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## EUDO CITIZENSHIP OBSERVATORY

### *NATURALISATION PROCEDURES FOR IMMIGRANTS SWITZERLAND*

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EUDO Citizenship Observatory

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# Naturalisation Procedures for Immigrants Switzerland

Noemi Carrel, Nicole Wichmann

## 1. Introduction

In Switzerland access to citizenship is regulated at the federal, cantonal and the municipal level. As legislation at the federal level limits itself to defining minimal standards for naturalisation (e.g. minimum residence requirement of twelve years, requirement that the candidate has to prove aptitude to become a Swiss citizen), the cantons and municipalities enjoy a broad margin of appreciation to spell out the requirements for and the procedure by which a person obtains Swiss citizenship. Most cantons have adopted cantonal citizenship laws and implemented regulations to specify the criteria defined at the federal level. To understand how access to citizenship is regulated in Switzerland it is, therefore, necessary to study the practices at the local (i.e. cantonal and/or municipal) level.

In a recent report on cantonal citizenship policies, it was shown that citizenship policies are implemented differently in the cantons (Wichmann et al. 2011). In the present country report we have thus decided to present the information on implementation with respect to two cantons, the canton of Solothurn (SO) and the canton of Geneva (GE). These two cantons were selected because they are most different in terms of the standardised naturalisation rates with Geneva representing the canton with the highest (4.00%) and Solothurn the canton with the lowest standardised naturalisation rate (0.67%). For case selection we relied on the standardised naturalisation rates, because there is no comparable data on rejection rates in Switzerland. By including these two cantons in the country study we hope to illustrate how the procedures and the requirements demanded from the naturalisation applicants vary across the cantons. Finally, the case selection shows how citizenship practices differ in French- and German-speaking Switzerland.

## 2. Promotion activities

### Naturalisation campaigns

To our knowledge no state-run or funded naturalisation campaigns have been carried out in Switzerland for the last ten years. In the context of jubilees (e.g. 500 years of membership of a canton/municipality in the Swiss Confederation/canton) certain municipalities and/or cantons (e.g. the city of Solothurn) have offered naturalisation at a reduced fee, but these special offers normally only target Swiss citizens that do not have the citizenship of the municipality they live in. In the two cantons we selected for this country report, no naturalisation campaigns targeting foreign residents have taken place. However, in 2005, the city of Zurich sent a letter to foreign residents aged 16 to 25, having lived in Zurich for ten years and longer, offering them naturalisation at a flat rate of 250 CHF. The canton of Baselland wanted to launch a similar campaign in 2001 aimed at foreign residents having spent 20 years in the canton, but the voters rejected the proposal of the cantonal government in a popular referendum.

### **Information or counselling services specifically for applicants**

There are no such services in the selected cantons (SO, GE). Since the applicants have to obtain the application forms in person, they can use this direct contact with the administration to ask questions. In both cantons (SO, GE) the interview partners claimed that the responsible cantonal/municipal authorities provide support and counselling to the applicants in case they ask for assistance.

### **Promotional webpages**

To our knowledge there are no official promotional webpages aimed at informing the applicants about the benefits of acquiring Swiss nationality. However, most cantonal naturalisation services, e.g. SO (see <http://www.so.ch/departemente/volkswirtschaft/amt-fuer-gemeinden/buergerrecht/einbuergerung.html>) or GE (see <http://www.geneve.ch/naturalisations/welcome.asp>) as well as the Federal Office for Migration, have an “information webpage” describing the procedure, listing the requirements for naturalisation and making available a simplified explanation of the criteria applied by the administration when assessing whether a person meets the “integration requirement”. Lastly, legal bases, contact lists and check-lists can be downloaded from the cantonal websites.

The requirements are written in simplified language. The canton of SO has a mind map summarising what you must and must not do to fulfil each one of the naturalisation requirements (e.g. no or limited private debt, attendance of the citizenship course). GE has prepared a leaflet entitled “Bien se preparer” that contains the key information. However, the cantonal webpages contain little detailed information on the procedure, the duration of the procedure or the rights of the applicants. GE makes available an interactive self-assessment tool which allows the candidate to calculate whether he/she is eligible for submitting an application based on the duration of his/her residence in the canton of Geneva, see <http://www.geneve.ch/naturalisations/formulaires/?rubrique=recevabilite>.

### **Written materials**

At the federal level no brochure has been produced on naturalisation. In GE the canton produced printed brochures on naturalisation in the 1970s and 80s, but nowadays the main source of information is the webpage. However, the Cantonal Integration Office is currently preparing a brochure that will shortly be sent to foreigners (holders of permanent residence permit C) that have been residing in the canton for eight years. The brochure contains information on the political participation rights (i.e. participation in referenda and elections at the local level), and their attention is called to the fact that they are eligible for naturalisation, as soon as they fulfil the 12-year residence requirement. Furthermore, the brochure will mention the requirements for naturalisation. Our online search for written materials on naturalisation revealed that some cities (e.g. Winterthur) and cantons (e.g. Zurich) have printed brochures for naturalisation applicants. These brochures summarise what you need to know to demonstrate familiarity with local customs and habits, and the canton of ZH’s brochure lists the benefits of naturalisation.

### **Distribution of application forms**

The application forms are distributed physically in most cantons. The applicant has to fetch the forms at the office that is responsible for processing the application at the first stage. In GE the forms are available at the cantonal naturalisation office. The candidates either pick up the form in person or order it by phone. In the canton of SO the applicant

contacts the President of the *Bürgergemeinde* (*bourgeoisie*) in his/her municipality to obtain the basic information and the application form. The physical distribution of forms is practiced in most cantons, because it allows the authorities to carry out a preliminary check as to whether the candidate meets the naturalisation requirements or not. In SO you can download an application from the internet and return it to the *Bürgergemeinde* by post, but before the application is officially processed, you have to show up in person for the interview carried out by the President of the *Bürgergemeinde*.

### **Language or integration tests**

**Language tests:** There are no free language tests/assessments for naturalisation. In the canton of GE the applicants have to enclose an official language diploma certifying that they have **oral** French language skills corresponding to level B1 of the European Language Portfolio. In SO candidates have to either pass a language development survey that costs 220 CHF; alternatively he/she may enclose a language diploma certifying **oral** and **written** knowledge of the German language corresponding to level A2 or higher.

**Integration tests:** There are no “formal” integration tests. This is a result of the manner in which the integration requirement is assessed in the framework of the naturalisation procedure in Switzerland. In GE the cantonal authorities carry out an investigation (*enquête*) to assess whether the candidate is integrated in Switzerland and the canton of Geneva and is familiar with Swiss as well as regional habits and customs, both the canton of Geneva as well as his/her municipality of residence. The investigation includes an interview, and in some cases the investigators visit the candidates at home.

In SO each authority involved in the naturalisation process can check whether the candidate fulfils the integration requirement. In other words, the responsible authorities at the municipal (President of the *Bürgergemeinde* and *Bürgergemeinde*) and the cantonal level (Oberamt, cantonal naturalisation office ZAB, expert commission for citizenship of the cantonal executive) can check whether the candidate fulfils the integration requirement or not. To evaluate the degree of integration, the authorities study the submitted documents and interview the candidates. The exact number of interviews varies according to the function of the municipality and the complexity of the application file. As the integration assessment takes place in the framework of the ordinary naturalisation procedure in both cantons, the costs are included in the official fee demanded for naturalisation.

### **Exemptions and reductions of the official fee**

At the federal level the fees for minors are reduced to 50 CHF (instead of 100 CHF). A number of cantons, e.g. Geneva or Basel-Stadt, apply reduced fees to young persons. In GE persons aged 25 and less pay 500 CHF (cantonal and municipal level), whereas older persons pay 920 CHF. The canton of GE also adapts the naturalisation fees to the income of the naturalisation applicant, which is why an applicant earning less than CHF 80'000 pays about half (1'840 CHF) of what a person earning 120'000 CHF and more (3'680 CHF) does. In SO we did not find any information on exemptions or reductions for applicants.

### **Subsidised language or integration course for naturalisation**

Subsidised language courses are offered under Pillar I of the federal integration programme in all cantons. These courses are primarily geared towards the teaching of elementary language skills (level A1) (cf. also Liebig et al. 2012). This elementary

knowledge of the local language is insufficient to pass the language requirement demanded for naturalisation, as most cantons either demand level A2 or B1.

In the canton of SO the applicants have to attend a Neubürgerkurs, in which they are informed about their rights and duties as Swiss citizens, and they are taught how the Swiss as well as the cantonal and municipal political systems function. According to Art. 15 bis al. 4 BÜG SO the canton can subsidise these courses. The applicants have to pay 300 CHF to attend the course, whereby the course fee is deducted from the advance payment that the applicants make at the beginning of the procedure.

### **Citizenship ceremonies**

The procedure according to which nationality is conferred varies. At the federal level it is merely a bureaucratic act. At the cantonal level there are no official ceremonies either. A number of municipalities do, however, organise ceremonies to welcome the “new citizens”. In this vein the new citizens in numerous municipalities in the cantons of SO and GE are invited to a meeting of the local assembly (Gemeinde- or Bürgergemeindeversammlung) to receive the document confirming the conferral of local citizenship. In GE a ceremonial element has been included in the naturalisation procedure. The naturalisation applicants have to pledge an oath of loyalty to Switzerland and the canton of Geneva in the framework of a ceremony to which the mayors (members of the executive) are invited. It takes place in the assembly hall of the cantonal legislative.

### **3. Formal decision-making process**

The decision-making process is structured differently according to the canton/municipality in which naturalisation is demanded. The only common factor across federal Switzerland is that all three levels are involved in deciding whether a person obtains citizenship or not. The questions concerning the decision-making process will be answered for the federal level and the two selected cantons.

#### **Authority that receives the application**

**SO:** In SO the President of the Bürgergemeinde (BG) of the municipality in which the person seeks naturalisation receives the application form.

**GE:** In GE the Service Cantonal des Naturalisations (SCN) receives the application.

#### **Authority that checks that the application is complete and correct (incl. interaction with other authorities)**

**Federal level:** At the federal level, the Federal Office of Police carries out a security check to establish whether the person poses a threat to internal security (e.g. links to terrorist organisations), and the Federal Office for Migration checks the criminal records of a person, and investigates whether there are any ongoing criminal charges in Switzerland or abroad against the person.

**SO:** At the municipal level the Bürgergemeinde checks whether the application is complete and whether the candidate fulfils the criteria for naturalisation. The BG can contact the police and demand further documentation from the applicant. The BG then transmits the file to the first cantonal authority involved in the procedure, the Oberamt.

The Oberamt (cantonal office that is located in the different districts of the canton) checks whether the documentation is complete and correct. To establish whether the information

is correct, the Oberamt can carry out an investigation and interview the candidate. It then transmits the application file to the cantonal office for naturalisation and civil registry (ZAB) that may also check whether the file is complete and correct. During the naturalisation process the cantonal authorities may contact different governmental agencies to verify the accuracy of the documentation.

**GE:** The SCN checks whether the documentation is complete and correct, and it charges the applicant the naturalisation fee. The SCN consults the Cantonal Civil Registry Office to establish whether the documents of civil/marital status are correct. Other governmental authorities may also be contacted to find out whether the submitted information is correct.

### **Authority that decides whether to accept or reject naturalisation**

**Federal level:** The Federal Office for Migration decides whether to grant federal authorisation. The stage in the naturalisation procedure, at which the federal authorisation is issued, varies in the two cantons (cf. flowcharts).

**SO:** At the municipal level the Bürgergemeinde (BG) decides whether to grant citizenship or not. The decision is either adopted by the legislative or the executive of the BG depending on the municipality. At the cantonal level, the decision whether to accept or reject naturalisation is adopted by the cantonal executive. The decision of the cantonal executive is prepared by the Oberamt, the cantonal office for naturalisations (ZAB) and the expert commission for citizenship of the cantonal government (cf. flowchart SO).

**GE:** In contrast to the situation in most cantons, the municipalities in GE have a limited role in the naturalisation procedure: they issue a preliminary opinion (préavis) on the naturalisation application, and in case of a disagreement with the cantonal government's decision, they have the right to appeal. The authority in charge of issuing the preliminary opinion in the municipality varies in function of the candidate's age and the municipality. If the candidate is 25 and older, the decision is adopted by the municipal council, whereas the decisions concerning candidates that are 25 and younger are adopted by the mayor or the municipal administration (depending on the municipality). At the cantonal level the canton decides whether to naturalise a person or not. The decision of the executive is prepared by the Service Cantonal des Naturalisations (SCN) (cf. flowchart GE).

### **Notification of applicant**

**Federal level:** the Federal Office for Migration informs the candidate whether the federal authorisation is issued or not.

**SO:** At the municipal level the Bürgergemeinde (BG) notifies the candidate whether his/her application has been accepted. At the cantonal level, ZAB notifies the candidate whether his/her naturalisation application has been accepted or declined. In case of a negative decision, the applicant can lodge a complaint.

**GE:** The SCN notifies the applicant about the outcome of the preliminary opinion at the cantonal level. The municipality informs the applicant whether the preliminary opinion was favourable or not. Finally, the SCN notifies the candidate about the outcome of the naturalisation process.

### **Point at which a foreign resident becomes a citizen**

**SO:** On the date the cantonal government decides upon naturalisation, the candidate obtains citizenship at all three levels.

**GE:** The moment at which a foreign resident officially becomes a citizen depends on the age of the applicant. Minors become citizens by date of the decision adopted by the

cantonal government. Persons aged 18 and older are summoned to take an oath before the cantonal government. Citizenship is granted on the day the oath is taken.

#### 4. Documentation

##### SO and GE

- Birth certificate (*original document*, issued no longer than 6 months ago); documents have to be obtained either in country of residence or the country of origin depending on where person was born
- Copy\* of the passport
- Documents related to marital/civil status (*original documents*, issued no longer than 6 months ago); documents have to be obtained either in the country of residence or the country of origin depending on where marriage/divorce/death occurred.
- Extract from police records (applicant receives a form that he/she must sign and send to the Swiss Federal Office of Justice with a payment slip for the fee)
- Copy\* of residence permit (issued by the migration office of the canton of residence)
- Copy\* of family book that contains information on marriage and birth of children (documents are either issued by country of residence or country of origin, depending on which country issued the original document)
- Extract from the cantonal debt recovery registry (issued by the responsible authority in the canton of residence) asserting that there are no pending debt recovery proceedings and enforcements (Betreibungen) and no certificates of unpaid debts (Verlustscheine).
- Copy of the most recent income tax declaration
- Refugees have to add a copy of the adjudication of asylum and the travel permit\*
- Documents proving residence duration (in most cantons – e.g. SO – the candidate has to contact each municipality of residence, but in GE this is not necessary as there is a central system, thus he/she only has to provide proof of extra-cantonal residence)

* = The applicants enclose a copy of the relevant document in the application file, but during the naturalisation procedure, the authorities check the original documents.
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##### Additionally in SO

- Certificate of attendance of Neubürgerkurs
- Result of the language development survey confirming level of language knowledge A2 or else an official language certificate indicating that the candidate has reached the level A2
- Handwritten CV of the applicant

**Additionally in GE**

- Document from the cantonal fiscal office certifying that there are no unpaid tax debts and confirming all information concerning the financial situation of an applicant.

All documents have to be issued either in an official language (D, F, I) or translated into D/F/I (notarized translation).

NO alternative means to prove identity are accepted.

**5. Discretion****Residence requirement**

There is no discretion in the assessment of the residence requirement, as the legal texts are clear and publically-available guidelines exist on how the residence requirement is calculated; moreover, there are official documents issued by the municipality of residence that confirm the duration of residence in the respective municipality.

**Language requirement**

Discretion used to be important in assessing whether a candidate met the language requirement, because language knowledge was frequently tested in an informal interview. In many cantons, amongst others SO and GE, the procedure to prove linguistic skills has been formalised in recent years. Most cantons nowadays demand a certain level of language proficiency (A2 or B1 – written and/or oral), as defined by the European Language Portfolio. The required language level is either stated in the regulation implementing the cantonal citizenship law (GE) or in internal administrative guidelines (SO). In both cases the webpage and the application form specify how the candidate has to prove that he/she meets the language requirement. In GE the applicants have to enclose a certificate confirming the required language proficiency. In SO the applicants either enclose an official language certificate, or they are invited to pass a language development survey which is carried out by a language course provider.

**Economic requirement**

The decision whether a person meets the economic requirements is based on the submission by the candidate of a certain number of official documents issued by different cantonal authorities (cantonal tax office, debt recovery office etc.). Both cantons do not naturalise individuals that are dependent upon welfare benefits, unless they can prove that dependence was not self-inflicted. The financial requirements are defined in the cantonal citizenship laws: the candidate has to meet his/her financial obligations (Art.15 lit. c BüG SO). The candidate has to be in an economic situation which allows him/her to take care of his own needs and those of his/her dependent family members (Art. 12 lit. d LNat GE). Naturalisation is impossible if a person has pending debt recovery proceedings and enforcements or certificates of unpaid debts or is bankrupt. There remains a margin of appreciation in assessing whether the candidate meets the economic requirements in that, for example, the amount of private debt deemed excessive, remains undefined.

**Criminal record requirement**

The decision is based on a specific document (i.e. extract from the police/judicial records proving that there are no ongoing criminal charges). During court proceedings or the

enforcement of sentences, naturalisation is not possible. Naturalisation is only possible once all entries have been deleted from the criminal record. The criminal record requirement is stated in both federal as well as cantonal legislation on citizenship: the candidate has to respect public order (BüG SO, Art. 15 lit. b). The applicant must not have been condemned for acts demonstrating contempt of Swiss law (*r el m pris de nos lois*) (art. 12 lit. b LNat GE). In case of minor infringements (*Vergehen*), the cantonal authority enjoys a margin of appreciation to assess the gravity of the case, as it is not entirely clear where to draw the line between the respect and disrespect of public order. The interviewed cantonal authorities told us that they take into account the moment at which the breach occurred, the number of breaches and the nature of the breach when assessing whether a particular act constitutes a disrespect of public order.

### **Integration requirement**

The assessment of the integration requirement is the main source of discretion in the naturalisation procedure. The high degree of discretion is a consequence of the vagueness of the legal provisions and the absence of a legally binding instrument outlining how integration should be measured in practice.

**Federal level:** Concerning integration the national citizenship law contains the following provision: the candidate has to be integrated in Switzerland and be familiar with Swiss customs and habits (Art. 14 B G). The Federal Office for Migration has issued a recommendation on how to measure the degree of integration, but this text does not bind the cantonal authorities.

**SO:** the cantonal citizenship law foresees that [the applicant] knows and understands the rights and duties related to citizenship (lit. e); is familiar with the regional lifestyle (Art. 15 lit. f, B G SO). As a general rule, each authority involved in the naturalisation process can check whether the candidate fulfils the integration requirement. At the municipal level the BG checks whether the integration requirement is fulfilled based on the submitted documents and the interview carried out by the President of the BG. The BG can also invite the candidate for an interview to verify whether he/she is integrated. In a second step the Oberamt interviews the candidate to check the degree of integration and the familiarity with local habits and customs. In a further step the ZAB (cantonal naturalisation office) checks whether the integration requirement is fulfilled. It partially bases its examination on the reports submitted by the B rgergemeinde and the Oberamt, but it can also decide to carry out further investigations. Lastly, the cantonal expert commission for citizenship of the cantonal executive, which receives all of the documents and reports issued by the other cantonal/municipal instances, may carry out a final check to assess whether the applicant is integrated. For this purpose it may decide to invite the applicant for a further interview. In practice this rarely happens.

**GE:** [the applicant] must have close ties to the canton of Geneva that prove his/her adaptation to the regional lifestyle (lit. a); be integrated into the local community and respect the individual declaration of rights contained in the constitution of 24 May 1847 (Art. 12 lit. f LNat GE). In GE the cantonal administration carries out an investigation (*enqu te administrative* based on documents, interviews and possibly a visit) to assess integration (see Art. 14 LNat; Art. 15 RNat). The municipality can also assess the degree of integration of a candidate. Frequently he/she is called for an interview. The interview is obligatory if the municipality issues a negative *pr -avis* (opinion), as the negative opinion needs to be justified (see Art. 12, 15, 16 LNat, art. 17, 18 RNat). Before taking the final decision the cantonal executive conducts a final check whether the integration requirement is fulfilled.

## 6. Exemptions

**Language requirement:** the Bürgergemeinde exempts applicants from passing the language development survey in the canton of **Solothurn** if:

- their first language is German
- they enclose language certificate A2 or higher issued by TELC / Goethe
- they attended the last three years of obligatory school in a German-speaking and state-approved school in Switzerland, Lichtenstein, Germany or Austria
- they completed apprenticeship or a secondary school in Switzerland, Lichtenstein, Germany or Austria and attended German classes
- they are not yet school-aged
- if they are attending a German-speaking and state-approved school in Switzerland.

In cases where the applicant cannot pass the language development survey due to medical reasons or in a hardship case, the expert commission of citizenship can grant an exemption.

In the canton of **Geneva** the cantonal naturalisation office exempts or foresees exceptions for applicants:

- if French is their first language
- if they attended school in French
- if they are elderly
- if they are illiterate
- if they have severe health problems
- if they are mentally and/or physically disabled (Art. 11 lit. f RNat.).

**Integration requirement:** In general no exemptions from the integration requirement are possible. The cantonal/municipal authorities always check whether a person is sufficiently integrated.

**Knowledge of his/her citizens' rights and duties:** To prove that the applicant knows his/her rights and duties, she/he has to attend a course for new citizens and pass an exam in the canton of SO. The applicants are exempted from this civic knowledge requirement, if they have taken courses on civic education in school. The applicant has to submit a request for exemption to the cantonal office for education, which decides – based on the submitted documentation – whether or not to grant the exemption.

## 7. Time limits/delays

It is up to the cantons and municipalities to define the time limits applicable to the ordinary naturalisation procedure. The rules vary considerably, but the treatment of a naturalisation application regularly takes between eighteen months and three years. The reform bill of the federal citizenship law, which is currently being discussed in parliament, proposes to introduce time limits to speed up the procedure.

**Federal level:** Art. 29 Federal Constitution on equal access to justice stipulates that each individual has the right that his/her administrative and judicial affairs are dealt with within a reasonable time limit. The Federal Administrative Court recently found that the Federal Office for Migration (FOM) violated this provision, when it delayed the issuing of a naturalisation authorisation for four years (48 months) (C-4340/2011). The FOM had claimed that the reason for the delay was that the security check took longer than expected. In the case of a negative decision at the federal level, the applicant has thirty days to lodge a complaint.

Once issued by the FOM the federal naturalisation authorisation is **valid for three years** (Art. 13 BüG), which means that if the cantonal and municipal authorities do not complete the procedure within that time frame, the candidate has to re-apply for the federal authorisation. It is, however, possible to demand a prolongation of the validity of the federal naturalisation authorisation.

**SO:** Art. 5 al. 2 BüG SO states that the Bürgergemeinde has to inform the cantonal authorities about the submission of a naturalisation application within a time limit of 30 days. Further along, art. 28 quater BüG SO indicates that applicants have **ten days** to lodge a complaint at the cantonal level against a negative opinion of the municipal authorities. The same time limit applies to appeals against a negative decision of the cantonal authority in front of the Cantonal Administrative Court. We did not obtain any further information on time limits applicable to the naturalisation procedure.

### **Provisions on time limits in the legislation in Geneva**

There are no provisions on time limits in the naturalisation legislation of the canton of Geneva (neither in the citizenship law nor in the *règlement d'application*). The website indicates that the procedure takes between eighteen months and three years depending on the amount of applications the service has to deal with, the availability of the political bodies to adopt the relevant decisions etc. In case of a negative decision at the cantonal level, the applicant has thirty days to lodge a complaint.

## **8. Costs**

The 2004 reform of the federal naturalisation bill (BüG) introduced a change to the fees regime. In the past some municipalities had charged fees that amounted to between one and two average monthly salaries. Art. 38 BüG foresees that citizenship fees at all three levels have to be restricted to the real administrative costs linked to the procedure. In practice the amount charged still varies between the cantons and municipalities.

### **Ordinary fees at the federal level (identical for all applicants)**

- 50 CHF for a minor (younger than 18)
- 100 CHF for applicants aged 18 and older
- 150 CHF for a couple
- According to art. 38 BüG low income people are exempted from paying the federal fees.

### **Ordinary fees in Solothurn**

- Art. 17 BüG states that the costs for the cantonal naturalisation authorisation are restricted to the real administrative costs linked to the procedure. The applicants

are required to make an advance payment (Kostenvorschuss) of 1'000 CHF to cover some of the costs at the cantonal level. The advance payment normally does not cover the entirety of the costs that the canton charges; these normally amount to 1'500-2'000 CHF. The maximum has been set at 3'000 CHF.

- Fees at the communal level SO: the costs are defined in a communal regulation. The canton recommends that the municipalities do not charge fees that are higher or lower than the cantonal ones. In practice the municipalities charge somewhere between CHF 300 – 3'000 CHF, whereby the average is 1'250 CHF.

### **Ordinary fees in Geneva**

- The costs for the cantonal/communal level are charged jointly in the canton of GE: they amount to 500 CHF for a person younger than 25; 920 CHF for persons aged 25 and older.
- For individuals that have an income of 40'001 – 80'000, the fee is doubled (1'840 CHF). It is tripled (2'760CHF) in the case of an income of 80'001 – 120'000 and quadrupled (3'680CHF) in the case of an income of 120'001 CHF or more. For every child included in the procedure a fee of 500CHF is added.
- Supplementary administrative fees: 75 CHF for a single person; 150 CHF for a person in partnership, widowed, divorced, with a child, single with a child, married with or without the spouse included in the procedure and/or with a child; 225 CHF for a person in partnership, widowed, divorced, single with at least two children, married with or without the spouse included in the procedure and/or with at least two children. Lastly, the chancellerie charges 380 CHF for the naturalisation sermon (applies to persons aged 18 and older) (source: webpage).

## **9. Additional costs**

### **Costs linked to obtaining forms and certificates**

- Applicants have to pay for each one of the official documents issued by the different cantonal/federal and foreign authorities (birth certificate, confirmation of residence of the municipality, extract from the police records etc.). The issuing of each one of these official documents by a Swiss authority costs between 20 and 40 CHF. In cases where the documents are not submitted in an official language, the applicants also have to cover the costs for the translation and legalisation.

### **Additional costs in Solothurn**

- The language development survey costs 220 CHF. Alternatively the candidate can enclose a certificate of language proficiency that he/she obtained beforehand. The applicant covers the costs linked to obtaining the language certificate.

### **Additional costs in Geneva**

- Most naturalisation applicants have to enclose a language certificate (for exemptions cf. question 5), which requires passing a test. The applicant bears the costs linked to obtaining the certificate.

## **10. Formal Appeal Process**

The appeal process is structured according to cantonal law; it is thus impossible to grasp the situation in the whole country. A number of general observations can, however, be formulated:

### **Instances of appeal**

**Rejection of federal authorisation:** In cases where the FOM does not issue the federal authorisation to naturalise a person, an appeal at the Federal Administrative Court is possible. An appeal against a negative decision of the Federal Administrative Court is possible at the highest judicial instance, the Federal Court.

**Rejection of municipal/cantonal authorisation:** Art. 50 BÜG obliges the cantons to put in place an appeal process that includes the possibility to lodge a complaint with a judicial authority at the cantonal level (judicial instance) as of 1 January 2009. In many cases the Cantonal Administrative Courts are nowadays competent to receive such complaints. Prior to 2009 political authorities (e.g. cantonal executives) frequently constituted the last instance of appeal at the cantonal level. With the change of legislation the cantons can no longer designate a political instance as the last remedy at the cantonal level. The possibility to appeal against a negative decision in front of the Federal Court is limited to cases in which constitutional provisions, in particular the principle of non-discrimination, have been violated.

### **Scope of legal remedy**

**Cantonal appeals instances:** The cantonal appeals instances, including the cantonal administrative courts, can examine both procedural and substantive aspects of the naturalisation decision. Based on an analysis of the submitted file, the Cantonal Administrative Court can, therefore, assert that a naturalisation applicant is sufficiently integrated and, thus, deserves to be naturalised. In such a case the Cantonal Administrative Court sends the file back to the cantonal naturalisation office and demands that the office issue the cantonal naturalisation authorisation. The municipal authorities can, if they do not agree with the judgment of the Cantonal Court, contest the Federal Court and claim that their municipal “autonomy” has been violated.

**Federal level:** The Federal Court issued an important judgment on 12 June 2012 that changes the scope of legal remedy at the federal level (Judgment number 1D\_6/2011). Prior to 12 June 2012 the Federal Court could only examine rejected naturalisation decisions in three cases: violation of constitutional guarantee of non-discrimination, violation of procedural guarantees (right to be heard etc.) and insufficient motivation of rejected naturalisation application. In other words, in case an applicant found that his/her lack of integration was not sufficiently motivated by the respective authorities, he/she could contest the Federal Court. As of 12 June 2012 an appeal is also possible if the applicant finds that the naturalisation authorisation was “arbitrarily” rejected. As an arbitrary rejection violates the principle of equality in front of the law, the naturalisation applicants have been granted legal standing in such cases. Most commentators agree that this jurisprudential development will enable the Federal Court to exercise an increasing amount of control over the manner in which the political authorities deal with naturalisation applications. Notwithstanding this improvement, judicial control by the highest authority remains limited to cases in which the decision of the naturalisation authorities is manifestly unfounded, i.e. arbitrary in nature.

## 11. Generalisability of findings?

The comparative report on citizenship practices, conducted by the SFM in 2011 (Wichmann et al. 2011), reveals that the main difference between the cantons probably resides at the procedural level: the decision-making authority in charge at the municipal level, the sequence according to which the different authorities intervene and the amount of decision-making power granted to the municipalities differ. Some general trends can, however, be identified: the municipal level is nowadays frequently the first one to give its assent in the procedure, and the executives are frequently in charge of adopting the decisions at the cantonal/municipal level. The empowering of the executive is a result of the need to provide a reasoned opinion in the case of rejections. The current law does not spell out a time frame for the duration of the naturalisation procedure; it generally takes between eighteen months and three years to become Swiss. Recently some cantons introduced deadlines that the cantonal administration has to respect when dealing with naturalisation applications. These measures might eventually contribute to speeding the decision-making process.

As to the requirements, the report finds that the language requirement has increasingly become formalised, but the level that is demanded (A2 or B1) and the form (oral/written) tends to vary. The cantonal practices concerning the economic requirements (e.g. amount of resources required, treatment of dependence on welfare benefits) and the acceptable breaches of public order (e.g. smoking marijuana, speeding tickets etc.) vary. The report also observes a tendency towards formalising the integration requirement either by specifying what integration means (e.g. contacts with local population, support partner in learning of local language, printing of brochures to prepare integration test) and in some cases even introduction of a citizenship test (e.g. in AG). This tendency towards increased formalisation is one result of the supervisory powers that the judicial authorities have gained and the requirement that rejections have to be motivated. The naturalisation bill that is currently being discussed in Parliament seeks further harmonisation at the procedural and the substantive level (sequence of decision-making authorities, introduction of obligatory delays etc.). At the substantive level the most controversial propositions concern the harmonisation of the residence requirement and the permit (C, B, F etc.) required to apply for naturalisation.

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