

personally by the applicant, and shall ensure that the requirements in force in his district are fulfilled.

*Article 14.* Pending applications made to municipal authorities before 30 October 1938 shall be transmitted to the Ministry of Immigration and dealt with thereby in accordance with the provisions in force on that date and with article 12 of this Decree.

*Article 15.* All provisions contrary to this Decree are hereby repealed. The Ministry of Immigration shall deal by special resolution with all cases to which this Decree does not apply.

## 9. Brazil

### (a) CONSTITUTION OF 18 SEPTEMBER 1946.<sup>1</sup>

*Article 129.* The following persons are Brazilians:

I. Persons born in Brazil, except to alien parents, resident in Brazil in the service of their country;

II. A child born abroad to a Brazilian, male or female, if such parent is in the service of Brazil or if the child establishes residence in Brazil, in which latter case he shall be required, in order to retain his Brazilian nationality, to opt in favour thereof within four years of attaining his majority;

III. A person who has acquired Brazilian nationality under items 4 and 5 of Article 69 of the Constitution of 24 February 1891;<sup>2</sup>

IV. A person naturalized in conformity with the procedure established by statute.

*Article 130.* A Brazilian shall lose his nationality if:

I. He acquires another nationality by voluntary naturalization;

II. He accepts from a foreign government any commission, employment, or pension without permission of the President of the Republic;

III. His naturalization is cancelled by sentence of a court for conduct committed by him against the national interests.

### (b) ACT NO. 818 OF 18 SEPTEMBER 1949,<sup>3</sup> TO GOVERN THE ACQUISITION, LOSS AND RECOVERY OF NATIONALITY AND THE LOSS OF POLITICAL RIGHTS.

#### NATIONALITY

*Article 1.* The following persons are Brazilians:

I. Persons born in Brazil, except to alien parents resident in Brazil in the service of their country;

II. A child born abroad to a Brazilian, male or female, if such parent is in the service of Brazil or if the child establishes residence in Brazil, in which latter case he shall be required, in order to retain his Brazilian

<sup>1</sup> Translation by the Secretariat of the United Nations.

<sup>2</sup> The text of these provisions has been reproduced in footnote 2 to Law No. 818 of 18 September 1949.

<sup>3</sup> *Diario Oficial* No. 2176 of 19 September 1949. Translation by the Secretariat of the United Nations.

nationality, to opt in favour thereof within four years of attaining his majority;

III. A person who has acquired Brazilian nationality under items 4 and 5 of article 69 of the Constitution of 24 February 1891;<sup>1</sup>

IV. A person naturalized in conformity with the procedure established by statute.

#### OPTION

*Article 2.* Where one parent of a child born in Brazil is an alien resident in Brazil in the service of his government and the other parent is a Brazilian, the child may opt for Brazilian nationality as provided in item II of article 129 of the Federal Constitution.

*Article 3.* The option referred to in item II of article 1 and in article 2 hereof shall be exercised by an instrument executed in the Civil Registry of Births by the optant or by his representative.

*Article 4.* A child born abroad to a Brazilian of either sex not in the service of Brazil may, after arriving in Brazil with the intention of residing here, apply to the judge of the court of first instance of his place of residence for entry of his birth certificate in the civil register; and a note shall be made in this and in other relevant documents that the said entry shall not be evidence of Brazilian nationality until the expiry of four years after he has attained his majority.

*Article 5.* The persons referred to in items I and II of article 129 of the Federal Constitution are Brazilian-born persons.

#### JUDICIAL DECLARATION OF BRAZILIAN NATIONALITY

*Article 6.* Persons who acquired Brazilian nationality before 16 July 1934 under items 4 and 5 of article 69 of the Constitution of 24 February 1891 may at any time apply to the judge of the Court of first instance of their place of residence for a certificate declaratory thereof.

1. An application for such a declaratory certificate shall be made by petition signed by the naturalized person or by his specially authorized legal representative and stating his name, nationality, occupation and residence, the names of his spouse and Brazilian children, and correct particulars of any immovable property owned by him.

2. Upon receipt of the petition duly completed, together with evidence of compliance with the requirements of item 4 or item 5, as the case may be, of article 69 of the Constitution of 1891, the judge shall direct public

<sup>1</sup> Items 4 and 5 of Art. 69 of the Constitution of 24 February 1891 read as follows:

("The following persons shall be Brazilians:)

"4. Aliens who are in Brazil on 15 November 1889 and who do not declare within six months after the Constitution comes into force their intention to retain their nationality of origin;

"5. Aliens who own immovable property in Brazil, and are married to Brazilian women or have Brazilian children, and reside in Brazil, unless they express the intention not to change their nationality;"

advertisement of the petition; and any citizen may then lodge an objection to the petition within ten days without producing documentary evidence.

3. Whether an objection is lodged or not, the file shall be open for ten further days for inspection by the representative of the Federal Law Officers' Department, who also may lodge an objection to the petition, producing documents or merely filing an opinion traversing the petitioner's evidence.

4. The case shall then be closed and the judge shall decide the matter within thirty days; and an appeal from his decision shall lie to the Federal Court of Appeal within five days.

5. Save as hereby provided, appeals shall be governed by the relevant provisions of the Code of Civil Procedure, and the parties may appear in person or by counsel, and only documentary evidence shall be admissible.

6. The judge shall notify to the Ministry of Justice and Internal Affairs and to the authority set up under the sole paragraph of article 162 of the Federal Constitution the issue of a declaratory certificate as aforesaid.

#### NATURALIZATION

*Article 7.* Naturalization may be granted only by the President of the Republic, by decree countersigned by the Minister of Justice and Internal Affairs.

*Article 8.* The requirements for naturalization shall be:

- I. Civil capacity of the applicant according to Brazilian law;
- II. Continuous residence in the national territory for a period of at least five years immediately preceding the application;
- III. Ability to read and write the Portuguese language, regard being had to the applicant's circumstances;
- IV. Practice of a profession, or possession of property sufficient for the maintenance of the applicant and his family;
- V. Good conduct;
- VI. That the applicant shall not have been convicted or sentenced in Brazil for an offence punishable by imprisonment for more than one year;
- VII. Good physical health.

1. For a Portuguese person requirement IV shall be dispensed with, and in regard to requirements II and III a period of one year's uninterrupted residence shall be sufficient and he shall be required to have an adequate knowledge of the Portuguese language.

2. An alien who has resided in Brazil for more than one year need not provide evidence of good physical health.

*Article 9.* The period of residence required by item II of article 8 shall be reduced if the applicant:

- I. Has a Brazilian child or spouse; or
- II. Is a child of a Brazilian of either sex; or
- III. Possesses professional, scientific or artistic qualifications; or
- IV. Is a farmer or a skilled worker in any branch of industry; or
- V. In the opinion of the Government, has rendered or may render outstanding services to Brazil; or
- VI. Is or has been employed in a Brazilian consulate or legation and has a record of twenty years' satisfactory service; or

VII. Possesses immovable property in Brazil to the value of not less than Cr. \$ 100,000.00 (one hundred thousand cruzeiros), or is a farmer or engaged in industry and possesses moneys to this value, or possesses an interest of not less than the aforesaid value in a commercial or civil undertaking carrying on an industry or agriculture as its main and permanent business.

*Sole paragraph.* In the case specified in item II the required period of residence shall be one year, in items I and VI two years, and in the other item three years.

*Article 10.* An alien desiring naturalization shall be required to apply therefor to the President of the Republic stating his full name, nationality, place of birth, parentage and civil status, the day, month and year of his birth, his occupation, and the places in Brazil and abroad where he has resided previously.

*Sole paragraph.* The application shall be signed by the applicant or, if he is a Portuguese and illiterate, by his specially authorized representative, and the signature shall be witnessed, and the following documents shall be annexed:

- I. His alien's identity card;
- II. A police certificate of continuous residence in Brazil (item II of article 8);
- III. A police certificate of good conduct and a report of his antecedents, witnessed by the competent authorities of the places in Brazil where he has resided;
- IV. His occupational record, diplomas, and certificates from associations, trade unions or employing undertakings (item IV of article 8);
- V. A certificate of good physical health;
- VI. Certificates or affidavits proving compliance with one of requirements I—VII of article 9.

*Article 11.* An alien woman married for over five years to a serving Brazilian diplomat shall be required for the purpose of naturalization to comply only with requirements III and VII of article 8; and her application shall be accompanied by evidence that the marriage was duly authorized by the Brazilian Government, if this was necessary at the time when the marriage was contracted.

*Article 12.* In the Federal District an application under article 10 shall be submitted to the Ministry of Justice and Internal Affairs, which after examining it in accordance with the provisions of this law shall forward it to the Federal Department of Public Security for the investigation required by paragraph I of the next article.

*Article 13.* In the States and Territories an application shall be addressed to the President of the Republic and submitted to the municipal prefecture of the district where the applicant resides, which shall forward it to the public security department or other appropriate department of the State government or direct to that government.

1. The public security department shall, before giving its opinion on naturalization, send the fingerprints of the applicant to the proper authorities in the various States where he has resided and investigate his record.

2. The case shall be concluded within 120 days, after which it shall be referred back, in the Federal District to the Ministry of Justice and Internal Affairs, and in a State or Territory to the governor.

3. The Federal Department of Public Security or the public security departments or other proper authorities of the States and Territories shall, at the request of the authority receiving the application, provide the requisite information within ninety days, and any officer causing delay shall be liable to a penalty.

4. Whether the said information has been received or not, the case shall be referred back directly to the Ministry of Justice and Internal Affairs by the Federal Department of Public Security, or by the corresponding department of the State or Territory through the governor.

*Article 14.* Upon receipt of the case the Ministry of Justice shall, if it does not deem any further proceedings necessary or after completion of such as it may direct, submit the case with a statement of its opinion thereon to the President of the Republic.

1. Except for the priorities specified in article 9, cases in each class shall be examined and reported upon in strict chronological order, departure wherefrom shall entail penalty.

2. The Ministry of Justice and Internal Affairs may, where anything is required to be done by the applicant, prescribe a time-limit therefor, and if the time-limit is exceeded the application shall be null and void.

3. Where a requirement does not call for anything to be done by the applicant, the department or authority requested to comply with it shall do so within sixty days.

4. When the requirements have been complied with, the proper office of the Ministry of Justice and Internal Affairs shall notify the applicant to that effect by registered letter.

*Article 15.* The decree of naturalization shall, when published, be forwarded to the judge of the court of first instance of the place where the applicant resides, in order that the judge may deliver it to the applicant directly and formally in open court and explain to him the meaning of his new status and inform him of the duties and rights conferred upon him thereby.

1. Where there is more than one judge of first instance, delivery shall be made by the judge with Federal jurisdiction; and where more than one judge has such jurisdiction, then by the judge of the first district; and where no judge is specially appointed for such purposes, then by the judge of the first civil district.

2. If the municipality where the applicant resides is not the headquarters of a district, the judge of the court of first instance may delegate the delivery to a magistrate.

3. More than one decree may be delivered at the same hearing.

4. The applicant shall pay only the scale costs of the hearing, the certificate and the advertisement.

*Article 16.* A note of the delivery of the decree shall be entered in the court record and signed by the judge and also by the applicant, who shall:

(a) Show that he can read and write the Portuguese language to a degree befitting his circumstances, by reading portions of the Federal Constitution;

- (b) Expressly renounce his previous nationality;
- (c) Undertake duly to perform the duties of a Brazilian.

1. In respect of item (a) an applicant of Portuguese nationality shall be required only to show that he has an adequate knowledge of the language.

2. The date of delivery, the declaration by the applicant of his undertaking, and the making of an entry in the court record shall be noted on the decree and reported to the Ministry of Justice and Domestic Affairs and to the department of military recruiting.

3. The decree shall become null and void unless the applicant requests delivery thereof within six months or eighteen months respectively from the date of its publication, according to whether he resides in the Federal District or elsewhere in Brazilian territory, or unless he furnishes satisfactory evidence that his failure to request delivery was due to circumstances beyond his control.

4. On the expiry of the period aforesaid the decree shall be returned to the Minister, who shall make an informal order for it to be filed away, and a note thereof shall be made in the proper register.

5. If the applicant changes his place of residence during the proceedings, he may request delivery of the decree at his new place of residence.

*Article 17.* Any Brazilian citizen may, at any stage of proceedings for naturalization, lodge a duly substantiated objection thereto, which with the supporting documents shall be annexed to the file of the case.

*Article 18.* If a Federal or State authority finds that the conditions under which a naturalization has been authorized have changed, delivery shall be suspended.

#### EFFECTS OF NATURALIZATION

*Article 19.* Naturalization shall not take effect until after delivery of the decree in the manner provided by articles 15 and 16, and shall then entitle the naturalized person to enjoy all civil and political rights except those conferred by the Federal Constitution exclusively on Brazilian-born persons.

*Article 20.* Naturalization of a person shall not import acquisition of Brazilian nationality by his spouse or children.

*Article 21.* The Minister of Justice and Internal Affairs may at the request of the naturalized person authorize a translation of his name to appear in the instrument of naturalization.

#### LOSS OF NATIONALITY

*Article 22.* A Brazilian shall lose his nationality if:

- I. He acquires another nationality by voluntary naturalization;
- II. He accepts from a foreign government any commission, employment or pension without permission of the President of the Republic;
- III. His naturalization is cancelled by sentence of a court for conduct committed by him against the national interests.

*Article 23.* Loss of nationality under items I and II of article 22 shall be decreed by the President of the Republic after full investigation of the grounds therefor in proceedings which may be commenced by the

Ministry of Justice and Internal Affairs of its own motion or on a duly substantiated information and shall be conducted in the Ministry; and the person affected thereby shall in every case be heard.

*Article 24.* Proceedings for cancellation of naturalization shall be heard by the judge of the court of first instance with Federal jurisdiction at the place where the naturalized person resides, and may be commenced at the instance of the Minister of Justice and Internal Affairs, or on an information preferred by any person.

*Article 25.* The information shall expressly describe the conduct alleged to be harmful to the national interests, and shall be addressed to the competent police authorities, who shall order the necessary investigation.

*Article 26.* Upon receipt of the information or report of the investigation, the judge shall refer it to the Law Officer of the Republic, who shall give his opinion within five days and either prefer a charge or request that the case be filed away.

*Sole paragraph.* If the Federal Law Officers' Department requests that the case be filed away and the judge considers the reasons given to be inadequate, he shall return the documents to the Law Officer of the Republic, who shall prefer a charge, or appoint another law officer to do so, or repeat his request that the case be filed away, in which event the request may not be refused.

*Article 27.* The judge shall on receiving the charge appoint a date and time for hearing the accused, and issue a summons, which shall be served by writ.

1. If the accused cannot be found, the summons shall be served by advertisement and be returnable in fifteen days.

2. If the accused fails to appear on the date and at the time appointed, he shall be tried in his absence and a guardian *ad litem* (*curador*) shall be appointed for him.

*Article 28.* The accused or his counsel shall be granted a time-limit of five days, reckoned from the date of the hearing at which he was charged and including service of notice, to file written pleadings, to make motions, and to put in a list of witnesses.

*Sole paragraph.* If the accused fails to appear, the time-limit shall be granted to his counsel.

*Article 29.* After expiry of the time-limit specified in the preceding article, the judge shall within twenty days rule upon the motions made by the parties, examine witnesses, and give any other directions which may seem to him necessary.

*Article 30.* The Federal Law Officers' Department and the accused shall each be allowed a time-limit of forty-eight hours to make such motions as the preliminary proceedings may show to be necessary or desirable.

*Article 31.* If on the expiry of the said time-limits the parties have not moved the court, or their motions have been ruled upon and the resulting directions complied with, the file shall be open to inspection by the Law Officers' Department and the accused, who shall each have three days to file their final pleadings.

*Article 32.* On the expiry of the said time-limits the case shall be closed and the judge shall within ten days, in open court in the presence of the accused and a law officer, proceed to deliver judgment.

*Article 33.* An appeal, which shall not operate to stay execution, against a judgment cancelling naturalization shall lie to the Federal Court of Appeal within ten days reckoned from the date of the hearing at which judgment was delivered and including service of notice.

*Sole paragraph.* A time-limit of ten days shall also be allowed under the same conditions to the Federal Law Officers' Department for an appeal against a judgment in favour of the accused.

*Article 34.* When an order cancelling a naturalization has become effective, a copy thereof shall be sent to the Ministry of Justice and Internal Affairs for annotation in the margin of the register against the entry recording the decree.

#### ANNULMENT OF DECREE OF NATURALIZATION

*Article 35.* A decree of naturalization shall be null and void if any document submitted as evidence of compliance with the requirements of article 8 or 9 is proved to be untrue or misleading.

1. A declaration of nullity shall be made in an action conducted in accordance with the provisions of articles 24 to 34 hereof and commenced at the instance of the Federal Law Officers' Department or of any citizen.

2. An action for annulment may be commenced only within the four years immediately following delivery of the decree of naturalization.

#### RECOVERY OF NATIONALITY

*Article 36.* A Brazilian domiciled in Brazil who has lost his nationality on any ground specified in items I and II of article 22 of this law may recover it by decree.

1. An application for recovery shall be addressed to the President of the Republic and shall be considered by the Ministry of Justice and Internal Affairs, to which, if the applicant is resident in a State or Territory, it shall be sent through the governor thereof.

2. Recovery of nationality shall not be granted in the case mentioned in item I of article 22 if it appears that the Brazilian acquired another nationality in order to evade duties which he would have been obliged to perform if he had remained a Brazilian.

3. In the case mentioned in item II of article 22 the applicant shall be required to have renounced his commission, employment or pension from the foreign government.

*Article 37.* The Ministry of Foreign Affairs shall, if necessary, ascertain that the requirements of paragraphs 2 and 3 of the preceding article have been complied with.

#### POLITICAL RIGHTS

*Article 38.* Political rights means rights conferred by the Constitution and by statute upon Brazilians, and in particular the right to vote and to be elected.



*Article 39.* Political rights may be suspended or lost only in the cases specified in paragraphs 1 and 2 of article 135 of the Federal Constitution.

*Article 40.* A Brazilian who has lost his political rights may recover them:

(a) By declaring in an instrument executed in the Ministry of Justice and Internal Affairs, if he is resident in the Federal District, or, if he is resident in a State or Territory, then in its proper department of government, that he is ready to resume the duty by him renounced; provided that such proceedings do not lead to evasion of the law;

(b) By declaring in a similar instrument that he has renounced the decoration or title of nobility; and such renunciation shall be communicated to the foreign government through the diplomatic channel.

*Article 41.* Loss and recovery of political rights shall be declared by decree countersigned by the Minister of Justice and Internal Affairs.

#### GENERAL

*Article 42.* Petitions and documents relating to naturalization, and declaratory certificates, shall be under seal.

*Article 43.* Two special registers shall be kept in the proper department of the Ministry of Justice and Internal Affairs, one for registration of decrees of naturalization and the other for registration of declaratory certificates issued under article 6 hereof.

*Sole paragraph.* The said department shall notify effective grants of naturalization and cancellations of naturalization to the authority set up under the sole paragraph of article 162 of the Federal Constitution, for registration in the special registers of naturalization and of declaratory certificates.

*Article 44.* Naturalization shall not exempt the naturalized person from any duty previously owed by him in relation to his country of origin.

*Article 45.* Applications for naturalization now pending in the Ministry of Justice and Internal Affairs shall be treated in conformity with this law.

*Article 46.* This Act shall come into force on the date of its publication, and all provisions to the contrary are hereby repealed.

## 10. Bulgaria

(a) BULGARIAN CITIZENSHIP ACT NO. 9327 OF 19 MARCH 1948.<sup>1</sup>

#### CHAPTER I. ACQUISITION OF BULGARIAN CITIZENSHIP

*Article 1.* A person whose parents are Bulgarian citizens shall be a Bulgarian citizen by birth.

Where one parent only of a person is a Bulgarian citizen, but the person is born in Bulgaria or, if born abroad, is not a foreign citizen under the law of the country of the other parent or of the country in which he was born, he shall be a Bulgarian citizen.

*Article 2.* A person born on Bulgarian territory to parents who are unknown or of unknown citizenship or stateless, or found on Bulgarian territory as a foundling, shall be deemed to be a Bulgarian citizen by birth.

<sup>1</sup> Official Gazette No. 70 of 26 March 1948. Translation by the Secretariat of the United Nations.