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## Obtaining Swiss Citizenship May Soon Become More Difficult

*Under the new Swiss Citizenship Act, which should enter into force early 2017, candidates applying for ordinary naturalisation will be required to hold a permanent residence permit (C permit). Written knowledge of a Swiss national language will also be a condition. Years of residency required will be reduced from twelve to ten, with the years spent between the ages of 8 and 18 counting double.*

### INTRODUCTION

On June 20, 2014, the Swiss parliament adopted the revised federal Act on Swiss Citizenship (hereinafter “the Swiss Citizenship Act”). No referendum was requested by the Swiss people and the new legislation will therefore enter into force at a date yet to be set by the Federal Council. This is currently foreseen to happen in early 2017. An Ordinance on Nationality, which further defines the integration criteria to be fulfilled for naturalisation, is in the process of being debated before the Swiss Parliament until November 19, 2015.

Currently, two out of 100 foreigners living in Switzerland with a residence permit are naturalized every year, in line with the average in Europe, though Switzerland is among the European nations with the highest residency requirements before a citizenship request can be filed. Giving up the applicant’s nationality of origin is not a pre-requisite however, and this will not change with the new regime. Naturalisation requests in Switzerland have increased in the past months. The initiative against mass immigration, which aims to limit immigration through quotas, as was the case before the bilateral treaties between Switzerland and the European Union, and which was accepted by the Swiss people on February 9, 2014, may have contributed to this trend, since it has made the environment less secure and predictable for foreigners. Another possible cause of this increase is the fact that the revised Act will render obtention of the Swiss nationality more difficult.

The duration of the procedure varies according to the canton where the request - which is examined at the three levels, federal, cantonal and communal - is filed. Geneva, where some 3000 applications are filed yearly, was until recently the slowest canton, with procedures lasting around three years, but this is no longer the case for applications now being filed. In 2014, the Minister whose department is in charge of naturalisations ordered that the duration of naturalisation procedures in Geneva be brought down to approximately 18 months, with the aim of getting rid of a backlog of 7500 files.

In an interview recently published in the newspaper Le Temps, Swiss president Simonetta Sommaruga states that if she had to apply for naturalisation, her first motivations would be *"the possibility of taking part in major political decisions four times a year and in elections on the national, cantonal and communal level and being part of a country in which different cultures live side by side while respecting minorities"*.

## MAIN OBJECTIVES OF THE NEW SWISS CITIZENSHIP ACT

The main objectives of the Swiss Citizenship Act are the following :

- To improve and bring coherence to an Act dating back to 1952 and having been subject to several partial and sometimes contradictory revisions
- To ensure consistency with Swiss immigration law (the Federal Act on Foreign Nationals) concerning integration requirements imposed on foreigners ;
- To harmonise cantonal and communal requirements relating to the duration of residency ;

## MAIN FEATURES OF THE NEW SWISS CITIZENSHIP ACT

- A material change, which was initiated by the Swiss right-wing party UDC, is that, under the ordinary procedure, Swiss citizenship will in the future be granted only to foreign nationals residing in Switzerland with a permanent residence permit (C permit). Holders of B permits and diplomatic permits will no longer be able to apply. This change will not apply to simplified naturalisation (for example the spouse of a Swiss citizen, for whom the requirements remain the same : 3 years living in matrimony with a Swiss citizen and 5 years residency in Switzerland, of which the year preceding the application).

### **C permit**

For non-EU citizens, the rule is that a C permit is granted after ten years residency with a B permit (except for USA or Canada citizens, for whom five years are sufficient). In exceptional cases, a C permit may be granted after only five years residence, if the candidate is fully integrated, which means in particular that he or she must have a good command of a national language. However, in both cases, if the candidate is a student, residing in Switzerland on the basis of a B permit for studies, two years of uninterrupted residence are subsequently required on the basis of an ordinary B permit, such as a work permit, before a C permit can be granted. Work permits are very difficult to obtain for non EU nationals, and consequently non-EU students stand little chance of getting a C permit.

- Candidates will need to reside in Switzerland for ten years instead of twelve currently before applying for citizenship (it is interesting to compare this to the average European requirement of five to six years).
- Years of residency between the ages of 8 and 18 (instead of between the ages of 10 and 20 currently) will count double with, however, a minimum requirement of six years of effective residency.
- The minimal residence period requested by the cantons will be between two and five years, instead of two to ten years as currently. Furthermore, in the event of a change of domicile within Switzerland during the naturalisation proceedings, the commune in which the applicant filed the request for citizenship will remain

competent until the end of the procedure. As a consequence, a change of commune and canton should no longer have a negative impact on an ongoing naturalisation procedure, as it currently can have in certain cantons.

- Applicants must be successfully integrated. Integration is considered successful if the following requirements in particular are met :
  - Applicants must be able to understand and express themselves in a national language sufficiently to communicate adequately in most situations of everyday life, at home, in the workplace or in public places. This presupposes at least level B1 oral knowledge and A2 written knowledge according to the Common European Framework Reference (CEFR). It is a change from the current situation where, in most cantons, oral knowledge alone is sufficient. Candidates will have to be in possession of an attestation of their language skills (for example a diploma), except if their mother tongue is one of the national languages or if they attended school or underwent professional training in Switzerland in a national language. Cantons will be free to set more stringent requirements, for example knowledge of the national language spoken at the place of domicile.
  - Candidates must have elementary knowledge of Switzerland's geography, history and politics<sup>1</sup> and take part in social and cultural life as well as maintain contacts with Swiss citizens.
  - Candidates must not represent a threat to Swiss internal and external safety and must respect public order. Candidates must have no criminal record; exceptions may be possible in case of suspended sentences. The criminal database which will be used will not be the same as currently, it will be a more extensive database, which retains traces of condemnations longer than the classical database.
  - Candidates must be financially self-supporting, through their job or personal wealth. Those receiving social assistance during the procedure, or who have received it in the last three years, will generally not be allowed naturalisation, with some exceptions, such as in case of a handicap. Candidates who are not yet financially independent but are in the process of acquiring education or training with the aim of finding a job are also admitted.

## CONCLUSION

There is a window of opportunity still open until the end of 2016 for those residents who fulfill current requirements for ordinary naturalisation and have little perspective of being granted a C permit, in particular non-EU students. We strongly recommend that such students who have resided in Switzerland long enough to file for naturalisation under the legislation now in force (12 years residence, with the years spent between the ages of 10 and 20 counting double), seriously consider this opportunity before January 1<sup>st</sup>, 2017 and the entry into force of the new legislation. Indeed, the new law will not apply to applications filed prior to its entry into force. We are at your disposal to assist you in this respect.

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<sup>1</sup> In this context, a guide to the Swiss Confederation published by the federal administration and containing useful information is available here : <https://www.bk.admin.ch/dokumentation/02070/index.html?lang=en>.

## CONTACT

The content of this newsletter is for information purposes only and does not constitute a legal advice or opinion. Should you require specific advice in this matter, please get in touch with your usual contact at ALTENBURGER LTD legal + tax or with the author.



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