



# EU-CITZEN: ACADEMIC NETWORK ON EUROPEAN CITIZENSHIP RIGHTS

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## Study for Type A Report – Acquisition and loss of citizenship in 27 Member States of the European Union

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- GLOBALCIT (2017). Global Database on Modes of Acquisition of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory / Robert Schuman Centre for Advanced Studies / European University Institute. Available at: <http://globalcit.eu/acquisition-citizenship/>
- GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. Available at: <http://globalcit.eu/loss-of-citizenship>
- GLOBALCIT (2017). Global Nationality Laws Database. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. Available at: <http://globalcit.eu/national-citizenship-laws/>

In the initial stage of EU-CITZEN research, information on legislative changes has been provided by Prof. Rene de Groot and Prof. Hildegard Schneider (Maastricht University). From July until November 2019, GLOBALCIT has engaged country experts in all the studied EU Member States to collect and systematise data on 1) legislative changes that have taken place in their respective Member State; 2) relevant national and European case law; 3) modes of acquisition and loss of citizenship. GLOBALCIT country experts have provided detailed information for the period from 2013 to this date.

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## **Executive summary**

Article 20 of the TFEU establishes European Union (EU) citizenship as additional to Member State nationality without replacing it. As a result, the acquisition and loss of EU citizenship is regulated through the citizenship policies of the Member States, which independently decide whom to recognise as a citizen by birth, to whom to grant citizenship through naturalisation and whose citizenship to revoke.

In view of the wide spectrum of rules for the acquisition and loss of citizenship across the EU, this report provides a comparative overview of the key developments in 27 Member States, particularly as regards the acquisition of citizenship by birth; facilitated naturalisation for nationals of other EU countries and investor citizenship; and the loss of citizenship through renunciation or revocation and on (non)-toleration of dual citizenship. The goal is to highlight where national citizenship policies converge and identify where individual Member States, or groups thereof, introduce new policies on the acquisition and loss of national, and by extension, of EU citizenship. In addition to analyzing legislative changes in the Member States, policy debates at the EU level and CJEU and ECtHR jurisprudence are taken into account.

The report underscores that even though national citizenship legislation has been amended over 100 times across the Member States since 2013, the most significant changes have taken place in the domains of facilitated acquisition of citizenship on the basis of investment, loss by revocation, and dual nationality toleration. Changes to the acquisition of citizenship by birth have been far less frequent. Denmark and Portugal – in 2014 and 2018, respectively – have modified their citizenship laws in this respect. *Ius soli* provisions were also modified in Germany in 2014 and in Greece in 2015. There have been no legislative changes in the domain of loss of citizenship as a direct consequence of the landmark *Rottmann* and *Tjebbes* judgments of the CJEU. The requirement that revocation decisions must be proportionate and take EU law into account is, however, heeded in the implementation procedures in Denmark and the Netherlands.

The report proposes five policy recommendations. First, investor citizenship programmes need to be closely monitored to minimise their economic and security risks for the EU. Second, safeguards against statelessness should be included in the provisions regulating the loss of nationality. Third, there should be no distinctions

between nationals by birth and naturalised citizens in loss provisions. Fourth, nationality legislation should take into account CJEU judgments in the form of amendments to nationality legislation. In particular, Member States should consider whether their provisions on automatic loss of citizenship could be replaced with withdrawal procedures that involve an evaluation of individual circumstances and interests, including those in private and family life, in professional careers and in exercising rights as EU citizens in other Member States. Fifth, facilitating naturalisation for the nationals of other Member States through either reducing a required residence period or exceptionally tolerating dual nationality would facilitate the full political inclusion and representation of EU citizens who are long-term residents in another Member State.

# 1. Introduction

States use citizenship policies to regulate whom and under which conditions they recognise as citizens, and to whom they extend citizenship rights and obligations. Externally, citizenship is a tool for allocating individuals to different jurisdictions, where it delineates individuals' relationship with foreign authorities (e.g., conditions of entry and stay on behalf of the host country; matters related to diplomatic or consular protection on behalf of the home country).<sup>1</sup> Citizenship laws define how citizenship is attributed at birth, as well as how non-citizens can be naturalised, how individuals can lose their citizenship, and whether they can at the same time be citizens of another state.

This report analyses trends in the changes in citizenship policies in 27 Member States of the European Union (EU) since 2013.<sup>2</sup> Its thematic scope is restricted to the acquisition and loss of citizenship status. It thus does not discuss restrictions of national or EU citizenship rights, such as free movement or electoral rights.

The report highlights key features of the Member States' approaches to regulating the acquisition and loss of citizenship and legislative changes since 2013. In its conclusions and recommendations, the report highlights those aspects of citizenship laws that may be in conflict with states' international legal obligations in the domain of citizenship and individual rights emanating from the Treaties.<sup>3</sup> Most technical terms used in this report are defined in the GLOBALCIT Glossary on Citizenship and Nationality.<sup>4</sup>

Citizenship by birth can be obtained either through *ius sanguinis* (descent) or through *ius soli* (birth in territory). The procedure can either be automatic, or it may require subsequent registration or declaration. All of the 27 EU Member States use descent as

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<sup>1</sup> Joppke, Christian. "Multicultural citizenship." *Handbook of citizenship studies* (2002): 245-258; Vink, Maarten Peter, and Rainer Bauböck. "Citizenship configurations: Analysing the multiple purposes of citizenship regimes in Europe." *Comparative European Politics* 11, no. 5 (2013): 621-648.

<sup>2</sup> The report is prepared as a part of the Type A report of the EU-CITZEN network for 2019, thus covering the relevant developments in 9 or more EU Member States. The report thus covers changes in the citizenship legislation in Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. The present report does not cover the nationality law of the UK nor the impact of the UK's withdrawal from the Union on the acquisition and loss of EU citizenship on British citizens residing in the 27 Member States and on EU citizens residing in the UK.

<sup>3</sup> To avoid repetition, this report cross-refers to the Type A report produced by Maastricht University, which contains a detailed overview of national case law and the CJEU jurisprudence.

<sup>4</sup> See GLOBALCIT (2017). Glossary on Citizenship and Nationality. San Domenico di Fiesole: EUI. [http://globalcit.eu/glossary\\_citizenship\\_nationality/](http://globalcit.eu/glossary_citizenship_nationality/).

the primary mechanism for the automatic attribution of citizenship.<sup>5</sup> *Ius soli* is used predominantly in cases of foundlings and children that would otherwise remain stateless.<sup>6</sup> Ireland, Germany, and Portugal may grant citizenship to children born on their territory irrespective of the nationality of parents, but require prior residence of parents or of the child.

Admission of foreign nationals into citizenship is done through the process of naturalisation, which defines the material and procedural conditions that an individual needs to meet in order to become a national of a given state. Naturalisation conditions include requirements such as minimum legal residency in the country, the knowledge of the country's language, cultural and socio-legal setup, an oath of loyalty, clean criminal records, sufficient means to secure a livelihood without recourse to public funds, etc.<sup>7</sup> The substance of each of these conditions is stipulated in the national legislation and might differ significantly across countries. For instance, some countries accept only a state-certified language exam as evidence of knowledge of language, while others test the applicant's language in a face-to-face interview;<sup>8</sup> some countries may apply income thresholds, while others seek an employment certificate;<sup>9</sup> some countries require continuous physical presence under the residence condition, while others deem that a residential address is sufficient.<sup>10</sup>

The GLOBALCIT Observatory identifies 27 modes of citizenship acquisition; that is, 27 types of grounds through which individuals can become citizens of a state. As the

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<sup>5</sup> GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. <http://globalcit.eu/acquisition-citizenship/>. See information under "Mode A01a, Descent (born in country)".

<sup>6</sup> GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. <http://globalcit.eu/acquisition-citizenship/>. See information under "Mode A03a, Foundlings" and Mode A03b, Born Stateless".

<sup>7</sup> Bauböck, Rainer, and Sara Wallace-Goodman. "Naturalisation." (2011). <https://cadmus.eui.eu/handle/1814/51625>

<sup>8</sup> Goodman, Sara Wallace. "Integration requirements for integration's sake? Identifying, categorising and comparing civic integration policies." *Journal of ethnic and migration studies* 36, no. 5 (2010): 753-772; Dronkers, Jaap, and Maarten Peter Vink. "Explaining access to citizenship in Europe: How citizenship policies affect naturalisation rates." *European Union Politics* 13, no. 3 (2012): 390-412.

<sup>9</sup> Stadlmair, Jeremias. "Earning citizenship. Economic criteria for naturalisation in nine EU countries." *Journal of Contemporary European Studies* 26, no. 1 (2018): 42-63.

<sup>10</sup> For the requirement of continuous physical presence see the recent judgment of the High Court of Ireland Jones -v- Minister for Justice and Equality. [2019] IEHC 519. <http://courts.ie/Judgments.nsf/09859e7a3f34669680256ef3004a27de/0e91c61cc288576780258439003bc2b4?OpenDocument>. In Portugal, determining whether an applicant has met the residence condition is a discretionary power of the Border Agency (SEP). Healy, Claire. "Naturalisations procedures for immigrants : Portugal". San Domenico di Fiesole: European University Institute. <https://cadmus.eui.eu/handle/1814/29794>

first five conditions in this typology refer to acquisition of citizenship by birth, there exist at least 21 functional grounds through which individuals can be naturalised.<sup>11</sup> The term ‘ordinary naturalisation’ refers exclusively to residence-based acquisition of citizenship, and ‘facilitated naturalisation’ refers to any ground of naturalisation that waives or fully abolishes any of the requirements for admission into citizenry of a given state. All of the 27 EU Member States have ordinary naturalisation routes, and all of them use different grounds for facilitating admission for certain types of foreign nationals – spouses of citizens, nationals of other EU Member States, talented individuals, investors, external citizens, etc.<sup>12</sup>

Even though there has been a trend towards increasing toleration of dual citizenship in recent years, there are still eleven EU Member States that do not fully tolerate this status. Seven (Austria, Estonia, Germany, Latvia, Lithuania, Netherlands and Spain) do not allow dual citizenship in either incoming or outgoing naturalisations, i.e. they require renunciation of a foreign nationality as a condition for naturalisation<sup>13</sup> and withdraw their nationality in case their citizens voluntarily acquire a foreign one. Three Member States (Bulgaria, Hungary and Slovenia) prohibit dual citizenship only in incoming naturalisations, whereas Slovakia accepts it in this case, but withdraws its nationality from citizens who acquire a foreign nationality. Bulgaria, Germany and Latvia accept, however, dual citizenship involving another EU Member State both in incoming and outgoing naturalisations.

Section 2 represents a synthetic overview of all changes in nationality laws across the EU from 2013 to 2019. It indicates where citizenship policies have become more liberal or restrictive towards admitting new citizens, and highlights where Member States have changed their approaches to dual nationality, especially as regards EU citizens. Section 3 is a detailed comparative analysis of legislation and administrative implementation of (1) acquisition by birth, (2) facilitated naturalisation and (3) loss through renunciation or revocation of Member State citizenship, the latter being particularly relevant for EU citizenship and mobile EU citizens. In particular, under (1) **acquisition by birth**,

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<sup>11</sup> Mode A27 in the Global Database on Modes of Acquisition of Citizenship is ‘Acquisition of citizenship for other reasons’. Being a residual, catch-all mode, it cannot be considered functional grounds for acquisition of citizenship.

<sup>12</sup> GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. <http://globalcit.eu/acquisition-citizenship/>.

<sup>13</sup> Even though the renunciation requirement formally exists in these countries, some of them (e.g. Spain) do not enforce it in practice.



Section 3 examines (a) acquisition of EU citizenship *iure sanguinis* by children born abroad and (b) acquisition of EU citizenship *iure soli* by children born in Member States; under (2) **facilitated naturalisation** it focuses on (a) facilitated naturalisation for citizens of another EU Member State (including the acceptance of dual citizenship for EU citizens by Member States with otherwise restrictive policies); and (b) “investor citizenship”: facilitated naturalisation on grounds of investment, payment, or special economic achievements; and under (3) **loss through renunciation or revocation** (a) renunciation of citizenship in case of residence in the EU/in a third country; (b) withdrawal of citizenship due to residence in another EU Member State/in a third country; and (c) withdrawal of citizenship due to activities linked to terrorism or fighting in armed conflicts abroad. Section 4 presents an analysis of dual citizenship policies. The final part of the report contains conclusions and recommendations.

## 2. Overview of Key Trends

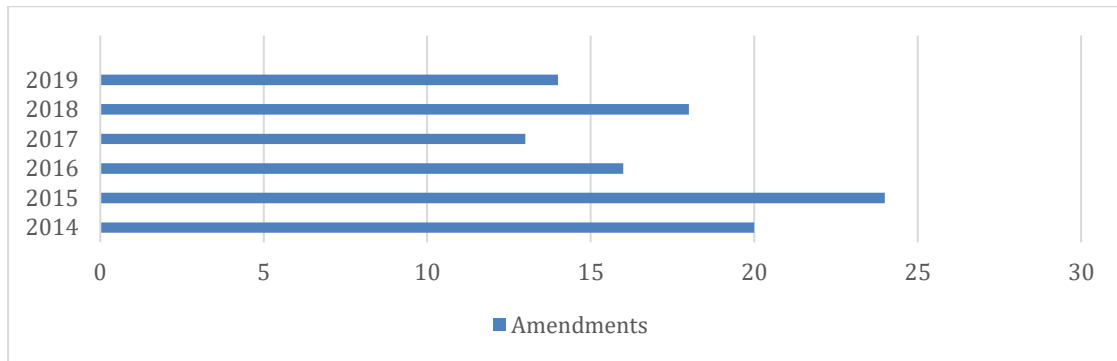
From 1 January 2014 to 1 December 2019,<sup>14</sup> the 27 EU Member States have changed their citizenship laws with a total of 105 legislative amendments. A total of 12 Member States amended their citizenship legislation in 2014 (Austria (2), Belgium, Bulgaria, Denmark (7), Estonia, Finland, France, Germany, Hungary, Malta, Portugal, and Sweden (2)); 14 in 2015 (Austria, Belgium, Bulgaria (2), Denmark (2), Estonia, Finland (3), France (2), Germany, Greece, Lithuania (2), Malta, Portugal (3), Romania and Spain (3)); 10 in 2016 (Bulgaria (2), Denmark (2), Finland, France (3), Germany, Hungary (2), Lithuania (2), Netherlands, Poland, Romania); 10 in 2017 (Austria (2), Belgium, Hungary, Italy, Luxembourg, Malta (2), Netherlands (2), Poland, Romania, and Slovenia); 13 in 2018 (Austria (3), Bulgaria, Belgium, Bulgaria, Denmark (2), Estonia, Finland, Hungary, Italy, Lithuania (2), Portugal, Slovakia (2), Sweden); and 12 in 2019 (Austria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France (2), Germany, Lithuania, Malta (2) and Poland).<sup>15</sup>

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<sup>14</sup> Information retrieved from GLOBALCIT country experts. It includes legislative amendments to the main citizenship legislation as well as newly adopted citizenship laws (e.g., Luxembourg).

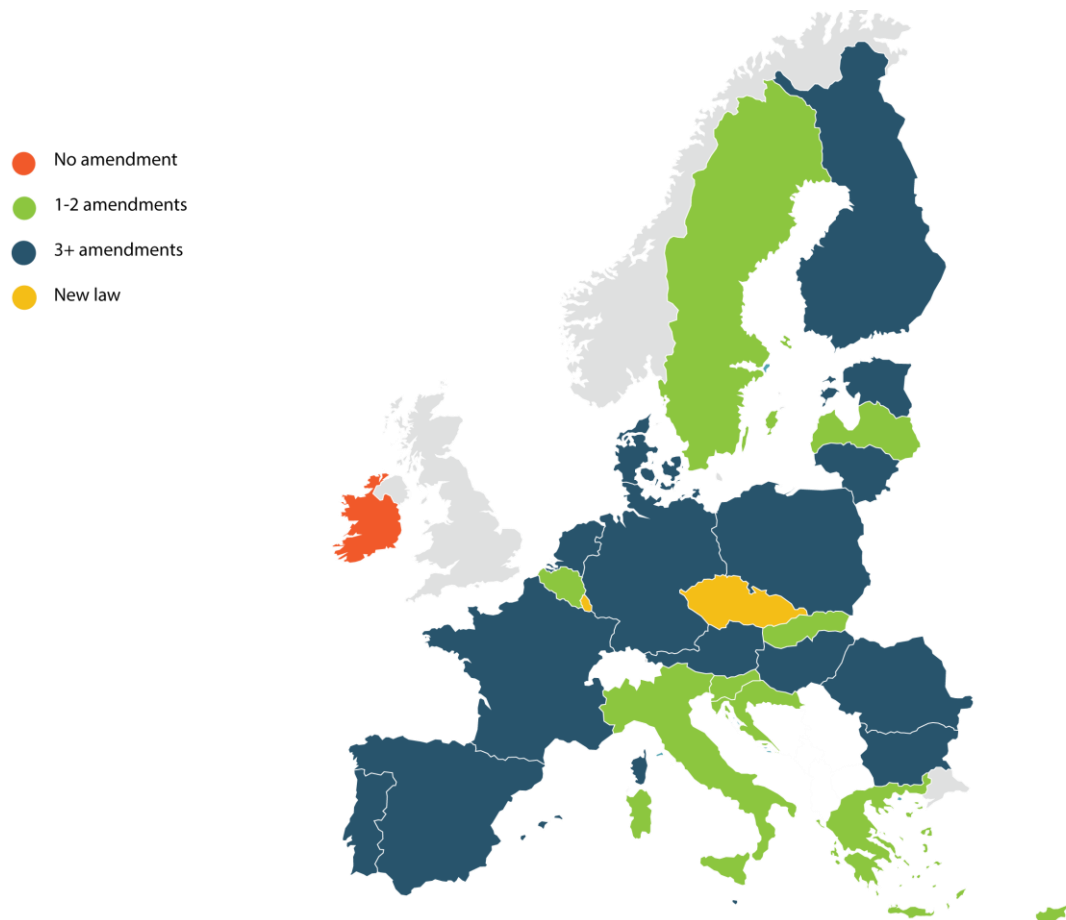
<sup>15</sup> Overview based on: GLOBALCIT (2017). Global Nationality Laws Database. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. Available at: <http://globalcit.eu/national-citizenship-laws/>. Updates from 2016 to 2019 provided by Prof. Rene de Groot and Prof. Hildegard Schneider.

**Chart 1. Frequency of amendments per year in all Member States**



While Ireland adopted no new citizenship legislation since 2014, 16 Member States enacted three or more legislative amendments to their citizenship law (Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Lithuania, Malta, Netherlands, Poland, Portugal, Romania and Spain). In particular, the Czech Republic and Luxembourg adopted new citizenship laws, in 2013 and 2017, respectively.

**Chart 2. Frequency of amendments per Member State 2013 - 2017**



While the frequency of amendments of citizenship laws has been high, a number of amendments have been procedural, rather than changing substantively the content of citizenship legislation. Substantive legislative changes in citizenship policies concern: a) the conditions for ordinary (residence-based) naturalisation (e.g., change in the years of residence, language and socialisation conditions, naturalisation fees); b) acceptance of dual nationality in incoming naturalisations; c) introduction of facilitated naturalisation for external citizens; d) changes to facilitated naturalisation for investors; e) withdrawal of citizenship due to residence in another EU Member State/in a third country; and f) withdrawal of citizenship due to activities linked to terrorism or fighting in armed conflicts abroad.

Further to these, legislative amendments in four Member States (Austria, Hungary, Poland and Slovakia) aligned the citizenship legislation with *Regulation (EU) 2016/679* (EU General Data Protection Regulation).

### 3. Comparative Analysis

#### 3.1. Citizenship by birth

Citizenship by birth is attributed through two basic rules – *ius soli* and *ius sanguinis*. *Ius soli* is based on birth in the country's territory, and is rooted in English common law. It was first applied in the British settler states, even though many former British colonies abandoned the territorial principle after independence. *Ius soli* was adopted as the key principle of attributing citizenship at birth in most countries in Latin America, where it persists to date.<sup>16</sup> *Ius sanguinis* is based on transmission of citizenship to children on the basis of descent. While most countries use *ius sanguinis* as the dominant principle for the attribution of citizenship by birth, their citizenship laws also contain *ius soli* provisions for births in their territory where the child would otherwise be stateless. All EU Member States except Cyprus have *ius soli* provisions for foundlings, but not all have them for other cases of otherwise stateless children (Baltic states, Cyprus, Denmark and Romania have very weak or no provisions).

##### *3.1.1. Acquisition of EU citizenship iure sanguinis by children born abroad*

By bestowing their national citizenship on children born abroad to a citizen parent, the EU Member States also shape the extraterritorial scope of EU citizenship. They create populations who have been born and reside outside EU territory but enjoy EU citizenship rights, including rights of free movement inside the EU, rights to subsidiary diplomatic and consular protection and in some cases also voting rights in European Parliament elections. There is strong variation between the Member States in the extent to which they apply *ius sanguinis* outside their territory.

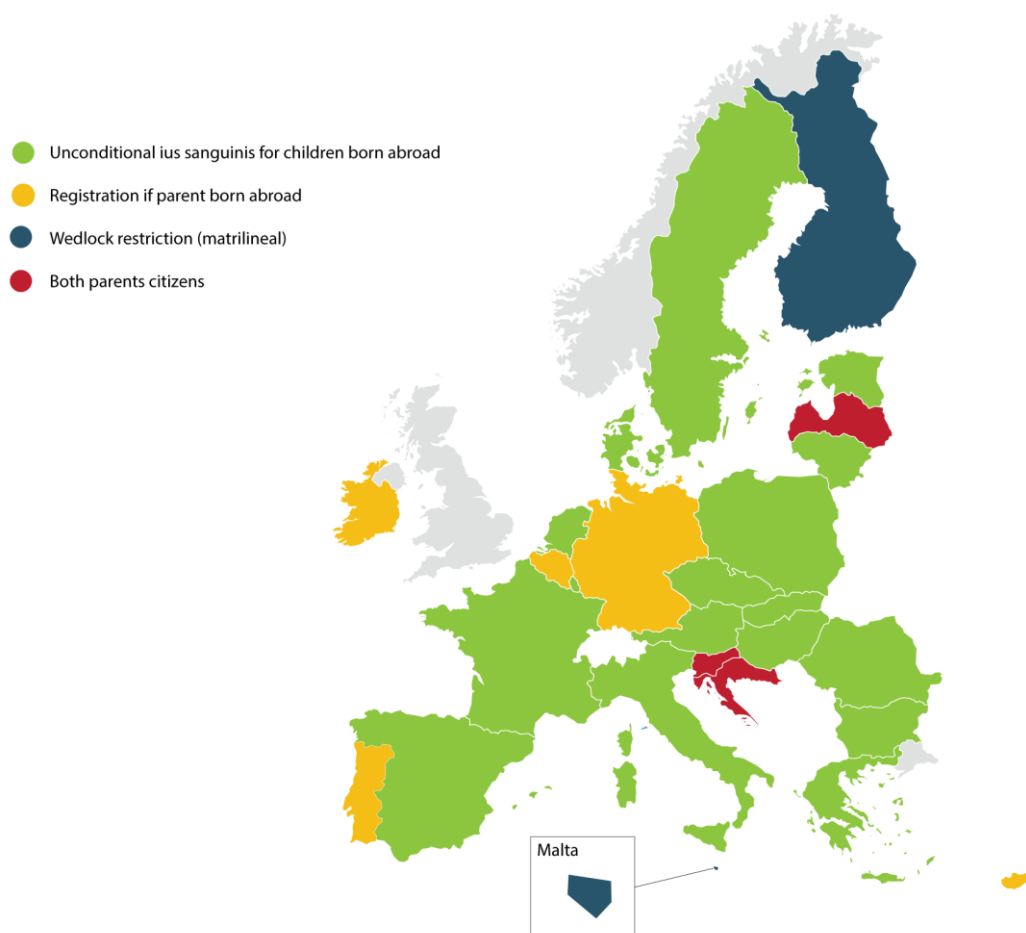
Ten EU Member States have limitations to the automatic conferral of citizenship through descent to children born outside of their territory. The main rationale for such a limitation is a concern that citizenship should reflect genuine links to a country, which cannot be presumed for children born abroad whose grandparents or more distant ancestors have emigrated from the country. The European Convention on Nationality

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<sup>16</sup> Bauböck, Rainer, Maarten Vink and Iseult Honohan. "How Citizenship Laws Differ: A Global Comparison". Delmi Policy Brief (2018:9)

(ECN) accepts limitations to descent-based citizenship in cases of births abroad (article 6(1)a).<sup>17</sup>

### Chart 3. Descent-based attribution of citizenship to children born abroad <sup>18</sup>



Cyprus, Ireland, Malta and Portugal traditionally limit citizenship by birth for children born abroad to nationals born abroad. Similar restrictions have been applied in Belgium since 1985 and Germany since 2000. Registration requirements apply in Belgium (within five years after birth), Germany, and Cyprus (two years), while Ireland, Malta and Portugal do not state registration periods.

<sup>17</sup> Article 6(1)a of the ECN stipulates “Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: 1) children one of whose parents possesses, at the time of the birth of these children, the nationality of that State Party, *subject to any exceptions which may be provided for by its internal law as regards children born abroad.*” Emphasis added.

<sup>18</sup> Malta also applies registration for children born abroad to nationals born abroad. In Croatia, Latvia and Slovenia, ius soli is automatic if both parents are citizens. Otherwise, further conditions apply.

Belgium applies limitations to descent-based transmission of citizenship to children born abroad. Such children may acquire Belgian citizenship if a) one of the parents was born in Belgium (or a territory administered by Belgium) and b) the child is registered as a Belgian national within five years from birth; or c) if the child would otherwise remain stateless.<sup>19</sup>

In Denmark, until 2014, children born abroad out of wedlock to a Danish father and a non-Danish mother could not be registered as Danish citizens (unlike children born out of wedlock to Danish mothers). However, the reform of the citizenship legislation has extended Danish citizenship to all children born abroad to Danish fathers, mothers and co-mothers.<sup>20</sup>

In Germany, children born abroad to German nationals may not obtain citizenship if the parent was born abroad after 31 December 1999 and has habitual residence outside Germany. If the child is at risk of statelessness or unable to otherwise acquire citizenship due to both parents' birth abroad, he or she may acquire German citizenship by registration. In cases of 'double' birth abroad (of the child and the child's German parent), registration within one year from the child's birth is required.<sup>21</sup>

Malta applies a provision similar to the one in force in Denmark before 2014. Children born abroad can acquire the citizenship of Malta if they were born in wedlock to a Malta citizen who has acquired citizenship otherwise than by descent, or out of wedlock to a mother who is a citizen of Malta. In *Genovese v. Malta*, the European Court of Human Rights (ECtHR), ruled that the provisions in the nationality law of Malta referring to wedlock were in violation of Article 14, in conjunction with Article 8 of the European Convention on Human Rights. The ECtHR did not consider the gender aspect related

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<sup>19</sup> Maarten P. Vink and Gerard-René de Groot (2010). "Birthright Citizenship: Trends and Regulations in Europe". Comparative Report, RSCAS/EUDO-CIT-Comp. 2010/8. San Domenico di Fiesole: European University Institute. <https://cadmus.eui.eu/bitstream/handle/1814/19578/>

<sup>20</sup> Law no 729 of 25 June 2014 amending the Law on Danish Citizenship (acquisition of Danish citizenship by birth etc.). Legal Gazette A Law No 729 of 25/06/2014 . [www.retsinformation.dk](http://www.retsinformation.dk)

<sup>21</sup> Maarten P. Vink and Gerard-René de Groot (2010). "Birthright Citizenship: Trends and Regulations in Europe". Comparative Report, RSCAS/EUDO-CIT-Comp. 2010/8. San Domenico di Fiesole: European University Institute. <https://cadmus.eui.eu/bitstream/handle/1814/19578/>

to transmission of nationality out of wedlock.<sup>22</sup> The matrilineal principle for granting citizenship to children born abroad out of wedlock is also applied in Finland.<sup>23</sup>

In Cyprus, Ireland, Malta and Portugal children born abroad do not automatically obtain these countries' citizenship unless a parent was employed in the country's public service. In all four Member States, if the child was not born to a parent employed in the country's service, the child is eligible for the country's citizenship upon application by him or herself or the parent who is a national.

In three Member States – Croatia, Latvia and Slovenia, a child born outside the country acquires its citizenship automatically only if both parents possess the country's citizenship. In cases of children born abroad to one national and one non-national, citizenship is acquired only by registration (before the age of 18) or by settling in the country.

Finally, the provisions on the descent-based attribution of citizenship face increasing challenges resulting from interpersonal relationships that reflect sexual identities. Recently, the Supreme Administrative Court of Poland has denied Polish citizenship to a child of two Polish mothers born in the United Kingdom. The grounds for refusal were that under Polish law, a child's parents can only be a man and a woman.<sup>24</sup> Practices that do not recognise parentage to same-sex couples adversely affect the transmission of citizenship to children and are potentially discriminatory where transmission of citizenship is otherwise possible for heterosexual couples.

### *3.1.2. Acquisition of EU citizenship iure soli by children born in Member States*

Only four Member States (Germany, Greece, Ireland and Portugal) foresee the *ex lege* attribution of citizenship at birth to children of residents regardless of their parents' nationality. In Ireland, a parent needs to possess permanent residence in Ireland or the UK, or to have been resident in Ireland for 3 out of the last 4 years.<sup>25</sup> The residence

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<sup>22</sup> *Genovese v. Malta* (Application No. 53124/09) the European Court of Human Rights (ECtHR). <https://hudoc.echr.coe.int/eng#%7B%22dmdocnumber%22%3A%5B%5D%2C%22itemid%22%3A%5B%5D%2C%22document%22%3A%5B%5D%7D>

<sup>23</sup> See: GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. <http://globalcit.eu/acquisition-citizenship/>. See information under Mode A01b, Descent (born abroad)".

<sup>24</sup> Resolution of the Supreme Administrative Court of Poland (NSA) of 2 December 2019, II OPS 1/19 <http://orzeczenia.nsa.gov.pl/doc/0CB4DBF3D4>

<sup>25</sup> See: GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. <http://globalcit.eu/acquisition-citizenship/>. See information

condition in Germany (since the 2000 reform) has been eight years, while in 2018 Portugal has lowered the residence condition for *ius soli* requiring the parents of children born in Portugal to have legally resided in the country for two, instead of five years.<sup>26</sup> In December 2019, the Portuguese parliament has taken steps towards an unconditional territorial citizenship by birth. If approved, the legislation would abolish the two-year residence requirement for the child's parent unless the parent is facing an expulsion measure.<sup>27</sup> In 2014 Germany weakened the “option duty” to renounce a foreign nationality acquired *iure sanguinis* in order to retain German citizenship acquired *iure soli*. Since then, German citizenship acquired *iure soli* will be withdrawn at age 23 only if the person has not spent eight years (or six years of schooling) in Germany and has not renounced another citizenship acquired at birth *iure sanguinis*. A 2010 Greek law had provided for automatic acquisition of citizenship for children born in Greece if both parents had 5 years of continuous lawful residence in the country at the time of the child’s birth. This provision was struck down by the Council of State in 2013. In 2015, a new law was passed according to which children born in Greece to parents one of whom has had continuous lawful residence for five years before the child’s birth can acquire Greek citizenship by declaration from the time of attending primary school in Greece.<sup>28</sup>

Seven Member States (Belgium, France, Greece, Luxembourg, the Netherlands, Portugal and Spain) grant citizenship *ex lege* to children born in a country to a parent who was also born in that country. In France, Luxembourg and Spain, *ius soli* applies to children if at least one parent has been born in the respective country. Belgium has an additional residence requirement for the parent whose child will be automatically granted Belgian citizenship only if the parent was also born in Belgium and legally resided there at least five of the ten years preceding the person's birth. Greece requires

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under “Mode A02a, birth in country (second generation)” and “Mode A02b, birth in country (third generation)”.

<sup>26</sup> Lei Organica no. 2/2018, de 05 de Julho [Organic Law 2/2018 of 5 July]. Diário da República n.º 128/2018, Série I de 2018-07-05. <https://dre.pt/home/-/dre/115643970/details/maximized>

<sup>27</sup> Filhos de imigrantes nascidos em Portugal podem ser portugueses desde que um progenitor seja residente [Children of migrants born in Portugal may become Portuguese if a parent is resident], Publico, 12 December. [https://www.publico.pt/2019/12/12/politica/noticia/filhos-imigrantes-nascidos-portugal-podem-portugueses-desde-progenitor-residente-1897173?utm\\_source=notifications](https://www.publico.pt/2019/12/12/politica/noticia/filhos-imigrantes-nascidos-portugal-podem-portugueses-desde-progenitor-residente-1897173?utm_source=notifications)

<sup>28</sup> Dimitris Christopoulos (2017) An unexpected reform in the maelstrom of the crisis: Greek nationality in the times of the memoranda (2010–2015), *Citizenship Studies*, 21:4, 483-494, DOI: 10.1080/13621025.2017.1307604



that the parent born in Greece is a permanent resident at the time of the child's birth, while Portugal does not distinguish between legal and illegal residence of the parent.

### **3.2. Facilitated naturalisation**

Naturalisation is the process through which an individual acquires citizenship that he or she has not held previously. This acquisition of citizenship is not based on the fact of birth but requires meeting a series of conditions, attested to in a procedure before the public authorities, who decide, by virtue of a legal act, whether the applicant has met the conditions and can become a citizen.

In addition to 'ordinary' (i.e., residence-based) naturalisations, countries facilitate the acquisition of citizenship for certain categories of applicants, including citizens of particular countries, talented sportspeople or artists, spouses of nationals, or those who made a contribution to the country (through public service or investment). The following sections look at two practices that are important in the context of EU Citizenship – facilitated naturalisation for citizens of another EU Member State (including the acceptance of dual citizenship for EU citizens by Member States with otherwise restrictive policies) and facilitated naturalisation on grounds of investment, payment, or special economic achievements (investor citizenship).

*3.2.1. Facilitated naturalisation for citizens of another EU Member State (including the acceptance of dual citizenship for EU citizens by Member States with otherwise restrictive policies).*

Eight Member States (Austria, Bulgaria Czech Republic, Germany, Greece, Italy, Latvia and Romania) have provisions in their citizenship laws facilitating the acquisition of citizenship for nationals of all other EU Member States.<sup>29</sup> Austria, Romania, Greece and Italy reduce the residence requirement compared to ordinary residence-based naturalisation. While ordinary applicants need to meet the ten-year residence condition in Austria, this requirement is reduced to six years for EU nationals. Italy and Romania apply a four-year residence requirement to EU nationals, while requiring ten and eight years of residence from third country nationals. Czech Republic and Greece both reduce the required residence period from seven to three years (in the Czech Republic, the applicant also needs to possess a permanent residence permit). Bulgaria, Latvia and Germany apply the same residence and other conditions to EU nationals but waive the requirement to renounce a previously held EU nationality.

Cyprus, Denmark, Finland, Sweden and Spain have provisions in their citizenship legislation, which facilitate the acquisition of citizenship for nationals of some EU Member States. In Cyprus, citizens of a commonwealth country or the UK (in the EU, this applies to citizens of Malta only), who are of Cypriot descent, may be registered as Cypriot nationals after 12 consecutive months of residence in the country. Sweden, Denmark and Finland apply a facilitated naturalisation procedure for nationals of the Nordic countries,<sup>30</sup> whereby this sub-group of EU nationals (the privilege also applies to nationals of Norway and Iceland) may obtain their respective citizenship after two years of residence and upon meeting other naturalisation conditions. Spain facilitates naturalisation for Portuguese nationals by reducing the residence condition from ten to two years (immediately prior to the application), and by not requiring renunciation of the citizenship of origin. Other countries to which this provision applies include Andorra, Philippines, Equatorial Guinea and Latin American countries. The Court of Justice has not yet had the opportunity to give its opinion on whether the privileged

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<sup>29</sup> See: GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. <http://globalcit.eu/acquisition-citizenship/>. See information under “Mode A18, citizenship of a specific country”.

<sup>30</sup> The term Nordic countries refers to Denmark, Finland, Iceland, Norway and Sweden. They are members of the Nordic Passport Union, existing since 1952. Citizens of these countries do not need identification documents for entry and stay in any of the countries of the Nordic Passport Union.

treatment of certain EU nationalities could amount to discrimination on grounds of nationality.

### *3.2.2. Naturalisation in the national interest, including economic interest, and “investor” citizenship*

Investor citizenship refers to practices adopted by countries to facilitate naturalisation in exchange for a pecuniary contribution or investment. In practice, countries may use the following three mechanisms to grant citizenship to investors (1) discretionary provisions for naturalising foreign nationals on the basis of exceptional achievements or contributions, (2) specific programmes for the sale of passports, or (3) programmes that enable investors to obtain residence rights and, in due course, access to citizenship through ordinary naturalisation procedures.

While discretionary provisions do not target investors *per se* but rather refer to broader services to the state, talent or achievement, they may be used for naturalising investors. As of 29 November 2019, there are no statistical data as to how many Member States have used these provisions naturalise investors, and if so, how many individuals received investor citizenship on the basis of such discretion.

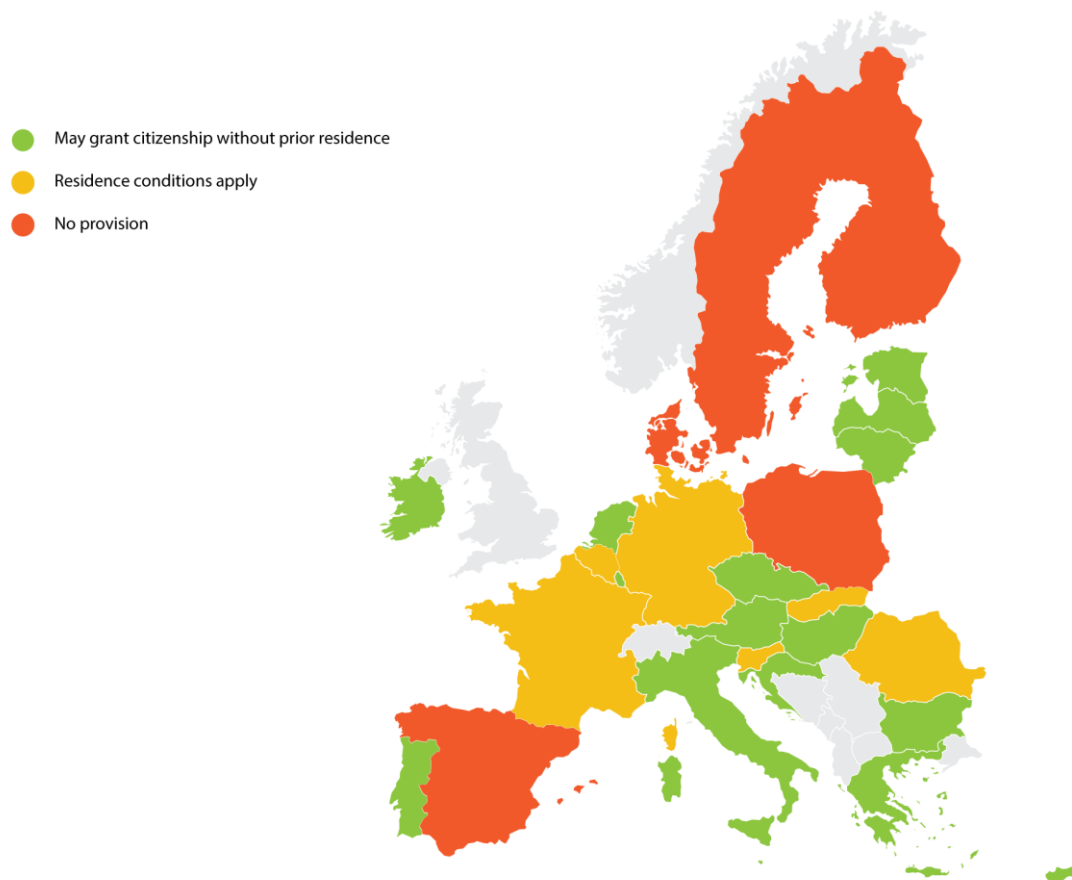
#### a) Discretionary provisions for naturalisation on the basis of national interest

The discretionary provisions for conferring citizenship on the basis of national interest may consider investment in the country concerned to constitute a ‘special interest’ or ‘exceptional services’ rendered. These provisions are widespread, even though they are rarely used. Sometimes the annual number of such naturalisations is limited by law, as is the case in Estonia (ten people per year).<sup>31</sup>

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<sup>31</sup> Bauböck, Rainer, and Sara Wallace-Goodman. "Naturalisation." (2011). Eudo Citizenship Policy Brief 2011/02 (p.7). <https://cadmus.eui.eu/handle/1814/51625>

#### Chart 4. Discretionary attribution of citizenship (national interest or exceptional achievements)<sup>32</sup>



At present, 22 out of the 27 Member States of the EU have provisions for the discretionary conferral of citizenship on the basis of national interest or exceptional achievements, including not only the economic interest of the state, but also cultural, sports or scientific ones.<sup>33</sup> Legislative provisions in Austria, Bulgaria, Slovakia and Slovenia explicitly refer to ‘commercial’ or ‘economic’ interest of the state as the basis for naturalisation, while in other countries national interest is defined in broad terms. Even though there is no mention of ‘commercial’ or ‘economic’ interest, all 22 Member States listed above could use the state’s discretion to naturalise investors by waiving

<sup>32</sup> See FN 28 for further information on Austria.

<sup>33</sup> The citizenship laws of the Denmark, Finland, Poland, Spain, Sweden and the United Kingdom do not contain provisions on naturalisation on grounds of special achievements. GLOBALCIT (2017). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Available at: <http://globalcit.eu/acquisition-citizenship/>. See information under “Mode A24, Special Achievements”.

some or most conditions for naturalisation. In Austria,<sup>34</sup> Belgium, France, Germany, Romania, Slovakia and Slovenia, a reduced residence requirement is retained. Austria reduces the residence requirement from ten to six years; Belgium and France require the legal resident status (in France, a maximum of two years); instead of eight years, Germany and Romania require three and four years of residence, respectively; Slovenia may apply a one-year continuous residence condition (that can be waived through authorities' discretion), while Slovakia requires permanent residence for naturalisations on the basis of national interest.

In eleven EU Member States (Austria, Belgium, Croatia, Cyprus, Czech Republic, Netherlands, Malta, Portugal, Romania, Slovakia and Slovenia) the implementation of the discretionary naturalisation on the basis of national interest is the same as that of the other naturalisation routes. Applicants submit their documents to the national authority in charge of handling naturalisation procedures, applications are screened (including opinions on whether the applicant has made an exceptional contribution) before the relevant ministry takes the decision on naturalisation. In Bulgaria, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg and Romania, the procedure is initiated by a sectoral ministry, which proposes the candidates to the ministry in charge of naturalisation, to the country's President or Parliament. The sectoral ministry submits the application to the ministry of justice (or interior) in Bulgaria, Estonia, France, Greece, Hungary, Italy and Luxembourg. In Romania and Latvia, the national parliaments decide on whether to grant discretionary naturalisation on the basis of national interest or exceptional achievement, while in Italy, Ireland and Lithuania this is the prerogative of the office of the President.

#### b) Investor citizenship schemes

Three EU Member States (Bulgaria, Cyprus and Malta) have specific provisions that enable the naturalisation on the basis of investment. In 2018, a detailed factual analysis of these schemes has been conducted by Milieu Law and Policy Consulting for the European Commission.<sup>35</sup> Recent changes in Member States as regards the grant of

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<sup>34</sup> In Austria, if citizenship is conferred on grounds of the constitutional Article 10(6) of the Nationality Act, residence requirements are completely waived, and if it is under Article 11a(4) of the Nationality Act, mandatory residence is 6 years.

<sup>35</sup> Fact finding study. Milieu Law and Policy Consulting, Factual Analysis of Member States' Investor Schemes granting citizenship or residence to third-country nationals investing in the said Member State, Brussels 2018 ("the Study"), available at: [https://ec.europa.eu/info/investor-citizenship-schemes\\_en](https://ec.europa.eu/info/investor-citizenship-schemes_en)

citizenship on the basis of investment concern (1) a draft law under consideration in Bulgaria; and (2) substantial amendments to the investor citizenship scheme in Cyprus. There have been no recent legislative changes to Malta's Individual Investor Programme (IIP).

### *Bulgaria*

Following the publication of the *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Investor Citizenship and Residence Schemes in the European Union*, Bulgaria announced that it will terminate the investor scheme. The country's decision has also been motivated by the low number of beneficiaries.<sup>36</sup>

While Bulgaria has not amended its citizenship act to discontinue the programme as of November 2019, a draft law is under consideration by the Bulgarian Parliament.<sup>37</sup> The draft Law on Amendments and Addenda to the Law on Bulgarian Citizenship introduces legislative changes to articles 12a and 14a, which currently enable investors to obtain the country's citizenship. Even if the proposed amendments are adopted, it will still be possible for investors to obtain Bulgarian citizenship.

Article 12a waives the language and dual citizenship renunciation conditions for investors, while retaining the residence condition of five years (on a permanent residence permit), no convictions (or rehabilitation), and a source of income. The proposed amendment to article 12a abolishes the possibility for investors to become eligible for naturalisation under article 12a if they obtain a permanent residence permit on the basis of article 25(1)6 and 25(1)7 of the Law on Foreigners. Hence the amendment will no longer offer citizenship to those who have invested over 1 million BGN in (a) shares of Bulgarian commercial companies traded on the Bulgarian regulated market; (b) state bonds to be held for at least 6 months; (c) the right of ownership in a Bulgarian commercial company whose majority owner is the state; (d) shares of a Bulgarian commercial company where state is the shareholder; (e) Bulgarian intellectual property; (f) rights under concession arrangements in Bulgaria. It will also no longer include individuals who have gained permanent residence in Bulgaria by

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<sup>36</sup> Stakeholder meeting, 16 June 2019.

<sup>37</sup> Законопроект за изменение и допълнение на Закона за българското гражданство [Draft Law on Amendments and Addenda to the Law on Bulgarian Citizenship], 8 October 2019. <https://www.parliament.bg/bg/bills/ID/157186>

investing 1 million BGN in a licensed credit institution in Bulgaria under a trust agreement with a term of five years or more.

However, the amended article 12a will still enable investors who received the permanent resident permit on the basis of art 25(1)8 or a family member of such persons, or on the grounds of article 25(1)13 [in relation to art 25c(2)2,3), or 25(1)16], to obtain Bulgarian citizenship without learning the Bulgarian language and renouncing their citizenship of origin. This includes persons (a) who have invested at least 6 million BGN in a Bulgarian trade company whose shares are not tradable on a regulated market; (b) who invested in certified Class A and Class B investments (in view of the Investment Promotion Act); (c) who have invested at least 0.5 million BGN in a Bulgarian trade company, of which they are majority owners, and who have employed at least 10 Bulgarian citizens. In all of these cases, other conditions of article 12(a) continue to apply.

Article 14a provides for a waiver of the residence condition required under article 12, reducing it to one year of permanent residence, as well as a waiver of the income, language, and dual citizenship renunciation requirements. The proposed amendment revokes 14a(1)(a), that is, the possibility for individuals who invested at least 2 million BGN under provisions of article 25(1)6 and 25(1)7 of the Law on Foreigners, to become Bulgarian citizens after one year of permanent residence, if they are of age, and have no convictions (or have been rehabilitated). The proposed amendment retains the possibility for facilitated naturalisation of investors on the basis of article 14a(1)(b) and 14a(2) of the Bulgarian Citizenship Act. The provisions that remain in force concern individuals who made investments of at least 1 million BGN in projects certified by the Investment Promotion Act, and individuals who made Class A investments in view of the same act. Under the Investment Promotion Act, certified investments can be made in the following sectors: high technology; research of development; education; health and medical care; warehousing and transportation. To receive a Class A certification, a minimum investment of 20 million BGN is required, while an investment of 10 million BGN grants a Class B certification. Investments need to be maintained for five years in large enterprises and three years in small and medium enterprises.<sup>38</sup>

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<sup>38</sup> Закон за Насърчаване на Инвестициите [Investment Promotion Act], Official Gazette of the Republic of Bulgaria 28/2004 as amended by Act No 44 of June 2019. <https://lex.bg/laws/ldoc/2134164480>

## Cyprus

On 13 February 2019, the Cypriot Council of Ministers adopted Decision No. 86.879 introducing a number of changes to the Cypriot investor citizenship scheme. Table 1 (below) summarizes the requirements.

**Table 1: Investor citizenship in Cyprus (as of 29 November 2019)**

Article	Contribution requirement	Other requirements A1 – A6
A.1	<b>Donation of 75,000 euros to the and the Cyprus Land Development Corporation</b>	<ul style="list-style-type: none"> <li>- Clean criminal record</li> <li>- Valid Schengen Visa (if required by the TCN)</li> </ul>
	Donation to the Research and Innovation Foundation (if higher than 75,000 euros can supplement routes A.2-A.5)	
	Donation to the Land Development Corporation (if higher than 75,000 euros can supplement routes A.2-A.5)	
A.2	<b>Investment of 2 million euros in real estate, land development and infrastructure projects</b>	<ul style="list-style-type: none"> <li>- Private residence (property) in Cyprus valued at a minimum of 0.5 million euros</li> <li>- Residence Permit in Cyprus for at least 6 months</li> <li>- Must not be on the list of categories of persons excluded from the programme (see detailed table below)</li> </ul>
	Residential or commercial developments, developments in the tourism sector or other infrastructure projects. Application to include development plan.	
	<i>*Land cannot be in the zero development zone.</i>	
A.3	<b>Purchase or Establishment or Participation in Cypriot Companies or Businesses with 2 million euros</b>	<ul style="list-style-type: none"> <li>- Must not be on the list of categories of persons excluded from the programme (see detailed table below)</li> </ul>
	Company must be established and physically present in Cyprus, and employ at least 5 Cypriot/EU citizens. Checks conducted.	
	<i>* Number of Cypriot/EU employees to increase if more applicants invest simultaneously or within a short time period in the same company.</i>	
A.4	<b>Investment of 2 million euros in Alternative Investment Funds (AIF) or Registered Alternative Investment Funds (RAIF) or financial assets of Cypriot companies or Cypriot organizations that are licensed by Cyprus Securities and Exchange Commission (CySec)</b>	<ul style="list-style-type: none"> <li>- Must not be on the list of categories of persons excluded from the programme (see detailed table below)</li> </ul>
	AIF and RAIF to be licensed/registered and supervised by CySec. Up to 200,000 euros can be invested in secondary market stock-market values of the Cyprus Stock Exchange. Investment to be maintained for at least 5 years (annual checks).	
	<i>*AIF or RAIF purchase of units of other AIF or RAIF is not eligible.</i>	
A.5	<b>Combination of A.2, A.3, and A.4 in the amount of 2 million euros</b>	



The core change was the introduction of a further obligatory condition “A.1 Donation to the Research and Innovation Foundation and the Cyprus Land Development Corporation” for applications submitted after 15 May 2019. On 6 May 2019, the Council of Ministers decided on the exemption from the abovementioned condition A.1 for investors who have concluded real estate purchase agreements within A.2 (see above) or to meet the requirement of possessing a privately owned residence in Cyprus, provided that they bear a seal of the Stamp Duties Commissioner dated on or before 15 May 2019.<sup>39</sup>

The latest amendments to the Cyprus Investment Programme adopted through decision of the Council of Ministers of 25 July 2019, effective as of 23 August 2019, changed two financial conditions and introduced a security-related provision. In terms of **financial** aspects of the programme, the decision specified that after 15 May 2019 all applicants whose naturalisation decisions have been approved must satisfy the “A.1 Donation to the Research and Innovation Foundation and the Cyprus Land Development Corporation” condition. The amount of 75,000 euros is disbursed after the issuance of the approval letter. Further to this, the investment condition under A.5 (combination of investments) has been amended to allow the applicant to purchase securities on the secondary market of the Cyprus Stock Exchange (CSE) up to a maximum of 200.000 euros. The same condition applies to A.4 route.

Council of Ministers decision of 25 July 2019 also introduced **security** safeguards in that citizenship should not be granted to 11 categories of persons. These categories are summarised below.

<b>Categories of individuals excluded from Cyprus Investment Programme</b>
Politically Exposed Persons (PEP): individuals who hold political positions or have held them in the past five years
Persons undergoing criminal investigation (without being charged)
Persons who are subject to criminal proceedings and are defendants in a pending criminal case
Persons sentenced to prison for serious offences, where the conviction does not appear on Criminal Record

<sup>39</sup> Council of Ministers, Announcement concerning clarification for the Cyprus Investment Programme. 6 May 2019.  
[http://www.moi.gov.cy/moi/moi.nsf/all/4FDE3F7C5CFEB468C22583FE0022445D/\\$file/ANNOUNCEMENT%20FOR%20CLARIFICATION%20FOR%20CYPRUS%20INVESTMENT%20PROGRAMME.pdf?openelement](http://www.moi.gov.cy/moi/moi.nsf/all/4FDE3F7C5CFEB468C22583FE0022445D/$file/ANNOUNCEMENT%20FOR%20CLARIFICATION%20FOR%20CYPRUS%20INVESTMENT%20PROGRAMME.pdf?openelement)

Persons currently affiliated with legal entities as shareholders/executives with companies sanctioned by the European Union (EU)
Persons with no present connection with legal entities as shareholders/executives with companies sanctioned by the European Union (EU), but who have been affiliated as shareholders/executives when the sanctions were imposed.
Persons who have been sanctioned by non-EU countries (e.g. USA, Ukraine, Russia).
Persons associated with legal entities subject to sanctions by non-EU countries.
Persons currently under investigation/charged for criminal offences and sought by EUROPOL or INTERPOL.
Persons who in the past have been investigation/charged for criminal offences and sought by EUROPOL or INTERPOL.
Persons subject to sanctions by the United Nations Security Council.

In November 2019, following a report by Reuters News Agency on Cambodian elites who obtained EU citizenship,<sup>40</sup> the Cyprus Minister of Finance Harris Georgiades announced that “mistakes were made” in the course of implementing the programme.<sup>41</sup> As a result, the procedure is ongoing for revoking Cypriot citizenship of 26 individuals who received it between 2013 and 2019.<sup>42</sup>

### *Malta*

Since the adoption of the Subsidiary Legislation 595.25 Malta Individual Investor Programme Agency (Establishment) Order, Legal Notice (LN) 96 of 2018 as amended by LN 385 of 2018, there have been no formal amendments of Malta's investor citizenship scheme.<sup>43</sup>

The Sixth Annual Report on the Individual Investor Programme of the Government of Malta, covering the period between 1 July 2018 and 30 June 2019, stipulates that since the beginning of the programme, a total of 1,742 applications had been submitted, and

<sup>40</sup> "Will Cyprus Put an End to Its Investor Passport Programme?", *South EU Summit*, 20 November 2019. <https://www.southeusummit.com/europe/cyprus/will-cyprus-put-an-end-to-its-investor-passport-programme/>

<sup>41</sup> "Khmer Riche. How relatives and allies of Cambodia's leader amassed wealth overseas", Reuters, 16 October 2019. <https://www.reuters.com/investigates/special-report/cambodia-hunsen-wealth/>

<sup>42</sup> "Cyprus to strip 'golden passports' from 26 people", *Financial Times*, 6 November 2019. <https://www.ft.com/content/5c80c6b4-00b6-11ea-b7bc-f3fa4e77dd47>

<sup>43</sup> Subsidiary Legislation 595.25 Malta Individual Investor Programme Agency (Establishment) Order, Legal Notice (LN) 96 of 2018 as amended by LN 385 of 2018. <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12809&l=1>

1,198 had been approved.<sup>44</sup> The annual intake of applications ranges between 311 (1 July 2018 and 30 June 2019) and 451 (1 July 2015 and 30 June 2016).<sup>45</sup> Since 2016, the number of applicants has been steadily decreasing – from 451 (1 July 2015 and 30 June 2016), to 377 (1 July 2016 and 30 June 2017), to 330 (1 July 2017 and 30 June 2018), to 311 (1 July 2018 and 30 June 2019). LN 47 of 2014 stipulates that the number of successful main applicants shall not exceed 1,800 for the whole duration of the programme. Considering that 1,198 applications had been approved as of 30 June 2019, and that the annual approval rate is slightly below the intake rate, the IIP should reach the cap of successful applications in the course of 2022. There have been no announcements of whether the IIP will be amended to increase the cap, or whether a different investors' scheme will be introduced.

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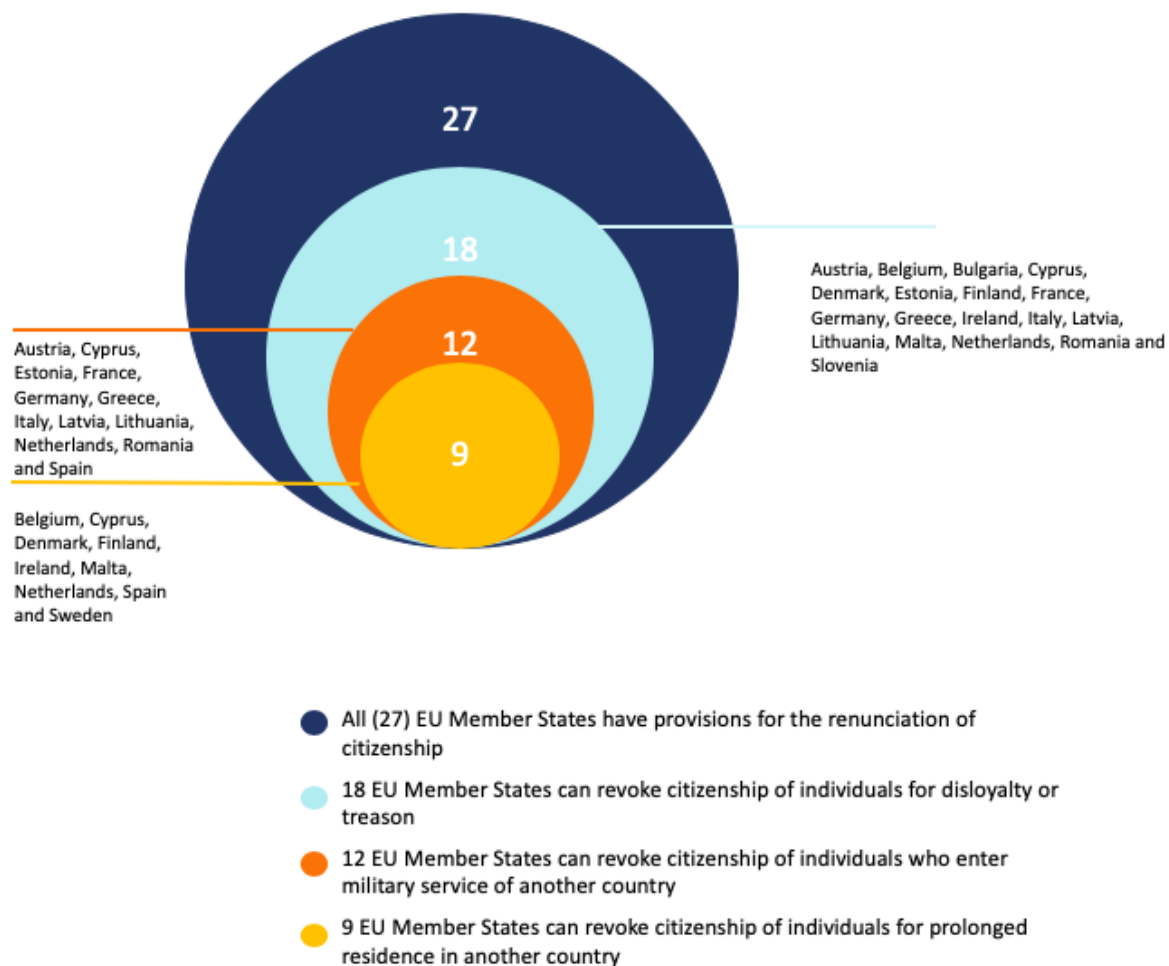
<sup>44</sup> Sixth Annual Report on the Individual Investor Programme of the Government of Malta (1st July 2018 – 30th June 2019), Office of the Regulator of the Individual Investor Programme.  
<https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202019.pdf>

<sup>45</sup> Third Annual Report on the Individual Investor Programme of the Government of Malta (1st July 2015 – 30th June 2016), Office of the Regulator of the Individual Investor Programme.  
<https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202016.pdf>

### 3.3. Loss through renunciation or revocation

Loss of citizenship can occur in different ways.<sup>46</sup> Individuals may decide to voluntarily renounce their citizenship (through a request filed to national authorities), their citizenship may cease by force of law (e.g. upon acquiring another nationality) or it can be revoked by the country concerned. States may withdraw citizenship from an individual on the basis of his or her long residence abroad, or ‘disloyalty’ through public and military service for other countries. Most recently, an increasing number of states has adopted policies to denationalise not only convicted terrorists, but also terrorism suspects.

**Chart 5. Renunciation and revocation of citizenship in the EU27**



<sup>46</sup> See: GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. Available at: <http://globalcit.eu/loss-of-citizenship>

In the context of the EU, withdrawal of national citizenship may lead to the loss of EU citizenship. As established by the *Rottmann* judgment of 2010 and confirmed by the *Tjebbes* judgment of 2019, Member States have to take EU law into account if depriving their nationals of their nationality entails a loss of EU citizenship. Such withdrawal must comply with the principle of proportionality.<sup>47</sup>

### 3.3.1. Renunciation of citizenship

Renunciation of citizenship is the voluntary loss of citizenship by the individual. The process entails either a “release” by the authorities or a “declaration” from the individual. In order to comply with international norms on the regulation of statelessness, states usually require individuals to have proof of a second citizenship before the citizenship can be officially renounced.<sup>48</sup>

All EU Member States have provisions for the renunciation of citizenship and all of them require the applicant to be in possession of citizenship of another country. Moreover, in six Member States (Austria, Bulgaria, the Czech Republic, Greece, Hungary and Ireland) a request to voluntarily renounce citizenship may only be filed if an individual resides outside the respective country.<sup>49</sup> Citizens of Austria, Lithuania, Poland, Romania, Slovakia and Slovenia who also reside in these countries may not voluntarily renounce their citizenship if there are pending criminal charges against them in national courts. In Austria, Croatia, Cyprus, Estonia, Finland, Germany, Lithuania and Slovenia only citizens who have completed compulsory military service are allowed to renounce their citizenship.<sup>50</sup> There have been no significant changes to laws on the voluntary loss of citizenship among EU Member States in the last decade.

There do not seem to be any legal provisions that differentiate between nationals residing in another EU Member State and those residing in a third country or between

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<sup>47</sup> Judgment of the Court (Grand Chamber) of 2 March 2010. *Janko Rottmann v Freistaat Bayern*. Reference for a preliminary ruling: Bundesverwaltungsgericht - Germany. Case C-135/08. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0135>

<sup>48</sup> “Acquisition and Loss of Citizenship in EU Member States: Key Trends and Issues.” European Parliament Briefing. July 2018. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS\\_BRI\(2018\)625116\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS_BRI(2018)625116_EN.pdf)

<sup>49</sup> GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. <http://globalcit.eu/loss-of-citizenship>. See “Mode L01, Renunciation of citizenship”.

<sup>50</sup> In Croatia and Slovenia this requirement applies only to resident citizens.

situation where the nationality retained after renunciation is that of another EU Member State or a third country. In the latter case, renunciation will also entail a loss of EU citizenship. Inside the EU territory, the rights of such persons will then depend on the retained citizenship and/or their residence status in their country of residence.

### *3.3.2. Revocation of citizenship due to residence in another EU Member State/in a third country*

Prolonged residence in another country is grounds for revocation of citizenship in nine Member States (Belgium, Cyprus, Denmark, Finland, Ireland, Malta, Netherlands, Spain and Sweden).<sup>51</sup> In all cases, such loss of citizenship is possible if the person has another nationality and thus does not become stateless. Revocation of citizenship provisions due to prolonged residency abroad differ among EU Member States along at least four different dimensions: a) the procedure of loss (lapse versus withdrawal); b) the scope (applicable to all citizens, only to those born abroad, or only to naturalised citizens); c) the age limit; and, d) the required actions necessary for the person to prevent the loss of the relevant citizenship.<sup>52</sup>

- a) **Procedure:** In six Member States (Belgium, Denmark, Finland, Netherlands, Spain and Sweden) loss of citizenship due to prolonged residency abroad occurs automatically (“lapse”), whereas, in three Member States (Cyprus, Ireland and Malta) loss of citizenship occurs through a withdrawal procedure that requires an individual decision by the authorities. In Cyprus, for instance, the Council of Ministers must inform the individual of the impending deprivation in writing.<sup>53</sup>
- b) **Scope:** In three Member States (Cyprus, Ireland and Malta) this ground for withdrawal applies only to naturalised citizens residing abroad after seven years or more. In four Member States (Belgium, Denmark, Spain and Sweden), only citizens born abroad may lose their status if they do not reside in the respective Member State. In Finland, both citizens born abroad and citizens born in Finland can be subject to loss of citizenship unless the person born in Finland is registered in line with the Municipality of Residence Act (201/1994) at the age

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<sup>51</sup> GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. <http://globalcit.eu/loss-of-citizenship> . See “Mode L02, Residence abroad”.

<sup>52</sup> De Groot, R. “Type A Report 2019” – Maastricht University. Details TBC. (p.11-12).

<sup>53</sup> N. Trimikliniotis. “Country Report: Cyprus.” (2015). GLOBALCIT; EUDO Citizenship Observatory. (p. 35) <https://cadmus.eui.eu/handle/1814/34479>.

of 22. In the Netherlands, individuals who have resided outside the European Union (EU) (regardless of how the citizenship was acquired) for a continuous period of ten years would lose their Dutch citizenship, except if that would render them stateless.<sup>54</sup> Periods of stay abroad are interrupted in two cases: 1) if the person resides in any EU Member State for more than 1 year; or 2) if he or she obtains a citizenship certificate or an identity document.

- c) **Age:** Five Member States (Belgium, Denmark, Finland, Spain and Sweden) have an age limit at which individuals born abroad may be subject to a loss of citizenship. In Denmark, Finland and Sweden, residence abroad results in the loss of citizenship if an individual born abroad has not resided in a Nordic country by the age of 22. In Denmark and Sweden residence in any other Nordic country counts as equivalent to residence in the home country in the context of this legal provision. Hence, a Danish individual who has resided for seven years in Iceland, Sweden, Norway or Finland would not lose his or her citizenship. In Belgium, individuals born abroad and residing continuously abroad from the age of 18 to 28 are vulnerable to citizenship loss. In Spain, the declaration to maintain citizenship must occur before the individual's 21<sup>st</sup> birthday.
- d) **Prevention:** In Cyprus, Malta and Ireland naturalised foreigners need to declare their intention to remain citizens (in Cyprus and Ireland annually). In Belgium and Spain, citizens born abroad need to make a declaration in order to retain citizenship (by the age of 28 and 21 respectively). Individuals born abroad with Danish citizenship must indicate some continued association with Denmark. If no ties exist, the individual must complete an application for retention before the age of 22.<sup>55</sup> Similarly, in Sweden, if an applicant's links are considered insufficient by the Swedish Migration Board, the application to retain citizenship will be denied.<sup>56</sup> In this case, the loss would also extend to the citizenship of the applicant's children.

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<sup>54</sup> For the implications of the *Tjebbes* ruling see De Groot, R. "Type A Report 2019" – Maastricht University. Details TBC.

<sup>55</sup> E. Ersboll. "Country Report: Denmark." (2015) GLOBALCIT; EUDO Citizenship Observatory. (p. 35). <https://cadmus.eui.eu/handle/1814/36504>

<sup>56</sup> H. Bernitz. "Country Report: Sweden." (2012) GLOBALCIT; EUDO Citizenship Observatory. (p. 15-16). [https://cadmus.eui.eu/bitstream/handle/1814/60231/RSCAS\\_EUDO\\_CIT\\_2012\\_3.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/60231/RSCAS_EUDO_CIT_2012_3.pdf?sequence=1&isAllowed=y)

Even though they only apply to naturalised citizens and citizens born abroad, the loss provisions in these Member States may be in conflict with EU free movement rules if the loss occurs due to long-term residence in another EU Member State. Article 21 TFEU establishes the right of EU citizens of the Union and their family members to move and reside freely within the territory of the Member States. The fact that EU citizens who exercised their free movement rights guaranteed by the Treaty could lose their nationality could be considered an obstacle to free movement. As of December 2019, there have not been any CJEU cases on loss of EU citizenship due to residence in another Member State.

The Court of Justice of the European Union (CJEU) has established in *Rottmann*<sup>57</sup> and *Tjebbes*<sup>58</sup> that loss of EU citizenship would need to be justified and proportionate. While loss of a genuine link with the Member state can be justified under international legal norms as grounds for denaturalisation, following *Tjebbes* (paras. 40-42), national authorities would need to have due regard to the consequences under Union law. This judgment requires that revocation of a Member State nationality due to long-term residence in a third country that entails a loss of EU citizenship must entail that, at some point, the person's interests in private and family life or a professional career in the European Union are taken into consideration.

Apart from an amendment to the Dutch law that introduced a “balancing of interests” in the revocation of citizenship, there have not been any legislative changes in Member States' nationality laws as a direct consequence of the *Rottmann* and *Tjebbes* judgments.<sup>59</sup>

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<sup>57</sup> Judgment of the Court (Grand Chamber) of 2 March 2010. *Janko Rottmann v Freistaat Bayern*. Reference for a preliminary ruling: Bundesverwaltungsgericht - Germany. Case C-135/08. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0135>

<sup>58</sup> Judgment of the Court (Grand Chamber) of 12 March 2019, *Tjebbes and Others v Minister van Buitenlandse Zaken*. Reference for a preliminary ruling — Citizenship of the European Union — Article 20 TFEU — Articles 7 and 24 of the Charter of Fundamental Rights of the European Union — Nationalities of a Member State and of a third country — Loss of the nationality of a Member State and of citizenship of the Union by operation of law — Consequences — Proportionality. Case C-221/17. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62017CJ0221&rid=1>

<sup>59</sup> Art. 14 (10) Rijkswet op het Nederlanderschap. The relevant aspects are mentioned in Art. 68-68c Besluit verkrijging en verlies Nederlanderschap. It is likely that other Member States have reacted to the *Rottmann* judgement by way of administrative decrees and circulars regulating the implementation of citizenship revocation. Collecting and evaluating such documents is beyond the scope of the present report.



**Table 2. Loss of citizenship: residence abroad**

Country	Legal Basis	Conditions
Belgium	BEL 22(1)(5), 22(3) Lapse	Person was born abroad, is a citizen of another country and has resided uninterruptedly abroad from the age of 18 until 28. Loss can be prevented by making a declaration expressing the wish to remain a citizen before reaching the age of 28. Does not apply to persons holding an office and residing abroad on behalf of the government or who are staff members of an organisation/company governed by Belgian law.
Cyprus	CYP 113(4) Withdrawal	Person acquired citizenship by naturalisation and has been resident abroad for 7 continuous years and (a) person was not in the service of Cyprus or an international organisation of which Cyprus is a member or (b) person failed to notify his/her continued interest to retain citizenship on an annual basis.
Denmark	DEN 8 Lapse	Person is 22 years of age, born abroad, never resided in Denmark and never stayed in Denmark under circumstances indicating a special tie to the country, nor has he/she resided more than 7 years in a different Nordic country. Provision does not apply if person submits a request for retention before reaching the age of 22 years (discretionary).
Finland	FIN 34 Lapse	Person is 22 years of age and is a citizen of another country if there is no sufficient connection to Finland. Provision does not apply if the person was born in Finland and has a municipality of residence in Finland when reaching the age of 22, or if the person has resided at least 7 years in Finland or in other Nordic states before the age of 22, or has between the age of 18 and 22: a) submitted a request to retain citizenship, b) applied or been issued with a Finnish passport or identity card, c) completed or is currently doing military or civil service in Finland, or d) has acquired Finnish citizenship by application or declaration.
Ireland	IRE 19(1)(c) Withdrawal	Person acquired citizenship by naturalisation and has been ordinarily resident abroad for a continuous period of 7 years, otherwise than in public service, and has not declared annually his/her intention to retain citizenship. Provision does not apply to persons naturalised on the basis of cultural affinity to Ireland.
Malta	MAL 14(2)(d) Withdrawal	Person acquired citizenship by registration or naturalisation and has been resident abroad for at least 7 years, other than in diplomatic service, and has not declared an intention to remain a citizen.

Netherlands	NET 15(1)(c), 15(3), 15(4), 14(6) Lapse	Person has been resident outside the European Union (EU) for an uninterrupted period of 10 years for other than diplomatic purposes or work in an international organisation. Period is interrupted when the person resides in the EU for more than 1 year, or when the person obtains a certificate of possession of citizenship or a passport-like document (period recommences upon acquisition of document). Provision does not apply if person would thereby become stateless.
Spain	SPA 24(3) Lapse	Person is 21 years of age (or 19 in exceptional cases), born abroad to a citizen who was also born abroad, and resident abroad. Loss can be prevented by making a declaration expressing the desire to retain citizenship within 3 years of attaining majority or emancipation. Provision does not apply if person would thereby become stateless and in time of war.
Sweden	SWE 14(1), 17 Lapse	Person is 22 years of age, born abroad, never resided in Sweden (or at least seven years in Sweden or another Nordic state), and never stayed in Sweden under circumstances indicating a special tie to the country. Person can submit a request for retention before reaching the age of 22 (discretionary). Provision does not apply if person would thereby become stateless.

### 3.3.3. *Withdrawal of citizenship due to activities linked to terrorism or fighting in armed conflicts abroad*

Article 15 of the Universal Declaration on Human Rights states that an individual cannot be arbitrarily deprived of their citizenship; arbitrary deprivation is defined by an absence of fair judicial procedures, applied in a discriminatory manner, or without a proportionality test. According to the Tunis Conclusions cases of deprivation must follow a two-step procedure: first, a finding of guilt by a criminal court; and second, a decision by a competent authority on deprivation of citizenship.<sup>60</sup> The EU Convention on Nationality states that laws and decisions on nationality should take into account both the interests of States and individuals.<sup>61</sup> However, Article 7(c) formulates that states can provide in their internal law for the loss of citizenship in cases of service in a foreign military and furthermore; Article 7(d) allows for revocation in cases where an individual's conduct compromises the vital interests of the state.<sup>62</sup> However, no

<sup>60</sup> 'Interpreting the 1961 Stateless Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality.' UNHCR.(2013) <https://www.refworld.org/pdfid/533a754b4.pdf>. (p. 7).

<sup>61</sup> 'European Convention on Nationality.' Council of Europe. (1997) <https://rm.coe.int/168007f2c8>.

<sup>62</sup> Ibid.

distinctions can be made on the basis of sex, religion, race, colour, or national or ethnic origin.

Since the early 2000s, there has been a global trend of expanding states' powers of citizenship deprivation. The possible return to Europe by "foreign fighters" who have been involved in conflicts in Syria and Iraq has refuelled the debate on citizenship revocation within Europe.<sup>63</sup> There are two dominant discourses behind the rationale of revocation – the first is framed as an issue of national security; to deter or punish those who have taken part in a foreign conflict.<sup>64</sup> The other perspective suggests that by declaring allegiance to another state or foreign group in an overseas conflict the individual has renounced allegiance and rejected the country's basic values.<sup>65</sup> Regardless of the motivation behind the broadening of state revocation powers, critics have suggested that such laws "pass the buck" of responsibility to the other state of citizenship or create an "arbitrary race to the bottom."<sup>66</sup>

Among EU Member States there are two types of withdrawal laws used for those engaging in terrorist activities or armed conflict abroad: i) persons who render military service to a foreign country or engage in activities for armed organisations; and ii) persons who are disloyal to the country of which they are citizens or whose conduct is seriously prejudicial to the vital interests of that country.

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<sup>63</sup> "Acquisition and Loss of Citizenship in EU Member States: Key Trends and Issues." European Parliament Briefing, July 2018.

[http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS\\_BRI\(2018\)625116\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS_BRI(2018)625116_EN.pdf).

<sup>64</sup> "Shamima Begum and Other Cases." UK House of Commons. (11 March 2019).

<https://hansard.parliament.uk/Commons/2019-03-11/debates/B0DEF120-527D-4635-B5BF-E6C8F30456C8/ShamimaBegumAndOtherCases>.

<sup>65</sup> "German Passport can be revoked." The Federal Government. (2019).

<https://www.bundesregierung.de/breg-en/chancellor/german-passport-can-be-revoked-1597456>.

<sup>66</sup> A. Macklin. "'Jihadi Jack' and the folly of revoking citizenship." (2019) GLOBALCIT.

<http://globalcit.eu/jihadi-jack-and-the-folly-of-revoking-citizenship/>.

**Table 3. Loss of citizenship: rendering military service to a foreign country**

Country	Legal Basis	Conditions
Austria	AUT 32(1) Lapse	Person voluntarily enters military service of another country.
Cyprus	CYP 113(3)(b) Withdrawal	Person acquired citizenship by naturalisation and serves in the army of a country at war with Cyprus.
Estonia	EST 28(1)(1), 28(1)(2), 28(3) Withdrawal	Person enters military service of another country without permission of Estonia, joins the intelligence or security service of another country or a foreign organization which is armed or militarily organized or which engages in military exercises. Provision does not apply if the person acquired citizenship by birth.
France	FRA 23-8 Withdrawal	Person serves in the army of another country despite a request to resign from the French government. Provision does not apply if person would thereby become stateless.
Germany	GER 28 Lapse	Person is a citizen of another country and voluntarily joins the army or a comparable armed organization of that country without permission of the German government (exception: if this is permitted under intergovernmental agreement) (amended June 2019). Applies to persons who have been actively fighting in terrorist group but not in cases where the individual would become stateless.
Greece	GRE 17(1)(a) Withdrawal	Person has accepted a public service position in another country against the express prohibition by the Greek government.
Italy	ITA 12(1) Lapse	Person serves in the army of another country despite a request from the Italian government to resign from this function.
Latvia	LAT 24(1)(2) Withdrawal	Person serves in the armed forces, internal military forces, or security services of another country (except for countries with which a dual citizenship arrangement exists) without permission of the Latvian government. Loss cannot result in statelessness.
Lithuania	LIT 2(5), 24(4) Withdrawal	Person serves in the military of another country without authorisation of the Lithuanian state.
Netherlands	NET 15(1)(e) Lapse	Person is a citizen of another country and in voluntary service of an army of a hostile state. Provision does not apply if person would thereby become stateless.
Romania	ROM 25(1)b Withdrawal	Person serves in the army of a country with which Romania has broken diplomatic relations or is at war.
Spain	SPA 25(1)(b) Lapse	Person acquired citizenship other than by birth ("de origen") and voluntarily serves in the army of another country.

Twelve EU Member States (Austria, Cyprus, Estonia, France, Germany, Greece, Italy, Latvia, Lithuania, Netherlands, Romania and Spain) can revoke citizenship of individuals who enter the military service of another country. In Austria and Germany, this provision was recently extended to cover also citizens participating voluntarily in

armed conflicts abroad for an organised armed group. In Cyprus, Estonia and Spain, this provision does not apply to those who acquired the citizenship of these countries by birth. In France, Latvia and the Netherlands citizenship will not be revoked if it would lead to statelessness. Nationals who serve in armies of countries that are at war with Cyprus and Romania will lose the citizenship status in these two Member States, as well as naturalised dual citizens of Ireland whose other country wages a war against Ireland.<sup>67</sup>

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<sup>67</sup> GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. <http://globalcit.eu/loss-of-citizenship> . See “Mode L03, Service in foreign army”, “Mode L07, Disloyalty or treason”, and “Mode L15, Loss for other reasons”.

**Table 4. Loss of citizenship: disloyalty to the country or conduct prejudicial to the vital interests of that country**

Country	Legal Basis	Conditions
Austria	AUT 33(1)(2) Withdrawal	Person is in the service of another state and his or her actions damage the interests of the Republic; person engages in armed conflict abroad as a member of an organised armed group.
Belgium	BEL 23(1)(2), 23/1 Withdrawal	Person has acquired citizenship other than by birth and has violated his/her duties as a national or has been convicted for committing a serious crime against Belgium; cannot be withdrawn if the person would become stateless. The 2018 law specifies procedural aspects.
Bulgaria	BUL 24 Withdrawal	Person has acquired citizenship by naturalisation, resides abroad and has been convicted for committing a serious crime against Bulgaria.
Cyprus	CYP 113(3)(a), 113(3)(b) Withdrawal	Person acquired citizenship by naturalisation and has shown disloyalty via words or deeds, or has, in any war in which Cyprus was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war.
Denmark	DEN 8B Withdrawal	Anyone who has acted in a manner that is seriously prejudicial to the vital interests of the country may be deprived of his Danish citizenship by the Minister of Foreign Affairs and Integration, unless he becomes stateless.
Estonia	EST 28(1)(3), 28(3) Withdrawal	Person forcibly attempts to change the constitutional order of Estonia. Provision does not apply if the person acquired citizenship by birth.
Finland	FIN 33(a), 33(b) Withdrawal	Person is a citizen of another country and has been sentenced to the minimum of 5 years in prison for treason, high treason, or terrorism crime against the vital interests of Finland; or for an attempt to participate in such a crime. The sentence must be non-appealable before the loss of citizenship becomes possible. The loss of citizenship is not possible if the person was under 18 years old when committing to the crime or if the sentence became final more than five years ago. The loss of citizenship is based on the overall assessment of the person's ties with Finland, including the residence history, family ties, education, language skills, employment, etc.
France	FRA 25(1), 25(4), 23-7 Withdrawal	Person acquired citizenship by declaration, naturalisation or reacquisition and committed a crime or offence against the basic interests of France, committed a terrorist act, refused to render military duties or services to France (time limit: 1 year before to 10 years after acquisition of French citizenship), or the person is a citizen of another country and acts as belonging to that country. Provision does not apply if person would thereby become stateless.
Germany	GER 28 Withdrawal	A person will lose their German citizenship if they, he, or she has been actively fighting for a terrorist militia abroad, provided that the person will not become stateless due to this deprivation.
Greece	GRE 17(1)(b) Withdrawal	Person resides abroad and acts against the interests of Greece.
Ireland	IRE 19(1)(b) Withdrawal	Person acquired citizenship by naturalisation and has, by any overt act, shown him/herself to have failed in the duty of fidelity to the nation and loyalty to Ireland.

Italy	10-bis Withdrawal	Person who acquired Italian citizenship with final conviction for crimes of terrorism and/or subversive acts. Revocation of citizenship is adopted within three years of the final sentence by act to the President of the Republic, on proposal of the Minister of the Interior.
Latvia	LAT 24(1)(4) Withdrawal	Person has violently attempted to overthrow the government, change the political system, or incited to activities aimed at ending Latvian independence. Citizenship can only be withdrawn by means of a judicial decision. Loss cannot result in statelessness.
Lithuania	LIT 22(1), 22(2) Withdrawal	Person acquired citizenship by naturalisation under the simplified procedure or by way of exception, or restoration and prepared, attempted to commit or committed international crimes such as aggression, genocide, crimes against humanity, war crimes, or prepared, attempted to commit or committed criminal acts against Lithuania.
Malta	MAL 14(2)(a), 14(2)(b) Withdrawal	Person acquired citizenship by registration or naturalisation and has shown him/herself by act or speech to be disloyal or disaffected towards Malta or has, during any war in which Malta was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his/her knowledge carried on in such a manner as to assist an enemy in that war.
Netherlands	NET 14(2)(3)(4) Withdrawal	<p>Person is convicted for crimes against the security of the Dutch state, the royal dignity, the heads of befriended states, or against the exercise of certain rights and duties affecting the (democratic) organisation of the state (crimes which carry a prison sentence of 8 years or more), or the person committed a terrorist crime, deliberately acquired or attempted to acquire for himself or someone else, access to a possibility, information or means to commit a terrorist crime (or a crime preparing or facilitating a terrorist crime) or acquires knowledge or skills to commit such crimes (or teaches someone else these knowledge or skills) or the person committed certain crimes as described in the Statute of Rome.</p> <p>Person has voluntarily joined armed forces of a state involved in military actions against the Kingdom or an alliance of which the Kingdom is part.</p> <p>Person has joined an organization which has been placed on a list of organizations that take part in a national or international armed conflict and constitute a threat to national security.</p>
Romania	ROM 25(1)a, 25(1)d Withdrawal	Person resides abroad and acts against the interests of Romania, or person supports a terrorist organization and puts at risk the Romanian national security.
Slovenia	SLN 26(1)- (4) Withdrawal	Person is a citizen of another country, resides abroad and acts contrary to the international and other interests of Slovenia. Activities considered harmful: member of an organisation engaged in activities to overthrow the constitutional order, or a member of a foreign intelligence service and as such harming the interests of the country or harming such interests by serving under any government authority or organisation of a foreign state, or a persistent perpetrator of criminal offences prosecuted ex officio and of offences against public order, or the person refuses to carry out the duty of a citizen as prescribed by the constitution and the law, despite the appeal of the competent authority. Provision does not apply if person would thereby become stateless.

Provisions for withdrawal of citizenship in cases of disloyalty or treason exist in eighteen Member States (Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Romania and Slovenia).<sup>68</sup> These provisions are broad in scope and may apply to any criminal act “harmful to the state”, or withdrawal “in the public interest.” There are no specific definitions of these terms. In Denmark, Latvia and Slovenia, withdrawal on the basis of disloyalty may not result in statelessness. Citizenship laws in France, Germany, Italy, the Netherlands and Romania refer specifically to the withdrawal of citizenship in cases of terrorist activities.

#### *3.3.4. Recent Changes/Amendments to Revocation Laws*

In October 2019, Denmark amended Section 8b of the Danish Nationality Law by inserting three new paragraphs that allow administrative citizenship revocation from “a person who has acted in a manner that is seriously prejudicial to the vital interests of the country”.<sup>69</sup> Citizenship may be revoked when the individual is outside of Denmark (in absentio). If the individual cannot be contacted despite “reasonable efforts”, the announcement of the deprivation of citizenship will be included as a notice in the ‘Official Gazette’. Individuals deprived of citizenship can bring their case before the City Court of Copenhagen within four weeks of the decision. Extensions to this period are considered only in exceptional cases. The court is responsible to appoint a special lawyer for the person deprived of their citizenship, and the judge decides on the type of hearing.<sup>70</sup>

In June 2019, Germany amended Section 28 of the German Nationality Act, enabling the withdrawal of citizenship for individuals who have been actively involved in a ‘terrorist militia’ abroad. This withdrawal, however, can only take place if the individual is over 18 years old and does not thereby become stateless (i.e., it only

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<sup>68</sup> GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. <http://globalcit.eu/loss-of-citizenship>. See “Mode L07, Disloyalty or treason”.

<sup>69</sup> Lov om ændring af lov om dansk indfødsret og udlændingeloven. [Law Amending the Danish Native Law and the Aliens Act]. Law No. 1057.

<https://www.retsinformation.dk/Forms/R0710.aspx?id=210778>.

<sup>70</sup> Ibid.



applies to dual nationals).<sup>71</sup> An important departure from the previous provision is that the individual does not need to possess the citizenship of the foreign territory in which the fighting is taking place. The rationale behind the amendment is that individuals who have joined a “terrorist militia” have “turned their back on Germany and its basic values.”<sup>72</sup>

In a similar vein, in 2018, the Italian Parliament approved Law 132/2018, which allows the revocation of citizenship of naturalised Italian citizens who have been convicted of terrorist acts (article 4).<sup>73</sup> The law targets only naturalised Italian citizens and furthermore, statelessness is not excluded. The law vests the discretionary power of revocation in the Minister of the Interior.

In 2016 the Netherlands broadened the powers of the Minister of Justice to withdraw citizenship under Article 14(2)b of the Dutch Citizenship Act from i) individuals convicted of facilitating a terrorist crime pursuant to Article 134a of the Dutch Penal Code, and ii) individuals who voluntarily join terrorist organisation (Bill 34356 (R2064). On 17 April 2019, the Dutch Council of State adopted a decision that this legislation is applicable only to facts and events that occurred after 1 March 2017, annulling any decisions in which the law has been applied retroactively.<sup>74</sup>

In Belgium, the Act of 20 July 2015 (Article 23/2) would expand deprivation powers to citizens that have been convicted of an act of terror. However, citizenship cannot be withdrawn in cases where the person would become stateless and revocation only applies to those who have acquired Belgian citizenship after birth (for example, through naturalisation). There is currently a case with the European Court of Human Rights (*El Aroud v. Belgium*)<sup>75</sup> involving two Belgian nationals who have been stripped of their citizenship for terrorism-related offences. The two claimants argue that first, the

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<sup>71</sup> Entwurf eines Gesetzes zum Verlust der deutschen Staatsbürgerschaft bei Eintritt in eine terroristische Organisation [Draft Law on the loss of German citizenship upon entry into a terrorist organisation]. Drucksache 19/11127. <http://dip21.bundestag.de/dip21/btd/19/111/1911127.pdf>

<sup>72</sup> “German Passport can be revoked.” The Federal Government. (2019).

<https://www.bundesregierung.de/breg-en/chancellor/german-passport-can-be-revoked-1597456>

<sup>73</sup> Legge 1 dicembre 2018, n. 132 [Law 132 of 1 december 2018]. GU Serie Generale n.281 del 03-12-2018. <https://www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg>

<sup>74</sup> Uitspraak [Pronunciation] 201806107/1/V6. *Bij onderscheiden besluiten van 11 september 2017 heeft de staatssecretaris het Nederlanderschap van [appellant sub 2] ingetrokken en hem ongewenst verklaard* [By various decisions of 11 September 2017, the State Secretary withdrew the Dutch nationality of [appellant sub 2] and declared him undesirable]. ECLI:NL:RVS:2019:990.

<https://www.raadvanstate.nl/uitspraken/@114910/201806107-1-v6/>

<sup>75</sup> European Court of Human Rights. *El Aroud v. Belgium* (application no. 25491/18)

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-188018%22%5D%7D>.

principle of proportionality was not respected; and second, that they were being deprived arbitrarily of the Belgian citizenship.<sup>76</sup>

Article 25(1) of the French Civil Code applies to naturalised individuals, whose French citizenship may be revoked in cases of conviction for terrorist acts.<sup>77</sup> In France, after the November 2015 Paris Attacks, President Hollande presented new legislation that would have included the power to revoke citizenship in the French Constitution. After a broad public and parliamentary debate and the resignation of Minister Christiane Taubira in protest against this proposal, the legislation failed to pass in March 2016. Apart from doubts about the effectiveness of citizenship revocation in combatting terrorism, a main concern was whether citizenship revocation, if it can only apply to dual citizens and would therefore target French citizens of migrant origin, is compatible with the principle of equality of citizenship status. In the pending case with the European Court of Human Rights (*Ghoumid v. France* (application no. 52273/16), *Charouali v. France* (no.52285/16), *Turk v. France* (no. 52290/16), *Aberbri v. France* (no. 52294/16) and *Ait El Haj v. France* (no. 52302/16)) the applicants have argued that revoking their citizenship infringes on their right to an identity.<sup>78</sup>

The Council of Europe's Report on withdrawing nationality as a measure to combat terrorism<sup>79</sup> states four primary concerns with deprivation laws: i) the issue of statelessness; ii) discrimination against naturalised citizens; iii) that the laws do not have adequate procedural safeguards; and iv) that they violate Article 4 of Protocol No. 7 of the Convention if deprivation follows a criminal conviction (domestic law varies in that some states require a criminal conviction while others do not).<sup>80</sup> For instance, in three Member States (Denmark, the Netherlands and Romania) the loss takes effect immediately after the Minister's decision – which suggests the individual in question may not have access to a fair trial – and possibly violates their right of return. The report

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<sup>76</sup> Ibid.

<sup>77</sup> Code civil (Livre Ier, Titre Ier bis: De la nationalité française), current consolidated French version. <https://www.codes-et-lois.fr/code-civil/toc-livre-ier-des-personnes-titre-ier-bis-de-la-nationalite-francaise>

<sup>78</sup> European Court of Human Rights. *Ghoumid v. France* (application no. 52273/16), *Charouali v. France* (no.52285/16), *Turk v. France* (no. 52290/16), *Aberbri v. France* (no. 52294/16) and *Ait El Haj v. France* (no. 52302/16) ( [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-174479%22\]}..](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-174479%22]}..)).

<sup>79</sup> Council of Europe Report Committee on Legal Affairs and Human Rights. “Withdrawing nationality as a measure to combat terrorism: a human rights-compatible approach?” <http://website-pace.net/documents/19838/4246196/20181213-PRESS-CITIZENSHIP-EN.pdf/00b7aae3-7b88-4937-af2-956e15fcea6a>.

<sup>80</sup> Ibid., 2.

suggests that states review their legislation to ensure compliance with international law and to not discriminate between citizens on the basis of how they have obtained their nationality.<sup>81</sup> The final recommendation from the report “raises doubts about the proportionality of nationality deprivation as a counter-terrorism measure and States should consider using other measures.”<sup>82</sup> Further to the concerns outlined in the report, there is also a concern as to whether these laws are in conformity with Article 5(2) of the European Convention on Nationality as the laws apply only to dual citizens and not mono-citizens in order to prevent statelessness. This highlights a tension between legally permissible grounds of citizenship revocation and a principle of non-discrimination against citizens on grounds of their possession of a second nationality.

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<sup>81</sup> Ibid., 3.

<sup>82</sup> Ibid., 14.

## 4. Dual Citizenship

The 1963 Strasbourg Convention on *The Reduction of Cases of Multiple Nationality and Military Obligations in Case of Multiple National* reflected the perspective that individuals should hold only one citizenship. However, over the last decades, there has been a growing trend towards an acceptance of multiple citizenship. Article 14 (a) of the European Convention on Nationality states that Member States should allow “children having different nationalities acquired automatically at birth to retain these nationalities.”<sup>83</sup>

Tolerance of multiple citizenship has also increased among the EU Member States. Most of them have now denounced chapter 1 of the Strasbourg Convention, which obliges states to withdraw citizenship in case of voluntary acquisition of the nationality of another state adhering to the Convention. As of 1 January 2020, this provision will only apply between Austria and the Netherlands. One of the primary arguments for the allowance of dual citizenship is that it facilitates the naturalisation of immigrants; naturalisation being an important step in legal, social, and economic integration.<sup>84</sup> Furthermore, legal membership allows newcomers full political participation.

Among EU Member States there are currently three types of dual citizenship non-toleration:<sup>85</sup> i) by outgoing naturalisation; ii) by incoming naturalisation; iii) and by birth. In outgoing naturalisation, non-toleration means that the citizenship of origin is lost if a foreign citizenship is acquired voluntarily; in incoming naturalisation it means that a previously held foreign citizenship must be renounced as a condition for naturalisation. In acquisition by birth non-toleration can be expressed by making a citizenship acquired *iure soli* or *iure sanguinis* conditional upon renouncing another citizenship acquired *iure sanguinis* at a certain age.

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<sup>83</sup> ‘European Convention on Nationality.’ Council of Europe. (1997). <https://rm.coe.int/168007f2c8>.

<sup>84</sup> E. Østergaard- Nielsen. “Dual Citizenship: Policy Trends and Political Participation in EU Member States.” Directorate-General Internal Policies, Policy Department C, Citizens’ Rights and Constitutional Affairs, European Parliament. (2008) <http://www.europarl.europa.eu/document/activities/cont/200807/20080702ATT33270/20080702ATT33270EN.pdf>.

<sup>85</sup> While there exist other forms of exceptional cases of dual citizenship toleration by EU Member countries, this report deals only with ordinary naturalisation.

#### 4.1. Dual citizenship for outgoing naturalisations

**Table 5. Citizenship revocation in outgoing naturalisations**

Country	Legal Basis	Conditions
Austria	AUT 27, 28; Lapse	Person acquires citizenship of another country on the basis of an application, a declaration or an explicit expression of consent, and has not obtained permission to retain citizenship. Permission to retain citizenship may be granted if the person has acquired citizenship by descent and special reasons exist that are related to the person's private or family life, or -in case the person is a minor- if this is in the interests of the child.
Estonia	EST 29; Lapse	Person voluntarily acquires citizenship of another country.
Germany	GER 25	Person acquires citizenship of another country by naturalisation and does not obtain permission to retain German citizenship (discretionary). Provision does not apply if person acquires citizenship of an EU Member State or Switzerland.
Ireland	IRE 19(1)(e); Withdrawal	Person voluntarily acquires citizenship of another country otherwise than by marriage and acquired Irish citizenship by naturalisation.
Latvia	LAT 9(1), 23(2), 24(1)(1); Withdrawal	Person acquires citizenship of another country (and is under an obligation to inform the Latvian authorities of this within 30 days). Unless this country is a Member State of the EU, EFTA or NATO, Australia, Brazil or New Zealand, or a country with which Latvia concluded a dual citizenship agreement. Person may receive permission from the government if retention of Latvian citizenship is in the State.
Lithuania	LIT 24(2), 26(2); Lapse	Person acquires citizenship of another country (there are exceptions). Person should inform Lithuania within 2 months of acquisition of citizenship of the other country). The relations were regulated in Article 19 and 12 in the wording of 1991 and in Article 18 and 12 in the wordings of 2002 and 2008.
Netherlands	NET 15(1)(a), 16(1)(e); Lapse	Person voluntarily acquires citizenship of another country. Provision does not apply if person is born and resides in another country, or resided in another country for 5 years before majority, or is married to a citizen of another country (adults), or his/her parent is citizen of the Netherlands (minors), or acquired citizenship by birth in the Netherlands. No exception to main rule if Article 1 of 1963 Strasbourg Convention applies.
Slovakia	SLK 9(1)(b); Lapse	Person acquires citizenship of another country otherwise than by birth or marriage.
Spain	SPA 24(1); Lapse	Person resides abroad, acquires citizenship of another country and does not submit a declaration to retain citizenship within three years. Provision does not apply to citizens of Latin American countries, Andorra, the Philippines, Equatorial Guinea or Portugal. Provision does not apply in time of war.

Nine EU Member States (Austria, Estonia, Germany, Ireland, Latvia, Lithuania, Netherlands, Slovakia and Spain) may withdraw citizenship of their nationals who naturalise in a foreign country. However, all these Member States provide for exceptions to the rule.<sup>86</sup>

Article 28 of the Austrian nationality law states that Austrian nationals must obtain permission from the authorities in order to avoid the loss of citizenship when naturalising in a foreign country. The requirements for such permissions are vaguely defined and the implementing authorities in charge of issuing them are at the level of the federal provinces, which creates wide scope for different administrative practices.<sup>87</sup> The requirements for retention state that the applicant must have performed a ‘special achievement’ or provide a reason related to private or family life.<sup>88</sup> The latter provision is restricted only to those who have gained citizenship through *iure sanguinis*.<sup>89</sup>

In Estonia, Article 1(2) of the Citizenship Act states that a citizen “shall not simultaneously hold the citizenship of another state.”<sup>90</sup> However, the toleration of dual citizenship is somewhat unclear, as Article 5 (3) states that no individual will be deprived of Estonian citizenship acquired by birth. Dual citizenship has been an ongoing topic of discussion in Estonian politics. In January 2016, Estonia passed legislation that would allow minors to possess dual citizenship regardless of how the citizenship was acquired.<sup>91</sup>

Since 2007, Germany accepts dual citizenship in outgoing and incoming naturalisations as well as in case of *iure soli* acquisition if the second citizenship involved is that of an

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<sup>86</sup> De Groot, R. “Type A Report 2019” – Maastricht University. Details TBC. (p. 14).

<sup>87</sup> J. Stern and G. Valchars. “Country Report: Austria.” (2013) GLOBALCIT; EUDO Citizenship Observatory. (p.38). <https://cadmus.eui.eu/handle/1814/60232>

<sup>88</sup> *Ibid.*; 38.

<sup>89</sup> In 2017, the Austrian coalition government (ÖVP and FPÖ) then in power presented a controversial proposal to confer Austrian citizenship to the German and Ladin speaking population in South Tyrol/Alto Adige. Furthermore, the proposal also offers the extension of Austrian citizenship to the descendants of victims of the NS regime that were forced to leave during the Second World War. While the former proposal has been strongly criticised by the Italian government and has not been implemented, the restoration of Austrian citizenship for descendants of Holocaust victims was adopted by an all-party consensus in September 2019.

<sup>90</sup> P. Jarve and V. Poleshchuk. “Country Report: Estonia.” (2010) GLOBALCIT; EUDO Citizenship Observatory. (p. 10). <https://cadmus.eui.eu/handle/1814/19611>.

<sup>91</sup> “Estonia: Dual Citizenship for Minors & Naturalisation of Children of Stateless Parents, Best Laws of the Year.” European Website on Integration: European Commission. (2016) <https://ec.europa.eu/migrant-integration/news/estonia-dual-citizenship-for-minors-naturalisation-of-children-of-stateless-parents-best-laws-of-the-year>.

EU Member States or of Switzerland.<sup>92</sup> Furthermore, Germany also offers the possibility of retention if the applicant receives written consent from the relevant authorities – both public and private interests of the applicant are taken into account in the decision making process (GER 25(2)(2)).<sup>93</sup>

Ireland applies this provision to naturalised citizens of Ireland who then acquire another citizenship by naturalisation, but not if this acquisition has taken place on the basis of marriage.<sup>94</sup>

Latvia will not withdraw citizenship of individuals naturalising in any of the other Member States of the EU, EFTA or NATO, Australia, Brazil or New Zealand, or countries with which Latvia concluded a dual citizenship agreement.

In Lithuania, dual citizenship is tolerated via outgoing naturalisation for those who left Lithuania prior to 1990 or are descendants of an individual who was deported during Soviet occupation. Furthermore, “exceptional cases” will be granted to individuals who possess “certain merits for Lithuania” and in marriage cases.<sup>95</sup>

In the Netherlands, citizens are subject to automatic loss of citizenship by voluntary acquisition of a foreign citizenship except if that person i) acquires the foreign citizenship through *iure soli* and have habitual residence in that foreign country; ii) is a minor living in the foreign country for at least five years; or iii) acquires the foreign citizenship through a spouse or partner.<sup>96</sup> Similarly, in Slovakia, Slovak citizenship is not lost if a foreign nationality is acquired through birth or marriage.<sup>97</sup>

Spain does not enforce this type of withdrawal for citizens of Latin American countries, Andorra, the Philippines, Equatorial Guinea or Portugal. Furthermore, if the individual continues to reside in Spain, that person will not lose Spanish citizenship.<sup>98</sup>

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<sup>92</sup> K. Hailbronner and A. Farahat. (2015) “Country Report: Germany.” GLOBALCIT; EUDO Citizenship Observatory. (p.17).  
[https://cadmus.eui.eu/bitstream/handle/1814/34478/EUDO\\_CIT\\_2015\\_02-Germany.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/34478/EUDO_CIT_2015_02-Germany.pdf?sequence=1&isAllowed=y).

<sup>93</sup> De Groot, R. “Type A Report 2019” – Maastricht University. Details TBC. (p. 16).

<sup>94</sup> GLOBALCIT (2017). Global Database on Modes of Loss of Citizenship, version 1.0. San Domenico di Fiesole: Global Citizenship Observatory, Robert Schuman Centre for Advanced Studies, European University Institute. <http://globalcit.eu/loss-of-citizenship> . See “Mode L05, Person who acquires a foreign citizenship”.

<sup>95</sup> “Dual Citizenship in Lithuania.” Migration Law Center. (2019) <http://www.migration.lt/dual-citizenship-in-lithuania>.

<sup>96</sup> De Groot, R. “Type A Report 2019” – Maastricht University. Details TBC. (p. 17).

<sup>97</sup> De Groot, R. “Type A Report 2019” – Maastricht University. Details TBC. (p. 17).

<sup>98</sup> De Groot, R. “Type A Report 2019” – Maastricht University. Details TBC. (p. 14).

The Court of Justice has not yet issued a ruling on the loss of EU citizenship as a consequence of voluntary acquisition of a third country nationality. It is thus not yet clear whether the principles established in *Rottmann* and *Tjebbes* can be applied to such situations.

#### 4.2. Dual citizenship for incoming naturalisations

Ten EU Member States (Austria, Bulgaria, Croatia, Germany, Estonia, Latvia, Lithuania, Netherlands, Slovenia and Spain) do not tolerate dual citizenship in the case of incoming naturalisations. However, there are a number of exceptions to this rule.

**Table 6. Automatic withdrawal of citizenship for incoming naturalisations**

Country	Legal Basis	Conditions
Austria	AUT 34 Withdrawal	Person has acquired citizenship by naturalisation (but not based on spousal or filial extension or special achievements) and fails to renounce citizenship of another country (if this is possible and can be reasonably expected) within two years after the acquisition of citizenship. Withdrawal on this ground is no longer possible six years after naturalisation.
Bulgaria	BUL 12(6) Withdrawal	Person has acquired citizenship by naturalisation, but has not been released from citizenship of another country.
Croatia	CRO 8	Person acquired citizenship by naturalisation: renunciation or automatic loss of another citizenship (unless legally impossible if the other country does not allow for renunciation).
Estonia	EST 6; EST 28(1)(5) Withdrawal	Person acquired citizenship by naturalisation: renunciation or automatic loss of another citizenship  Person acquired citizenship otherwise than by birth and is also a citizen of another country.
Germany	GER 10-12, 37; GER 8	Person acquired citizenship by naturalisation: renunciation or automatic loss of another citizenship (unless legally impossible if the other country does not allow for renunciation).
Latvia	LAT 24(1)(3) Withdrawal	Person acquired citizenship by naturalisation: renunciation or automatic loss of another citizenship (unless legally impossible if the other country does not allow for renunciation). Person has knowingly provided false information (about renunciation of citizenship of another country) when verifying a right to hold citizenship of Latvia, or when acquiring citizenship by naturalisation.
Lithuania	LIT 24(7) Withdrawal	Person acquired citizenship by naturalisation and does not renounce citizenship of another country. The relations were regulated in Article 23 in the wording 1991 and in Article 21 in the wordings of 2002 and 2008
Netherlands	NET 15(1)(d)(Nullification)	Person acquired citizenship by naturalisation and fails to renounce citizenship of another country.



Slovenia	SLN Nullification	16(2) Person acquired citizenship by naturalisation and fails to submit evidence of the loss of citizenship of another country.
Spain	SPA 25(1)(a)(Lapse)	Person acquired citizenship other than by birth ("de origen"), resides abroad and has for three years exclusively used citizenship of another country, which the person has declared to renounce when acquiring Spanish citizenship.

For immigrants acquiring Austrian citizenship by naturalisation, there is a strict requirement to renounce a previously held nationality (unless such renunciation is impossible or very costly) and reacquiring a formerly held nationality after naturalisation leads to automatic loss of Austrian citizenship.<sup>99</sup>

Germany still retains that dual citizenship should be avoided in naturalisation of third country nationals, with the exception of cases where renunciation would entail a serious disadvantage to the individual. Individuals can apply for consent to retain their other state(s) of citizenship (article 25(2), Federal Law on Citizenship). This is assessed in a discretionary manner; however, in practice dual citizenship is accepted in approximately 50 percent of all naturalisations.<sup>100</sup> The number of individuals who have been granted this exception has increased from 1,295 in 2000 to 5,159 in 2013.<sup>101</sup> As mentioned above, since the 2007 amendment however, permission is no longer necessary for those naturalising in other EU Member States or Switzerland.<sup>102</sup>

To acquire Lithuanian citizenship the individual must provide either a declaration that the person is not a citizen of another state or a declaration that the person is renouncing the other citizenship once Lithuanian citizenship is granted.<sup>103</sup> In Latvia, dual citizenship is only available for Latvians who naturalise in a foreign country and not for newcomers applying for Latvian citizenship.<sup>104</sup>

<sup>99</sup> J. Stern and G. Valchars. "Country Report: Austria." (2013) GLOBALCIT; EUDO Citizenship Observatory. (p. 2 & 38). <https://cadmus.eui.eu/handle/1814/60232>

<sup>100</sup> Hailbronner and Farahat, p. 17.

<sup>101</sup> De Groot, R. "Type A Report 2019" – Maastricht University. Details TBC. (p. 14).

<sup>102</sup> Hailbronner and Farahat, p. 17.

<sup>103</sup> "Naturalization in Lithuania." Migration Law Center. (2019)

<sup>104</sup> K Kruma. "Naturalisations procedures for immigrants: Latvia country report." (2013) GLOBALCIT; EUDO Citizenship Observatory. (p. 20). <https://cadmus.eui.eu/handle/1814/29788>

In the Netherlands, citizenship of the country of origin must be renounced once Dutch nationality is acquired. However, there are many exceptions to this rule such as, if the applicant's country does not allow for renunciation or in specific/exceptional cases.<sup>105</sup>

### 4.3. Tolerance of dual citizenship acquired by birth

Four EU Member States do not fully tolerate dual citizenship by birth (Germany, Lithuania, Latvia, and Spain).

**Table 6. Loss of dual citizenship by birth**

Country	Legal Basis	Conditions
Germany	GER 29 Lapse	Person acquired citizenship by birth in Germany, is also a citizen of another country, and either declares at the age of 18 to retain citizenship of the other country, or does not renounce citizenship of that country before the age of 23. "Option duty" is waived for children who have 8 years of residence in Germany before turning 21, or have attended a German school for at least 6 years, or have graduated from a German school, or have completed professional education in Germany. Provision does not apply if the person obtained permission to retain the other citizenship. This permission has to be granted if the person cannot renounce citizenship of the other country, or cannot reasonably be expected to do so, or would not have to renounce citizenship of that country in case he/she would have obtained citizenship by naturalisation.
Lithuania	LIT 7(1), 24(8)	Person acquired citizenship of Lithuania and of another state by birth and has not, upon reaching the age of 21 years, renounced citizenship of the other state.
Latvia	LAT 2(1)(2)  LAT 24(1) Withdrawal	Person is born abroad to two citizens, or to one citizen and LAT 9(2) or 9(5) (regarding dual citizenship) is complied with.  Person did not comply with the requirement under loss for other reasons
Spain	SPA 24(1) Lapse	Person resides abroad, acquires citizenship of another country and does not submit a declaration to retain citizenship within three years. Provision does not apply to citizens of Latin American countries, Andorra, the Philippines, Equatorial Guinea or Portugal. Provision does not apply in time of war.

<sup>105</sup> R. Van Oers. "Country Report: the Netherlands." (2010) GLOBALCIT; EUDO Citizenship Observatory. (p. 16). <https://cadmus.eui.eu/handle/1814/19629>

In 2000, Germany introduced *ius soli* and renounced the 1963 Convention.<sup>106</sup> Since 2000, children born in Germany to two foreign parents obtain German citizenship *iure soli* (with the caveat that one parent must have fulfilled eight years of legal residence).<sup>107</sup> Under the initial “option model”, these children had to renounce a foreign citizenship acquired by descent before their 23<sup>rd</sup> birthday or else would lose their German citizenship. This provision was changed in 2014. Since then the ‘option duty’ is waived for children of immigrants born in Germany who have either eight years of residence before turning 21 or have attended a German school for at least six years.<sup>108</sup>

The 2013 reform to citizenship law liberalised the possibility of dual citizenship in Latvia. One of the primary principles of 2013 amendment is “to recognise dual citizenship in compliance with the political objectives and interests of the State of Latvia and to retain the aggregate of the citizens of Latvia under increased mobility conditions.”<sup>109</sup> However, individuals who hold a second citizenship at birth from a “non-permitted” country will, at the age of majority, have to choose between Latvia and the second country of citizenship by the age of 25.<sup>110</sup> EU Member States are among “permitted countries” and thus dual citizenship between Latvia and other EU Member States is tolerated when acquired at birth.

In Spain, individuals can enjoy dual citizenship only if the second citizenship comes from a country that the country has a historical connection. However, individuals born in these countries (Latin America, Andorra, the Phillipines, Equatorial Guinea and Portugal), acquiring Spanish citizenship by *iure sanguinis*, must make a declaration within three years to keep their Spanish citizenship.<sup>111</sup>

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<sup>106</sup> K. Hailbronner and A. Farahat. (p. 1 & 17).

<sup>107</sup> L. Block. “Germany: Coalition Government Parties Agree to Scrap “Optional Model” for *ius soli* children.” (2013). GLOBALCIT. <http://globalcit.eu/germany-coalition-government-parties-agree-to-scrap-option-model-for-ius-soli-children/>

<sup>108</sup> “Bundesrat stimmt Änderungen im Asylrecht zu.” (2014). Bundesrat. <https://www.bundesrat.de/DE/plenum/bundesrat-kompakt/14/925/925-pk.html?nn=4352766#top-4>. Last Accessed 26 September 2019.

<sup>109</sup> K. Kruma. “Country Report on Citizenship Law: Latvia.” (2015) GLOBALCIT; EUDO Citizenship Observatory. (p.11). <https://cadmus.eui.eu/handle/1814/34481>

<sup>110</sup> “Dual Citizenship.” The Office of Citizenship and Migration Affairs. (2013) <https://www.pmlp.gov.lv/en/home/services/citizenship/dual-citizenship/>

<sup>111</sup> R. Rubio Marin, I. Sobrino, A. Martin Perez, F. Javier Moreno Fuentes. Country Report on Citizenship Law: Spain. (2015) GLOBALCIT; EUDO Citizenship Observatory. (p. 5). [https://cadmus.eui.eu/bitstream/handle/1814/34480/EUDO\\_CIT\\_2015\\_04-Spain.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/34480/EUDO_CIT_2015_04-Spain.pdf?sequence=1&isAllowed=y).

## 5. Conclusions and Recommendations

### 5.1. Conclusions

This report has analysed the changes in the citizenship policies in 27 Member States of the European Union (EU) since 2013, highlighting key trends across the member states as regards the attribution of citizenship at birth, facilitated naturalisation, loss by renunciation and revocation, and dual citizenship. Over the past six years, the 27 Member States have introduced more than hundred amendments to their citizenship legislation. While some of these amendments have been procedural, the most substantive changes have taken place in the domains of facilitated acquisition of citizenship on the basis of investment, loss by revocation, and dual nationality toleration. Only Denmark and Portugal – in 2014 and 2018, respectively – have modified their legislative provisions related to the acquisition of citizenship by birth. There have not been any significant legislative changes related to the voluntary loss of citizenship by renunciation and facilitated naturalisation for citizens of another EU Member State (including the acceptance of dual citizenship for EU citizens by Member States with otherwise restrictive policies). The number of Member States that facilitate acquisition of their nationality by EU citizens in these ways remains very small.

The first domain where significant legislative changes are taking place is facilitated naturalisation for investors. Out of the three Member States operating such programmes (Bulgaria, Cyprus and Malta), Cyprus has recently amended its investor citizenship scheme. While the February 2019 amendments to the Cypriot investor citizenship programme had merely changed the investment thresholds, the July 2019 amendments introduced additional security safeguards as regards the profile of beneficiaries. In its January 2019 *Report on Investor Citizenship and Residence Schemes*, the European Commission highlighted “a significant number of grey zones concerning security checks” in the Member States operating investor citizenship.<sup>112</sup> Cyprus has announced that it will revoke the citizenship in 26 cases where security safeguards have not been fully respected. In Bulgaria, a draft law that would amend the current investor citizenship is under consideration by the national Parliament. The proposed legislation

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<sup>112</sup> Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Investor Citizenship and Residence Schemes in the European Union. [https://ec.europa.eu/info/sites/info/files/com\\_2019\\_12\\_final\\_report.pdf](https://ec.europa.eu/info/sites/info/files/com_2019_12_final_report.pdf)

maintains the possibility to naturalise investors. No additional security-related safeguards will be introduced by the proposed amendments, if adopted in their present form. There have been no amendments to Malta's IIP in the last year, but it is unclear how a recent government re-shuffle will affect the IIP.

The second domain where significant legislative changes have taken place is loss by revocation of citizenship from individuals who have been linked to terrorist activities. Since 2013, Austria, Belgium, Denmark, France, Germany, Italy and the Netherlands introduced specific provisions in this regard. In Belgium, France and Italy, individuals who are deprived of citizenship need to be convicted of an act of terrorism. In the Netherlands, the individual could either be convicted of facilitating a terrorist act or of voluntarily joining a terrorist organisation, while in Austria and Germany citizenship deprivation can take place if an individual has been actively involved in an 'armed group' or 'terrorist militia' abroad. Explicit safeguards against statelessness exist in Austria, Belgium, Germany and the Netherlands. Moreover, Belgium, Italy and France apply such withdrawal of citizenship only to naturalised individuals, excluding citizens by birth. The Council of Europe's Report on withdrawing nationality as a measure to combat terrorism has highlighted the risk of statelessness inherent in citizenship deprivation where the relevant safeguards do not exist, as well as discrimination between naturalised citizens and citizens by birth.<sup>113</sup> Several cases regarding the withdrawal of nationality on grounds of involvement in terrorist activities are pending before the European Court of Human Rights. There has not been any case law of the CJEU regarding proportionality or the loss of EU citizenship by deprivation for terrorist activities.

Citizenship can be revoked also on other grounds, such as fraud in naturalisation, long-term residence abroad, or voluntary acquisition of another citizenship. The CJEU has established in both *Rottmann* and *Tjebbes* that the revocation of Member State nationality that entails the loss of EU citizenship needs to be justified and proportionate. Apart from an amendment to the Dutch nationality law, no legislative changes to the Member States' nationality laws have been directly influenced by these judgments so far. In the Netherlands, the proportionality principle is also taken on board in

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<sup>113</sup> Council of Europe Report Committee on Legal Affairs and Human Rights. "Withdrawing nationality as a measure to combat terrorism: a human rights-compatible approach?" <http://website-space.net/documents/19838/4246196/20181213-PRESS-CITIZENSHIP-EN.pdf/00b7aae3-7b88-4937-aef2-956e15fcea6a>. Last accessed 22 September 2019.

instructions to authorities as regards the deprivation of nationality.<sup>114</sup> In Denmark, an instruction of the Ministry for Migration and Integration to the Naturalisation Committee mentions that the factors mentioned in *Tjebbes* in Paras 44-46 have to be taken on board.<sup>115</sup>

The third domain where substantial changes to citizenship legislation have taken place is the tolerance of dual nationality i) in outgoing naturalisation; ii) in incoming naturalisation; iii) and by birth. As regards dual citizenship in outgoing naturalisations, nine Member States (Austria, Estonia, Germany, Ireland, Latvia, Lithuania, Netherlands, Slovakia and Spain) have restrictive policies and may revoke the citizenship of individuals who naturalise abroad. In all these cases there are exceptions, such as those for nationals of specific countries, spouses, or – as is the case in Estonia since 2016 – for minors. Ten EU Member States (Austria, Bulgaria, Croatia, Germany, Estonia, Latvia, Lithuania, Netherlands, Slovenia and Spain) do not tolerate dual nationality in incoming naturalisations, albeit with significant exceptions, including those for nationals of other EU Member States. In terms of dual nationality by birth, Germany, Lithuania, Latvia and Spain have restrictive policies. In 2013, Latvia liberalised its policy in this regard and, among other changes, permitted dual citizenship by birth for EU nationals. Since 2014, the ‘option duty’ to renounce a foreign citizenship as a condition for retaining the German one is waived for children of immigrants born in Germany who have either eight years of residence before turning 21 or have attended a German school for at least six years.

## 5.2. Recommendations

Article 20 of the TFEU stipulates that EU citizenship shall be additional to and not replace national citizenship. Yet it confers Union-wide rights to over 450 million persons across 27 Member States. Even though the regulation of national citizenship is the prerogative of each individual Member State, through their citizenship policies

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<sup>114</sup> Handleiding Rijkswet op het Nederlanderschap 2003, Geldend van 01-07-2019 t/m heden [Manual on the Dutch Nationality Act 2003, as amended on 01 July 2019], <https://wetten.overheid.nl/BWBW33099/2019-07-01>

<sup>115</sup> Orientering om behandlingen af ansøgninger om bevis for bevarelse af dansk indfødsret efter EU-Domstolens dom i sag C-221/17, *Tjebbes* [Instruction on the processing of applications for proof of preservation of Danish civil rights following the judgment of the European Court of Justice in Case C-221/17, *Tjebbes*], <https://uim.dk/filer/nyheder-2019/orienteringsbrev-til-ifu-om-eud-dommen-tjebbes.pdf>

Member States create EU citizens. In view of this particular relationship, we have formulated the following policy recommendations:

### **Close monitoring of investor citizenship programmes**

Investor citizenship schemes best reveal the tension between domestic policy-making and the EU level. So far, despite the January 2014 European Parliament Resolution and the January 2019 European Commission Report, none of the three Member States implementing investor citizenship has terminated this policy. However, Cyprus has introduced additional security safeguards, excluding certain categories of individuals from eligibility under the scheme's rules. Against the backdrop of the risks inherent in investor citizenship, these schemes need to be under constant scrutiny. This would ensure that risks emanating from the economic and security aspects of such programmes are minimised, and that any inconsistencies are brought to the eyes of the public.

### **Safeguards against statelessness in citizenship loss provisions**

In implementing their citizenship laws, Member States need to ensure that the loss by renunciation and revocation does not result in statelessness. Article 7(6) of the 1961 Convention on Reduction of Statelessness stipulates that “a person shall not lose the nationality of a Contracting State, if such loss would render him stateless, notwithstanding that such loss is not expressly prohibited by any other provision of this Convention”. Even though not all the EU Member States are bound by the 1961 Convention, the right to nationality is also stipulated in article 15 of the Universal Declaration of Human Rights (UDHR). As deprivations resulting in statelessness would be contrary to this right, ensuring that all nationality laws have safeguards against statelessness would contribute to harmonising Member States' obligations under international law. Consideration should also be given to the “effectiveness” of the second citizenship in cases of revocation where the individual might end up de facto stateless. Instead of assuming that the person possesses or has access to another citizenship, authorities should verify that the other state in fact recognises the person as its national.

## **Non-discrimination between nationals**

Non-discrimination is one of the core values upon which the EU is founded. However, especially as regards loss provisions, a number of Member States differentiate between citizens by birth and naturalised citizens. This is contrary to Article 5(2) of the European Convention on Nationality, which, however, has not been ratified by all EU Member States. Such discriminations is particularly problematic as it signals to naturalised immigrants that their citizenship is still regarded conditional and thus not fully equal with that of citizens by birth. Distinctions between nationals by birth and naturalised citizens could also conflict with the spirit of Article 18 of the TFEU prohibiting any discrimination on grounds of nationality, especially where EU citizens naturalising in another EU Member State are discriminated against with regard to citizenship revocation. Debates in several Member States have highlighted a second source of discrimination. In order to prevent statelessness, citizenship can in most cases only be revoked if the person possesses another nationality. As immigrant populations are more likely to be dual citizens, they are exposed to a risk of loss of citizenship that native populations do not incur. Revocation policies should thus be considered also with regard to their stigmatising effects for populations of immigrant origin. Finally, those states that generally do not tolerate dual citizenship in incoming naturalisations, have to make exceptions for persons whose countries of origin do not permit them to renounce their nationality. General toleration of dual citizenship helps to avoid such discrimination between different nationalities of origin. It is recommended to commission further research on all aspects of discrimination between EU citizens based on their nationality of origin or the way how they have acquired a Member State nationality.

## **Amendments to nationality laws to account for CJEU and ECtHR judgments**

As this report has highlighted, the *Rottmann* and the *Tjebbes* judgments have not been taken into account in the form of amendments to nationality legislation, even though Member States consider these judgments when deciding on citizenship revocation. Amendments to citizenship policies in this regard would ensure that in withdrawing citizenship due regard is paid to the effects of revocation on the rights of the individual (including rights emanating from EU citizenship) and the interests of the Member State



that decides on revocation. The *Tjebbes* decision has specific implications for the nationality laws of those Member States in which residence abroad (in an EU Member State or a third country) can lead to an *ex lege* loss of EU citizenship. This is currently the case in Belgium, Cyprus, Denmark, Finland, France, Ireland, Malta, Netherlands, Spain and Sweden. It is possible that the Court will extend the reasoning applied in *Tjebbes* also to other grounds for *ex lege* citizenship revocation, such as automatic loss of citizenship upon acquiring the nationality of another states. With substantial exceptions, such provisions currently exist in Austria, Estonia, Germany, Ireland, Latvia, Lithuania, Netherlands, Slovakia and Spain. In light of the evolving jurisprudence of the Court on citizenship revocation, it can be recommended that Member States consider generally whether their provisions on automatic loss of citizenship could be replaced with withdrawal procedures that involve an evaluation of individual circumstances and interests, including those in private and family life, in professional careers and in exercising rights as EU citizens in other Member States.

### **Facilitation of naturalisation for EU citizens**

Eight EU Member States (Austria, Bulgaria Czech Republic, Germany, Greece, Italy, Latvia and Romania) provide for facilitated naturalisation for the nationals of other Member States through either reducing a required residence period or exceptionally tolerating dual nationality. EU citizens generally have few incentives for naturalisation because most of their rights in other Member States are secured through EU law. This could hamper, however, the full political inclusion of EU citizens who are long-term residents in another Member State. Most importantly, because national electoral rights remain generally attached to nationality in all Member States, mobile EU citizens remain excluded from political representation at the national level in their host Member States.<sup>116</sup> It is therefore recommended that all Member States consider facilitating the naturalisation of EU citizens and also promote it actively through naturalisation campaigns.

Implementation of these recommendations can be pursued both through initiatives of the Commission and through horizontal initiatives among the Member States. As the

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<sup>116</sup> Oliver Garner, Maria Haag, Alina Ostling, Rainer Bauböck. "Type B report on "Political Participation of Mobile EU Citizens – Insights from pilot studies on Austria, Belgium, Bulgaria, Germany, Greece, Hungary, Ireland, and Poland". EU-CITZEN Network, Brussels, 2019.

regulation of the acquisition and loss of nationality remains an exclusive competence of the Member States, progress towards shared minimum standards in nationality laws could be best achieved through an open method of coordination. Such an initiative should also involve the Council of Europe, whose mandate includes developing international standards in matters of nationality law.