

EUDO CITIZENSHIP OBSERVATORY

Naturalisation Procedures for Immigrants Slovak Republic

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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

Slovak Republic

Dagmar Kusá

1. Introduction

The question of citizenship acquisition in the Slovak Republic was for many years unique for its somewhat schizophrenic nature. The Act on Citizenship belonged for a long time among the more progressive and benevolent acts on citizenship within Europe. However, the actual process of acquisition of citizenship is lengthy and difficult and accompanied by a high rate of rejections. Only a handful of migrants from third countries acquire Slovak citizenship each year, and the number of refugees who have been granted citizenship is often in single digits. In 2007 and 2010, amendments were passed which made the requirements for acquisition of nationality in the law stricter¹ and reduced the possibilities to hold double citizenship. Thus, the law has moved closer to the strict and exclusive naturalisation process (rather than the other way around).

As such, the openness towards immigrants, push for diversity and multiculturalism are still not a part of the Slovak political culture and are seeping into official programs and policies only slowly and often more due to the pressure from the European Union and international organizations than as a result of a natural internal development.

2. Promotion of naturalisation

Migration policies are primarily within the competence of the Slovak Ministry of Interior. However, the Ministry of Labor, Social Affairs, and Family has recently established the Center for Coordination of Integration of Foreigners, following the official Strategy of Integration of Foreigners (2009). This Center is a result of the European Union common principles of integration policies. The Strategy itself notes that the Slovak Integration policies and services are lagging far behind the other countries of the EU (Ministry of Labor, Social Affairs, and Family, 2009, p. 9). Furthermore, the Migrant Integration Policy Index report (MIPEX) on Slovakia states: "The country, one of the last EU Member States to adopt even a 'concept' of integration in May 2009, has not achieved much progress in policy. Newcomers still experience weak and incoherent policies, scoring third worst of all 31 MIPEX countries" (Migration Policy Group, 2012).

The Slovak government has not led a naturalisation campaign of its own to date. The immigration flow has been comparatively low compared to other, mostly West European, countries and the immigration policies were for the most part focused on regulation of migration, intake and return of migrants to their home countries, security questions. Slovakia has been traditionally very restrictive in granting asylum and citizenship to new applicants².

¹ Act 344/2007 Coll. and 250/2010 Coll.

² Slovakia is among the countries with the lowest proportion of granting asylum and citizenship to applicants who were granted asylum. For example, in the year 2009, 1 person acquired citizenship (460 applications were

As Slovakia becomes gradually more often the final destination for the migrants and the migration inflows steadily increase, the immigration policies are shifting attention towards integration of foreigners into the Slovak society.

Immigrants seeking to acquire citizenship in Slovakia are not granted many services from the state. The Ministry does not offer counseling, language or cultural knowledge courses that would prepare applicants for naturalisation exams. Counseling happens on individual basis and is often limited to asylum seekers. Asylum seekers can receive some counseling from the Ministry of Interior³. Most counseling that migrants receive comes from non-governmental organizations (e.g. legal or psychological counsel from the Human Rights League (also for long-term stay, acquisition of citizenship, available only in Slovak language version) or the Humanitarian Council) or from the International Organization of Migration's Migration Information Center (MIC IOM) or, formerly also from the United Nations High Commissioner for Refugees in the Slovak Republic (UNHCR). The UNHCR Office has relocated from Bratislava to Budapest in 2012, thus the pool of available services to migrants grew thinner. Some of these services are partially or fully funded from EU sources (The European Fund for the Integration of Third-Country Nationals, Solidarity and Management of Migration Flows) which are administered through the Ministry of Interior.

Services offered to migrants (e.g. language or cultural background courses, counseling, job skills training...) are usually outsourced to non-governmental organizations. In providing services, the Ministry of Interior itself is focusing mostly on the area of asylum seekers and refugees. The Ministry of Interior's Migration Office is responsible for three asylum camps and one integration camp. In their administration and services offered to asylum-seekers, it cooperates closely with the UNHCR and the International Office of Migration (IOM).

The forms and information about naturalisation can be found in printed form at the Ministry of Interior (mostly in Slovak language). Availability of information in foreign languages is often a problem. The Foreign Police office is difficult to access for average migrants. The printed information there is available in vast majority only in the Slovak language and the police officers in majority do not speak English or other foreign languages. Foreigners frequently report frustration with the services and non-transparency of the process.

Online information on the naturalisation process is available on the Ministry of Interior's website⁴, but is only available in the Slovak language and rather difficult to locate. However, there are a number of other websites that by now offer comprehensive information to the migrants and those who wish to apply for citizenship, most notably the website of the MC IOM, which is available in Slovak as well as in English and Russian languages and contains thorough information on the application process and links to online documents, forms, publications, useful contacts, and other information. Among other notable online information sources are the Human Rights League⁵ (in Slovak language), Center for Research of Ethnicity and Culture (in Slovak language only⁶), which has also produced a website *Integration*⁷, however this source is also available only in Slovak Language. Both of these organizations are funded through EU funds for integration of foreigners.

rejected), in 2010, it was 3 people (361 rejected) and in 2011, it was 7 people (270 rejected). Source: Ministry of Interior, http://www.minv.sk/?statistiky-20

³ Although no information about counseling for asylum seekers is available at the Ministry website

⁴ www.minv.sk

⁵http://www.hrl.sk/

⁶ http://www.cvek.sk

⁷ www.integration.sk

Information campaigns of note to date were conducted for example by the Milan Šimečka Foundation's semiannual festival of the new minorities [Fjúžn] (Fusion)⁸ that also focused a lot of attention on new citizens, refugees, asylum seekers and foreigners who live in Slovakia. IOM, with the Milan Šimečka Foundation, have cooperated in the wider IOM program *Migrants in the Spotlight*⁹ that carried out events and trainings for journalists, analysts, experts in the countries of Slovakia, Czech Republic, Hungary, Latvia, Lithuania, and Romania. Local Media Institute is cooperating with the Slovak Television on a monthly TV series *Integruj!* (*Integrate!*)¹⁰ which offers information about the communities of foreigners living in Slovakia as well as information for migrants about job and training opportunities, events, etc.

Ministry of Interior recognizes that outsourcing services to the non-governmental organizations is the most efficient and effective approach for all sides involved. It is increasing its cooperation and support for programs provided by international and domestic NGOs in all areas of services offered to migrants and applicants for citizenship. The state institutions do not offer counseling, language or naturalisation courses directly, but MC IOM and other projects are partially or fully funded through the European Union funds, administered through the Ministry of Interior.

Free Slovak language courses are offered to immigrants by the MC IOM. Many, however, take private lessons or visit the state language school at own cost as well. Proof of the mastering of the Slovak language and knowledge of the Slovak culture and history are among the requirements for acquisition of citizenship, however, the applicants do not know how much knowledge will be necessary to successfully pass the test. The knowledge of language and culture is verified through an interview with a three member committee appointed by the District Authority (as stipulated by the Act 502/2007 (5 to 8). However, the test of language and cultural knowledge does not have any specific template and there are no official guidelines or study materials available to the applicants.

Process of acquisition of citizenship is complete after the applicant takes a vow of a national of the Slovak Republic. The ceremony itself takes place at the administrative offices of the district authority in the seat of a region where application was filed. There will be usually a brief mention in the press, and families can attend a small ceremony, which is theoretically open to public. However, since it's only a handful of people each year that acquire Slovak citizenship, it's a small and mostly administrative affair, consisting of reading the oath and the district authority or consular office taking a record of it to be sent to the Ministry of Interior.

3. Bureaucracy

The actual process of acquisition of citizenship begins with filing an application with the District Authority (DA) in the seat of a region along with application questionnaire and supplementary documents (detailed below). Then the DA verifies the knowledge of the Slovak language and culture in an interview (see details on the interview below).

DA then requests an opinion on the application from the relevant department of the Police Forces and when that is received, forwards the application file with the opinion to the Ministry of Interior.

⁸ www.nadaciams.sk

⁹ http://www.mits-eu.org/

http://www.integruj.sk/home-2

The Ministry of Interior receives the application file and has to decide on the case within a time limit of 24 months. Some delays are possible when the Ministry decides to request more information on the applicant. The Ministry reviews the file and requests a criminal record from the Office of the General Prosecutor. It asks for an opinion from a special department of the Police Forces and may ask for additional information from the Slovak Intelligence Service, other public authorities or from the applicant.

Art. 14 (1) of the Act No. 40/1993 on citizenship (as amended by later amendments and consolidated in the Act No. 502/2007) states that public authorities and natural persons are obliged to notify the Ministry of facts that pertain to the application when requested. Article 14 (2) states that information (personal data) from the Central Register of Acquisitions and Losses of Nationality and from the application file will be declassified and sent to the special department of the Police forces and, if deemed necessary, to the Slovak Intelligence Services, in order for these institutions to provide opinions on the application.

The Ministry of Interior decides the application and informs the applicant on its success or rejection.

When the Ministry approves the application for citizenship, it issues a deed on granting the nationality, which will be delivered to the applicant by the District Authority or a consular office after taking an oath of allegiance to the Slovak Republic (detailed in Art. 8a (10)). A record of taking the vow along with the confirmation of the receipt of the deed is then sent to the Ministry. The applicant officially becomes a citizen of the Slovak Republic upon receiving the deed on granting the nationality (with the conditionality of taking the vow of a national).

The law does not stipulate any formal procedure for how and when exactly the application is checked and whether or how the applicant could get information on the status of his application or an advice on how to proceed. The Act on Administrative Proceeding (Act no. 71/1967 as amended and consolidated in Act No. 138/2004), to which the Act on Citizenship refers, however grants the applicant an access to the file during the decision-making process and imposes same conditions as for other administrative proceedings (more details below). However, given the overall lack of services available to the applicants, this process and applicants' rights and obligations can be hard to navigate. As mentioned above, applicants for citizenship usually turn for advice to non-governmental organizations that offer counseling and other services, as no such services are offered by the state.

All successful applicants for citizenship pay a fee of 663,50 EUR (or 99,50 EUR for a child under 15 years of age and 132,50 EUR for a minor between 15 and 18 years of age) upon the receipt of the deed on granting the nationality of the Slovak Republic. Former Czech or Slovak citizens or those who had one parent with Slovak citizenship pay a fee of 16,50 EUR. Those, who were granted asylum as well as those who resettled from Chernobyl after the explosion of 1986 are automatically exempt from the application fees¹¹.

Applicants may naturally incur more costs along the way. These are related to verifying signatures on documents submitted with the application at a notary office (these costs are minimal, about 2 EUR per signature at a notary office). Applicant is requested to file original documents or their certified copies. For documents issued by a foreign state, an official translation into Slovak language must be provided. Official translations may cost approximately 20 EUR per page (depending on the translating service prices and number of pages to be translated).

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¹¹ Regulated by the Act 145/1995 Coll. on administrative fees, as amended by later amendments.

As stated above, state does not offer many services that help applicants in the process of naturalisation. Therefore, many opt for private language courses or for private lessons in preparation for the naturalisation interview. Here, the prices may vary widely as there are no set prices for such courses.

The Ministry of Interior is obliged to decide within a timeframe of 24 months from the date when the application for citizenship is delivered to the Ministry. The law (Act 43/1993 Coll. as amended by later amendments and consolidated in Act 502/2007) does not specify any other time limits or penalties for non-compliance with time limits, however, applicants have recourse to the courts or file a complaint at the Ombudsman Office or the National Center for Human Rights if there is an unjustified extension beyond the stipulated time limit. Delay may occur at any point when the Ministry of Interior exercises discretion and decides more documents than those submitted are needed to support the application. The time period from the date when the Ministry requests additional information to the date when it receives the requested file is not counted into the 24 month time limit.

4. Documentation needed for the application for citizenship

Documentation that applicants have to provide along with their application for nationality is detailed in Act on Nationality no. 40/1993 (as amended and consolidated in the Act no. 502/2007).

The application has to include information that include the name and surname of the applicant, surname at birth, birth number, place and date of birth. It has to state the permanent residence address, reasons for applying for citizenship and the date and signature of the applicant. There is no prescribed form needed for the application.

Adult applicants also submit a filled out application questionnaire issued by the Ministry of Interior (which can be obtained there in a printed form or at the MIC IOM website in a digital form). Children under the age of 14 do not need to fill one out. Minors under the age of 18 need to have their applicant questionnaire signed by their parents. If the signature cannot be acquired, a consent form with an officially verified signature is needed. Certificate of no criminal record no older than 6 months has to be acquired from the country (or countries) where the applicant was or is a national of and a copy of criminal record from every country where he or she had resided over the last 15 years.

Further, applicants provide brief curriculum vitae. A proof of identity, birth certificate, and proof of a marital status (or a death certificate if the spouse is deceased) have to be obtained from the home country. From the Slovak authorities, applicants must obtain and submit the certificate of residence.

If the applicant is a former national, he or she provides the deed of the loss of nationality or a certificate on acquiring a citizenship of another state. If the applicant has a status of a Slovak living abroad, he or she should submit a certificate of that (which can be obtained at the Office for Slovaks living Abroad in Bratislava or at a Slovak consulate).

The 2007 amendment of the Act on Citizenship (Act no. 344/2007 Coll.) introduced a list of additional documents required to submit with the application, making the access to nationality among the most challenging in Europe.

These include a certificate from tax authorities, customs authorities and municipality on payment of taxes and fees, extract from the commercial register or an extract from the trade register, employer confirmation of employment and copy of the employment contract, certificate from health insurer on payment of insurance premium for public health insurance

and on period of insurance, employer certificate on payment of income tax and on payment of insurance premiums to public health insurance, social insurance and old-age benefit insurance, certificate on studies, certificate on receipt of old-age benefits, certificate on registration of employment seeker, certificate on source of income satisfactory to finance the stay of the applicant and their relatives in the territory of the Slovak Republic if he or she is voluntarily unemployed.

If the applicant cannot provide some of the required documents, he or she shall substitute such documents by affidavits justifying their non-submitting.

Art. 16a (3) specifies that documents filed with the application must be originals or officially certified copies. For documents issued by foreign states, an official translation to Slovak language must be attached.

Application for minor children (under the age of 14) should also include their birth certificate, proof or residence, certificate from the relevant Police department and certificate of school attendance.

Upon filing the application and the application questionnaire, the District Authority verifies the knowledge of the Slovak language and culture in an interview with a three members committee (detailed above). No alternative proof of knowledge of the Slovak language is stated.

The language and naturalisation interview, which lasts about 30 minutes, consists of randomly selected article from a daily newspaper, which the applicant is asked to read out loud and summarize in a written form and of answering questions in Slovak language about the applicant's life and family and about important events from the Slovak cultural, social, political life and history. Applicants report that the interviews tend to be relatively easy and generally do not present a point at which the applications get rejected¹², but there is a considerable room for discretion, since no template or guidelines exist.

The committee votes on whether the applicant has passed successfully and takes minutes which include the name, surname, birth name and birth record number, date and place of birth and the residence address of the applicant as well as names and positions of the members of the committee. The record has to be supplemented by a copy of the article that the applicant was asked to translate and a justified evaluation by each member.

The Strategy for Integration of Foreigners in the Slovak Republic of the Ministry of Labor, Social Affairs and Family does identify the language and naturalisation interview and the lack of services offering preparation for it as one of the major handicaps of our integration policies and suggests that legislative and practical changes are necessary (Ministry of Labor, Social Affairs, and Family, 2009, pp. 42-44).

5. Discretion

The district authorities (or a consulate) and the Ministry of Interior have a significant amount of discretion in the decision-making process within the naturalisation procedure. The amount of discretion has actually increased in the 2007 amendment of the Act on nationality, and at the same time prolonged the waiting period for the decision to 24 months.

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¹² For the purposes of this report, I have interviewed Azim Farhadi (a former Afghani refugee who went through the naturalisation process and now heads a non-profit organization *Integrate*); and Katarína Hudecová of the IOM.

The language and integration interview, which is a condition for acquisition of Slovak citizenship, is not specified in the law or in regulations. The content of the interview evaluating the applicant's mastery of the Slovak language and knowledge of cultural and historical background is entirely up to the appointed three member committee, consisting of the administrators at the District Office.

Furthermore, the Ministry of Interior may decide to demand more documentation to support the application from state or foreign institutions (other than those specified by law). The 2007 Amendment on the Act on Nationality (Act No. 344/2007) introduced wording that provides for more discretionary powers for the Ministry of Interior. Article 8a (3) states: "In the proceedings on application for granting the nationality of the Slovak Republic, the ministry will ask a special department of the Police Forces for an opinion, and if necessary, also the Slovak Intelligence Service and other affected state authorities. In the proceedings on application for granting the nationality of the Slovak Republic, the ministry shall reflect public interest, including, without limitation, the security viewpoint, as well as the opinions of the Police Forces, the Slovak Intelligence Service and other affected state authorities". Vague reference to national security and public interest provides opportunity for misuse in exercising such discretion and thus for potential delays in the procedure.

The Act on Citizenship stipulates the condition of uninterrupted permanent residence for a period of at least eight years for citizenship to be granted. There are, however, categories of applicants who may be exempt from fulfilling this condition (Art. 7(1 a)). These exceptions are listed in detail in the Act No. 40/1993 Coll. on nationality of the Slovak Republic (as amended by later amendments, esp. Act No. 502/2007Coll.) The exemptions cover persons who married a Slovak national, persons who had permanent residence in Slovakia at least 3 years before reaching the age of 18, minor children with a guardian who is a Slovak citizen (there is no residence limit under the age of 2, two years prior to filing for citizenship otherwise). Further, the exemption applies to persons who are considered to be of special benefit to Slovak society (in science, culture, sport, etc.), asylum seekers (who have to be in that status for at least four years before applying for citizenship), those who were born in Slovakia and have a permanent residence there for three years, or those who have uninterrupted residence for at least ten years and a permanent residence permit. Also exempt are without nationality (in such cases, the condition for permanent residence is only three years), those who lost Slovak nationality in the past (permanent residence condition is reduced to two years), or those whose parent(s) were Czechoslovak nationals (permanent residence condition is reduced to two years). Persons who acquired a status of a Slovak living abroad can receive citizenship after two years of uninterrupted residence, and expatriates with former Czechoslovak or Slovak nationality without any condition of permanent residence. These exemptions are granted by the Ministry of Interior, upon providing a proof of fulfilling the conditions for exemption.

Further, children under the age of 14 are exempt from the language and naturalisation test, as are people of special benefit to the Slovak society, culture, science, technology... In the latter case, the test can be replaced with a statement of a relevant public authority.

6. Review

The law does not specify any appellation or reparation measures for the language and integration test and also does not describe a mechanism of appellation of a decision to reject the application for nationality that would be specific to the naturalisation process.

Art. 8a (13) and (14) of the Act 40/1993 (as amended later and consolidated in the Act No. 502/2007) states the conditions for an appeal or re-submission of the application for citizenship. In article 15 (1 and 2), it makes a reference to Act no. 71/1967 Coll. on

administrative proceedings (Administrative Procedure Code) as amended (full wording no. 138/2004 Coll.), which also apply the naturalisation proceedings. This entitles the applicant to have access to the application file, be able to look into it or make a copy during the process of consideration, protection of personal data. It further stipulates that the decision to grant or deny citizenship (in this case) should be a reasoned decision (Art. 47), stating and explaining the reasoning behind the decision, how the information were evaluated, which legal regulations were used, etc.

If the applicant does not fulfill the condition of uninterrupted permanent residence for at least eight years prior to filing the application (Art. 7(1)) and is not simultaneously covered by any of the exemptions to that condition as stated above (Art. 7 (2 to 6)), if their permanent residence expired or is canceled, or if they have failed to receive the deed on granting nationality, the application will be terminated by the Ministry and this decision cannot be appealed against.

In all other cases, the decision can be appealed to the Ministry of Interior. The Act on Administrative Proceedings (Art. 54) states that a decision can be appealed within 15 days from the receipt of the decision. The administrative organ (Ministry) can decide on the appeal itself if it approves the application. In other cases, the appeal has to be forwarded within 30 days to the appellate body (a higher administrative body). Art. 58 states that if an appellate body cannot be identified, head of the responsible administrative institution (Ministry) appoints a commission. Commission can either confirm the decision or return it for a new process and decision. No further appeal after that is possible. Direct reference to equal treatment and principle of non-discrimination in the Article 19a of the Act (40/1993 as consolidated in the Act No. 502/2007) also opens a recourse to the Slovak equality bodies, such as the National Center for Human Rights or the office of the Ombudsman.

7. Conclusion

The process of application for citizenship has gotten stricter in the past few years. The waiting period, conditioned by the minimum required uninterrupted permanent residence has been prolonged by the 2007 amendment of the Act on Citizenship. The 2010 amendment has further taken away the possibility of dual citizenship and nearly five hundred Slovak citizens who acquired a foreign citizenship have lost Slovak nationality since then (Zákon o občianstve..., 2013).

The stricter procedural conditions, however, have not led to greater transparency in the process of application for Slovak citizenship. There is a considerable room for discretion for the Slovak authorities within the process, and lack of services offering consultation, language or cultural knowledge training to the migrants from the side of the state authorities makes the process difficult for many of the applicants. In order to comply with the common principles on integration of foreigners of the European Union, new initiatives were started on the level of ministries, however, little of those efforts have been translated into noticeable results on the ground. The Slovak authorities continue to approach immigration as undesirable and see Slovakia as a mainly transitory country, although it has been more and more frequently a destination country as well in recent years. The motivation for systemic change, while declared on paper, is lacking in practice. The process of application for citizenship as well as integration of new citizens into the Slovak society therefore still leave a lot to be desired.

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