



Ad-Hoc Query on proof of nationality

Requested by FR EMN NCP on 18th June 2014

Responses from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Croatia, Norway (29 in Total)

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1. Background Information

In the French legislation, a third-country national applying for a residence permit has to provide the competent authorities with “data related to civil status” in order to prove his/her identity. However, there are no requirements regarding the proof of his/her nationality. Although nationality is one of the elements which define someone’s identity, the proof of nationality is not precisely required.

This information is yet a condition for granting a right to residence and/or to work to any residence permit’s applicant as it determines which right may be applicable. Information related to applicants’ nationality can in particular be useful in case of applying for a residence permit for medical reasons which is justified by the absence of appropriate medical treatment in the country of origin, or in case of an asylum application.

The Directorate of Immigration of the French Ministry of the Interior would like to gather information on proof of nationality requirements when applying for a residence permit in your Member State.

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We would like to ask the following questions:

In your Member State, are applicants required to provide proof of their nationality? If so, which conditions regarding proof of nationality must be fulfilled by third-country nationals applying for a residence permit in your Member State?

1. How are the proof of nationality requirements laid down in your national legislation?
2. Which documents does an applicant have to submit in order to prove his/her nationality?
3. Does your Member State systematically require applicants to provide a valid passport in order to prove the nationality that they indicated?








We would very much appreciate your responses by **16th July 2014**.

2. Responses

		Wider Dissemination? ¹	<ol style="list-style-type: none"> 1. How are the proof of nationality requirements laid down in your national legislation? 2. Which documents does an applicant have to submit in order to prove his/her nationality? 3. Does your Member State systematically require applicants to provide a valid passport in order to prove the nationality that they indicated?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<ol style="list-style-type: none"> 1. Article 1, paragraph 14 of the Belgian Aliens Act describes the term identified non-national. It defines an identified non-national as a non-national in possession of a valid travel document, a valid passport or a valid identity document or in respect of whom the country of origin or the minister can issue a laissez-passer. The term “identified non-national” can be interpreted in different ways. In general, such a document will provide information on the nationality, surname, first name and date of birth. <p>It goes without saying that stateless persons will not be requested to prove their nationality. To be formally recognised as stateless by the Belgian authorities, one must apply to one of the 27 Tribunals of First Instance in Belgium.</p>

¹ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>2. A valid travel document, a valid passport or a valid identity document depending on the type of residence permit the person applies for. In general such a document will provide information on the nationality. If the person applies for a visa from abroad (for example for reasons of family reunification), a valid passport will be required². If the visa is granted a residence permit will also be issued. If the person is on the Belgian territory without a valid permit and he applies for regularisation (a residence permit on humanitarian grounds), a valid identity document is not required for asylum seekers with no final (negative) decision on their application or for persons who are unable to provide these documents (Article 9bis Aliens Act). There are also exceptions to submit identity documents for people applying for a residence permit on medical grounds (Article 9ter Aliens Act).³ For what concerns asylum applicants, the lack of official identity documents or other documents proving the nationality does not necessarily prevent a person from being granted international protection status, if the statements of the asylum applicant are consistent. On the other hand it is also worth noting that no document, even an original, has absolute probative value per se. When an asylum seeker for instance produces a document which states that he has a particular nationality but cannot convincingly back up that nationality claim in his statements, the CGRS may still dispute his alleged nationality. For certain documents it is extremely difficult, impossible even, to check their authenticity. In some countries the authorities merely issue identity documents on the basis of an asylum seeker's or third-parties' statements without necessarily checking the veracity of these statements to any great extent.</p> <p>3. No this depends on the type of procedure (see answer on question 2).</p>
	Bulgaria	Yes	
	Cyprus	Yes	
	Czech Republic	Yes	
	Denmark	Yes	
	Estonia	Yes	In neither an Identity Document Act nor Regulation on Residence permit card format and technical specification issued by Estonia, the information concerning the person's nationality is not required. Also in application filled by an applicant, there is no questions concerning person nationality.
	Finland	Yes	The Finnish Aliens Act does not specifically require an alien to prove his or her nationality but Section 13 on passports stipulates that the document should state the holder's citizenship. (When entering and staying in Finland, aliens shall hold a valid passport issued by the authorities of their home country or country of residence, which shall be presented to border control authorities or the police upon request)
	France	Yes	There is no disposition in the Code on Entry and Residence of Foreigners and the Right of Asylum (CESEDA) which expressly stipulates that a third-country national applying for a residence permit must provide proof of his/her nationality.

² A **travel document** (e.g. a passport), valid for at least 3 months from the date on which you intend to leave the SCHENGEN territory, or, in the case of multiple journeys, the date on which you intend to leave it for the last time. This document must also contain at least 2 blank pages and have been issued less than 10 years ago.







³ Article 9bis and 9ter de la Loi du 12/12/1980 : <https://dofi.ibz.be/sites/dvzoe/FR/Pages/Législation.aspx>

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	Germany	Yes	<p>1. According to § 5, section 1, subsection 1a, German Residence Act (Aufenthaltsgesetz), the granting of a residence title normally presupposes that the foreigner's identity, and if they are not entitled to return to another state, the nationality have been established.</p> <p>2. Under § 48, section 1 and 3, and 49, section 2, German Residence Act, and section 56 of the German Ordinance on Residence (Aufenthaltsverordnung), the foreigner shall be required to identify himself/herself by means of their passport or passport substitute. If he or she does not possess such valid documents, he/she shall be obliged to cooperate in the procurement of such documents. He/she shall further be obliged to present, hand in and surrender any certificates or other documents to the respective authorities upon request that serve to confirm his/her identity and nationality and that are of importance regarding the confirmation or enforcement of the repatriation possibilities to another state. In the case of doubt regarding the person, age, or nationality of the foreigner, identification measures, including the taking of biometric data (photograph, fingerprints) shall be carried out; the foreigner shall be obliged to tolerate such measures. (§ 49, section 3 to 10, German Residence Act).</p> <p>3. Yes, see answer to question 1 and 2.</p>
	Greece	Yes	
	Hungary	Yes	<p>1-3. Point a) of Section 13 of Act II of 2007 on the entry and residence of third-country nationals sets out that for entry into the territory of Hungary and for stays in the territory of Hungary for a period of longer than three months within 180 days period one of the entry conditions for third-country nationals shall be that <i>“they are in possession of a valid travel document”</i>.</p> <p>Primarily it means that it needs to be proven that the applicant is a third-country national, therefore although the requirement of the proof of nationality is not expressly laid down, the fact that being a third-country national needs to be proven implies that the nationality of the applicant also needs to be proven. According to Section 3 of Act II of 2007 <i>“the following persons shall be treated as third-country nationals: a) any person who uses a valid travel document issued by a third country to verify his/her nationality, unless proven to the contrary; or b) any person who is unable to show proof of having the right of free movement and residence under specific other legislation.”</i> The forms of application also ask the nationality of the applicant to be given.</p> <p>It is also set out that <i>“a ‘travel document’ shall mean a passport or another instrument or document that is recognized by Hungary as proper means of identification for its holder for crossing the border of Hungary and to certify his/her citizenship (stateless status)”</i>.</p> <p>As proving nationality is an essential element of the immigration procedure, it is also set out that the central immigration register shall contain – among others – the nationality (nationalities) or stateless status as a natural identification detail of the persons falling within the scope of immigration sub-registers.</p>
	Ireland	Yes	<ol style="list-style-type: none"> 1. Section 9(2)(a) of the Immigration Act 2004 requires the production of a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Irish Government, which establishes his or her identity and nationality. 2. As above - passport or other equivalent document. 3. Yes.





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	Italy	Yes	<ol style="list-style-type: none"> 1. Also in Italy, there is no disposition which expressly stipulates that a TCN applying for a residence permit must provide proof of his/her nationality. 2. Passport. Under Article 9 of the Decree of the President of the Republic No. 394/99, a TCN applying for a residence permit must produce his/her entry <i>visa</i> and fill in a form as prepared by the Ministry of the Interior, in which his/her personal particulars are specified in full. They also need to enclose a «passport or another current equivalent document showing <i>nationality</i>, date [...] and place of birth [...]». 3. Having a passport is a pre-requisite to obtain a residence permit. Of course, when a residence permit is granted on humanitarian grounds, on grounds of “social protection” or within a procedure for granting the refugee status, a document proving the nationality of the TCN is not mandatory. It is enough for the TCN to give his/her personal particulars, which the authorities will try to check through the embassy and the consulate of the country of origin.
	Latvia	Yes	<ol style="list-style-type: none"> 1. There is no provision in Immigration Law that determines that a third-country national applying for a residence permit has to provide proof of his/her nationality, but there is provision that he/she has to have a valid travel document which normally also is a proof of one's nationality. 2. See above. 3. No. But a third-country national shall be entitled to enter and reside in the Republic of Latvia, if he or she has a valid travel document. That means he/she always has to have valid travel document, document which normally also is a proof of one's nationality.
	Lithuania	Yes	<ol style="list-style-type: none"> 1. There is no particular requirement in Lithuanian laws for the TCN to prove his or her nationality. The nationality is established from travel documents which must be provided by the TCNs. In cases when the travel document is not required (in case of non-returnable TCNs or those who were granted international protection) the nationality is established during the return or asylum procedures (from all possible evidence and documents, etc.). 2. n/a 3. The TCNs are required to provide valid travel documents (so it can be also other documents, not only passports), with the aim of establishing the identity (which also allows the authorities to receive the information on nationality).
	Luxembourg	Yes	<ol style="list-style-type: none"> 1. For residence permit: In Luxembourg article 38 in regards to article 34 (2) 1 of the amended Law of 29 August 2008 on free movement of persons and immigration requires that the applicant for any type of authorisation of stay⁴ must present a valid passport to prove his/her nationality. 2. For residence permit: The applicant has to submit an application and must provide a certified copy of his/her valid passport, in its entirety, a birth certificate; and a recent extract from his/her police record or an affidavit issued in the country of residence. 3. Yes, for residence permit. In cases of International protection applicants see answer to the FR EMN NCP on establishing identity.
	Malta	Yes	
	Netherlands	Yes	<ol style="list-style-type: none"> 1. Pursuant to article 106a, paragraph 1Vw (Vreemdelingenwet/Alienslaw), the IND takes 10 finger prints and makes a facial image of every alien who is 6 years or older, for determining or verifying his/her identity. This is related to the fact that for a general application for nearly every restriction, the passport requirement is applicable. The passport determines the nationality. Moreover, the alien is requested

⁴ Salaried worker, independent worker, sportsman, student, pupil, trainee, volunteer, « au-pair ». researcher, family member, private reasons







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			to register in the BRP, where he or she needs to identify him/herself with documents. 2. In general this is the passport 3. Yes
	Poland	Yes	1,2 Pursuant to the provisions of the Act on Foreigners, an application for granting a residence permit must be submitted by the foreigner on a form containing, <i>inter alia</i> , the data on nationality and citizenship and these columns must be filled in by the foreigner. The foreigner applying for granting a residence permit submits a written declaration (under penalty of criminal liability for perjury), that the data included in the application are true, provides the valid travel document and attaches to it the following: 1) recent photograph; 2) documents necessary to confirm the data included in the application and the circumstances justifying the application for granting a temporary residence permit. In a particularly justified case, when the foreigner does not have a valid travel document and does not have a possibility to obtain it, he/she may present other identity document. Despite the general obligation to attach to the application the documents necessary to confirm the data included in the application, the foreigner's travel document is considered sufficient to identify the foreigner, regardless of whether it contains annotations about the holder's nationality. In practice, no documents confirming the holder's nationality are requested and the nationality declared by the foreigner in the application is taken into consideration. 3. The travel document is treated as a document confirming the foreigner's identity mainly by means of the photograph, gender indication, date and place of birth, names of parents as well as citizenship. It is not treated as a document that should also confirm the foreigner's nationality.
	Portugal	Yes	In Portugal the proof of nationality is evidenced by passport or other valid travel document which must have a photo of the applying citizen.
	Romania	Yes	
	Slovak Republic	Yes	1. Third country nationals who have lodged their application for residence permit have to present a valid travel document. Otherwise their application is not accepted. A valid travel document is defined in our national legislation as "a passport or other public document, if acknowledged as a travel document by the Slovak Republic, valid, enabling unambiguous identification of its holder, with untouched integrity and undamaged so that the included records are illegible" (Article 2 (1k) of the Act No.404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts). Moreover, according to our national legislation, "a stateless person" is also considered as a third country national (Article 2 (4) of the Act No.404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts). 2. Apart from a valid travel document, there are no other documents stipulated by our national legislation.

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			3. The applicants have to present their valid travel documents, if they have any. Beneficiaries of international protection often do not have any documents.
	Slovenia	Yes	1. The Alien Act nor the Citizenship Act do not contains any provision in which required specific documents from applicant in order to proof his nationality. However, the Alien Act contains provision in which valid passport needs to be provide by an alien in his application for residence permit and the Citizenship Act contains provision in which applicant needs to provide any document by which he proofs its nationality or/and citizenship. 2. Usually Birth certificate and/or a valid Passport 3. No, only if there are reasonable reasons such as; validity of passport is less than 3 months before it's expire. In case of Birth certificate only if it's found out to be false or doesn't not have Apostille certification where is needed (depends from country).
	Spain	Yes	1. Passport or travel document 2. Both passports and travel documents must provide enough data to ascertain age and nationality of the holders. 3. Yes, with the exception of asylum seekers
	Sweden	Yes	There is no disposition in the Swedish Aliens Act which expressly stipulates that a third-country national applying for a residence permit must provide proof of his/her nationality. The Swedish legislation distinguishes between residence permits which require a regular entry on the national territory (managed migration) and those which do not (asylum seekers). If a regular entry is required, the third-country member must submit his/her passport with a valid visa. In this case, the passport may constitute evidence of the nationality of his/her owner. For asylum seekers the Swedish authorities cannot require a passport.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. The UK does not distinguish between establishing nationality and identity – it is all part of the overall assessment to establish who someone is, therefore a valid passport is the principal document used. 2. As above in Q1, the UK requires a passport to establish nationality unless there is a valid exceptional reason why it cannot be provided. 3. As most applications for a Biometric Resident Permit(BRP) accompanies an immigration application, where applicable we would apply Immigration Rule 39B when specifying what documents to use. Also Immigration rule 34A(a) and (ab) covers photographic requirements . These mainly relate to the immigration application – rather than directly for the BRP. Please see the link below which provides further information: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330320/Visitor_guide_Document.pdf
	Croatia	Yes	
	Norway	Yes	1-3: The applicant must as a main rule provide a valid passport when applying for a residence permit. The application may be rejected if a valid passport has not been presented. The passport shall have been, as a main rule, issued to a person only when appearing in person. A person who is applying for asylum is not required to provide a valid passport before the question of protection has been decided. Persons applying for a residence permit are

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			obliged to assist in clarifying their identity to the extent the immigration authorities require. We do not have other specific rules that state how nationality should be documented.
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