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## EUDO CITIZENSHIP OBSERVATORY

### *NATURALISATION PROCEDURES FOR IMMIGRANTS BULGARIA*

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MIGRATION POLICY GROUP



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**Migration Policy Group**  
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# Naturalisation Procedures for Immigrants

## Bulgaria

Vesco Paskalev<sup>1</sup>

### 1. Promotion

Bulgaria does not have an official policy to encourage immigration or naturalisation. However, various government institutions over time have encouraged the naturalisation of foreigners of Bulgarian origin, living in or outside of Bulgaria. In particular the State Agency for the Bulgarians Abroad (SABA) has among its goals to "improve the demographic situation in the country", which includes achieving a positive balance of immigration and emigration. The agency aims to constantly improve the issuing of certificates for Bulgarian origin, which are needed for naturalisation under alleviated conditions (see below). Even though some officials highlight the increasing number of naturalisations, there has never been a discernible campaign or dedicated budget to promote naturalisation. The overall budget of SABA has increased over the years, but it is difficult to estimate how much of it is directly related to the promotion or facilitation of naturalisation and how much goes to its other services. While it used to be around half a million BGN in 2006, for 2012 and 2013 the budget of the agency and the programme of the Council of Minister for Bulgarians Abroad was 758,000 BGN (354,000 EUR). Most of the budget is invested into the cost of maintenance of the whole agency and wages for its staff. (Note that this amount does not include the aid SABA distributes to Bulgarian communities abroad – for instance, for schools abroad the state has given around 1.3 million euro in 2010; 350,000 euro for religious communities, etc.)

It is interesting to note that in the period 2009-2011 there was a Minister for Bulgarians abroad - Bozhidar Dimitrov. He was without portfolio, i.e. there was no ministry and no significant budget or administration at his disposal, but his political goal was to increase the number of applications for Bulgarian citizenship and to speed up the procedure. The overall cost and benefits of this experiment is not clear: when the Prime Minister was confronted with a direct parliamentary question (1 April 2011), he avoided giving an overall figure. In February 2011 Dimitrov was forced to resign amid an unrelated scandal about former membership in the communist security services and the position was abolished. While Dimitrov claims among his successes the increased number of certificates for Bulgarian origin and the speedier naturalisation procedure, the abolition of his post is a clear sign that the government did not have these among its priorities.

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<sup>1</sup> This report is based on the current legislation and on the information provided on the official webpages of the responsible institutions as well as the information provided by Daniel Smilov in the CITIMP questionnaire. The author assumes full responsibility for the information provided in the report.

There are no special promotional materials like specially designed websites, naturalisation materials, etc. The websites of the Ministry of Foreign Affairs and the Bulgarian consulates, the Ministry of Justice, and SABA itself contain a lot of information which is written in fairly accessible language. It also distributes printed materials abroad and provides consultations at its premises. However, all of this information concerns the conditions for naturalisation and details of the procedure and there has been no effort to emphasise the specific benefits Bulgarian citizenship brings.

Apart from this provision of information there is no other support for the applicants for naturalisation. In particular, there is no assistance with free language courses. There is however a free exam on the Bulgarian language, administered by the Ministry of Education on a monthly basis, which enables applicants to obtain a document for their knowledge and thus meet one of the statutory conditions for naturalisation (see below).

There are no programs for integration after citizenship is obtained. The integration of the citizens-to-be is apparently the latter's own responsibility. This was evidenced by the recent governmental proposal for the requirement for language proficiency to be extended to applicants of Bulgarian origin (eventually they remained exempt) "to ensure that the new citizens are able to integrate in the society".

There is no ceremony for acquisition of citizenship. It is hardly possible to have one, given that the citizenship is acquired by a presidential decree, which enters into force on the date of its publication in the State Gazette.

## **2. Conditions for naturalisation, procedure and responsible authorities**

Applicants for Bulgarian citizenship must file a standard application form to the Ministry of Justice (MoJ), whose administration is responsible for the handling of the process. The applicant may check the status of the application at any stage through the MoJ website. Applicants from abroad may apply through the Bulgarian missions abroad (paying an additional fee). Applicants of Bulgarian origin must first apply for a certificate from SABA, and can apply to MoJ only afterwards. The MoJ checks the applications and the documents supplied, and may instruct the applicant to complete them if necessary (there are no rules or guidelines for these internal proceedings). Then the dossier is referred to the Council on Citizenship, which is an inter-institutional body, chaired by the deputy minister of justice, and comprised of a representative from the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Regional Development, Ministry of Labour and Social Policy, Ministry of Health, the National Security State Agency (NASA), SABA and the State Agency for Refugees. The Ministry of the Interior and NASA must deliver a written report on the applicant. In the end, the Council on Citizenship issues an opinion on the application. On the basis of it, the Minister of Justice recommends to the President of Bulgaria to grant or not to grant citizenship by a decree. Thus, the final decision is taken by the President, which is one of his/her constitutional prerogatives. In practice, the presidents have been routinely delegating this power to the vice-presidents. In most cases the President/vice-president is following the recommendation of the Minister of Justice, but there are quite a few cases when they have denied citizenship despite a favourable recommendation. Thus, in 2012 Vice-President Margarita Popova (herself a former Minister of Justice) denied citizenship to 88 applicants who were recommended by the Minister of Justice, mostly because of insufficiently proven Bulgarian origin. About 1350 applicants were denied citizenship upon the negative opinion of the Minister of Justice herself, while 18,081 applicants received

citizenship during the same period. The final act of the process is a decree of the Vice-President which is published in the State Gazette and enters into force on the date of publication. After that the newly naturalised citizen may need to obtain a certificate from the MoJ and identity documents from the Ministry of the Interior but this is not part of the naturalisation itself. Thus, there are several separate authorities responsible for the naturalisation, taking several consecutive decisions; the bureaucracies are of general competence, belong to various parts of the executive or of the ‘neutral’ President (but not judiciary) and are at a national level.

There are two special cases of naturalisation which merit attention. The first is for persons with special merit to the Republic or for whom the state itself is interested in granting them citizenship. This is usually used to confer citizenship to elite sports players, but may be used to award any other merits. In such cases the applicant is exempt of all the requirements and his or her application is filed by the relevant minister. In 2012 eight persons were naturalised in this way, most of them sports players but also one academic. There were few known cases in the past, when the source of merit was a big donation to a charity or a cause in Bulgaria, thus allowing applicants to buy citizenship.

The other special procedure was introduced in February 2013. It allows certain big investors to apply for citizenship without satisfying some of the conditions for the ‘ordinary’ applicant. Most notably, they are required to have resided only one year in the country (as opposed to five years in the ordinary case), do not have to renounce their other citizenship and do not need to show knowledge of Bulgarian. Thus far Bulgaria has been issuing only residence permits to such investors, but the latest amendments to the Law on Encouragement of Investment promised citizenship as an additional attraction. There was some controversy about the size of investment which would qualify the applicant – the initial threshold was 4 million BGN (2 million EUR), but President Plevneliev considered this too high to be productive, so he vetoed the law and the MPs agreed to lower the threshold. There was also a proposal that a purchase of a real estate of 600,000 BGN should be enough, but it was considered too low and abandoned. The threshold which was finally adopted was 1 million BGN and there are some further conditions: the investment vehicle must be solvent, must not be indebted to the state, the municipality or its employees and the investment must be maintained at this level for at least two years. These circumstances are to be certified by the tax authorities and independent auditors, while the investment itself is ascertained by a certificate issued by the Ministry of Economics.

### **3. Required Documentation**

According to the usual regulatory practice in Bulgaria, the details of the implementation of the laws are specified in secondary legislation. On the matter of naturalisation, this is the Ordinance on Implementation of Chapter five of the Law on Bulgarian Citizenship (Chapter five is the one specifically dealing with the procedure), adopted on 19 February 1999 and last amended on 20 March 2012. The Ordinance specifies all of the documents which should accompany the application form and its several annexes provide samples of the application forms with instructions for the applicants.

The website of the Ministry of Justice also provides check lists for the documents which the applicants must provide in the various cases (i.e. for an ordinary application, for applicants of Bulgarian origin, applicants whose spouse is a Bulgarian citizen, etc). In principle, the authorities should not request additional documents at will. If a required

document is not provided, the authorities cannot reject the application but must instruct the applicant to fill the gap within a certain time (there are some cases when the authorities rejected incomplete applications but the rejections were reversed by the administrative courts, see below). Only applicants of Bulgarian origin, who have to obtain a certificate for such origin from SABA, may need to produce unspecified documents to SABA. According to the website of the latter, the applicants for such certificate must provide their birth certificate, passport, declaration of their national consciousness (signed by themselves in front of a public notary) and “may apply” any other document which evidences their Bulgarian origin. There follows a list of possible documents which is not exhaustive: documents issued by Bulgarian or foreign authorities, by the Bulgarian Orthodox Church, pronouncements of courts on citizenship issues, or notably documents evidencing the Bulgarian origin issued by any *organisation of Bulgarians abroad*. There is no further guidance which of these documents will be sufficient proof of origin, and it may be in the interest of the applicant to provide as many as possible.

Bulgarian authorities routinely require any documents in other languages to be translated by a certified translator, and all official documents to be apostilled. As a general rule all applicants must provide a birth certificate, but in case of ‘objective impossibility’ the applicant may present the document issued by the Bulgarian authorities. Refugees can benefit from this exception. There are no exceptions on accessibility grounds. In order to prove residence in the country the applicants would be required to produce their residence permit or the like. Even though in the Law there is a requirement for residence in the country, no other documents to ascertain that the person actually lived in the country during the relevant period would be required. (Certainly, citizenship may be denied or revoked if it later turns out that the person did not satisfy this condition)

Applicants may prove their proficiency in Bulgarian in various ways; details on this are provided in a special ordinance of the Ministry of Education. They may provide a diploma from a Bulgarian school or university. Alternatively, they may provide diplomas from other educational institutions, but these must be evaluated by the Centre for Control and Assessment of the education in schools. Another, more straightforward way to prove proficiency may be to take an exam administered by the Ministry of Education especially for applicants for naturalisation. The exam is free and administered monthly. There are no formal exceptions from the language requirement on humanitarian or vulnerability grounds. Apart from this, all applicants are required to pass an interview, which of course is in Bulgarian. Except the language test (and possibly some questions in the interview), there are no specific integration assessment, citizenship tests or any other evidence for the ability of the applicant to integrate into society.

Another statutory condition for naturalisation is the availability of economic resources or means of maintenance. To prove this, the applicants are required to provide a certificate from their employer, certificate from the tax authorities for income declared for the preceding year, and a document certifying the payment of his or her social security contributions. There are no exemptions from this requirement on humanitarian or vulnerability grounds. It is not applicable to the applicants of Bulgarian origin.

The applicants are also required to provide documents to ascertain their clear criminal record. Thus, they have to present certificates of convictions from the country of which they are currently citizens, and, if they are long term residents of Bulgaria, from the Bulgarian court registry as well. In the latter case, they are also required to present a certificate from the Bulgarian public prosecution that there are no pending investigations against them. Note that as all the applicants are subjected to screening by the Ministry of the Interior and NASA, it

may be wise of them to present other appropriate documents which may anticipate any possible concerns of the investigators. There are no exceptions from these requirements on humanitarian or accessibility grounds.

Finally, the applicants are required to present documents that they have renounced any other citizenship they may have, or are in a process of renouncing them. If such documents are not available at the time of application the applicant is obliged to provide it not later than 3 years after the approval of citizenship by the Citizenship Council to the Ministry of Justice. Thus, this requirement is relatively loosely enforced. Note however, that if the applicant has received citizenship without satisfying it altogether, the citizenship may be revoked at any time during the first ten years after the date of naturalisation. Citizens of the EU and EEA countries, and of any other country which allows its citizens to have also Bulgarian citizenship are exempt from this requirement. Exempt are also the spouses of Bulgarian citizenship and the big investors – both categories may become Bulgarian citizens while retaining their original citizenship.

#### **4. Discretion and Judicial Review**

The list of requirements for citizenship stipulated by the Law (as well as the list of documents stipulated by the Ordinance) are exhaustive and are limited to residence (5 years, 3 for spouses), non-conviction, means of subsistence, knowledge of Bulgarian, and renunciation of other citizenships (where applicable). For persons of Bulgarian origin the only condition is a clean criminal record. For any of the groups there is no requirement for the authorities to take into account personal behaviour, age, duration of residence, consequences for the applicant or his/her family, links to Bulgaria or the country of origin, etc. As all applicants are interviewed upon submitting the application, they can presumably raise any such issues, but there is no public rule or guidance to specify if and how these are taken into account. Applicants are not given the opportunity to be heard at a later stage.

Reading the few exhaustive conditions specified in the Law on Bulgarian Citizenship, it appears that the authorities have little discretion in their decision to grant or not to grant citizenship. However the involvement of several authorities in the decision-making which issue a series of recommendations blurs the responsibility and makes the process difficult to review by the courts. More importantly, the final act is adopted by the President (or the Vice-President) and their acts, as a general principle, are not subject to judicial review at all. Thus, in effect the authorities have quite broad discretion in matters of naturalisation.

The courts have remedied this to a limited extent. They asserted their authority to review decisions of the MoJ administration which are final, i.e. which dismiss the application. In many cases when the latter rejected the application on the grounds of incompleteness of the documents, the administrative courts reversed the decisions, instructing the administration to give the applicant the opportunity to amend it. However, when the Council on citizenship or the Minister of Justice do not recommend to the President to grant citizenship (which effectively dismisses the application), the courts consistently reject the appeals, claiming that these are merely opinions of the authorities which do not create any rights or obligations for the applicant and therefore are not subject to judicial review. Courts reject such appeals even in cases when the MoJ failed to issue any opinion at all (usually this would be treated as implicit rejection and subject to appeal).

It is possible however for any interested person to prove his/her Bulgarian origin in courts (Art. 3 of the Law on Bulgarians Abroad). Thus, a person who was denied a certificate



of Bulgarian origin by SANA can turn to courts. There is no explicit provision in the Law on Bulgarian Citizenship for such cases, but all the relevant authorities should honour the judgement with regard to that issue.

As there are few formal exceptions from the requirements of the law, the issue of the power to allow exceptions does not arise. The authorities may decide that a condition is met or is not met at will and are not formally required to give reasons for these decisions. Their discretion is structured only to the extent that there are exhaustive lists of documents which are required to prove that the legal conditions are met, but they remain quite free to interpret (or even ignore) them.

There are no appeals for the language test either. However this should not be an issue as language proficiency can be proven with a wide variety of other means. Moreover, the test in the Ministry of Education is free so the applicant may just retake (retakes are allowed every three months).

## **5. Costs and timeline**

The application for naturalisation itself is relatively inexpensive. Generally there are no exemptions from the fees, and the only differentiation is between the fees for ordinary applicants (100 BGN) and applicants of Bulgarian origin (10 BGN). To these may be added the fees for application through Bulgarian missions abroad (50 EUR). There are also various fees for issuance of identity documents which immediately follow the naturalisation. However the overall costs of the application process may increase significantly, when the fees for issuance of each of the required documents are counted, esp. the costs of translations and of apostils on the documents from foreign countries. Bulgarian administration is usually quite inflexible and the e-government only rudimentary, so the applicant may have to travel long distances to obtain a trivial document, which can be issued for example only by the municipality where he or she was born. There are no exemptions from any of the fees (or any other procedural easements) on humanitarian or economic grounds.

The Law on Bulgarian Citizenship instructs the Minister of Justice to make the proposal to the President on the application within 18 months. This is reduced to 12 months for applicants of Bulgarian origin and to 6 months for big investors applying for citizenship. NASA and the Ministry of the Interior must deliver their opinions on the applicant a varying number of months before the expiry of that period. Although these deadlines are imperative, there is no remedy against delays and as was discussed above, the courts refuse to sanction implicit refusals. For the President there are no statutory terms to decide at all. There is no official information available for the average timespan of an application, but according to the Minister of justice it takes about a year.

