

(2) On all other matters: by the District People's Council, or the Municipal People's Council in a town classed as a municipal district, or a borough people's council in Warsaw or Lodz.

Article 2. (1) The territorial jurisdiction of a people's council shall be determined in accordance with the following factors in the order given:

- (a) The domicile of the person concerned,
- (b) His place of residence,
- (c) His last-known domicile or place of residence.

(2) Where none of the aforesaid factors applies, the Warsaw City People's Council (article 1 (1)) or the Warsaw Central Borough People's Council (article 1 (2)) shall have jurisdiction.

Article 3. The President of the Council of Ministers shall give effect to this Decree.

Article 4. This Decree shall enter into force on the date of its publication.

65. Portugal

STATUTORY PROVISIONS GOVERNING PORTUGUESE NATIONALITY.¹

1. ACQUISITION OF NATIONALITY

Article 18 of the Civil Code. The following persons are Portuguese nationals:

(1) A person born in Portuguese territory of a Portuguese father or, if born out of wedlock, of a Portuguese mother;

(2) A person born in Portuguese territory of an alien father (provided that the father is not in the service of his own country), unless that person, if he has reached the age of majority or is *sui juris*, makes a declaration in his own name, or, if a minor, makes a declaration through his lawful representative, to the effect that he does not wish to be a Portuguese national;

(3) A person born abroad of a Portuguese father (even though the father was banished from Portuguese territory) or, if born out of wedlock, of a Portuguese mother, if that person establishes his domicile in Portuguese territory or, having attained the age of majority or being *sui juris*, makes a declaration in his own name (or, being a minor, through his lawful representative) to the effect that he wishes to be a Portuguese national;

(4) A person born in Portuguese territory of unknown parents, or of parents whose nationality is not known;

(5) A person born in foreign territory of a Portuguese father whose residence in the said territory is attributable to service on behalf of Portugal;

(6) An alien woman who marries a Portuguese national;

(7) Naturalized aliens.

1. The declaration required under paragraph (2) above shall be made before the municipal authority of the place of residence; the declaration required under paragraph (3) above shall be made before the competent Portuguese consular representative or before the competent foreign authority.

¹ Translation by the Secretariat of the United Nations.

2. If during the minority of a person a declaration under paragraph (2) above was made on his behalf by his lawful representative, that person may, on attaining the age of majority or on becoming *sui juris*, make a fresh declaration before the municipal authority of his place of residence to revoke the earlier declaration.

3. If a Portuguese national should also be regarded as a national of a foreign country, he may not, while resident in that foreign country, plead his status as a Portuguese national.

Article 142 of the Consular Regulations. "The registration of a notification of birth in the Consular Register, if entered in the presence of the parents of the new-born child, shall take the place of the declaration of nationality referred to in article 18 (3) of the Civil Code."

Article 19 of the Civil Code. The Government may grant a certificate of naturalization to an alien who makes an application therefor to the municipal authority of his place of residence and who fulfils the following conditions, that is to say:

(1) That he has attained, or is deemed to have attained, the age of majority, both under Portuguese law and under the law of his own country;

(2) That he can earn his livelihood through work or possesses other means of subsistence;

(3) That he has resided in Portuguese territory for not less than three years;

(4) That he is not subject to any criminal liability;

(5) That he has complied with the military service requirements in his own country.

1. The submission of the application referred to in this article does not of itself have any legal effect.

2. The condition stipulated in paragraph (3) above shall not be indispensable in the case of a person descended from Portuguese ancestors who establishes his domicile in Portugal, and the said condition may also be waived in the case of an alien who is married to a Portuguese woman and in the case of an alien who has rendered, or is likely to render, some distinguished service to Portugal which would justify the waiver.

3. The evidence registered to show that an alien who is applying for naturalization as a Portuguese national satisfies the conditions stipulated in paragraph (4) above shall take the form of a certificate from his country and of a certified extract from his police record in Portugal.

4. In addition to the aforesaid documents only such documents may be required as are prescribed by treaty or convention between Portugal and the country of which the applicant is a national.

5. The documents shall not be subject to the provisions of the Stamp Act, and the Government may waive the production of the documents and instead accept particulars furnished by the competent Government departments, authorities or officials.

2. LOSS AND RECOVERY OF PORTUGUESE NATIONALITY

Article 22 of the Civil Code. The following persons shall lose Portuguese nationality:

(1) A Portuguese national who acquires the nationality of a foreign country by naturalization. He may, however, recover Portuguese nationality if he returns to Portuguese territory with the intention of establishing his domicile therein and in addition makes a declaration to that effect

before the municipal authorities of the place where he intends to establish his domicile;

(2) A Portuguese national who without the permission of the Government accepts a public office, favour, pension or decoration from any foreign Government. He may, however, recover his former rights by a special dispensation of the Government;

(3) A Portuguese national who is banished by a court order, for so long as the said order remains in effect;

(4) A Portuguese woman who marries an alien, unless under the law of her husband's country the marriage does not confer his nationality on her. However, if the marriage is dissolved, she may recover Portuguese nationality by complying with the stipulations of paragraph (1) above.

1. If a Portuguese national whose wife is also a Portuguese national acquires a foreign nationality by naturalization, the wife shall not *ipso facto* lose Portuguese nationality unless she makes a declaration to the effect that she desires to follow the nationality of her husband.

2. Similarly, where a Portuguese national acquires a foreign nationality by naturalization, then, even if his wife is of foreign origin, the minor children born before his naturalization shall not *ipso facto* lose Portuguese nationality unless they themselves, after attaining the age of majority or becoming *sui juris*, make a declaration to the effect that they desire to follow the nationality of their father.

Article 3 of the Legislative Decree No. 32,832 of 7 June 1943. "A Portuguese national who has been convicted of a treasonable offence under Book II, Title II, Chapter I of the Penal Code ¹ or under article 2 ² of this Decree may be deprived of Portuguese nationality by a decision of the Council of Ministers."

3. PROVISIONS RELATING TO THE REGISTRATION OF NATIONALITY

Act No. 2,049 of 6 August 1951

Article 106. The Directorate-General of Registers and Notarial Instruments shall administer the Central Record Office which shall include:
(1) the Central Register of Nationality

Article 113. The function of the Central Register of Nationality shall be to record the acquisition, loss and recovery of Portuguese nationality in all cases where the validity of such acquisition, loss or recovery in Portuguese territory depends on registration.

¹ Concerning offences against the external security of the State.

² The said article 2 provides:

Art. 2. If a person in Portugal commits any unlawful act calculated to profit a foreign State or its agents, in the knowledge that his act is prejudicial to the public authority of Portugal, then that person shall be liable to the penalty provided by article 55 (5).

1. The same penalty shall be applicable to a person who in Portuguese territory commits any unlawful act with a view to delivering any person, whether a Portuguese National or an alien, to a foreign State, or to its agents or to any public or private body in that foreign State, and employs force or fraudulent means to accomplish his purpose, the foregoing provision to be without prejudice to any more severe penalties to which the offender may be liable.

2. The provisions of article 150 (1) shall be applicable to the cases covered by this article and by paragraph 1 above.

Article 114. Pursuant to the terms of the preceding article registration of the following shall be obligatory:

- (1) The naturalization of aliens;
- (2) Options of nationality exercisable under article 18 (2), article 18, paragraph 2, and article 22, paragraphs 1 and 2, of the Civil Code;
- (3) Declarations of establishment of domicile required for the purpose of the recovery of Portuguese nationality under article 22 (1) and (4) of the Civil Code.

Article 115. Declarations made before Portuguese consular representatives under article 18 (3) and under article 18, paragraph 1, second part, of the Civil Code, as well as the registrations of notifications of births referred to in article 142 of the Portuguese Consular Regulations, shall be transcribed without formality in the Central Register of Nationality.

Declarations made before foreign authorities shall be transcribed, or simply repeated before the Central Register, on the application of the persons concerned.

1. In addition particulars relating to the following events shall also be transcribed without formality or on the application of the persons concerned:

- (1) The acquisition of Portuguese nationality by an alien woman who marries a Portuguese national;
- (2) The loss of Portuguese nationality by a Portuguese woman who marries an alien;
- (3) The loss of Portuguese nationality by a person who acquires a foreign nationality by naturalization;
- (4) The loss of Portuguese nationality and its recovery by virtue of article 22 (2) of the Civil Code;

2. Portuguese consular representatives shall send to the Ministry of Foreign Affairs, for transmission to the Ministry of Justice, the documents and information needed for giving effect to the provisions of this article.

3. The registrars of births, marriages and deaths shall communicate to the Central Record Office particulars of marriages registered or transcribed by them in pursuance of paragraph 1 (1) and (2) above.

4. In case of doubt concerning the nationality of the applicant, Portuguese consular representatives shall only carry out the registration under article 96 of the Portuguese Consular Regulations after previous consultation with the Central Record Office, always provided, however, that the registration does not as a general rule constitute a title to nationality.

Article 116. The declarations concerning option of nationality referred to in article 18 (2) and article 18, paragraph 2, of the Civil Code and declarations concerning establishment of domicile for the purposes of the recovery of Portuguese nationality under article 22 (1) and (4) of the Civil Code shall be made in writing before the registrar of the district in which the interested party is domiciled.

Sole paragraph. The registrar who receives any such declaration as aforesaid shall transmit the document within three days to the Central Record Office in order that the appropriate entry may be made.

Article 117. Except in cases of naturalization it shall be within the competence of the Ministry of Justice to decide questions relating to the legality of the acquisition, loss or recovery of Portuguese nationality or to make rulings in cases of doubt.

Sole paragraph. By virtue of the general law there shall be a right of appeal from the Minister's decisions to the Supreme Administrative Tribunal.

Article 118. For the purpose of the investigations of questions of fact in matters relating to the acquisition, loss and recovery of Portuguese nationality, a legal department dealing with disputed matters relating to nationality shall be attached to the Central Record Office.

Sole paragraph. The parties concerned or their legal representatives shall always be present in any contentious proceeding relating to nationality.

Article 120. Where a person makes a declaration under article 18, paragraph 2, of the Civil Code to revoke an earlier declaration and if at the time of the revocation two years have elapsed since that person attained his majority, then, in these circumstances the acquisition of Portuguese nationality shall not be registered except with the authorization of the Minister of Justice.

The authorization may be refused if it is discovered that the said person after attaining his majority made an express declaration to the effect that he wished to follow the nationality of his parents, or of his own free will did anything that constitutes evidence of political allegiance to a foreign Government.

4. CODIFIED RULES RELATING TO THE REGISTER OF BIRTHS, MARRIAGES AND DEATHS

(Decree No. 22,018 of 22 December 1932)

Article 373. Where a document submitted for registration is evidence of the acquisition, recovery or loss of Portuguese nationality it shall be obligatory to produce the birth certificate of the interested party, and, if he is married, the marriage certificate, as well as the birth certificates of his wife and children if the relevant particulars are not contained in the record of the particular registry office.

Sole paragraph. If the registration concerns a widow the death certificate of the husband shall be attached.

Article 374. In addition to the replies to the general questions the following particulars shall be given:

- (1) The former place of domicile of the applicant;
- (2) The surnames and first names, nationality, domicile and occupation or profession of his parents;
- (3) If he is married, the name and nationality of his wife;
- (4) The names, nationality, residence and occupation or profession of her parents;
- (5) The names, age, nationality, residence and occupation or profession of the minor children who are not *sui juris*.

Article 375. It shall be a condition of the validity of a certificate of naturalization that it was registered within six months after the date of the grant in the registry office of the locality where the person concerned elects to establish his domicile.