

Summary of Ad Hoc Query on determining citizenship of third-country nationals

Number: 2025.71

Launch date: 27 November 2025

Requested by: EMN Estonia

Responses: 20 EMN Member Countries provided a public answer to this query: EMN NCP Austria, EMN NCP Belgium, EMN NCP Croatia, EMN NCP Czech Republic, EMN NCP Estonia, EMN NCP Finland, EMN NCP France, EMN NCP Germany, EMN NCP Greece, EMN NCP Hungary, EMN NCP Italy, EMN NCP Latvia, EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Slovakia, EMN NCP Slovenia, EMN NCP Spain, and EMN NCP Sweden.

Background

The Estonian Ministry of the Interior is currently reviewing the documentary obligations for person with foreign citizenship residing and being born in Estonia. Hence, the Estonian Ministry of the Interior would like to examine the laws and practices of other EMN Member Countries to understand how they address the issue of determining the citizenship of foreigners residing in their territory.

This ad-hoc query, launched by Estonia, seeks to gather information on how other countries determine the citizenship of foreigners residing in their territory.

Questions:

1. Does a third-country national residing legally in your Member State on the basis of a residence permit also need to hold a valid identity document/travel document issued by their country of nationality? YES/NO. If you answer NO, please explain.
2. If the person does not have a valid identity document from his/her country of nationality, does your Member State still consider the person to be a national of the country whose citizenship they are known to hold, even if they do not have a valid

document and/or have never had one (e.g., descendants of long-term immigrant families, beneficiaries of international protection, etc.)? YES/NO, please explain.

3. Does a child born in the territory of a Member State to third-country national parents residing there on the basis of a residence permit need to have a valid travel document from the country of nationality? YES/NO. If you answer yes, within what time must the parents obtain the document for the child after birth?

4. If a child is born in the territory of your Member State to third-country nationals parents legally residing in your territory on the basis of a residence permit, is the child's nationality recorded immediately upon birth registration? YES/NO. If you answer YES, please explain how it is done (e.g based on the parents' nationality, according to the parents' statement etc)?

5. If you answer NO to Q4 what is the child's nationality in the meantime (i.e. unrecorded, blank, stateless, etc.)?

6. If you answer NO to Q4, within what time after birth must the child's nationality be registered? Please explain how it is done.

Main findings

This ad hoc query examines how EU Member States handle identity and nationality documentation for third-country nationals and their children by asking whether legally resident third-country nationals must also hold a valid identity or travel document from their country of nationality, and, if not, whether they are still considered nationals of that country even in the absence of such documentation, including in cases where they have never possessed one. The ad hoc query explores whether children born in the territory to legally resident third-country national parents are required to obtain a valid travel document from their country of nationality and, if so, within what timeframe after birth. Finally, the questions address the registration of a child's nationality at birth by asking whether nationality is recorded immediately upon birth registration and how this determination is made, and, if it is not recorded immediately, what nationality status the child holds in the interim and within what period and through which procedure the child's nationality must subsequently be registered.

An analysis of the ad hoc query results shows that:

1. **Third-country nationals legally residing on the basis of a residence permit are required to hold a valid identity or travel document in most of the responding EMN Member Countries**, usually a passport issued by their country of nationality, and this requirement commonly applies both at the stage of application and throughout the period of lawful stay. This is explicitly the case in a large majority of countries (AT, BE, CZ,

DE, ES, FI, HR, EL, IT, LT, LU, LV, NL, PL, SE, SI, SK). At the same time some of the countries make exceptions to this rule: for example, in Belgium, Finland and Netherlands, temporary or subsidiary protection holders and/or refugees do not need a valid identity document to issue a residence permit. However, in Estonia, a valid travel document is required only for entry and exit, and not for legal residence as such if the person does not intend to travel, with no legal consequences attached to the absence of such a document during stay. In France, the right to remain in the country is not subject to the permanent possession of a valid identity or travel document issued by the country of origin, as this is established by the residence permit itself.

- 2. The majority of Member States (BE, CZ, DE, EE, FI, FR, HR, LT, LV, NL, PL, SE, SI, SK) reported that a third-country national is still considered to be a national of the country whose citizenship they are known to hold even in the absence of a valid identity or travel document, or where such a document has never existed.** In the view of several Member States, nationality is a legal status determined on the basis of available evidence, factual circumstances, declarations, country information and nationality law, and is not considered to be lost solely due to the absence of a valid passport. Overall, while most Member States separate the legal determination of nationality from the possession of a valid document, a minority of Member States (ES, HU, IT, LU) link recognition of nationality closely to formal documentary proof. In Hungary, an exception is made for beneficiaries of international protection, whose citizenship is presumed on the basis of their declaration or on the basis of questions about their country of origin asked during the asylum procedure (until contrary information arises). Greece links recognition of nationality to formal documentary proof in the case of third country nationals who enter the country legally and apply for a residence permit according to migration legislation, whereas, regarding asylum procedure, the Asylum Service maintains data on Declared/Estimated Citizenship".
- 3. Most Member States (CZ, DE, EL, ES, FI, HR, HU, LV, NL, PL, SK) require a child born in the territory of a Member State to third-country national parents residing there on the basis of a residence permit to have a valid travel document from the country of nationality, mostly necessary for obtaining a residence permit.** In Croatia, there is no prescribed deadline for obtaining a valid travel document for the child. Latvian legislation does not specify the period within which a TCN must obtain a valid travel document; however, in accordance with the Immigration Law, an application for a residence permit for a child born in Latvia must be submitted not later than 90 days

after his or her birth. Poland stated that a valid travel document must be obtained as soon as possible after the birth of the child. In Slovakia, the residence permit application has to be submitted within 90 days of living in the country thus it counts as a deadline for obtaining a valid travel document for the child. In Spain, while no fixed statutory deadline exists, in practice the document is expected to be obtained within the first months after birth to allow residence procedures for the child. Normally, a child needs a national passport, but a child born in Finland may receive a first temporary residence permit without one if it is impossible to obtain it; however, the parents are generally expected to obtain the passport within the validity of that first permit, unless the family has protection status.

A smaller group of Member States (BE, EE, FR, LT, LU, SE, SI) do not require a travel document for newborns as such, at least for initial residence or where the child does not travel. France, Estonia, Lithuania, Luxembourg and Sweden reported that lawful residence or registration can take place without a passport, with the child's status deriving from the parents or identity being established by birth in the territory. In Estonia and France, a third-country national child does not need to hold a valid travel document from the country of origin if he or she does not travel.

4. **Regarding immediate recording of the nationality of a child upon birth registration born to parents who are legally residing third-country nationals**, EU Member States diverge sharply: some record a child's nationality immediately at birth based on parents' nationality, while others limit birth registration to civil status only and establish or record nationality later through immigration, population, or residence procedures. Countries that record the nationality of the child born to parents who are legally residing third-country nationals immediately upon birth are AT, BE, CZ, EE, HR, IT, LU, NL, PL. Usually it is based on the parents' nationality.

Countries that do not record the nationality of the child immediately upon birth are ES, FR, HU, LV, SI, SK.

Member States that follow partly yes and partly no approach to question nr 4 are Germany, Finland, Luxembourg, Sweden, and Lithuania. In Finland for example, a child's citizenship is recorded soon after birth only when it can be registered immediately; otherwise, the birth is registered without nationality until the Immigration Service formally determines it, even though the child already has a nationality in law. In case of Germany, only German nationality is recorded at birth registration, while foreign nationality is recorded later through immigration procedures, and any

short period without administrative recording does not affect the child's actual nationality.

5. **Regarding Member States that do not record the child's nationality immediately upon birth registration** (ES, FR, HU, LV, SI, SK) or have a partly yes and no approach (DE, FI, LT, LU, SE), Finland stated that in the meantime, the child's nationality will be 'not clarified' in the Finnish Population Information System. In Hungary and Slovenia, if a person's nationality or statelessness cannot be justified, it must be indicated that they are of unknown nationality until proven otherwise. For a child born to third-country nationals residing legally in Latvia on the basis of a residence permit, the child's nationality is left blank. In Slovakia, the birth certificate does not contain information about the child's citizenship.
6. **Regarding Member States that do not record the child's nationality immediately upon birth registration (ES, FR, HU, LV, SI, SK) or have a partly yes and no approach (DE, FI, LT, LU, SE)**, Sweden stated that child's citizenship should be assessed and registered as soon as possible; in Latvia, Lithuania and Slovakia, the deadline is 90 days (three months) due to obtaining a travel document necessary for a residence permit; in Germany, if the child is non-German, its nationality will be registered in the Foreigners Central Register upon decision on the issuance of the temporary residence permit.

Disclaimer: *The responses regarding this ad-hoc query have been provided primarily for the purpose of information exchange among the EMN National Contact Points (NCPs) in the framework of the EMN. The contributing NCPs have provided information that is (to the best of their knowledge) up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN Member or Observer Country. This summary has been produced by EMN Estonia.*