

EUDO CITIZENSHIP OBSERVATORY

Naturalisation Procedures for Immigrants Finland

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March 2013







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

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Migration Policy Group

in collaboration with

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Naturalisation Procedures for Immigrants

Finland

Dorota A. Gozdecka

1. Introduction

Issues concerning Finnish citizenship are regulated by the Nationality Act (Kansalaisuuslaki, 359/2003) which entered into force on the 1st June 2003 and has been thus far amended 5 times, with the latest amendment number 579/2011 that entered into force on the 1st September 2011.

The latest amendment has first and foremost shortened the residence requirements for citizenship and specified more clearly what documents ought to be submitted together with the application. The reform was accepted with an overwhelming majority of votes and did not attract any major opposition. The governmental proposal saw the language rather than the residence requirement as more essential for successful integration, for which naturalisation is considered to be a reward. This report focuses on the rules applicable after the last amendment.

Currently there are three basic methods of acquiring Finnish citizenship. These include citizenship by birth, by application, and by declaration. According to the Nationality Act persons eligible for Finnish citizenship by birth include primarily persons whose parents are Finnish citizens. Exceptions to this rule include a child who is born in Finland and has no other citizenship or unknown citizenship and a child who is born in Finland if his or her parents have refugee status in Finland or if they have otherwise been provided protection against the authorities of their State of nationality.⁴

The latest amendment includes changes concerning acquisition of citizenship by application and declaration. The report below focuses primarily on acquisition of citizenship by application as the primary method of naturalisation. These amendments include changes to the length of residence and its starting point, new exemption from the language skills requirement and clarification concerning required language certificates as well as the clarification concerning waiting periods related to the integrity requirement.

¹ HE 80/2010 vp, Hallituksen esitys Eduskunnalle laiksi kansalaisuuslain muuttamisesta (Governmental proposal to the Parliament concerning amendments of Nationality Act, further: Governmental proposal HE 80/2010 vp), p. 1.

² Brander, 2011, The 2011 Amendment of the Finnish Nationality Act, RSCAS/EUDO Citizenship, p.1.

³ Ibid. and HE 80/2011.

⁴ Kansalaisuuslaki, 359/2003 (Nationality Act), paras. 9, 10 and 12.

2. Promotion

Except for the naturalisation campaign for Ingerian Finns in the 1990s⁵ and the information campaign concerning reacquiring Finnish citizenship that was lost due to former impossibility of double citizenship,⁶ the Finnish state has not been actively promoting naturalisation.

Information on citizenship is available on the pages of the Finnish Immigration Service (Maahanmuuttovirasto)⁷ and can be obtained in Finnish, Swedish and English. However, the application itself, as well as the language of communication with the office, is to be either Finnish or Swedish (Citizenship application form, section 1.3). The language providing information could be characterised as rather formal and legalistic. This is related to the fact that the command of Finnish or Swedish constitutes a formal requirement for obtaining citizenship through naturalisation. The benefits of naturalisation are not advertised. Instead a section on the rights and obligations of Finnish citizens is available on the information pages.⁸ In addition the bottom of the page mentions briefly some rights stemming from the Constitution belonging to everyone in Finland and independent of citizenship, such as the right to assembly, to freedom of religion, to move freely and choose a place of residence. The pages also feature a short instruction video available in Finnish, Swedish, and English on how to use the pages of the Finnish Immigration Service. The pages are also audible for the hearing impaired. However, no additional help tools concerning citizenship itself, such as self-assessment tools, are provided.

Periods when information on citizenship can be obtained on the phone are very short and include Tuesdays, Wednesdays and Thursdays between 10 and 11 o'clock on **071 873 3400.** According to this information line no printed materials are available.

The application is available on the pages of the Finnish Immigration Service¹⁰ and distributed also through other services such as the Finnish Post Office alongside other official forms.¹¹ Local police stations also provide hard copies of all necessary application forms that the station deals with.

3. Application

A foreigner above the age of 18 residing in Finland is granted Finnish citizenship by application if he or she has resided continuously in Finland for the past five years or for a total of seven years residence since the age of 15. The applicant must have been in uninterrupted residence for the last two years of this period. In addition an applicant must demonstrate knowledge of Finnish or Swedish or Finnish or Swedish sign language. Furthermore an applicant must have no convictions for any act punishable by other penalty than a fine nor any valid restraining orders issued against him or her. It is also necessary to

 $lomake fi/search_forms/search? s= ZxXoyxbxxgl5ucg\&keyword=kansalaisuus.$

⁵ For more information see: Ulkosuomalaisparlamentti (Finnish Expatriate Parliament), Kansalaisuusasioita koskevat päätöslauselmat (Decisions concerning citizenship), available at: http://www.usp.fi/toiminta/index2.php?sivu=574

⁶ Fagerlund, Brander, 2010, p. 34.

⁷ Mahaanmuuttovirasto (further Migri), at: www.migri.fi.

⁸ Migri, at: http://www.migri.fi/suomen_kansalaisuus.

⁹ Information verified on 1st June 2012.

Migri, at: http://www.migri.fi/download/15262_KAN_1_fi.pdf.

¹¹ Itella, at: http://lomake.itella.net/a/ec/posti-

demonstrate a reliable account of an applicant's income and prove that he or she has not failed to meet pecuniary obligations under public law including maintenance obligations.¹² The primary change introduced by the latest amendment included shortening the residence period from six to five years in the hope of promoting the integration of foreigners into Finnish society.¹³

Obtaining Finnish citizenship is also possible by declaration. Obtaining citizenship by declarations differs from obtaining citizenship by application as the citizenship must be granted if the conditions are met. This procedure is reserved for former Finnish citizens¹⁴ as well as non-naturalised citizens of Nordic countries, including Norway, Sweden, Denmark, and Iceland, who have permanently resided in Finland for the past five years.¹⁵ This method is also available for young persons between the age of 18-23 who have resided in Finland for a minimum of 10 years in total¹⁶ or who are citizens of Nordic countries who have resided in Finland for six years. Some methods of acquiring citizenship by declaration include also adopted children¹⁷ and children whose fathers are Finnish citizens but whose paternity was not established at the time of their birth.¹⁸ Integrity requirements apply also to acquisition of citizenship by declaration.

Despite the strict list of requirements there are multiple exceptions from these general rules.

The residence requirement can be shortened for multiple applicants on several different grounds including humanitarian. Some applicants may be granted (voidaan myöntää) citizenship despite shorter residence periods. These include first and foremost exceptions introduced for family reasons. Persons who have been married to or been in a registered partnership or *de facto* partnerships may be granted citizenship if they have cohabited with a spouse who is a Finnish citizen for at least three years and resided in Finland for four years continuously. Alternately, if the period of residence is not continuous, six years in total residence since the age of 15 with the last two years uninterrupted will suffice.²⁰

Similarly a co-applicant under 15 years of age can qualify for a shorter residence period if he or she is permanently resident and domiciled in Finland during the time when the decision on the application is made. Such applicants qualify for an exemption regardless of the time when the decision is made if they have permanently resided and domiciled in Finland for the last four years without interruption or a total of six years since reaching the age of seven, with the last two years uninterrupted.²¹

For humanitarian reasons recognised refugees and stateless persons enjoy exceptions from the residence period. For those persons it is enough to demonstrate that they have

¹² Ibid

¹³ Brander, 2011, *The 2011 Amendment of the Finnish Nationality Act*, RSCAS/EUDO Citizenship.

¹⁴ Nationality Act, para. 29.

¹⁵ Nationality Act, para. 30.

¹⁶ Nationality Act, para. 28.

¹⁷ Nationality Act, para. 27.

¹⁸ Nationality Act, para. 26.

¹⁹ As opposed to 'is granted' included in paragraph 13 of Nationality Act formulation 'may be granted' in cases of exceptions from general requirements allows for a certain amount of discretion in the overall assessment.

²⁰ Nationality Act, para. 22.

²¹ Nationality Act, para. 23.

resided in Finland for four years continuously, or six years in total residence since age 15 with the last two years without interruption.²²

Thanks to the long standing tradition of Nordic cooperation, citizens of Iceland, Norway, Sweden and Denmark enjoy a possibility of acquiring citizenship despite a shorter residence period. For Nordic citizens it is sufficient to demonstrate that they live and have resided in Finland continuously for two years.²³

Since citizenship is seen not as a means of integration but rather recognition of successful integration,²⁴ foreigners who have strong ties with Finland are also recognised as eligible for shorter residence periods. On the basis of a long period of lawful residence in Finland persons who have resided in Finland for at least last 2 years continuously and for whom it is unreasonably difficult to be engaged in their permanent and full-time work in Finland without Finnish citizenship may be granted citizenship. Similarly persons who have without fault of their own been considered a Finnish citizen by the Finnish state for a minimum of 10 years may be eligible for a shorter period of residence. This must have resulted from a mistake made by a Finnish public authority. Also those who have otherwise special and weighty reasons²⁵ may be exempted from demonstrating five years of residence.

The latest amendment has also introduced a new exception based on sufficient command of language. Since a good command of the language is considered the key to successful integration the exemption is applicable for persons who meet the language requirement and who have strong ties with Finland and whose primary place of residence in Finland. In such cases four years of continuous residence or six years after reaching the age of 15 with the last two years continuous apply.²⁶

The latest amendment has clarified previous uncertainty concerning the beginning of the residence period.²⁷ Section 14 (1)(2) expressly mentions that the period of residence is counted from the date the first continuous residence period was issued to the applicant if he or she had no permit allowing for a move to Finland during the time of the first entry. Section 15 (1) elaborates, however, that half of the time of residence with a temporary residence permit is included in the total residence period. One more requirement included at least a year of residence with a continuous residence permit. This requirement may in fact prolong rather than shorten the period of total residence in Finland for some applicants.

The amendment has also specified what kind of exceptions from the language requirements are allowed²⁸ and systematised the list of documents acceptable as a proof of sufficient command of the language. Exemptions from the language requirement include exemptions on the basis of age, humanitarian reasons, health reasons and strong ties with Finland. Applicants who are at least 65 years of age and have refugee status in Finland or have been granted a residence permit on the basis of subsidiary or humanitarian protection may be exempted from demonstrating sufficient knowledge of one of the languages. Similarly, applicants who are at least 65 years of age and are residing in Finland on another

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²² Nationality Act, para. 20.

²³ Nationality Act, para. 21

²⁴ Brander, 2011, p. 2.

²⁵ Nationality Act, para. 18.

²⁶ Nationality Act, para. 18 a.

²⁷ For more details see: Brander, 2011, p. 3.

²⁸ Nationality Act, para. 18b

basis must have only elementary understanding of written and oral Finnish or Swedish. For instance proof of regular participation in Finnish or Swedish language training or a certificate from a teacher of Finnish or Swedish will suffice in these cases. Furthermore applicants who have a defect, handicap, or illness that makes the demonstration of language skills impossible or unreasonably difficult can request an exception on the basis of health if they attach a doctor's certificate that explains how the condition prevents them from studying or learning the language. In cases where it has been verified that the applicant cannot learn how to read or write, it is enough to have elementary understanding of oral skills in Finnish or Swedish. Typically a certificate of participation in language training and a certificate proving that the applicant does not know how to read or write will be then required. Finally, also an applicant who has a full-time and permanent job and for whom it is unreasonably difficult to be engaged in permanent full-time work in Finland without Finnish citizenship may be exempted.

In the majority of circumstances the Finnish National Foreign Language Certificate (so called "YKI") passed at level 3 will constitute a sufficient proof of command of the language. The certificate can be obtained after passing an official general language exam organised by the Finnish National Board of Education (Opetushallitus).²⁹ The Board is a body subordinate to the Ministry of Education. 30 The exams are organised 3-4 times a year. In order to take the exam an applicant must pay 95 EUR. 31 The Finnish National Board of Education nominates institutions where the language exams are held. There are instructions concerning the exams available also in English.³² Registration can be done via an organising institution nominated by the Finnish National Board of Education and the payment must be submitted before the examination.

There is general information available on the requirements necessary for passing different language test levels.³³ An approximate, but not exact set of grammar requirements necessary to pass the required level is available at institutions providing instructions in Finnish or Swedish, e.g. Language Centres at Finnish universities.³⁴ In addition an official document written in official and complex Finnish concerning detailed requirements is available on the pages of the Board of Education.³⁵ However, there are no previous tests officially available for practice. An individual teacher of Finnish or a teaching institution where an applicant is preparing for the language examination may be able to provide tests from previous years, but there is no standardised practice.

In addition to the costs of the application, the applicant must pay for the language test and in many cases also for the preparation for the test. Courses and tutoring in Finnish or Swedish language are provided by different teaching institutions, including both public and private schools. Costs of courses provided for instance by communal institutions such as Työväentoimisto (Workers' Colleges providing teaching to everyone in a variety of areas

²⁹ The organisation of exams is regulated by Laki yleisistä kielitutkinnoista 12.11.2004/964 (Law on General Language Exams). ³⁰ Laki opetushallituksesta 25.1.1991/182 (Law on the Finnish National Board of Education), para. 1.

³¹ Opetushallitus, available at:

http://www.oph.fi/koulutus_ja_tutkinnot/kielitutkinnot/yleiset_kielitutkinnot/ilmoittautuminen

³² Opetushallitus, available at: http://www.oph.fi/download/138816 YKI osallistujanohje K2012 english.pdf ³³ Opetushallitus, available at:

http://www.oph.fi/english/mobility/testing language skills/descriptions of skill levels

³⁴ University of Helsinki, Kielikeskus, available at:

http://www.helsinki.fi/kksc/language.services/suomikuvaukset.html

³⁵ Opetushallitus, available at: http://www.oph.fi/download/141377 1valmisykiperusteetsuo2011.pdf

from hobbies to professional preparation) range between 20-50 EUR per level of studies. The same type of course provided by a language centre at a University will range between 80-180 EUR per level. The level of certificate required for the citizenship is intermediate (level 3), ³⁶ but it is unlikely that only 2 courses (Beginners and Intermediate) could prepare an applicant to pass the language test for the required certificate.

Free language education is available for foreigners entitled to an integration course. Unemployed foreigners who are registered as unemployed³⁷ with the Employment and Economic Development office (Työvoimatoimisto)³⁸ in accordance with paragraph 7 of the Act on Reception of Immigrants and Asylum Seekers (Laki maahanmuuttajien kotouttamisesta ja turvapaikanhakijoiden vastaanotosta 493/1999) are entitled to an integration plan supported by the state. Such a plan can last up to 3 years³⁹ and one of its objectives is covering language education. However, the entitlement to benefit from the state's financial support for language courses may be suspended when one month has elapsed from the immigrant's finding permanent full-time employment, setting up his or her own business, or embarking upon full-time studies leading to a vocational qualification or degree. ⁴⁰ Employed and self-employed foreigners are not entitled to an integration plan. ⁴¹

Moreover students studying at Finnish universities, as well as staff employed therein, are often entitled to take courses in Finnish free of charge, under conditions of taking an exam in the topic in the case of students, and of attendance in the case of staff. However, regulations may differ between universities and their Language Centres. 42 Some employers also offer courses for their foreign staff. Such courses are provided by institutions specialising in preparing educational programmes for firms and institutions.⁴³

Obtaining sufficient knowledge of the language may be difficult for persons employed full time or running their own businesses since the majority of courses offered by the teaching institutions mentioned above take place during regular working hours. This is due to the fact that they are primarily aimed at unemployed immigrants or students. It has been observed by the Ombudsman for Minorities that the language requirements may be too stringent for unemployed mothers, who otherwise may be integrated into Finnish society but who lack time to participate in regular language training. 44 Similarly a Somali Association in the common meeting with the Finnish Immigration Service and the Ombudsman for Minorities has raised a complaint that the possibilities of obtaining language training are not sufficient.45

Finnish law does not currently require any other integration assessment than the language certificate.

³⁶ Nationality Act, para. 17.1.

³⁷ Laki maahanmuuttajien kotouttamisesta ja turvapaikanhakijoiden vastaanotosta 493/1999 (Act on Reception of Immigrants and Asylum Seekers), para. 11. ³⁸ Työvoimatomisto, available at: www.mol.fi

³⁹ Act on Reception of Immigrants and Asylum Seekers, para. 11.

⁴⁰ Act on Reception of Immigrants and Asylum Seekers, para. 11b.

⁴¹ More information on integration support is available in a brochure 'Working in Finland' issued by Työvoimatomisto, available at: http://www.mol.fi/mol/en/99 pdf/en/92 brochures/workinginfinland.pdf. ⁴² E.g. FAQ from the University of Helsinki Kielikeskus,

http://www.helsinki.fi/kksc/language.services/FAQ.pdf

⁴³ E.g., Palmenia, available at http://www.helsinki.fi/palmenia/english/index.htm.

⁴⁴ See more: Brander 2011, p. 4.

⁴⁵ Ombudsman for Minorities, 2008 Yearly Report, p. 11.

The procedure is based on the principle of established identity. The application will not be considered before the identity of the applicant is confirmed. ⁴⁶ In normal circumstances a valid national passport from the country of current nationality is presented as a proof of identity. ⁴⁷ In case of alternative proof of identity all other official documents both from

Finland and from the country of origin may be accepted in order to prove the identity of an applicant. The Nationality Act specifies that a person's identity can be established by documents or by other information which is considered reliable on the person's name, date of birth, family relations and other personal data necessary to decide the matter. A person who for the past 10 years has been identified in the Finnish population register is considered to have a verified identity. The latest amendment specified that if substantial changes have occurred in regard to the person's name, date of birth or current nationality the period of 10 years is to be considered interrupted.

4. Bureaucracy

An applicant must provide the following documents together with his or her naturalisation application (Citizenship application form, KAN_1):⁵⁰

- Proof of identity, which under normal circumstances will be a valid passport
- Proof of command of the language
- Proof of income
- Explanation concerning all journeys conducted during the time of residence in Finland⁵¹

Even though the application can be obtained online, it must be submitted in person at the local police office dealing with migration issues.⁵² It may be necessary for the applicant to contact the police in order to verify which police station is responsible for receiving applications. In Helsinki the station responsible for citizenship application is the Immigration Police located at Pasilanraitio 11. The cost of submitting an application is rather high (440 EUR⁵³) and the fee must be submitted at the time of submitting an application. The high cost of application may be an obstacle for applicants with low income or living on state support. The application will not be considered before the payment is submitted. In addition copies of official documents, e.g. copy of the passport, require certification by an authority⁵⁴ (usually the officer receiving the application can certify the documents). Certification costs equal 4 EUR per copy if done by the Public Notary.⁵⁵

⁴⁶ Nationality Act, para. 6.

⁴⁷ Citizenship application form, Section D.

⁴⁸ Nationality Act, para 6.

⁴⁹ Ibid

⁵⁰ Nationality Act, para. 45. KAN_1 is the basic application form. Other supplementary application forms are requested if the applicant applies together with children. Those include KAN_1A, KAN_1B or KAN 1_C and are dependent on the age of the child. KAN_2 covers an application for a child who is a sole applicant. There are other application forms for citizenship by declaration, which is not a usual naturalization procedure. Forms for citizenship by declaration differ dependently on the ground of application, more information available at: http://www.migri.fi/asiointi/lomakkeet/kansalaisuuslomakkeet

⁵¹ Citizenship application form KAN 1, Section 3.1.

⁵² Nationality Act, para. 44.

⁵³ Sisäasiainministeriön asetus 1279/2011 Maahanmuuttoviraston suoritteiden maksullisuudesta (Regulation 1279/2011 of the Ministry of Interior on the fees collected by the Finnish Immigration Services).

⁵⁴ Nationality Act, para. 47

⁵⁵ Maistraatti, Public Notary's Fees, at: http://www.maistraatti.fi/fi/hinnasto/#Julkinen%20notaari.

Exceptions from the payment are possible: the Law on public state fees (Valtion maksuperustelaki 21.2.1992/150) provides that public fees might be reduced on social grounds such as health, expenses spent on treatment of illness, education, legal aid and other pressing social reasons. ⁵⁶ In addition Ordinance of the Ministry of Interior concerning payments to the Finnish Immigration Service (Sisäasiainministeriön asetus 1279/2011 Maahanmuuttoviraston suoritteiden maksullisuudesta) provides that the application fee is not collected from children covered by a citizenship application submitted together with an application by (a) parent(s) in whose custody the child remains nor from persons who volunteered to serve in the Finnish army in the years 1939-1944 or were evacuated as children during the World War II to Sweden, Denmark or Norway. ⁵⁷

In order to minimise administrative discretion to the minimum the law specified alternative means of proving the knowledge of Finnish or Swedish. Instead of the normally required Finnish National Foreign Language Certificate language skills may be proven by a range of alternative certificates. 58 Such documents include the civil Service Language Proficiency Certificate, or a school leaving certificate issued by a comprehensive school showing that the applicant has passed the examination in Finnish or Swedish as a native tongue or as a second language. Also a school leaving certificate issued by an upper secondary school showing that the applicant has passed the examination in Finnish or Swedish as a native tongue or as a second language will be sufficient, as will a matriculation examination in Finnish or Swedish showing that the applicant has passed the examination in Finnish or Swedish as a native tongue or as a second language. Also certificates from vocational schools are acceptable. These include a certificate of vocational upper secondary qualification that has been achieved through studies in Finnish or Swedish or a certificate of further vocational qualification or specialist vocational qualification, including competencebased qualifications that have been achieved through studies in Finnish or Swedish. Other acceptable proofs include a degree certificate of studies in Finnish for civil servants ("virkamiessuomi") or Swedish for civil servants ("virkamiesruotsi") completed at a university or university of applied sciences⁵⁹ and a certificate of approval of fluency in Finnish or Swedish performed for the purpose of attaining a degree at a university or university of applied sciences.

This exhaustive list of alternative means of proving command of one of the official languages was introduced by the latest amendment of the Nationality Act and its objective was to minimise administrative discretion in deciding what counts as an acceptable alternative to the certificate and to clarify the procedure. Reducing uncertainty in determining acceptable ways of proving command of the language is intended to shorten application processing times⁶⁰ and is quoted as one of the primary reasons for the recent increase in the amount of successful applications.⁶¹

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⁵⁶ Valtion maksuperustelaki 21.2.1992/150 (Law on public state fees), para. 6.3.

⁵⁷ Sisäasiainministeriön asetus 1279/2011 Maahanmuuttoviraston suoritteiden maksullisuudesta (Ordinance of the Ministry of Interior concerning payments to the Finnish Immigration Services), para. 3.

⁵⁸ Nationality Act, para.17.

⁵⁹ The level of Finnish or Swedish language skills necessary for posts in bilingual areas of Finland that require a university degree.

⁶⁰ Governmental Proposal, HE 80/2010vp., p. 1 and 20.

⁶¹ Migri, *Suomen kansalaisuuden saaneiden määrä yli kaksinkertaistui*, 11.7.2012, available at: http://www.migri.fi/medialle/tiedotteet/lehdistotiedotteet/lehdistotiedotteet/l/0/suomen_kansalaisuuden_saaneid en maara yli kaksinkertaistui

The Nationality Act provides that the documents submitted with the application ought to be originals and that certified copies are acceptable. In practice copies of the passport or document proving identity as well as all other relevant documentation accompanying the application are taken by the receiving officer or compared with the originals and subsequently submitted with the application. Copies of the documents must be certified.⁶²

The applicant may produce translations of documents issued abroad. As specified before certification costs 4 EUR per copy if done beforehand by the Public Notary. Moreover an additional explanation concerning all changes of residence within Finland and abroad may be required if official declarations of movement normally required from all residents have not been done in the past. Furthermore if the applicant applies for an exemption from the required time of residence or language requirement additional documents are requested.

If the applicant is seeking a shorter than normal residence period on the basis that his or her partner is a Finnish citizen, an explanation ought to be submitted with the application. ⁶⁶ In the case of marriages and civil unions this may require proof of marriage/civil union and an explanation concerning cohabitation. However, a couple in a relationship and cohabitating in the same household is treated in many respects similarly to a married couple and the new Act on the Dissolution of the Household of Cohabiting Partners from 2011 determines the conditions of dissolution of factual partnership and property. ⁶⁷ In the context of the Nationality Act a factual relationship is treated analogically to marriage as explicitly underlined in the Government's latest amendment proposal. ⁶⁸

Refugee status holders and stateless persons in Finland or those who have been granted a residence permit on the basis of subsidiary or humanitarian protection who are seeking a shorter residence period ought to provide an explanation concerning the exception sought. It will in normal circumstances be a document proving the status and period of residence in Finland.⁶⁹

Persons applying for an exception based on the fact that it is unreasonably difficult for them to conduct their permanent full-time job without Finnish citizenship ought to provide an explanation from the employer. Applicants applying for naturalisation on the basis of the fact that they have been mistakenly considered Finnish citizens for the past 10 years are requested to submit an explanation concerning their status. ⁷¹

As specified above, language knowledge can be proven by one of the documents enumerated in Nationality Act, Paragraph 17. If an exception is sought the nature of the exception determines what kind of additional documents ought to be presented. If the exception is sought on the basis of a speech impediment or health reasons a medical

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⁶² Nationality Act, para. 47.

⁶³ Ibid.

⁶⁴ Maistraatti, Public Notary's Fees, at: http://www.maistraatti.fi/fi/hinnasto/#Julkinen%20notaari.

⁶⁵ Citizenship application form, Section 3.1.

⁶⁶ Citizenship application form, Section 3.2.

⁶⁷ Act on the Dissolution of the Household of Cohabiting Partners 26/2011.

⁶⁸ HE 80/2010vp, p. 12.

⁶⁹ Citizenship application form, Section 3.2.

⁷⁰ Citizenship application form, Section 3.2.

⁷¹ Ibid.

certificate proving the condition ought to be attached. 72 If an exception is sought on the ground that it is unreasonably difficult for the applicant to conduct his or her permanent fulltime job without Finnish citizenship, the application ought to be accompanied by an explanation from the employer. 73 If the applicant is over 65 years old a certificate of command of the basics of Finnish or Swedish or a certificate of attendance in language courses is to be attached.⁷⁴ Furthermore, if the applicant does not know how to read or write a certificate confirming the lack of ability and a certificate of basic command of Finnish or Swedish or a certificate of attendance in language courses ought to supplement the application.⁷⁵

Attaching a work contract and either the salary slip including information on the current and the previous year's income or a bank account statement from the past 6 months is sufficient to prove income. ⁷⁶ If the applicant is self-employed he or she ought to attach documents from the Entrepreneurs Register, the latest information concerning the company's income and information concerning salaries paid. 77 Analogous documents concerning employment or self-employment of a family member ought to be attached if the applicant's economic means are dependent on a family member.⁷⁸

If an applicant's living means are based on ownership of property or other financial goods, a document proving those means ought to be attached. ⁷⁹ Applicants whose income is based on social welfare benefits ought to list those benefits and supply an explanation concerning those benefits. 80 If the applicant is retired a decision concerning retirement is required.81

Applicants whose sources of income had been different before ought to attach analogous documents for all the previous sources of income during their residence in Finland.82

Criminal record is checked directly by the police and authorities if the applicant consented to it. Otherwise he or she may be required to supply a criminal record from countries where he or she resided for more than 2 years since turning 15.83

As far as the integrity requirement is concerned, the application is merely required to answer the following questions:84

Have you committed other offences than those punishable by fines? Have you got any restraining orders issued against you? Have you been punished outside of Finland? If so, in which country? What was the offence and the punishment?

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<sup>72</sup> Citizenship application form, Section 4.2.
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⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Citizenship application form, Section 7.1.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Citizenship application form, Section 7.2.

⁸³ Nationality Act, para. 46.

⁸⁴ Citizenship application form, Section 5.

Do you agree for the Finnish Immigration Service to obtain criminal records from abroad? If no, why not?

The application form requires answers to the following questions concerning financial obligations:⁸⁵

Have you got any public financial obligations or duties of support that have not been paid?

If so, what kind of payment and of what amount? Have you made a payment plan for them?

If there are any unfulfilled financial obligations a payment plan must be attached as a part of the application.

Since the amendment of the law in 2003 no renunciation of other citizenship is necessary.⁸⁶

5. Discretion

The procedure leaves little room for discretion but the decision can be negative even if all the requirements have been met. Whereas the formulation ulkomaalaiselle myönnetään or in Swedish: en utlänning beviljas 87 (a foreigner is granted) is considered to create a quasi right to citizenship⁸⁸ on the basis of the Constitutional Law Committee's opinion⁸⁹ on the original version of the 2003 Nationality Act, an applicant may be refused citizenship even if the requirements are met. The grounds for refusal may be an established danger to national security or public order or a suspicion that the applicant's sole reason for applying is an abuse of privileges stemming from citizenship without any actual intention of living in Finland. It can also be refused on other serious grounds if the overall assessment indicates that granting citizenship is contrary to the best interests of the state. 90 All personal and financial aspects are taken into account in the overall assessment of the applicant. However, no extensive discretion is allowed and exceptions are allowed only on the above mentioned specific grounds mentioned in the law. 91 Regardless of the fact that the grounds are specifically enumerated, the broad formulation of 'the best interests of the state' may potentially leave room to diverse interpretation. In the judgment 757/3/07 the Supreme Administrative Court elaborated on the notion of public security and adopted a broad understanding of the term. The Court stated:

The security of the state is considered to be a protected multidimensional public good. It concerns both internal and external security and because of this also the entire society and all citizens. The right to secure life environment is an important issue for citizens and its protection belongs to tasks performed by the police and security officials. (...) State authorities must have a sufficient and suitable means to maintain

⁸⁵ Citizenship application form, Section 6.

⁸⁶ See: Fagerlund, Brander 2010, p. 25 and PeVM 8/2002.

⁸⁷ Nationality Act, para. 13.

⁸⁸ Fagerlund J., Brander S., 2010, *Country Report: Finland*, EUDO citizenship observatory, p. 25.

⁸⁹ Perustuslakivaliokunnan mietintö 8/2002 vp (Opinion of the Consitutional Law Committee on Nationality Act).

⁹⁰ Nationality Act, para. 13.

⁹¹ Ibid.

legal and social order so that citizens' physical integrity and society's basic goods are secured. (...) Concept of security is to be understood as broader than mere securing of physical integrity. It includes also securing the ability of different state organs to perform their tasks and the state's responsibility to ensure security of its administrative subjects. (...) The security needs of the state and an individual cannot be clearly separated from each other. (...) Espionage, illegal intelligence activities and terrorism can undeniably be classified as threats to security of the state as activities limiting and endangering the state's right to self-determination. 92

More detailed guidelines exist on the interpretation of different parts of the application. In terms of the continuity of residence the law provides rules concerning interpretation of continuity. In order to minimise discretion on the matter the law provides that stays abroad do not impact the application if ⁹³ they were not so many and so long that it can be considered that the applicant lived abroad. Similarly if the stays were dictated by important reasons and

were not longer than one month, or have not extended 6 stays between 1-2 months or one stay above 2 months but no longer than 6 months, the residence is to be considered as continuous.

The Law also specifies that the integrity requirement can be met in spite of certain offences if the overall assessment indicates that citizenship can be granted. In the assessment the time that has elapsed since the offence was committed as well as the nature of the offence and severity of punishment are taken into consideration. ⁹⁴ It is also considered whether the applicant has repeatedly committed punishable acts.

Specific situations preventing acquisition of citizenship are also specified. In particular no citizenship can be granted as long as an applicant has a valid restraining order against another person before the end of the order's validity and if the applicant has a conditional jail sentence before the elapse of conditionality. ⁹⁵

On the basis of the overall assessment a waiting period may be imposed. During the waiting period the applicant cannot be granted citizenship without a well-founded reason. He waiting periods differ depending on the punishment served and after recent changes are specified in law rather than in an internal guideline of the Finnish Immigration Service. A waiting period of at least a year and maximum three years may be imposed in case the applicant has received a penalty fine. A period of at least two and maximum four years will apply in the case of a conditional jail sentence. And finally as long a period as at least three and maximum seven years will be imposed in cases of applicants who face an unconditional jail sentence. The waiting periods are calculated from the day the offense for which the punishment was imposed had been committed.

In terms of economic requirements, the decision is based on documents provided by the applicant or obtained from other authorities in case the applicant's main source of income is based on social welfare benefits.

⁹² Case KHO 757/3/07, para. 4., translation by this author.

⁹³ Nationality Act, para. 16.

⁹⁴ Nationality Act, para. 19.

⁹⁵ Nationality Act, para. 19.

⁹⁶ Nationality Act, para. 19 a.

During the procedure the right to information is currently rather limited. The current status of processed applications can be checked online. The Finnish Immigration Service produce a monthly summary that includes information on the applications currently being processed. ⁹⁷

At the moment only selected citizenship applications may be checked via a new electronic system. 98 The system has also recently adopted e-letters. 99 Currently the applicant receives the case number and it is the deciding authority that contacts the applicant, for instance in situations when additional documents are requested for conducting the overall assessment. These may include for instance an updated list of journeys or the most recent pay slip. It is in the discretion of the authority to decide which parts of the application require further clarification and what kind of documents ought to be provided in order to make the evaluation possible. 100

6. Procedure

The application is submitted at the local police station specialising in issues concerning migration. The application procedure could be divided into 4 steps: reception of the application, initial background check by police, further evaluation by The Finnish Immigration Service and the decision. Applications are received by a local police station specialised in issuing permits and decisions concerning immigrants. The initial background check (e.g. into criminal record) is done by the police and subsequently sent to Maahanmuutovirasto (The Finnish Immigration Service). The Finnish Immigration Service evaluates the application and performs all other steps. ¹⁰¹ The Service determines whether there is a necessity that the applicant provides further explanations, such as a report on recent travels abroad or an update concerning economic requirements. After having performed the overall assessment the final decision is taken by the Immigration Service. The decision is granted by a case officer who is a civil servant at the Service. The Service is a body subordinate to the Ministry of Interior and specialised in all administrative matters concerning foreigners. The decision is taken on a national level.

The applicant receives the positive decision by post together with the certificate of citizenship if the citizenship is granted. 102

Since no official guidelines concerning maximum time for the procedure exist, the length of the procedure varies. The Finnish Immigration Service publish regular reports concerning duration of procedure. In the year 2011 an average procedure in cases not

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⁹⁷ Migri at:

 $http://www.migri.fi/services/processing_times/processing_times_citizenship/1/0/queues_of_citizenship_applications$

⁹⁸ Migri, at: https://e-asiointi.migri.fi/eServices/FrontPage.aspx?ReturnUrl=%2feServices&lang=en 99 Migri, Customer Bulletin, 7.2.2012 at:

 $http://www.migri.fi/services/customer_bulletins/1/0/requests_for_supplementary_information_and_positive_decision_on_citizenship_to_be_posted$

Nationality Act, para. 46.

¹⁰¹ Nationality Act, para. 3.

¹⁰² Ibid.

requiring further clarifications equalled 373 days. In case of refugee application the average time amounted to 590 days. 103

7. Review

A decision favourable to the applicant does not have to be justified. ¹⁰⁴ If a decision is negative or only partially favourable or if a favourable decision on a child was made against the other parent's or guardian's will the decision must be justified. In case of a rejection a reasoned negative decision is sent. 105

A negative decision is sent to the applicant by post with a certificate of reception. A written certificate of the notification shall in that case be drawn up indicating the process server, the party served and the date of service. 106 The decision can be picked up from the police station. 107

A decision by the Finnish Immigration Service as an organ subordinate to the Ministry is subject to judicial appeal. Decisions made by the Finnish Immigration Service can be appealed to an Administrative Court as provided in the Administrative Judicial Procedure Act (586/1996).¹⁰⁸

Decisions made by an Administrative Court under this Act can be appealed to the Supreme Administrative Court. ¹⁰⁹ Since the appeal may modify the decision in merit (e.g. granting of nationality) on the basis of the Administrative Judicial Procedure Act, Section 51.1., the Finnish Immigration Service also has the right of appeal if a decision of the Finnish Immigration Service has been reversed or changed by a decision of an Administrative Court. 110 The time for the appeal is 30 days from receiving the decision. 111

The right to appeal is however limited as far as the language requirement is concerned. A grade for each element of the test is sent to the applicant and grading requirements specified therein. 112 There is however no right to appeal from the evaluation but a right to a written plea for re-evaluation. 113

A violation of equality and non-discrimination law may constitute a reason for an appeal. The Act itself does not explicitly ban discrimination nor has a stated equality principle. However, Article 6 of the Constitution applies to the Nationality Act as underlined

http://www.migri.fi/download/31557 Kansalaisuushakemukset_keskimaarainen_kokonaiskasittelyaika_2011.pd

http://www.migri.fi/finnish citizenship/applying for citizenship/processing and deciding on the application/ service_of_the_decision

f 104 Nationality Act, para. 50.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Migri, at:

Nationality Act, para. 41.

¹⁰⁹ Nationality Act, para. 42.

¹¹⁰ Ibid.

¹¹¹ Administrative Judicial Procedure Act, para. 22.

¹¹² Laki yleisistä kielitutkinnoista 12.11.2004/964 Law on general language exams, para. 9.

¹¹³ Law on General Language Exam, para. 13.

by the government while submitting the bill proposal¹¹⁴ and the amendments.¹¹⁵ The procedure concerning citizenship will therefore fall under the scope of general non-discrimination provisions. In particular Article 6 of the Constitution guarantees that: 'Everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.'

Furthermore Section 1 of the Nationality Act explicitly adheres to the principles of good governance. The principle is elaborated in the Administrative Law Act (434/2003), Section 6: 'An authority shall treat the customers of the administration on an equal basis and exercise its competence only for purposes that are acceptable under the law. The acts of the authority shall be impartial and proportionate to their objective. They shall protect legitimate expectations as based on the legal system.' The Finnish Immigration Service is an administrative office falling under the definition of authorities to which the Administrative Law Act applies. Furthermore all administrative authorities are bound by Article 6 of the Constitution. The link was elaborated in the governmental proposal concerning administrative law where an entire section of the proposal focused on the applicability of Article 6 in administrative law. Thus the principle of non-discrimination stems from the Constitution of Finland and the principle of good governance and binds the Finnish Immigration Service.

In addition to the appellate authority where the claim of breach of non-discrimination principle in nationality procedure may be brought, the Ombudsman oversees that the law is observed. Section 109 of the Finnish Constitution specifies that the Ombudsman ensures that the courts of law, the other authorities and civil servants, public employees and other persons, while performing public tasks, obey the law and fulfil their obligations. The Ombudsman in the performance of his or her duties monitors the implementation of basic rights and liberties and human rights. Administrative organs, such as the Finnish Immigration Service fall under the scrutiny of the Ombudsman under Section 1 of the Parliamentary Ombudsman Act 197/2002.

8. Statistic trends in naturalisation

The amount of persons who have obtained citizenship has been steadily growing since 2001. In the year 2011 the amount grew slightly in comparison with the previous year, but it did not reach the peak values from the years 2004 and 2008. Persons from neighbouring countries such as Russia, Estonia, and Sweden continue to constitute the largest amount of new Finnish citizens. Other groups include primarily countries from outside of the European Union, with only 700 European Union citizens in 4558 overall newly acquired citizenships. ¹¹⁸ The latest amendment has not yet been covered by the latest statistical analysis period. Citizenships acquired in 2011 were decided on the basis of application submitted before the amendment.

However, as the main daily newspaper, Helsingin Sanomat observes, the amount of

¹¹⁴ Hallituksen esitys Eduskunnalle kansalaisuuslaiksi (Governmental proposal to the Parliament concerning Nationality Act) HE 235/2002 vp

The governmental proposal 80/2010vp. pp. 41-42.

¹¹⁶ Administrative Law Act, Section 2.

¹¹⁷ HE 72/2002 Hallituksen esitys Eduskunnalle hallintolaiksi ja laiksi hallintolainkäyttölain muuttamisesta, 2 luku. Hyvän hallinnon perusteet.

¹¹⁸ Source: The Official Statistics of Finland, Tilastokeskus 10.5.2012, available at: http://www.stat.fi/til/kans/2011/kans 2011 2012-05-10 fi.pdf, p. 1.

naturalised persons has increased. Following the Finnish Immigration Service information, ¹¹⁹ the article speculates that the reason behind the increase is the latest amendment. ¹²⁰

Persons who acquired Finnish citizenship according to the country of original citizenship between the years 2001-2012¹²¹

Original	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
country of											
citizenship											
Overall	2	3	4	6	5	4	4	6	3	4	4
	720	049	526	880	683	433	824	682	413	334	558
Russia	533	418	1	2	2	1	1	2	1	1	1
			682	313	094	399	665	211	026	925	652
Estonia	295	319	468	690	291	176	182	262	166	243	302
Sweden	57	61	94	149	198	178	163	274	126	104	196
Turkey	82	112	141	171	128	110	102	195	94	132	166
Iran	58	68	124	225	233	213	218	329	180	137	145
Former	14	41	32	338	346	248	232	324	154	109	106
Serbia and											
Montenegro											
Iraq	224	217	165	447	346	405	443	379	207	78	106
Afghanistan	-	23	3	14	48	101	102	279	186	108	100
Somalia	222	204	209	165	414	445	464	595	290	131	96
Ukraine	8	28	66	130	65	46	45	62	53	92	95
China	106	136	126	95	60	57	68	84	53	85	88
Vietnam	164	205	133	209	82	64	79	78	42	54	82
India	33	37	23	53	32	8	26	28	27	73	76
Bosnia and	8	34	58	129	129	81	82	84	56	41	67
Herzegovina											
Morocco	37	41	31	70	32	35	46	49	22	65	54
Bangladesh	21	26	23	43	34	26	42	40	19	32	53
Pakistan	8	10	16	43	9	21	18	43	12	26	50
Thailand	65	87	71	90	31	15	30	34	24	41	50
Other	785	982	1	1	1	805	817	1	676	858	1
			061	506	111			332			074

9. Conclusions

The latest amendment's shortening of the required time of residence has ensured greater possibilities for acquiring citizenship through naturalisation. It has also removed discretion in regard to documents constituting sufficient proof of language skills required for the application. The exhaustive list of possible documents has positively influenced processing

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¹¹⁹ Migri, *Suomen kansalaisuuden saaneiden määrä yli kaksinkertaistui*, 11.7.2012, available at: http://www.migri.fi/medialle/tiedotteet/lehdistotiedotteet/lehdistotiedotteet/l/0/suomen_kansalaisuuden_saaneid en maara yli kaksinkertaistui

¹²⁰Helsingin Sanomat, Kansalaisuuden *saaneiden määrä kasvussa*, 11.7.2012.

¹²¹ Source: The Official Statistics of Finland, Tilastokeskus 10.5.2012, p. 4.

times. The time has shortened from an average of one year to half a year at best. ¹²² Latest statistics concerning currently processed applications indicate that applications processed in May 2012 arrived at the Finnish Immigration Service in December 2011.

Despite these changes the Nationality Act still has the potential to exclude large amounts of foreigners in Finland. The basic assumption of the Act is that persons deserving citizenship must be maximally well integrated into Finnish society. The primary requirement is the command of any of the official languages and existence of legal income. The required period of residence after which the level of integration is considered to be sufficient is still lengthy and amounts to 5 years in most cases. Multiple exceptions are permitted by law but the Service still enjoys some discretion in deciding whether the citizenship can be granted in the exceptional circumstances.

The complexity of the language of the application and the information pages may be discouraging for many seeking naturalisation. Short periods when information on citizenship can be obtained on the phone may also be a hindrance in case the requirements remain unclear. Similarly high application costs may exclude persons with low income. Difficulty of obtaining language tutoring for employed and self-employed foreigners may also be seen as an obstacle.

Finnish citizenship continues to be a rather exclusive good aimed at foreigners who have made a substantive effort to learn the Finnish language, find employment and integrate themselves into Finnish society. As underlined by previous commentators, acquiring Finnish citizenship amounts to 'an award' for successful integration rather than serving as a 'means to integration'.

¹²² Migri, Customer Bulletin 26.1.2012, available at: http://www.migri.fi/services/customer_bulletins/1/0/decision_on_new_citizenship_applications_within_half_a_year at best

