic non-Estonians in the whole population was 31 per cent.⁷ That means that about half of all the ethnic minority population still do not have the citizenship of their country of residence. In 2010 the Committee on the Elimination of Racial Discrimination reiterated its previous recommendation calling on Estonia to enhance efforts to reduce the number of people with undetermined citizenship and to examine further the reasons behind the reluctance of potential applicants to engage in the naturalization process with a view to improving the situation.⁸

¹ Riigi Teataja (State Gazette) 1992, 7, 109

² Population Registry data. Estonia.eu. Official gateway to Estonia, ‘Citizenship’ www.estonia.eu (30.09.2012)

³ Riigi Teataja I, 1995, 12, 122

⁴ Nowadays, the language requirements are set at B1 level.

⁵ Riigi Teataja I, 1998, 111, 1827

⁶ Population Registry data. Estonia.eu. Official gateway to Estonia, ‘Citizenship’ www.estonia.eu (30.09.2012)

⁷ Statistical Office of Estonia (SOE) (2012), *Public statistical database*. www.stat.ee (30.09.2012)

⁸ UN, Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Estonia, CERD/C/EST/CO/8-9, 23 September 2010, para. 15

In the frames of the Universal Periodic Review procedure the Estonian Government argued that “[t]he latest integration monitoring survey indicates that the interest in applying for Estonian citizenship (or citizenship of any country) has significantly decreased after the Russian Federation’s decision to waive visa requirement for holders of the Estonian Alien’s Passport.⁹ Further surveys confirm that the reasons for not applying for citizenship are mostly practical in nature and the increased difficulties for travelling to Russia after obtaining Estonian citizenship is one major reason. It should still be noted that the proportion of persons with undetermined citizenship among the Estonian population has dropped from 32 per cent in 1992 to 7.3 per cent in May 2010”.¹⁰

According to an Integration Monitoring study in 2008, Russian-speaking minority members believe that for ethnic minorities the main reasons for not participating in naturalisation procedures were poor Estonian language proficiency (92%) and overly demanding naturalisation tests (88%). There were also “practical reasons for not applying” (including travelling to Russia and other CIS countries).¹¹ These two reasons (a difficult exam, language learning failures) were most often cited as the main obstacles to naturalisation in the course of the 2011 Integration Monitoring study. In spite of some fluctuations interest in gaining Estonian citizenship remains high. In 2011, 64 per cent of stateless respondents claimed that they would like to get Estonian citizenship (as compared with 51 per cent in 2008).¹² Nevertheless, the tempo of naturalisation is quite modest considering the noticeable percentage of stateless permanent residents in Estonia (in 2007 there were 4,228 naturalised persons, in 2008 – 2,124, in 2009 – 1,670, in 2010 – 1,184, and in 2011 - 1,513).¹³

There is no political will to alter the basic principles of Estonian citizenship policies. According to the dominant approach, the access of Soviet era settlers to Estonian citizenship shall depend on their ability to pass naturalisation tests. Recent attempts of two opposition parties to amend the Citizenship Act in order to simplify access to citizenship for vulnerable groups (especially for the elderly and for stateless children) were not supported by the majority in the legislature.¹⁴ Under these complicated political conditions the Estonian Government puts emphasis on simple and rapid administrative procedures, information campaigns and language training of foreign residents (rather than on changing principles of naturalisation).

In general, the authorities are interested in raising the awareness of certain groups amongst the alien population regarding naturalisation procedures. For instance, there is an ongoing information campaign about procedures and benefits of naturalisation through the publicly funded Integration and Migration Foundation *Our People* (e.g. they communicate information about preparatory courses via a hotline). Previously the authorities organised information campaigns specifically aimed at parents of stateless children (2009), at schoolchildren (2008), etc. Plenty of such information is available online. For instance, *Our People* provides detailed answers to the following questions: 1. How can I become an Estonian

⁹ These passports are normally issued to (de facto) stateless Estonian residents.

¹⁰ National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1 – ESTONIA, A/HRC/WG.6/10/EST/1, para. 111

¹¹ Results for the answers: “yes, definitely” + “this also”. Nimmerfeldt, G., ‘Kodakondsus’ [‘Citizenship’], in Uuringu Eesti ühiskonna integratsiooni monitooring 2008 aruanne [Report of the Estonian society integration monitoring 2008], Tallinn: [MEIS], 2008, p. 131

¹² Lauristin M., Uus M., Seppel K., ‘Kodakondsus, kodanikuühiskond ja rahvussuhted’ [Citizenship, Civil Society and Ethnic Relations], in Integratsiooni monitooring 2011 [Integration Monitoring 2011], Tallinn: Poliitikauuringute Keskus Praxis, 2012, p. 14-15

¹³ Population Registry data. Estonia.eu. Official gateway to Estonia, ‘Citizenship’. www.estonia.eu (30.09.2012)

¹⁴ In 2011-2012 the opposition Centre Party of Estonia initiated the Bill no. 165, while the Social Democratic Party proposed the Bill no. 68. None of these bills was adopted by *Riigikogu*.

citizen? 2. Why should I become an Estonian citizen? 3. How can I prepare for the exams?¹⁵ The Foundation also maintains an Estonian language web-based tests homepage where people can find information on language knowledge levels and an interactive test environment that helps them to assess their knowledge of Estonian.¹⁶

The National Examination and Qualification Centre's website provides references to booklets about Estonian language exams, requirements etc. The website also specifies information: for whom is the exam intended?; when and where do the exams take place?; how to register for the exam; information for persons with special needs; consultations; how to find out the time and place for the exam; structure of the exam; foregoing the exam; exam results; the electronic certificates; re-examination; submitting an appeal; applying for a duplicate; compensation of language study expenses, etc.¹⁷ Similar information is provided regarding the exam on the knowledge of the Constitution of the Republic of Estonia and the Citizenship Act.¹⁸

It should be stressed that in Estonia a person may receive detailed information about all procedures and requirements from the authorities both in written form (within certain time limits) and orally. The same rules are applicable to naturalisation related procedures. First, according to the Response to Memoranda and Requests for Explanations Act¹⁹, governmental authorities shall provide explanations, free of charge, concerning legislation which is the basis for their operation. A response shall be provided without undue delay but not later than within 30 calendar days after the date of its registration (Articles 3 and 6). This procedure is used in the case of legally complicated questions. Second, on the basis of the Public Information Act,²⁰ a person may make the request for information to a holder of information (i.e. the migration authorities) either orally, addressing a holder of information directly or by telephone, or in writing, delivering a request for information personally or communicating it by post, fax or electronic mail. A request for information shall be complied with promptly, but not later than within five working days (Article 13 and 18).

According to the Administrative Procedure Act,²¹ an administrative authority is responsible for the display in its premises of important information concerning administrative proceedings (instructions for submission of documents, forms and instructions for completing them, etc.). Furthermore, it shall provide such information on its official Internet homepage if it has a homepage (Article 7 (2)). In practice, the Citizenship and Migration Department of the Police and Border Guard Board (CMD) maintains a hotline service (which covers also naturalisation issues) and information front desks in all offices; distributes written materials (brochures) and forms in all offices; ensures that all necessary materials, instructions, forms, etc are uploaded on the official homepage.²² All relevant printed materials, instructions, forms, etc are easily accessible and there is no need to distribute them through civil society organisations. It is worth mentioning that relevant information is available in three languages: Estonian, Russian, and English.

As for language test preparations, since the late 1990s, there has normally been provided an opportunity to receive reimbursement for training. Thus, a possibility of partial reimbursement existed in the framework of several projects implemented as a part of the national

¹⁵ Integration and Migration Foundation Our People. http://www.meis.ee/kodakondsuse_taotlejale_eng (30.07.2012)

¹⁶ Integration and Migration Foundation Our People. <http://web.meis.ee/testest> (30.07.2012)

¹⁷ National Examination and Qualification Centre. <http://www.ekk.edu.ee/90878> (30.07.2012)

¹⁸ National Examination and Qualification Centre. <http://www.ekk.edu.ee/91452> (30.07.2012)

¹⁹ Riigi Teataja I 2004, 81, 542

²⁰ Riigi Teataja I 2000, 92, 597

²¹ Riigi Teataja I 23.02.2011, 3

²² Citizenship and Migration Department of the Police and Border Guard Board. <http://www.politsei.ee/en/teenused/eesti-kodakondsus> (30.09.2012)

programme “Integration in Estonian Society 2000–2007”. Nowadays the State explicitly guarantees the reimbursement of all language training fees under certain circumstances (since January 2004: see Article 8-1 of the Citizenship Act). The upper limit of reimbursement is 384 EUR (September 2012).²³ At the moment there are also free of charge preparation courses related to the naturalisation exam on the knowledge of the Constitution and the Citizenship Act. Information about reimbursement and preparation courses is distributed widely, e.g. by the National Examination and Qualification Centre and the Integration and Migration Foundation *Our People*. The naturalisation tests and related public consultations are free of charge.

There is no exemption or reduction of naturalisation fees (which are quite moderate). There are lower fees for issuing of obligatory IDs (see below).

Organisation of citizenship festive ceremonies is a recent trend in Estonia (they are not foreseen in the Citizenship Act). A person may decide if he or she wants to participate. These ceremonies may be conducted by members of the Government of the Republic, the President of the Republic, etc.

2. Procedure and documentation

Estonian legislation related to naturalisation procedure is very detailed and relatively clear. Estonia is a unitary state and the procedure is the same in all regions.

The naturalisation procedure starts at the Citizenship and Migration Department of the Police and Border Guard Board (CMD). This body receives and checks the documentation supplied in person, by mail or by e-mail (with digital signature). According to general administrative procedure rules, the CMD is required to accept an application regardless of the deficiencies in it. If a person fails to submit the required documents together with an application or if there are deficiencies in the application as such, the CMD shall designate a term to the applicant for their elimination. If deficiencies are eliminated within a designated term, the application is deemed to have been submitted on time. If not, the CMD may refuse to review the application (Article 15 of the Administrative Procedure Act²⁴).

As in the case of providing general information about naturalisation procedures, the CMD shall provide information and other assistance to the applicant upon submission of the application and in the course of the administrative proceeding. Thus, according to Article 36 (1) of the Administrative Procedure Act, the CMD shall explain to a participant in a proceeding or to a person who considers submission of an application, at his or her request: 1) his or her rights and duties in the proceedings; 2) within which term the administrative proceeding is presumably conducted and which are the possibilities to expedite the administrative proceeding; 3) which applications, evidence and other documents must be submitted in the proceeding; 4) which procedural acts must be performed by participants in the proceedings.

The final decision regarding application is taken by the Government of the Republic with due consideration of a proposal drafted by the CMD (Articles 19 and 20 of the Citizenship Act).

Fully in line with the general principles of the administrative procedure, the CMD shall, before taking of an administrative measure or issue of an administrative act (by the Government), grant an applicant a possibility to provide his or her opinion and objections

²³ Riigi Teataja I 2004, 3, 11

²⁴ Riigi Teataja I, 23.02.2011, 8

(Article 40 (1)-(2) of the Administrative Procedure Act). In practice this right is used by those applicants whose applications might be negatively assessed in a proposal by CMD.

According to the Citizenship Act (Article 20 (2)), an order of the Government on the grant of the citizenship enters into force as of the date of signature unless a different date is provided in the order. The CMD will also notify the applicant about a final decision taken by the Government of the Republic regarding his or her application. When an order enters into force, a person may apply for citizen's IDs.

Documents submitted by adult applicants are enlisted in Article 12 of the Citizenship Act:

First, an *application form* (or a handwritten application). The form and the requirements are provided by the CMD.

Second, an *identity document* and one colour *photo*. It may be a passport or an ID of the country of citizenship, residence etc. Regretfully, there are no alternative means to prove identity specifically established in law.

Third, a handwritten *curriculum vitae*. An Estonian-language CV sets out the applicant's career, the time and the circumstances under which he or she settled in Estonia, any persons who arrived in Estonia together with him or her, the applicant's marital status and any changes during his or her residence in Estonia, all previous residences in Estonia, information concerning immediate family, and also any ties with foreign military, intelligence or security organisations. If the applicant was born in Estonia, he or she shall provide the time and circumstances under which his or her parents settled in Estonia.

Fourth, an applicant shall submit documents certifying *education* (i.e. a diploma or a reference), a document certifying the *previous career* (references, employments contracts, etc) and a document certifying *legal income*. As for the latter, any documents/references or other proofs might be provided regarding lawfully earned remuneration for work; parental benefits; unemployment insurance benefits; income received from lawful business activities or property; pensions; scholarships; alimony (maintenance support); benefits paid by a foreign state; subsistence ensured by family members earning legal income;

Fifth, a document certifying the payment of the *state fee*. It may be a receipt or a bank reference. In practice fees may be paid in the CMD offices in cash or by card.

There are no specific requirements that all these documents shall be produced in Estonian. However, documents shall be submitted by applicants in Estonian, Russian or English (or translated into these languages with notary certification and duly legalised). An application form shall be filled in and a CV shall be written in Estonian.

The acceptance of the naturalisation application for proceeding shall be decided within one month from its registration. Then after the lapse of 6 months a person shall confirm within a month's time in writing that he or she still wants to apply for citizenship (a sample of the confirmation is provided by the CMD). Furthermore, an applicant is supposed to submit a document certifying that he or she has been released from or will be released from previous citizenship (not applicable to stateless persons). Within three months after submitting of the confirmation, the documents will be forwarded to the Government of the Republic for making a final decision. These terms are based on the Citizenship Act or general administrative procedure rules (see below).

No other documents are required upon submission or confirmation by an ordinary applicant. However, additional documents might be required from those exempted from examinations. As was mentioned above, a naturalisation application may be submitted in person, by mail or by e-mail (with digital signature).

Numerous recommendations of the bodies of the United Nations and the Council of Europe are aimed at relaxing naturalisation requirements, especially for vulnerable groups. For instance, in 2011 the Committee on Economic, Social and Cultural Rights recommended that Estonia soften “the official language qualifications required for those who have long residence in the country and by granting Estonian citizenship to children born in the families of those persons”.²⁵ In its 2011 opinion the Advisory Committee on the Framework Convention for the Protection of National Minorities encourages the authorities to consider granting citizenship “to new-born children of stateless persons automatically, unless the parents object. Such an approach would not only have a strong symbolic significance but would also spare a considerable number of long-term resident families from having to go through a formal citizenship application process, which is considered by some to be a psychological barrier”.²⁶

In 2011 the Estonian NGO Legal Information Centre for Human Rights made the following recommendations to the authorities: “to ratify the Convention on the Reduction of Statelessness (1961) and the European Convention on Nationality (1997); to waive naturalisation tests for older generation and for minors aged 15-17; to simplify naturalisation tests for those settled in Estonia during Soviet era and their children; for stateless minors born to stateless parents in Estonia: to substitute simplified naturalisation procedure with a procedure of recognition as an Estonian national; to enhance informing alien population about naturalisation procedures and of bonuses to be naturalised”.²⁷

In practical terms major obstacles in access to citizenship may also be experienced by those permanent residents who have had to spend much time abroad (e.g. sailors).

It shall be also noted that fees paid for language courses are reimbursable only *post factum*. The fees paid for language courses may exceed the upper limit of State’s reimbursement. Language learning on the basis of a language other than Russian is often more expensive (and less accessible).

3. Discretion

In what follows we are going to provide details regarding *ordinary* naturalisation requirements (Article 6 of the Citizenship Act), step by step. There is no discretion of authorities as regards the following basic requirements:

Age. A person shall be at least 15 years of age.

²⁵ UN, Committee on Economic, Social and Cultural Rights, Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Estonia, 16 December 2011, E/C.12/EST/CO/2, para. 9

²⁶ Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Estonia, ACFC/OP/III(2011)004, 1 April 2011, para.48

²⁷ Comments by the Legal Information Centre for Human Rights to the National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1 – ESTONIA (A/HRC/WG.6/10/EST/1), January 2011. <http://www.lichr.ee> (30.09.2012)

Legal basis for stay in Estonia: an applicant shall have a residence permit of a long-term resident or the right of permanent residence – see exceptions below.

Residence census. An applicant is supposed to have lived in Estonia on the basis of a residence permit or the right of residence for at least eight years prior to the date on which he or she submits an application for citizenship and permanently for at least the last five years; have legally and permanently resided in Estonia on the basis of a residence permit of a long-term resident or the right of permanent residence for six months from the day following the date of registration of the application for citizenship (the notion of the permanent residence is defined by the law). Some exceptions are noted below. An applicant's residence shall be registered in the Population Registry.

Naturalisation tests. An applicant shall have knowledge of the Estonian language (at least at level B1) and of the Constitution of the Republic of Estonia and the Citizenship Act. This knowledge is checked on special exams conducted by the National Examination and Qualification Centre according to strict and transparent rules.

Income. An applicant is required to have permanent legal income which ensures his or her own subsistence and that of his or her dependants – the types of legal income are provided by the law.

Oath. An applicant shall take an oath: "In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia".

All these facts and circumstances (except for last two) are checked by authorities in official registries and databases.

Furthermore, there is one additional requirement - *to be loyal to the Estonian state*. It is subject to the discretion of the authorities. There are no instructions or detailed rules how to deal with it.

Additionally, authorities do have discretion to decide that (Article 21 of the Citizenship Act): 1) a person does not observe the constitutional order and Acts of Estonia; 2) a person has acted against the Estonian state and its security; forcibly attempts to change the constitutional order of Estonia. Under these circumstances a person shall not be naturalised. There are no guidelines how to deal with these requirements (at least those known to the public).

It seems, however, that *no* Government's discretion is permitted upon decision of naturalisation or resumption of citizenship in the cases when a person (Article 21):

1. submits false information;
2. as an Estonian citizen enters state public service or military service for a foreign state without permission from the Government;
3. joins the intelligence or security service of a foreign state or foreign organisation which is armed or militarily organised or which engages in military exercises;
4. has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed and whose criminal record has not expired or who has been repeatedly punished under criminal procedure for intentionally committed criminal offences - see exceptions below;
- 5) has been employed or is currently employed by foreign intelligence or security services;

6) has served as a professional member of the armed forces of a foreign state or who has been assigned to the reserve forces or has retired, and nor shall citizenship be granted to or resumed by his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement – see exceptions below.

In these cases the Government shall refuse to grant citizenship.

There are certain exceptions stipulated by the Citizenship Act. They may be divided into three groups.

The first group of exceptions includes special conditions for tests where no authorities' discretion is possible. Thus, people born prior to 1 January 1930 are granted exemption from the requirements related to the written part of the language examination (Article 34 (1)). Adults with restricted active legal capacity²⁸ shall not pass the examinations at all (Article 35 (1)). Disabled persons are fully or partially exempted from the examination requirements on the basis of a decision of an expert committee (Article 35). Stateless children born to stateless parents in Estonia (under 15) and children of Estonian (naturalised) citizens (under 15) are exempted from examinations (Articles 13 and 14). Some residency requirements do not apply to persons who settled in Estonia before 1 July 1990 (Article 33). Stateless children may naturalise solely due to their status.

The second group of exceptions deal with the general ban to naturalise subject to the Government's discretion (Article 21 (1-1)-(2)). Thus, a person who has been repeatedly punished under criminal procedure for intentionally committed criminal offences and whose criminal record has expired may be permitted to naturalise "taking into consideration the circumstances relating to the commission of a criminal offence and the personality of the offender". Additionally, a person who has retired from the foreign armed forces may be naturalised if he or she has been married for five years to an Estonian citizen by birth²⁹ provided that they are not divorced.

The third group concerns naturalisation for special merits or services (achievements in the areas of science, culture, sports or in other areas). The only requirements in this case are age, loyalty, income and oath (Article 10). This type of naturalisation is totally based on the government's discretion. Refusal to grant citizenship for achievements of special merit need not be substantiated.

In the benchmark decision of 20 October 2008 the Administrative Law Chamber of the Supreme Court made it clear that the acquisition of citizenship by naturalisation is not a fundamental right but a privilege. The state has been allowed a large margin of appreciation to decide the conditions of naturalisation and the control of courts is quite limited in the area. However, considering Article 12 (1) of the Constitution discrimination is banned when it comes to deciding naturalisation requirements. Unequal treatment of people in the naturalisation procedure shall have a reasonable basis.³⁰

²⁸ In Estonian law persons who have attained 18 years of age (adults) have full active legal capacity. However, persons who due to mental illness, mental disability or other mental disorder are permanently unable to understand or direct their actions, have restricted active legal capacity.

²⁹ The stateless Estonian resident and former Soviet military serviceman Vjatšeslav Borzov (who had married a naturalised Estonian citizen) filed a complaint against these rules with the UN Human Rights Committee. However, the Committee did not find in his case the alleged violation of Article 26 of the ICCPR (Borzov claimed discrimination based on his social origin and on the civil status of his spouse). Vjatšeslav Borzov v. Estonia. CCPR/C/81/D/1136/2002. UN Human Rights Committee (HRC). 25 August 2004

³⁰ Administrative Law Chamber of the Supreme Court, Decision of 20 October 2008 in case no. 3-3-1-42-08, section 28. Published Riigi Teataja, III 2008, 42, 288

There are the following state fees in the naturalization procedure (September 2012): application for Estonian citizenship - 12.78 EUR. No other fees shall be paid. Naturalization tests are free. A naturalised person shall apply for an ID card (obligatory for all citizens): 24.28 EUR (people under 15, disabled people, and old age pensioners - 6.39 EUR).³¹

4. Bureaucracy

There are certain official time limits that apply during the naturalisation procedure.

First, a naturalisation application shall be registered and accepted by the Citizenship and Migration Department of the Police and Border Guard Board (CMD) if together with the application the applicant submits all the documents which are required by the Citizenship Act and has paid the state fee. The decision regarding registration of the application by the CMD shall be taken within one month.

Second, the CMD shall issue a certificate to an applicant concerning the registration and acceptance of his or her application. The standard format for the certificate is established by the Government.

Third, an applicant shall, six months after the date on which his or her application is registered, give written confirmation to the CMD that he or she still wishes to acquire citizenship and that he or she complies with the conditions provided for in the Citizenship Act, and shall submit a certificate which proves that he or she has been released from his or her previous citizenship or will be released in connection with the acquisition of Estonian citizenship or that he or she is a stateless person. This confirmation shall be provided within one month after the expiry of the term of six months. Otherwise the procedure shall be terminated and the applicant shall be notified about it in writing.

Fourth, if a person complies with all the conditions the CMD shall submit the applicant's documents together with its substantiated proposal to the Government within three months for a decision to be taken on the grant of Estonian citizenship.

Fifth, the Government of the Republic takes the decision. Regretfully, no time limits are established for this body.

To summarise the above-mentioned rules based on Articles 19 and 20 of the Citizenship Act:

- registration of the application – one month;
- confirmation by an applicant – within one month after the expiry of the term of six months after the date of registration;
- documents are submitted to the Government by the CMD – within three month;
- the Government takes a final decision – no time limits.

While there are no time limits for the Government of the Republic to make a final decision regarding an application, these decisions are normally taken within a reasonably short period of time.

³¹ Police and Border Guard Board. www.politsei.ee (30.09.2012)

5. Review

Estonian legislation provides for the right to appeal against a naturalisation decision and a decision related to language or integration tests.

Exam results can be disputed within ten days of being informed of the result. In order to appeal, an application must be submitted to the head of the National Examination and Qualification Centre (an institution that conducts exams), stating the time and place of the examination and the applicant's personal data. The board of appeal for the exam will review the exam paper and make its decision known within 30 days.³² The procedure described above is similar to that of typical challenge proceedings provided for in the Administrative Procedure Act (Chapter V).

The board's decision shall be regarded as an administrative act. This decision may be appealed against in the administrative court within 30 days. Then the appeal procedure may continue at all court levels (district courts, the Supreme Court).

The Government's decision to grant or to refuse to grant citizenship is an administrative act which may be appealed in an administrative court at all levels.

The Citizenship and Migration Department of the Police and Border Guard Board (CMD) may also issue administrative acts or take administrative measures that may be appealed, first, in the CMD (non-obligatory pre-trial challenging proceedings) and, second, in the administrative court.

According to the general principles of administrative procedure, an administrative act shall be clear and unambiguous. The reasoning for the issue of an administrative act shall set out the factual and legal basis for the issue. An administrative act shall contain a reference to the possibilities and place of and terms and procedure for the challenging of the administrative act (Article 55-57 of the Administrative Procedure Act). All these requirements are routinely observed in practice.

The administrative court may (Article 5 of the Code of the Administrative Court Procedure³³):

- 1) annul an administrative act or its part;
- 2) oblige to issue an administrative act or to take an administrative measure;
- 3) prohibit to issue an administrative act or to take an administrative measure;
- 4) oblige to pay compensation for damage caused in public law relationships;
- 5) make a precept to correct consequences of an administrative act or measure;
- 6) claim an administrative act legally void, claim an administrative act or measure illegal and establish facts important in public law relationships.

In the case of a decision of the board of appeal, the decision of the Government, etc an action for annulment of an administrative act may be filed with an administrative court within thirty days after the date when a person was informed about the decision (Article 46 (1) of the Code of the Administrative Court Procedure). An applicant has the right to appeal against a judgment of an administrative court to a district court (second instance) within thirty days after the judgment is made public (Article 181 (1)). A judgment of a district court may be appealed within thirty days after the court judgment is made public (cassation procedure) (Article 212 (1)). The third court instance is the Supreme Court.

³² National Examination and Qualification Centre. <http://www.ekk.edu.ee> (30.07.2012)

³³ Riigi Teataja I 23.02.2011, 3

