

Portuguese Nationality Act

Law 37/81, of 3 October

Consolidated version, as amended by Organic Law 2/2006, of 17 April

TITLE I

Attribution, acquisition and loss of nationality

CHAPTER I

Attribution of nationality

Article 1

Nationality by origin

1 – Portuguese by origin are:

- a) The children of a Portuguese mother or father born in Portuguese territory;
- b) The children of a Portuguese mother or father born abroad if the Portuguese parent is there serving the Portuguese State;
- c) The children of a Portuguese mother or father born abroad if they have their birth registered at the Portuguese civil registry or if they declare that they want to be Portuguese;
- d) The persons born in Portuguese territory to foreign parents if at least one of the parents was also born in Portugal and resides here, irrespective of title, at the time of birth;
- e) The persons born in Portuguese territory to foreign parents who are not serving their respective State, if they declare that they want to be Portuguese and provided that one of the parents has legally resided in Portugal for at least five years at the time of birth;
- f) The persons born in Portuguese territory who do not possess another nationality.

2 – Save proof to the contrary, the newly-born infants found abandoned in Portugal are presumed to have been born in Portuguese territory.

CHAPTER II
Acquisition of nationality

SECTION I
Acquisition of nationality by act of will

Article 2
Acquisition by minors or disabled children

Minors or disabled children one of whose parents acquires Portuguese nationality may also acquire it by means of a declaration.

Article 3
Acquisition in case of marriage or de facto union

1 – A foreigner married to a Portuguese national for more than three years may acquire Portuguese nationality by means of a declaration made during the duration of the marriage.

2 – A declaration invalidating or annulling the marriage does not impair the nationality acquired by the spouse who married in good faith.

3 – A foreigner who, at the time of the declaration, lives in a de facto union with a Portuguese national for more than three years may acquire Portuguese nationality, after judicial recognition of the status by a civil court.

Article 4
Declaration after attainment of legal capacity

Persons who have lost Portuguese nationality as a result of a declaration made during their minority or legal disability, may acquire it, when of full age and capacity, by means of a declaration.

SECTION II

Acquisition of nationality by adoption

Article 5

Acquisition by full adoption

A child fully adopted by a Portuguese national acquires Portuguese nationality.

SECTION III

Acquisition of nationality by naturalisation

Article 6

Requirements

1 – The Government grants Portuguese nationality, by naturalisation, to foreigners who satisfy each of the following requirements:

- a) Be of age or emancipated under Portuguese Law;
- b) Have resided lawfully in Portuguese territory for a minimum of six years;
- c) Have sufficient knowledge of the Portuguese language;
- d) Have not been convicted of a crime punishable under Portuguese Law with imprisonment up to a maximum equal to three years or more.

2 – The Government grants nationality, by naturalisation, to minors, born in Portuguese territory, to foreign parents, provided that they fulfil the requirements set in sub-paragraphs c) and d) of paragraph 1 and that, at the time of the application, one of the following conditions is satisfied:

- a) One of the parents has resided lawfully in Portugal for a minimum of five years;
- b) The minor has concluded the first cycle of compulsory education in Portugal.

3 – The Government grants naturalisation, with exemption of the requirements set in sub-paragraphs b) and c) of paragraph 1, to persons who had Portuguese nationality and who, having lost it, never acquired another nationality.

4 – The Government grants naturalisation, with exemption of the requirement set in sub-paragraph b) of paragraph 1, to persons born abroad with, at least, one Portuguese ancestor in the second degree of the direct line, if he or she has not lost his or her Portuguese nationality.

5 – The Government may grant nationality, by naturalisation, with exemption of the requirement set in sub-paragraph b) of paragraph 1, to persons born in Portuguese territory, to foreign parents, if they have remained habitually in Portugal for ten years prior to the application.

6 – The Government may grant naturalisation, with exemption of the requirements set in sub-paragraphs b) and c) of paragraph 1, to persons who, while not stateless, have had Portuguese nationality, to persons who are considered to be Portuguese descendants, to members of communities of Portuguese ancestry and to foreigners who have rendered or are called to render relevant services to the Portuguese State or the national community.

Article 7

Procedure

1 – Naturalisation is granted, upon application by the interested party, by decision of the Minister of Justice.

2 – The naturalisation procedure and the documents submitted to the records are not subject to the Stamp Tax Code.

CHAPTER III

Loss of nationality

Article 8

Declaration pertaining to the loss of nationality

Portuguese nationality is lost by any person who, being a national of another State, declares that he or she does not wish to be Portuguese.

CHAPTER IV

Opposition to acquisition of nationality by act of will or adoption

Article 9

Grounds

Grounds for opposing the acquisition of Portuguese nationality are:

- a) The lack of effective ties with the national community;
- b) The conviction of a crime punishable under Portuguese Law with imprisonment up to a maximum equal to three years or more;
- c) The exercise of public functions without a predominantly technical nature or the rendering of non compulsory military service in a foreign State.

Article 10

Procedure

1 – The opposition is submitted by the Public Prosecutor within one year after the fact upon which the acquisition of nationality depends in a procedure to be initiated under article 26.

2 – It is compulsory for all authorities to report the facts referred to in the preceding article to the Public Prosecutor.

CHAPTER V

Effects of attribution, acquisition and loss of nationality

Article 11

Effects of attribution

The effects of attribution of Portuguese nationality retroact to the time of birth, without prejudice to the validity of juridical relations previously entered into under a different nationality.

Article 12
Effects of changes of nationality

The effects of changes of nationality only take place after the registration of the acts or facts upon which those changes depend.

CHAPTER VI
General provisions

Article 13
Suspension of procedures

1 – The procedure for acquisition of Portuguese nationality by act of will, adoption or naturalisation is suspended for a period of five years, counted from the final judgement that convicts the interested party of a crime under Portuguese Law in a sentence or sentences that alone or cumulatively exceed one year of imprisonment.

2 – With the suspension referred to in paragraph 1, it is also suspended the counting of the time limit set by paragraph 1 of article 10.

3 – All acts contrary to paragraph 1 are null.

Article 14
Effects of the establishment of affiliation

Only the affiliation established during the child's minority has effects on nationality.

Article 15
Legal residence

1 – For the purpose of the preceding articles, legal residents in Portuguese territory are persons who live in the country, with their situations regularised before Portuguese authorities, under any of the titles, visas or permits prescribed by the immigration and asylum regimes.

2 – The provision of paragraph 1 is without prejudice to the special regimes of legal residence resulting from treaties and conventions to which Portugal is a party, namely in the context of the European Union and the Portuguese Speaking Countries Community.

TITLE II

Nationality registration, proof and appeal procedures

CHAPTER I

Central Nationality Registry

Article 16

Central Nationality Registry

The declarations upon which attribution, acquisition or loss of nationality depend must be recorded in the central nationality registry, kept by the Central Registry Office.

Article 17

Declaration before diplomatic or consular agents

Nationality declarations may be made before Portuguese diplomatic or consular agents and, in such case, will be registered *ex officio*, provided the necessary corroborating documents, to be sent to the Central Registry Office, are submitted.

Article 18

Acts subject to mandatory registration

1 – It is mandatory to register:

- a) The declarations for the attribution of nationality;
- b) The declarations for the acquisition or loss of nationality;
- c) The naturalisation of foreigners.

2 – (*Repealed*).

Article 19
Registration of nationality

The registration of an act that results in attribution, acquisition or loss of nationality is made by inscription or annotation.

Article 20
Free registrations

(Repealed).

CHAPTER II
Proof of nationality

Article 21
Proof of nationality by origin

1 – The Portuguese nationality by origin of persons to whom sub-paragraphs a), b) and f) of paragraph 1 article 1 apply is proved by birth registration.

2 – A person whose birth registration does not mention the foreign nationality of one of the parents or its unawareness is considered to be a Portuguese national.

3 – The nationality by origin of persons to whom sub-paragraph c) of paragraph 1 article 1 applies is proved, as the case may be, by the information contained in the birth registration made by inscription in the Portuguese Civil Registry or by the registration of the declaration upon which the attribution depends.

4 – The nationality by origin of persons to whom sub-paragraph d) of paragraph 1 article 1 applies is proved by the birth registration containing the information that one parent was born in Portugal and resides here.

5 – The Portuguese nationality by origin of persons to whom sub-paragraph e) of paragraph 1 article 1 applies is proved by the registration of the declaration upon which the attribution depends.

Article 22

Proof of the acquisition and loss of nationality

- 1 – The acquisition and loss of nationality are proved by the respective registrations or by the annotations added to the birth registration.
- 2 – Proof of the acquisition of nationality by adoption is submitted in accordance with paragraph 1 of article 21.

Article 23

Opinions by the Registrar of the Central Registry Office

The Registrar of the Central Registry Office has the power to issue opinions on all matters relating to nationality, namely questions submitted to him or her by consular agents in case of doubt over the Portuguese nationality of an applicant for consular registration or inscription.

Article 24

Nationality certificates

- 1 – Irrespective of whether a registration exists, the Registrar of the Central Registry Office may issue, upon application by the interested party, Portuguese nationality certificates.
- 2 – The probative force of the certificate may be contested by any means whenever there is no record of the nationality of the person concerned.

CHAPTER III

Nationality appeal procedures

Article 25

Standing

The Public Prosecutor and all persons directly interested have standing to appeal against any acts related to the attribution, acquisition or loss of Portuguese nationality.

Article 26
Applicable legislation

The Administrative and Fiscal Courts Statute, the Administrative Courts Procedural Code and further complementary legislation apply, in general terms, to nationality appeal procedures.

TITLE III
Conflicts of nationality laws

Article 27
Conflicts of Portuguese and foreign nationalities

If a person has two or more nationalities, among which the Portuguese nationality, only the latter is relevant regarding Portuguese law.

Article 28
Conflicts of foreign nationalities

In positive conflicts of two or more foreign nationalities relevant is only the nationality of the State in whose territory the person has his or her habitual residence or otherwise the nationality of the State with which he or she maintains a closer connection.

TITLE IV
Final and transitional provisions

Article 29
Acquisition of nationality by adoptees

The persons fully adopted by a Portuguese national before the entry into force of the present law may acquire Portuguese nationality by means of a declaration.

Article 30

Acquisition of nationality by woman married to a foreigner

1 – A woman who, under Law 2098 of 29 July 1959 and previous legislation, has lost her Portuguese nationality as a result of marriage may reacquire it by means of a declaration, in which case articles 9 and 10 will not apply.

2 – Without prejudice to the validity of the juridical relations previously entered into under a different nationality, the effects of the acquisition of Portuguese nationality under paragraph 1 retroact to the time of the marriage.

Article 31

Prior voluntary acquisition of a foreign nationality

1 – The persons who, under Law 2098 of 29 July 1959 and previous legislation, have lost Portuguese nationality as a result of voluntary acquisition of a foreign nationality acquire it:

a) Provided that there has not been a final registration of the loss of nationality, except if they declare that they do not wish to acquire Portuguese nationality;

b) By means of a declaration, when there has been a final registration of the loss of nationality.

2 – In the circumstances of paragraph 1, articles 9 and 10 do not apply.

3 – Without prejudice to the validity of the juridical relations previously entered into under a different nationality, the effects of the acquisition of Portuguese nationality under paragraph 1 retroact to the date of the acquisition of the foreign nationality.

Article 32

Naturalisation imposed by foreign State

It is incumbent upon the Southern Central Administrative Court to decide on the loss or preservation of Portuguese nationality in cases of naturalisation directly or indirectly imposed by a foreign State to residents in its territory.

Article 33

Registration of changes of nationality

The registration of changes of nationality as a result of marriage or of voluntary acquisition of a foreign nationality under the previous law is made *ex officio* or upon application by the interested parties and is mandatory for identification purposes.

Article 34

Acts the registration of which was not mandatory under the previous law

1 – The acquisition and loss of nationality resulting from acts the registration of which was not mandatory under the previous law shall continue to be proved by registration or by documents attesting to the acts upon which the acquisition and loss of nationality depend.

2 – For identification purposes, evidence of such acts is given by its respective registration certificates or consequent annotations to the birth registration.

Article 35

Effects of acts previously not subject to registration

1 – The changes of nationality dependent upon acts or facts not subject to mandatory registration under the previous law are deemed to be effective from the date when said acts or facts occurred.

2 – The previous paragraph does not apply to the loss of nationality resulting from voluntary acquisition of a foreign nationality, which continues to be effective only regarding third parties, in private law relations, provided that it is registered and from the date when the registration is made.

Article 36

Pending procedures

(Repealed).

Article 37

Registration of births of children of non-Portuguese parents

1 – The registration of births that have occurred in Portuguese territory, after the entry into force of the present law, of children only of non-Portuguese parents must mention, as an identification element of the registered person, the foreign nationality of the parents or its unawareness, except if one of the parents has been born in Portuguese territory and resides here.

2 – Whenever possible, the declaring parties must submit documentation attesting to the mention to be made under paragraph 1, in order to prove that none of the parents is of Portuguese nationality.

Article 38

Birth registration of Portuguese parents or adopters later than the birth registration of foreigner

1 – When affiliation is established later than the birth registration of foreigner born in Portuguese territory or under Portuguese administration or when his or her adoption is decreed, the judicial decision or act establishing or decreeing it, as well as its communication for annotation to the birth registration, shall mention the Portuguese parents or adopters' nationality.

2 – The mention referred to in paragraph 1 shall be also included, as an identification element of the registered person, in the affiliation or adoption annotation made to the birth registration.

3 – When the affiliation is established later than the birth registration of foreigner born in national territory, the judicial decision or act establishing it, as well as its communication for annotation to the birth registration, must mention the origin of the foreign parent, born in Portuguese territory, as well as his or her residence at the time of birth.

Article 39
Transitional regulation

(Repealed).

Article 40
Repealing clause

Law 2098, of 29 July 1959, is hereby repealed.

Note on translation

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January 2010