

New Luxembourg Nationality Law came into force on 1 April

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After the Luxembourg nationality law of 23 October 2008 (from now on called LNL), which introduced double *ius soli* and the toleration of dual or multiple citizenship, the vote of a new nationality law by parliament on 9th February 2017 appears to be a further milestone in the history of Luxembourgish citizenship.

It has been voted at the end of a reform process of the 2008 LNL that started in 2012¹ under the former government (composed of CSV, Christian Social Party and LSAP, Socialist Party) and Minister of Justice François Biltgen (CSV) and continued and was completed now by the new government (composed of DP - Democratic Liberal Party, LSAP and Green Party) and Minister of Justice Felix Braz (Green Party). The coalition programme of the new government in December 2013 promised a facilitation of ways to acquire Luxembourgish citizenship.

Born in Luxembourg from Portuguese parents who immigrated to Luxembourg in the 1960s, Felix Braz was very active in the political field of citizenship legislation since his election as a Member of Parliament in 2004. During the final debate about LNL in parliament, Felix Braz stated on 15 October 2008: “This law (...) no doubt opens some doors, but this law doesn’t open arms to welcome people. When shall we do that?” As a minister, he stuck to his commitment to openness and managed to convince even opposition parties like the right-wing CSV and left wing Déi Lénk (The Left) to further liberalise the LNL. Only the right-wing populist party ADR did not join this coalition. Their three MPs voted against the law in February 2017, whereas the other 57 MPs voted in favour.

What are the main changes?

1. The law of 8 March 2017 (from now on called the New Luxembourg Nationality Law, NLNL),² that came into force on 1 April, introduces conditional *ius soli* at the age of

¹ See herefore the updated Luxembourg country report: <http://eudo-citizenship.eu/admin/?p=file&appl=countryProfiles&f=Luxembourg.pdf>

² <http://legilux.public.lu/eli/etat/leg/loi/2017/03/08/a289/jo>

majority. Persons born in Luxembourg to foreign nationals obtain Luxembourgish nationality when they turn 18 on the condition that 1) they are resident in Luxembourg for at least five consecutive years before their 18th birthday, and 2) one of their parents who is non-Luxembourgish has lived in Luxembourg for at least 12 consecutive months prior to the child's birth (art. 6). The LNL of 23 October 2008 already had introduced double *ius soli*: Children born to foreign national parents automatically receive Luxembourgish nationality at birth if one parent was also born in Luxembourg.

2. The compulsory residence period before naturalisation has been lowered from seven to five years (art. 14). A new flexibility has been introduced as only the last year of residence prior to the application has to be without interruption.

3. Taking into account the critiques addressed to the LNL of 2008, NLNL reintroduces optional rights for the spouse and for children born in Luxembourg of foreign parents who are not born in Luxembourg. (These rights had been abolished by LNL of 2008.) Under NLNL spouses can opt for citizenship under the condition that they have passed the compulsory Luxembourgish language test and have attended the course “Living together in the Grand Duchy of Luxembourg” or have passed the test of this course (Art. 25). Children born in Luxembourg to parents who are not Luxembourgish can apply for nationality from the age of 12 on the condition that 1) the child has lived in Luxembourg for the five preceding years and 2) one of the parents lived in Luxembourg for a minimum of one year prior to the child's birth (art. 26). Adult foreign nationals who have completed seven years of schooling in Luxembourg (public education curricula) can also opt for citizenship (art. 27). Foreigners who live in Luxembourg since at least twenty years and have attended a Luxembourgish language course of 24 hours enjoy the option right too (art. 28). In harmony with the proposal of the European Convention on Nationality, signed by Luxembourg on 26 May 2008, to facilitate acquisition of citizenship for certain categories of persons, NLNL introduces also the possibility of option for stateless persons and refugees (art. 31).³

4. Another important issue touched by the NLNL is the question of the oral evaluation test in the Luxembourgish language. Proposals made by NGOs, labour unions and economic stakeholders to replace the language test with a certificate confirming attendance at Luxembourgish language courses or to lower the levels of competence required in the language evaluation test in Luxembourgish or to introduce dispensation clauses were only partly integrated into the NLNL. Applicants must still pass a language test at level A2 in oral expression and B1 in comprehension (art. 15). The level of competence has thus not be lowered despite promises in the governmental program. However, passing the oral expression part (A2) is sufficient to pass the whole language test. Moreover, an insufficient score in oral expression (A2) can be compensated with a higher score in comprehension (B1). Whereas a dispensation clause for elderly applicants has not been introduced, a period of residence of 20 years provides them with the possibility, as already mentioned, to opt for citizenship without passing a language test after merely attending a 24-hours-course.

5. Applicants will be refused Luxembourgish citizenship if they have been sentenced for a criminal offence or received a custodial sentence of one year or more or – and this is a new measure – a suspended sentence of two years or more (art. 14).

6. Another change deserves to be highlighted, even if it is more symbolic. NLNL has removed the notion ‘Luxembourgers by origin’ which gave the impression that there are two

³ For all the conditions to acquire Luxembourgish by option :
<http://www.guichet.public.lu/entreprises/en/ressources-humaines/recrutement/nationalite/option/index.html>

kinds of Luxembourgers, those having the nationality over several generations and those who acquired it more recently (art. 7).

7. Finally, NLNL will put an end to the problem of double standards raised by the ‘re-ethnicising’ art. 29 of LNL of 2008. Compensating for double *ius soli*, a new ground for re-acquisition based on *ius sanguinis* was introduced by LNL of 2008: A person can re-acquire Luxembourgish citizenship provided he or she has a male or female ancestor who possessed Luxembourgish citizenship on 1 January 1900. Thus, persons with distant blood ties alone can acquire citizenship without passing language tests and, as most of them live abroad, without any residence clause. They can even vote in national elections while foreigners living in Luxembourg for many years cannot. According to NLNL, no more application for this re-acquisition can be made after 31 December 2018 and the declaration of re-acquisition must be made before a civil registrar by 31 December 2020 at the latest (art. 89).

The NLNL can thus be considered as a further major and necessary step in liberalising citizenship legislation in a country where nearly 47 per cent of the resident population do not have Luxembourgish citizenship.