



INFORMATION NOTE

2017

Portuguese Nationality – Grandchildren of Portuguese

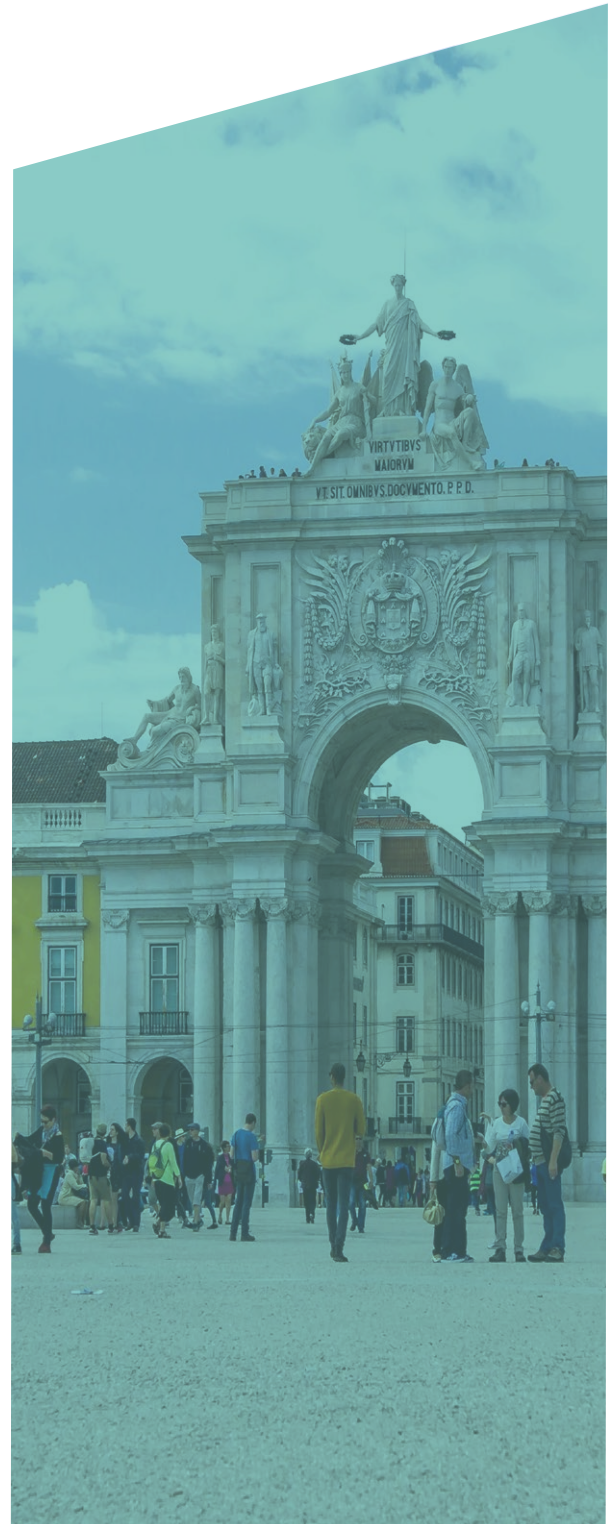
The Council of Ministers approved on April 20th a decree-law amending the Portuguese Nationality Act.

The Nationality Law already granted Portuguese nationality to grandchildren of Portuguese born abroad. However, as the first-degree ascendant (father or mother) did not have Portuguese nationality, the grandchild who obtained it directly from his/her Portuguese grandfather or grandmother (second-degree ascendant) was prevented from transmitting Portuguese nationality to its respective descendants. It was a matter of acquiring nationality by naturalization.

The last amendment to the Nationality Law, performed by Organic Law no. 9/2015, of July 29th, extended the possibility of granting Portuguese nationality to grandchildren of Portuguese born abroad.

This change will allow grandchildren of Portuguese born abroad and who acquire Portuguese nationality to transmit their nationality to their descendants (effect of the acquisition of nationality by attribution, since they are considered as Portuguese of origin). However this law has not yet entered into force, as it awaits its regulation to be carried out by the Government.

After almost two years, the “long-expected” decree amending the Portuguese Nationality Act has now been approved. It has not yet been published and will only enter into force one month after its publication.



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In accordance with the provisions of Article 1, paragraph 1, subparagraph d) of the Portuguese Nationality Law, are considered to be Portuguese of origin:

« Persons born abroad with, at least, one Portuguese ascendant in the second degree of the direct line who has not lost said nationality, provided that they declare their intention to be Portuguese, that they have effective ties with the national community and, once those requirements are verified, that they register their birth in the Portuguese civil registry ; »

Article 3, paragraph 3, further states that:

« The verification of the existence of effective ties with the national community, for the purposes set out in subparagraph d) of paragraph 1, implies recognition by the Government of the relevance of such ties, namely having sufficient knowledge of the Portuguese language and the existence of regular contacts with the Portuguese territory, and is subject to the absence of any judicial conviction for the practice of a crime punishable under Portuguese Law, with an imprisonment sentence equal to or greater than three years. »

The diploma now approved by the Portuguese government determines the terms in which the existence of such ties should be recognized.

Thus, the applicant must attach to its request for attribution of nationality all the documentation that can prove effective ties with the national community, such as:

- a) Legal residence in national territory;
- b) Regular travels to Portugal;
- c) To own a property located in Portugal for more than three years, or to hold a lease agreement for more than three years;
- d) Residence or connection to a Portuguese historical community abroad;
- e) Regular participation, over the past five years as of the date of the request, in the cultural life of the Portuguese community of the country he/she resides, especially in the activities of the Portuguese cultural and recreational associations of those communities.

Then, after the process has been filed at the Central Registry Office (CRC), it shall proceed to examine the application and one of two situations may occur:

- a) The applicant meets the requirements set forth in the Nationality Act so the CRC can immediately conclude that there are effective ties with the national community; or
- b) The process is referred to the member of the Government responsible for Justice, who shall, on a case-by-case basis, assess whether these ties exist or not.

According to the Nationality Act, the Central Registry Office should consider that there are effective ties with the national community, without a need to refer the case to the member of the Government responsible for Justice, when the applicant, at the time of the request:

// **Resides** legally in the Portuguese territory in the **three years** immediately preceding the request, is registered in the tax administration and in the national health service or in the regional health services, and proves school attendance in an educational establishment in the national territory, or demonstrate knowledge of the Portuguese language;

// **Resides** legally in the Portuguese territory in the **five years** immediately preceding the request, is registered in the tax administration and in the national health service or in the regional health services.

To prove legal residence in Portugal and registration in the national or regional health service, the applicant needs to have a Residence Permit, to be obtained from the SEF.

The law also requires applicants to meet other requirements, such as: « not having been convicted for the practice of a crime punishable under Portuguese law with an imprisonment sentence equal to or greater than three years »; « register their birth in the Portuguese civil registry » and « declare in the office their intention to be Portuguese. »

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Consequently, once the grandchildren of Portuguese, born abroad, have obtained their original Portuguese nationality, then their children, whether they are major or minor, can acquire Portuguese nationality, without any evidence of ties and through an already simplified procedure for granting nationality.

Other modifications introduced by the decree-law concern the **proof of knowledge of the Portuguese language and criminal records** to be submitted:

// The applicant whose country of nationality or birth is a country that has had Portuguese as its official language for at least 10 years and the applicant who resides in Portugal, regardless of its title, for at least five years, is presumed to have knowledge of the Portuguese language.

// The applicant who has not resided in his/her country of nationality and/or birth, after the age of 16, is no longer required to submit the criminal record of that country. The requirement to submit the criminal record only applies to the countries where the applicant actually resided after the age of 16.

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