

EUDO CITIZENSHIP OBSERVATORY

NATURALISATION PROCEDURES FOR IMMIGRANTS FRANCE

Abdellali Hajjat

February 2013

European University Institute, Florence
Robert Schuman Centre for Advanced Studies
EUDO Citizenship Observatory

***Naturalisation Procedures for Immigrants
France***

Abdellali Hajjat

February 2013

EUDO Citizenship Observatory

Migration Policy Group

in collaboration with

Robert Schuman Centre for Advanced Studies

Naturalisation Procedures Report, RSCAS/EUDO-CIT-NP 2013/3
Badia Fiesolana, San Domenico di Fiesole (FI), Italy

© 2013 Abdellali Hajjat

This text may be downloaded only for personal research purposes.
Additional reproduction for other purposes, whether in hard copies or electronically,
requires the consent of the authors.

Requests should be addressed to eucitac@eui.eu

The views expressed in this publication cannot in any circumstances be regarded as
the official position of the European Union

Published in Italy
European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy
www.eui.eu/RSCAS/Publications/
www.eui.eu
cadmus.eui.eu

Research for EUDO Citizenship Observatory Reports has been jointly supported by the European Commission grant agreement HOME/2010/EIFX/CA/1774 ACIT and by the British Academy Research Project CITMODES (both projects co-directed by the EUI and the University of Edinburgh).

The financial support from these projects is gratefully acknowledged.

For information about the project please visit the project website at <http://eudo-citizenship.eu>

Naturalisation Procedures for Immigrants

France

Abdellali Hajjat

1. Promotion

In the past 10 years, the French government has neither run nor funded campaigns to help applicants to apply for naturalisation. There is no promotion service specifically for naturalisation applicants but every prefecture has a specific naturalisation office where applicants can find information. In each prefecture, the naturalisation service provides information about the procedure, the application form and documents required by the authorities. In a few regions, applicants can go to local state-funded organisations that help them to check their naturalisation application. For example, in Lyon the government funds a local organisation called “Point information médiation multiservices”¹. Information about the procedure of naturalisation is available in every prefecture (written materials) and online². So there is both an online and physical distribution of application forms. But there is only physical distribution of application forms and applications cannot be submitted online.

There is no free language or integration tests for naturalisation and no publicly-run or subsidised language or integration course for naturalisation: applicants must pay courses given by authorized institutions³, even if the applicant has a degree from a French-speaking country (like Belgium). Language or integration courses are given by authorized language institutes such as “Centre international d'études pédagogiques” (www.ciep.fr), “Chambre régionale de commerce et d'industrie” (Paris: www.fda.ccip.fr), ETS-Global (www.fr.etsglobal.org), BULATS (www.bulats.org), etc. The cost is between 48 and 120 euros⁴, added to the official fee for naturalisation (55 euros). Exemptions or reductions are possible on economic grounds (e.g. income or poverty)⁵.

At the end of the decision-making process (see below), citizenship ceremonies are required and involve public dignitaries (mayors, prefects or another officer from the prefecture). A specific decree specifies the requirements for local authorities when organising a ceremony⁶. The idea of a ceremony for the new French nationals was initially proposed in 1988 by the report of the Commission on Nationality. In 1993, an inter-ministerial circular allowed the prefectures to organise ceremonies where decrees of naturalisation were formally

¹ See: <http://www.rhone.gouv.fr/web/98-naturalisation.php> and <http://www.pimms.org/web/lib/popupAgence.jsp?currentPubId=450>

² Examples in Paris, Seine-Saint-Denis and Rhône : <http://www.prefecturedepolice.interieur.gouv.fr/Vos-demarches/Ressortissants-etrangers/Vous-demandez-la-nationalite-francaise/La-naturalisation-et-la-reintegration-dans-la-nationalite-francaise> ; http://www.seine-saint-denis.pref.gouv.fr/DEMARCHESPARTICULIER_naturalisation.html ; <http://www.rhone.gouv.fr/web/98-naturalisation.php>

³ For example, see: http://www.seine-saint-denis.pref.gouv.fr/pdf/etranger/liste_organismes.pdf

⁴ See *Le Monde*, 27 April 2012: http://www.lemonde.fr/societe/article/2012/04/27/en-quete-de-la-nationalite-francaise-l-examen-d-une-vie_1691300_3224.html

⁵ See: <http://vosdroits.service-public.fr/F15832.xhtml>

⁶ Circulaire interministérielle DPM/N3 n°2007-63 du 9 février 2007 aux cérémonies d'accueil dans la citoyenneté française.

given to the new citizens. These ceremonies remained, however, non compulsory and experimental. The 24 July 2006 Law goes further and creates a new chapter in the Civil Code, entitled ‘On the ceremony of reception to citizenship’ (art. 21-28 and 21-29). In the six months that follow their acquisition of French nationality, ‘new citizens’ are invited to this ceremony: that is, those who became French by decree, reintegration, declaration after marriage, or those who were born in France to foreign parents. The ceremony is organised by the prefect in each *département* (in Paris, by the police prefect) or the city mayor with the authorisation of the prefect. The explicit rationale behind this ceremony concerns the symbolic ‘defence’ of republican principles against a perceived ethnic threat: whereas the ceremony symbolises former foreigners’ integration into the national community, the official discourse emphasises the otherness of the new naturalised people and suggests that they aren’t completely French⁷. But, interestingly, the assessment for the first year of implementation of these ceremonies by the Ministry of Immigration states that 96 per cent of all the ceremonies conducted in 77 departments of metropolitan France went without any incident.

2. Documentation

The first step is for naturalisation applications to be submitted to the prefecture office. The decision process changed completely in 2010. Until 2010, there were two levels of decision: the prefecture processed the case and gave its opinion on the application, but it was the national administration in charge of naturalisations (Under-Direction for the Access to Citizenship) that made the final decision. Since 2010, every prefecture is able to make a decision alone and the national level intervenes only in positive decisions. So the prefecture must check whether the application is correct. It checks the documentation when the application is first submitted, and again before a decision is taken. If some documents are not correct, the service sends the applicant a letter asking him/her to submit the right documents.

The documentation that applicants must include in their application is very extensive so that the administration checks the applicant’s *identity, income, legal residence, health, morality, assimilation, personal links* to the country and his/her *children’s education*. Thus, the applicant must provide a proof of *identity* (copy of the birth certificate and its translation by a certified translator, documents mentioning parents’ dates and places of birth and marriage, copy of marriage certificate and its translation, decision of legal separation or divorce decree(s), PACS certificate, etc.), a proof of *regular income* (job contract, job centre registration, tax notices, etc.), a proof of *legal residence* (duration of five years, valid resident permit [except EU residents], passport, lease, notarised deed of ownership, etc.), a proof of ‘*good morality*’ (criminal record), a proof of *linguistic assimilation* (French degree, “Dipôme initial de langue française” or B1-level degree from an authorized language institute), a proof of *personal links* to the country (French national identity card, or nationality certificate, or birth certificate mentioning French nationality, belonging to the applicant’s, parents, brothers, sisters, partner or spouse), and a proof of his/her *children’s education* (school certificate, child’s “health book” mentioning his/her vaccinations, etc.).

Moreover, the naturalisation service asks other authorities some information about the applicant. It systematically asks for a report from the police (“Direction départementale de la

⁷ For more details, see Mazouz, S. (2007), ‘Des Français pas tout à fait comme les autres. Les cérémonies de remise des décrets de naturalisation et les paradoxes de la catégorie du naturalisé’ [French but Not Quite Like the Others. The Ceremony Conferring the Naturalisation Decrees and the Paradoxes of the ‘Naturalised’ Category], *Mouvements*. www.mouvements.info/Des-Francais-pas-tout-a-fait-comme.html

sécurité publique”) and the intelligence services (“Direction centrale du renseignement intérieur”). Other authorities are contacted according to the profile of the applicant: the local “Chambre de commerce et d’industrie” if he/she is a businessman/woman; the “Ordre des avocats” if he/she is a lawyer, etc.

In the naturalisation office, the civil servant performed language assessment until 1st January 2012. As early as 1927, assimilation became a requirement for naturalisation, as the foreigner had to prove that he or she was sufficiently fluent in the French language and ‘culturally assimilated’. The 2003 law reinforced this condition and added the requirement of proving sufficient knowledge about the ‘rights and duties’ of French citizenship. The deputies who drafted this amendment stated that it was to ensure that newly naturalised citizens understood the significance of ‘becoming a citizen’. The ‘rights and duties’ of 2003 became the ‘essential principles and values of the Republic’ in the 2011 law, which also introduced a test on the history and ‘culture’ of France. Between 1927 and 2011, ‘linguistic assimilation’ was evaluated during a 5 to 20 minutes interview by a civil servant who fulfils a ‘*procès-verbal d’assimilation*’. Sociological investigations proved that the linguistic exam was difficult to pass for certain applicants, above all women, who didn’t have enough cultural capital: among applicants rejected for ‘lack of assimilation’, 80 per cent are women⁸.

But since 1st January 2012, ‘linguistic assimilation’ is no longer assessed by a civil servant: applicants must present a linguistic diploma, awarded by an institution accredited by the French State, that certifies the B1 level of the Common European Framework of Reference for Languages⁹. So the language degree is sufficient. The courses given through the ‘Contrat d’accueil et d’intégration’ (CAI) are enough to meet naturalisation requirements, since applicants have a DILF (‘Diplôme initial de langue française’). But, still in 2012, all applicants for naturalisation did not sign the CAI.

There is no academic account about its implementation but a sociologist considers that the matter of women constitutes one of the specific issues addressed in the CAI. Indeed, “the public discussions of the integration contract articulate the reference to non-negotiable values of the Republic while giving central importance to gender equality” and stresses the “limitations of such a usage of the ‘women’s cause’—it may play a significant role in somewhat stigmatizing migrants and may sometimes be used to justify increasingly restrictive immigration policies¹⁰”.

If linguistic assimilation is no more assessed by civil servants, they still have to assess applicant’s knowledge of the “rights and duties” conferred by French nationality. According to Article 21-24 of the Civil Code, the outcome of the assimilation interview is the signature, by the applicant, of the ‘charter of rights and duties of French citizens’, which recalls the principles, values and essential symbols of the French Republic (decree of 30 January 2012). The decree specifies what kind of knowledge is evaluated with the help of questions asked in the form of a multiple-choice questionnaire (MCQ) by the civil servant. For example, the questionnaire included questions such as “Who do you associate with the Arc de Triomphe? (1) Napoleon (2) The General de Gaulle (3) Julius Caesar”.

The decree provided that the questionnaire should enter into force no later than 1st July 2012. But the new Interior Minister, Manuel Valls, postponed the use of MCQ when he came

⁸ For more details, see Hajjat, A. (2012), *Les frontières de l’“identité nationale” : l’injonction à l’assimilation en France métropolitaine et coloniale* [The Boundaries of ‘National Identity’: The Injunction to Assimilate in Metropolitan and Colonial France], Paris: La Découverte, pp. 121-233.

⁹ Decree n°2011-1265, 11 October 2011.

¹⁰ Hachimi-Alaoui, M. (2012), « L’intégration sous condition : valeurs non négociables et égalité des sexes », *Canadian Journal of Women and the Law*, Volume 24, Number 1, pp. 114-134.

into office, and announced, on 18 October 2012, that it was abandoned. The circular of 16 October 2012 indicates that the degree of knowledge will be assessed through natural conversation, and not through an ‘artificial’ questionnaire. According the Mennucci Report, the questions “must remain simple while remaining precise”, an “indicative list of questions will be provided in the coming weeks” and “an interview guide assimilation will be sent shortly to the prefectures¹¹”.

A second circular of the Minister of the Interior, also dated 16 October 2012, recalls that the applicant must sign the charter and if he/she refuses to sign, the application would be declared inadmissible for ‘lack of assimilation’. If the application is approved, the charter is given to the new French citizens during the ceremony of reception in French citizenship (see above).

3. Bureaucracy and discretion

The French procedure is totally discretionary for every requirement for naturalisation. Every requirement is based on a standard interpretation specified in national law and ministerial circulars and decrees, but every decision must be grounded and based on specific documents. Actually, there are six requirements that the applicant must fulfil: *age* (18 years-old), *residence* (five years), *income*, *health*, *morality* and *assimilation*. But there are also exemptions, provided by law (no discretion), to some requirements that could be made during the procedure.

For instance, the exemption of the five-years residence is possible for the applicant who did his/her military service in the French army, is a political refugee, comes from a country where French is the only one or one of the official languages (and if French is his/her mother-tongue or if he/she attended a French school for five years) and asks for “reintegration” (he/she was a French national before taking another nationality). The exemption of the language/integration exam is provided for the applicant who is a refugee or a stateless person and if he/she is elderly and has a physical disability.

As the Article 21-25-1 of the Civil Code puts it, the maximum length for procedure (from receipt of all documents to decision) is 18 months, but the length is shorter (12 months) if the applicant has been a permanent resident in France for more than 10 years, and possible extensions are shorter in length than the initial time limit (3 months). The prefecture must transmit its decision to the Under-Direction for the Access to Citizenship in less than 6 months (Article 2 of the 28 December 2009 Decree).

Since the 2010 reform, every prefecture can decide to reject or accept the application and notifies the applicant. If the prefecture rejects the application, the applicant receives the negative decision by mail. If the decision is positive, the file is sent to the Under-Direction for Access to Citizenship (ministry of Interior), which can confirm or block the positive decision. The foreign resident officially becomes a citizen when his/her name is published on the *Journal Officiel*, even if he doesn't attend the ceremony. The renunciation of foreign citizenship is not required.

Investigations into eligibility have always had lots of room for ambiguity and personal interpretation as to how much rigour is required¹². For example, starting in the mid-1970s the

¹¹ Patrick Mennucci, « Immigration, asile et intégration », avis n°258, Assemblée nationale, 10 October 2012, p. 18 (our translation).

¹² Spire, A. (2005), *Etrangers à la carte. L'administration de l'immigration en France (1945- 1975)* [Foreigners

applications of foreign students were very often refused because their residence in France was not considered sufficiently 'stable'. To avoid overtaxing the naturalisation staff with too many applications, the prefectures were encouraged to immediately reject students. This type of behaviour represents a discretionary power that is difficult to measure but nevertheless very important. Furthermore, this behaviour is far from evenly applied as the judgment as to which applications are 'suitable' changes according to the individual staff at the prefecture.

Finally, the prefect writes a report on the political, demographic, and professional characteristics of the applicant, so as to make the decision. Before 2010, the application was then transmitted to the Under Secretary of Naturalisations who is in charge of processing all applications. But since 2010, the prefect has the power to naturalise (then the file is transmitted to the Under Secretary) or to reject the application (the applicant receives the negative decision by mail).

In the 1990s and 2000s, the naturalisation rate amounted to 75 per cent for first-time applications. But the reform of the decision process implemented in 2010 changed the way the administration deals with naturalisation applications. When the idea of the reform became public in 2008-2009, opponents (scholars and activists) denounced the fact that it would not result in the acceleration of the decision-making process. Instead, they pointed to the risks that prefecture personnel did not guarantee the principle of equality before the law to the applicants for naturalisation¹³. The approval rates would strikingly differ depending on which *prefecture* receives the application.

The opponents were right. The number of naturalisations decreased 30 per cent, from 94,573 in 2010 to 66,273 in 2011. Thus, the rate of negative decisions has risen from 32,4 per cent in 2009, to 53,2 per cent in 2011 (and 55,3 per cent during the first 2012 semester): around half of the applications have been rejected since 2011! We know that the two-step decision-making process signified a real national harmonisation, since the citizenship law is now implemented differently in the French territory¹⁴. For instance, the naturalisation rate in Paris fluctuated between 65 per cent and 71 per cent between 2007 and 2010. But it fell down to 52 per cent in 2011 and 46 per cent in 2012 (first semester). In 2011, the *département* of Vienne had the lowest naturalisation rate (26 per cent) and the *département* of Haute Saône and Lozère the highest (71 per cent). These figures, unprecedented since the end of the Second World War, reveal the territorial heterogeneity in law implementation.

According to the Mennucci report, that situation can be explained by the combination of the one-step decision reform and of an unprecedentedly restrictive policy driven by the right-wing government. Indeed, the government sent confidential instructions to local civil servants so that some requirements – such as 'professional integration', 'illegal staying' (that occurred more than ten years before the date of application) and 'loyalty' – became more difficult to fulfil. For example, 78 per cent of the rising rate of negative decisions recorded in 2011 is due to the lack of 'professional integration': applicants who didn't have a permanent job contract were systematically rejected. Nonetheless, the newly-elected government decided to denounce this restrictive policy: the circular of 16 October 2012 has softened the job contract requirement.

à la carte. Managing the Immigration in France (1945-1975)], Paris: Grasset.

¹³ 'Réforme de la naturalisation: 'une atteinte au principe d'égalité'', in *Libération* [daily newspaper], 20 April 2009.

¹⁴ Patrick Mennucci, « Immigration, asile et intégration », avis n°258, Assemblée nationale, 10 October 2012, p. 73-75.

4. Review

There is a formal appeal process for a naturalisation decision, including appeal for a language or integration test (no specific appeal process in this case). If the application is rejected, the applicant can first ask the prefecture for a second consideration of his/her application (*'recours gracieux'*). Then another civil servant instructs the file. If the decision becomes positive, the second decision cancels the first and grants nationality. If the decision is negative again, the prefecture still has to justify its refusal, and the applicant can go to the Administrative Court within two months. According to the type of judicial decision (in favour of the applicant or of the minister in charge of naturalisations), both can go to the Administrative Court of Appeal and, thereafter, to the State Council. The Courts' decision can confirm or dismiss a ministerial decision.

Since the beginning of the 1980s the number of appeals brought before the Administrative Court, the Court of Appeal (both at Nantes) and the State Council has consistently risen. When an appeal is brought, the judge must confirm that a factual error, an incorrect application of the law, an incorrect interpretation of the law, or an abuse of legal powers did not take place. The rise of appeals and consequently the development of State Council jurisprudence has restricted room for discretionary decisions on the part of the naturalisation service, framing more and more of its decisions. A circular from 1981 insisted that people be informed of their various rights and options for appeals, and as such more people have dared to appeal each year: 50 in 1981, 550 in 1982, 650 in 1983, etc.

Since the law of 22 July 1993, which required written justifications of all refusals of nationality, bureaucrats who examine and decide on the naturalisation files must present hard grounds for supporting their decisions, knowing that the grounds may be presented later during an official appeal procedure. In 2011, 8 per cent of refusals of nationality were brought to court (6.62 in 2006). Of these cases, the courts cancelled 110 decisions out of a total of 4,300 (i.e. 2.56 per cent). Appeals from refusals of nationality mostly concern acquisition by marriage and by discretionary naturalisation.

The appeals from decisions concerning marriage have become more sensitive in recent years, after the 2003 and 2006 reforms. The main problem concerns the appreciation by the administration of the 'level of assimilation' of the applicant. Though criteria for assessing the level of 'linguistic assimilation' have been made explicit by two texts in 2005, in reality bureaucrats have contrasted liberal or restrictive practices. 'Non linguistic assimilation' must also be assessed since the 2003 Law, including membership of religious groups and the importance of Islam in general and the Muslim headscarf in particular. The 2008 confirmation by the State Council of a refusal of nationality (by marriage) for a Moroccan woman married to a French national illustrates this issue.

The judicial review of administrative decisions also concerns naturalisation. Discretionary by definition, naturalisation can be refused by the ministry in charge of naturalisation on the basis of the administration's assessment of the opportunity of each case. The ministry can also decide the adjournment of the decision, and impose a period of time, or even new conditions before the applicant can apply for naturalisation or reintegration a second time. These conditions concern 'linguistic assimilation' or 'membership in a Muslim radical group'.

