

## 82. Venezuela

### (a) CONSTITUTION <sup>1</sup> OF 15 APRIL 1953.

#### TITLE II. NATIONALITY

*Article 22.* The following persons are Venezuelan nationals by birth:

- (1) Persons born in the territory of the Republic;
- (2) Persons born on board Venezuelan vessels or aircraft outside the jurisdiction of any other State;
- (3) Children of a Venezuelan father or mother.

*Article 23.* The following persons are Venezuelan nationals by naturalization:

- (1) A person of full age whose father or mother is a Venezuelan national by naturalization and who was born outside of Venezuelan territory, if he establishes domicile in the country and declares his desire to be a Venezuelan national;
- (2) A national of Spain or of a Latin American State domiciled in Venezuela who declares his desire to be a Venezuelan national and whose declaration is accepted;
- (3) The alien wife of a Venezuelan national who declares her desire to be a Venezuelan national and whose declaration is accepted;
- (4) An alien who acquires a certificate of naturalization.

*Article 24.* A Venezuelan woman who marries an alien shall retain her Venezuelan nationality.

*Article 25.* The dissolution of a marriage shall not affect the nationality of the spouse or the children.

*Article 26.* Legislation shall be enacted to govern the declarations referred to herein, the formalities to be observed in the naturalization procedure and the revocation of naturalization.

*Article 27.* A public treaty may contain rules for determining the nationality of persons who by the law of different countries possess more than one nationality.

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### (b) NATURALIZATION ACT <sup>2</sup> OF 19 MAY 1940.

#### CHAPTER I. GENERAL PROVISIONS

*Article 1.* Venezuelan nationality is acquired in conformity with the provisions of the National Constitution and of this Act.

*Article 2.* An alien shall have capacity to acquire the said nationality except in so far as this Act expressly provides otherwise.

*Article 3.* The following persons shall be incapable of acquiring Venezuelan nationality:

1. An alien without lawful means of subsistence;

<sup>1</sup> *Gaceta Oficial* No. 372 E, 15 April 1953. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Gaceta Oficial* of 4 June 1940. Translation by the Secretariat of the United Nations.

2. An alien who in his country of origin, or in any other foreign country, or in Venezuela, is being tried for an offence against the ordinary law, for the duration of the trial, and an alien who has been sentenced to imprisonment or detention in a penitentiary institution, even though he has served his term, unless his civil rights have been restored;

3. An alien subject who is of unsound mind or suffers from idiocy, imbecility, acute mania or any other dangerous mental deficiency, whether or not he has been declared incapable or *non sui juris*;

4. A drug addict, epileptic, an alien suffering from leprosy or from any other contagious disease who, in the opinion of the public health authorities, may constitute a threat to public health or become the responsibility of the community;

5. An alien who holds beliefs incompatible with the political institutions and prejudicial to the social tranquillity of the nation;

6. Any other alien who, according to legislative provisions, is to be denied admission to the country.

*Article 4.* It shall be an indispensable condition for the acquisition of Venezuelan nationality that the alien applicant has resided in the country continuously for at least two years and can speak Spanish.

This provision shall not apply to the following persons:

1. A person who has attained the age of majority and was born outside the territory of the Republic, if at the time of birth either his father or his mother was a Venezuelan national by naturalization;

2. Any person born in Spain or in the Ibero-American Republics;

3. An alien woman married to a Venezuelan, if, upon the dissolution of the marriage and within the year following such dissolution, she expresses a desire to retain Venezuelan nationality.

*Sole paragraph.* Temporary absence from the country for a period not exceeding six months altogether shall not constitute an interruption of the period of residence referred to in this article.

*Article 5.* The domicile required in the case of the persons referred to in article 29<sup>1</sup>, paragraph 1, of the National Constitution and the period

<sup>1</sup> The Constitution which was in force at the date of enactment of this Act was the Constitution of 20 July 1936, articles 29 and 30 of which read as follows:

*Article 29.* The following persons shall be Venezuelan nationals by naturalization:

(1) A person of full age whose father or mother is a Venezuelan national by naturalization and who was born outside Venezuelan territory, if he establishes domicile in the country and declares his desire to be a Venezuelan national.

(2) A person born in Spain or in a Latin American Republic who has taken up residence in Venezuelan territory, declared his desire to be a Venezuelan national and fulfilled the statutory requirements.

(3) An alien who has acquired or who subsequently acquires a certificate of naturalization in accordance with the law.

(4) The alien wife of a Venezuelan national, for the duration of the marriage and after the dissolution of the marriage, if she declares her desire to become a Venezuelan within one year following such dissolution, and her declaration is accepted.

*Article 30.* The declarations mentioned in sub-paragraphs 1, 2 and 4 of the preceding article shall be made before the principal registrar of the judicial district in which the applicant has taken up domicile. On receipt of such declarations, the registrar shall record them in the appropriate register and

of residence prescribed by the said constitutional provision in the case of the aliens referred to in paragraph 2 shall be computed in accordance with the provisions of ordinary Venezuelan law and with the more particular provisions of the Aliens Act and the relevant regulations.

*Article 6.* In the case of an application for a certificate of naturalization it shall be considered a favourable circumstance if the applicant:

1. Possesses real property in Venezuela or is the owner of or associated with commercial concerns which are known to be solvent and which have or have acquired Venezuelan nationality or domicile;
2. Has children who are under his paternal authority;
3. Has rendered some important service to Venezuela or to humanity;
4. Has rendered technical services to the country which in the opinion of the Federal Executive are in the public interest;
5. Has resided in the Republic for a long time;
6. Establishes in national territory an industry, undertaking or business concern which is useful to the country or clearly beneficial to society;
7. Is married to a Venezuelan woman or has one or more legitimate or acknowledged children who were born in Venezuela;
8. Has established himself in the country as a settler, in accordance with the legislation relating to immigration and settlement;
9. Has followed a course of studies and obtained scientific qualifications in a Venezuelan university.

*Article 7.* The effects of naturalization are purely individual; nevertheless:

1. The minor children of a person naturalized in the country shall enjoy the effects of his naturalization until they attain their majority;
2. If an alien woman marries a Venezuelan national her minor children who are aliens shall acquire and lose nationality with their mother; however, on attaining majority they shall make the declaration required by article 29, paragraph 4<sup>1</sup> of the Constitution.

*Article 8.* Venezuelan nationals by naturalization shall enjoy the same rights as Venezuelan nationals by birth, subject, however, to the restrictions set forth in the Constitution and in the legislation of the Republic.

## CHAPTER II. PROCEDURE

*Article 9.* The declaration of intent mentioned in article 30 of the Constitution<sup>1</sup> shall be made in writing before the principal registrar of the particular judicial district or before the diplomatic or consular representative of the Republic abroad. This declaration shall set forth and shall be accompanied by evidence of the facts or of the special circumstances referred to in article 29, paragraphs 1, 2 and 4 of the said Constitution.

*Article 10.* In the declaration of intent made by any of the persons referred to in the said article 29, paragraph 2 of the Constitution<sup>1</sup>, the

send copies, with the requisite fee, to the Federal Executive. If the declarations are in order, he shall cause them to be published in the *Gaceta Oficial* of the United States of Venezuela as prescribed by law. If the applicant is abroad, the abovementioned declaration shall be made before a diplomatic or consular representative of the Republic, who shall transmit it to the Minister of Foreign Affairs for registration and publication.

Venezuelan nationality shall not be regarded as acquired until publication has been made as stated above.

<sup>1</sup> See footnote to article 5 *supra*.

declarant shall in addition, in the same written instrument, promise to observe and respect the Constitution and the laws of the Republic, state whether he is unmarried, married, widowed or divorced, and if married, the name and nationality of his spouse, his place of domicile, the names of his children and whether they are legitimate, legitimated or were born out of wedlock. He shall attach to his declaration the following documents: proof that he is over the age of twenty-one years and has attained the age of majority according to the laws of his own country; a medical certificate; evidence of good conduct; his passport; his personal identity card and all other papers attesting his identity and his domicile or residence in the country; his birth certificate, and proof of his occupation or trade and of the means of subsistence at his disposal.

*Article 11.* The registrar before whom this declaration is made shall receive it together with the documents required by this Act, which he shall require the declarant to produce. He shall then record the declaration in the appropriate register and shall transmit a copy of it and of the attached documents to the Federal Executive who shall order its publication in the *Gaceta Oficial* of the United States of Venezuela after confirmation that all the formalities required by the Act have been completed.

If the declaration of intent is made before a diplomatic or consular representative, that representative shall likewise require the production of the documentary evidence prescribed by the Act, note the declaration in a book reserved for the purpose and send all the documents to the Ministry of Foreign Affairs. The said Ministry shall transmit the file to the Ministry of the Interior which, after confirmation that all the formalities required by the Act have been completed, shall order the declaration to be noted and to be published in the *Gaceta Oficial* of the United States of Venezuela.

In the circumstances referred to in article 29, paragraph 4, of the Constitution,<sup>1</sup> the declaration shall be registered if that formality has not already been completed. In any event, the declaration and its acceptance must be published in the *Gaceta Oficial*.

Venezuelan nationality shall not be deemed to have been acquired until such publication has taken place.

*Article 12.* An alien who wishes to obtain a certificate of naturalization shall submit to the President of the State, or to the Governor of the Federal District or Federal Territory in which he lives, an application setting forth all the particulars specified in article 10 of this Act and at the same time produce the documents specified in the said article and any other documents required by the Federal Executive.

*Sole paragraph.* A married woman, or a woman who is separated from her husband, shall produce the documents evidencing the marriage or separation as the case may be.

*Article 13.* The official to whom application is made in accordance with the preceding article shall decide, by examination of the documents, whether the applicant is legally qualified to obtain naturalization, for which purpose the said official may request subordinate authorities to furnish whatever further particulars he considers necessary.

*Article 14.* Whatever decision is reached by the President or Governor, whether favourable or unfavourable, the papers shall be transmitted to the Minister of the Interior.

<sup>1</sup> See footnote to article 5 *supra*.

If the Minister of the Interior finds the documents insufficient, he shall return them to the transmitting authority for completion in accordance with his instructions or, if need be, to the applicant.

*Article 15.* The Federal Executive, after examination of the application and the accompanying documents shall, if he considers it advisable, grant naturalization by decree. The decree shall be entered by the Minister of Foreign Affairs in the register reserved for the purpose.

*Article 16.* If the alien applicant dies while the formalities for his naturalization are in progress, his widow may obtain naturalization in her own name simply by confirmation of the application, provided always that the latter had satisfied the requirements of this Act.

*Article 17.* The declaration and the application referred to in articles 9 and 12 shall be submitted by the alien concerned in person, but the subsequent formalities may be completed by his duly authorized representative under a special power of attorney.

*Article 18.* The decree of naturalization shall not take effect until the date of its publication in the *Gaceta Oficial* of the United States of Venezuela.

*Article 19.* If the grant of a certificate of naturalization is refused, a fresh application may not be made until two years have elapsed after the date of the refusal.

#### CHAPTER III. FINAL PROVISIONS

*Article 20.* The Federal Executive shall not be under any duty to state the reasons for any decision whereby naturalization is refused.

*Article 21.* If a person changes his nationality with the object of evading, temporarily or in special circumstances, the declared effects of an enactment, that change shall be deemed to have been obtained by fraud and shall be void. Similarly, any naturalization obtained in a manner which defeats the purposes of this Act shall be void.

In such cases the declaration voiding the naturalization in question shall be made by the Ministry of the Interior, without prejudice to the application of any penalties to which the guilty parties may be liable. An appeal against such decisions shall lie to the Federal and Appeals Court, subject to a time limit of ten days from the date of such declaration.

*Article 23.* Declarations and applications for naturalization admitted in accordance with the Naturalization Act of 13 July 1928 and now pending shall be subject to the provisions of this Act so far as the procedural requirements and formalities herein prescribed are concerned.

*Article 24.* The Federal Executive is hereby expressly authorized to issue regulations to give effect to this Act.

*Article 25.* The Naturalization Act of 13 July 1928 is hereby repealed.