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NATURALISATION PROCEDURES FOR IMMIGRANTS PORTUGAL

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March 2013



European University Institute, Florence
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Portugal

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1. Introduction

The legal framework for acquiring and attributing Portuguese national citizenship prior to 2006 was characterised by the country's self-perception as an emigrant nation and by provisions introduced in the wake of the decolonisation of the former Portuguese colonies in Africa in the mid-1970s. Due to both of these factors, the focus was on inheriting Portuguese nationality from parents and grandparents (*ius sanguinis*) rather than the attribution of nationality based on birth or residence in Portugal (*ius soli/ius domicilii*). Despite the fact that Portugal reached its migration turning point – the first year during which immigration exceeded emigration, leading to positive net migration – in 1993,¹ this perception of nationality persisted until the topic became the focus of a broad debate in parliament and in the media in 2005.

The new Nationality Law – Organic Law no. 2/2006 of 17 April – was approved by the Portuguese parliament (*Assembleia da República*) without any votes against it, and came into force with the passing of Decree Law no. 237-A/2006 of 14 December. The new Portuguese nationality regime set out in the Decree Law was approved by four-fifths of the members of parliament. The Government's stated aim was to provide Portugal with “a fairer

¹ This is considered a turning point because it represented the beginning of the trend, despite the fact that Portugal had already briefly experienced positive net migration during the second half of the 1970s due to return migration and immigration from the former colonies.

and more humane Nationality Law, which will contribute to a more cohesive society". The law was presented as the most liberal nationality law in the European Union (*Diário da Assembleia da República*, 14-10-2005: 2460), and politicians of various parties made reference to the humanist and universalist traditions of Portugal (*Diário da Assembleia da República*, 17.02.2006: 4314; 4324).

Since the end of 2006 therefore, the procedure has become more open, more accessible and more transparent. As is clear from this report, Portugal is now among the most liberal countries in the EU when it comes to the acquisition of national citizenship by foreign residents. Together with an increased focus on *ius soli*, with easier access for children born in Portugal to foreign parents, acquiring nationality based on residence in Portugal (naturalisation) was also facilitated, most notably through a reduction in the required duration of legal residence from 10 years to 6 years for all foreign citizens. The right to nationality of origin is now granted to all those born in Portugal, provided that at least one of their parents was also born in Portugal or that at least one of their parents has been living in Portugal with legal immigration status for at least five years prior to the birth of the child.

In addition, the requirement to prove that the applicant for naturalisation had sufficient economic resources was dispensed with by the new law. In relation to integration requirements, prior to the new law, the onus was on the applicant for naturalisation to prove that they had an "*effective connection to the national community*". This has now been transferred to the Minister for Justice, who, in order to reject an application, must prove that the applicant does *not* have this connection. Neither before the new law nor since has there been any integration test in Portugal. The competence for the attribution of nationality was transferred from the Ministry of the Interior to the Ministry of Justice.

Furthermore, the 2006 Law establishes the discretionary possibility of acquiring Portuguese nationality for those born in Portugal to parents who are non-nationals, do not have legal immigration status and were also born in Portugal, the so-called principle of double *ius soli*, as is also the case in Spain and France. A consequence of this is the effect on the residence status of the parents, as the parents of a Portuguese child may not be removed from Portugal (Piçarra and Gil, 2009: 23), and, pursuant to the Zambrano Case, have the right to live and work in the country, although the practical impact has yet to be experienced in full. Otherwise, discretion in naturalisation procedures was restricted, granting more extensive *droits subjectifs* to nationality.

De facto union between a homosexual or heterosexual couple is now recognised in Portugal for the purposes of nationality law, in accordance with the new Art. 3 (Organic Law no. 2/2006), and the necessary duration of the union is the same as that for marriage – three years. The applicant may only acquire nationality subject to a recognition action of the *de facto* union at the Civil Court. In January 2010, the Portuguese parliament legalised marriage for homosexual couples – with the exclusion of adoption, but it was only in July of the same year that the Institute of Registries and Notaries officially began to register marriages between people of the same sex where one or two spouses are of foreign origin. This may lead to an increase in naturalisation through marriage for people who were not previously authorised to get married.

The process and the attendant procedures have been simplified and bureaucracy reduced, with the aim of preventing excessive bureaucracy from becoming "*a friend to clandestine immigration*" (*Diário da Assembleia da República*, 14.10.2005: 2462). Before

the new law, the question had been posed as to whether the delays in the processes had been “*a bureaucratic strategy to discourage foreigners from acquiring Portuguese nationality*” (Oliveira and Inácio, 1999: 12). On the basis of this improvement, applicants are now theoretically seen more as service-users, who should accordingly be granted a high level of service. There have indeed been significant improvements, particularly in relation to waiting times, since 2007.

Two of the three requirements classified as obstacles (Oliveira and Inácio, 1999: 20) were abolished from the naturalisation process, namely moral and civil rectitude and means of subsistence, and so only knowledge of the language remains. The explicit intention of the new regulation was to reduce the requirements, eliminating redundant or ambiguous requirements, generally reducing the “*arbitrary character that had caused so much litigation*” and removing the excessive discretion (*Diário da Assembleia da República*, 14.10.2005: 2458).

However, it was exactly in this context that the opposition Christian Democrat political party CDS-PP (in government at the time of writing) criticised the then government for believing that “*the mere passage of time*” was sufficient to prove an effective connection with the country (*Diário da Assembleia da República*, 14.10.2005: 2461). For the CDS-PP in the parliamentary debates, the language question was also crucial: “*How can you explain that someone can be Portuguese without speaking our language?!*” (*Diário da Assembleia da República*, 14.10.2005: 2475).

One of the intentions of the new law was to adapt the legislative framework to the European Convention on Nationality, specifically in relation to Art. 5(1), which prohibits discrimination on the basis of national origin, and Art. 6(3), which foresees the acquisition of citizenship by those who were born and legally reside on the territory. The means of subsistence criterion was removed pursuant to the interpretation of Art. 13(2) of the Portuguese Constitution, which bans discrimination on the basis of economic situation. During the parliamentary debates on the new law, the Left Block (BE) party was strongly opposed to the economic requirement, declaring that “[*t*]o be or not to be Portuguese must not depend on having more or less money” (*Diário da Assembleia da República*, 14.10.2005: 2467). For two Portuguese scholars, the new legal framework manifested “*the recognition of the incompatibility between democratic norms and values and the restrictions on access to nationality, as well as the recognition of the negative effects of those restrictions on national and social cohesion*” (Pena Pires and Pinho, 2009: 133).

In October 2008, the Popular Party (CDS-PP) made a proposal to amend the nationality law, warning that there were “serious gaps” in its implementation. The proposal suggested that the applicant should know the fundamental values of the Portuguese State and recommended reintroducing the economic requirement (CDS-PP, 2008). On the basis of a perceived sense of insecurity associated with immigration (*Diário da Assembleia da República*, 09.09.2008: 28), the CDS-PP proposed that the criminal record requirement should cover prison sentences of one year or more, rather than three years or more, as well as including the fact of an applicant being declared a suspect (*arguido*) in a case (*Diário da Assembleia da República*, 03.09.2008: 9). The party stressed cases of “*crimes against due respect for national symbols or crimes of offences against the President of the Republic*” (CDS-PP, 2009). The proposal was rejected by all other parliamentary parties on 11 December 2008 and therefore defeated.

It is notable that although the 2007 Immigration Law has already been amended (Law no. 29/2012 of 9 August) – largely in order to transpose various EU Directives, no amendments have been made to the Nationality Law since 2006. On the rare occasions since 2007 that nationality has been referred to in the mainstream media, it was in the context of the significant increase in the numbers of naturalisations and attributions of nationality to children of foreign parents.

2. Promotion activities

Though there has been no specific, time-limited State campaign to promote naturalisation among foreign residents, there have been various efforts by the Portuguese State to make potential applicants aware of the procedure for naturalisation. These materials, however, do not cite the advantages of naturalisation or promote naturalisation *per se*.

The new nationality regime mentioned in the Introduction came into force at the end of 2006. During the subsequent years, 2007 and 2008, there was a special office at the government-run National Immigrant Support Centre (CNAI)² in Lisbon to provide support to applicants for naturalisation, checking that they had the required documents and helping them to proceed to the Central Registry Office (*Conservatória de Registos Centrais*, CRC), which opened a branch in the same building in order to receive nationality applications. Compared with data from 2006, the International Organization for Migration (IOM)'s evaluation of CNAI services showed that in 2007 the acquisition of nationality had become an increasingly important reason for immigrants to seek out the services of the CNAIs in Lisbon and Porto, in second place overall after the renewal of visas (Abranches and Alves, 2008). However, this 'Naturalisation Support Office' was closed at the end of 2008. Currently, the 'Welcoming and Support Offices' of the CNAIs in Lisbon and Porto provide information and referral to the in-house branches of the CRC for naturalisation applicants.

Protocols have been signed between the Institute of Registries and Notaries (IRN) (of which the CRC is part) and a number of immigrant NGOs, allowing the latter to provide information, application checking and even to lodge the application on behalf of the applicant. In addition, queries can be addressed to over thirty 'Nationality Desks' across the country located at different branches of the CRC, and by phone to the SOS Imigrante helpline run by the Government's High Commission for Immigration and Intercultural Dialogue (ACIDI, I.P.), or to the IRN phoneline. There is no longer, however, a dedicated information service or sessions (there are training sessions on the Nationality Law for civil servants, but not for applicants).

The official naturalisation website, hosted by ACIDI, I.P., sets out all of the requirements for naturalisation, as well as going through the procedures clearly, in simple language, and in detail.³ The interactive chart available on the website guides the potential applicant through the eligibility criteria and determines which type of nationality process they should apply through. This website also provides useful links and further information about Portuguese naturalisation, FAQs, and a phoneline and email address for queries. The information is aimed at both naturalisation applicants, and those who are attributed or acquire Portuguese nationality through other forms of eligibility. As mentioned above, the content

² The CNAI offers various State services and support services to immigrants, for more information, see: *ACIDI: More Diversity, Better Humanity*, available at www.acidi.gov.pt/institucional_book.pdf, pp. 22-34.

³ Available at: www.acidi.gov.pt/es-imigrante/informacao/direito-a-nacionalidade.

covers the procedure, but not the benefits of naturalisation. Information - albeit less clear and less thorough - on the naturalisation process is also available on the website of the Institute of Registries and Notaries.⁴

ACIDI, I.P. also produced a poster chart to assist applicants in determining their eligibility for Portuguese nationality, as well as leaflets and brochures providing further information on the procedures. These were distributed to organisations dealing with immigrants, such as immigrant NGOs and State organisations serving immigrants, around the country. The requirements for naturalisation are easy to understand due to the poster and the additional materials, as well as online information, set out in simple, clear language.

Not only are application forms available at various State offices and immigrant NGOs, but many of these organisations can actually process and/or lodge the application as well. The forms for naturalisation are available online on the website of the Institute for Registries and Notaries. Though they cannot be submitted online, they can be submitted by normal post. Computer systems were set up for information-sharing between the relevant authorities and the Central Registry Office, in order to avoid the need for the applicant to gather all of the necessary information her- or himself.

The official Portuguese language test for the purposes of naturalisation is currently suspended and has not taken place since October 2010. The only comment offered by the Ministry of Education on this situation is: "*The process for carrying out the Portuguese Language Test for the purposes of acquisition of nationality is currently suspended, awaiting a higher decision [by the Ministry] on this issue*".⁵ The Government Circular regulating the official tests was updated in February 2011 due to apparent problems with processing and displaying the results in the various locations where the tests could be taken.⁶ It appears, however, that this has still not been resolved. Therefore, at the time of writing, only equivalent tests at educational establishments can be taken. Many of those interviewed for a study on the new law published in 2011 complained about the frequency of the tests (Healy 2011).

Samples of the Portuguese language test are available online on the special website for the tests run by the Ministry of Education, as well as being set out in Circular no. 1403A/2006.⁷ Courses in Portuguese to prepare for the test are available for free or at a cost, at educational institutions around the country. Free courses in Portuguese to prepare for the naturalisation application, under the '*Português para Todos*' programme, are available at educational institutions around the country. Instead of the test, applicants can provide certificates in Portuguese from other public education centres or Portuguese as a Foreign Language certificates.

On 20 May 2007, a 'Portuguese Nationality Ceremony' took place at the Jerónimos Monastery in Lisbon, presided over by the Prime Minister of the time, José Socrates, and the

⁴ www.irn.mj.pt/IRN/sections/irn/a_registral/registos-centrais/docs-da-nacionalidade/aquisicao/n/aquisicao-da/

⁵ www.dgicd.min-eu.pt/projetosinterministeriais/index.php?s=directorio&pid=7 and www.portaldocidadao.pt/PORTAL/entidades/MEC/DGIDC/pt/SER_aquisicao+de+nacionalidade+++prova+de+lingua+portuguesa.htm.

⁶ Government Circular no. 60/2011, available (in Portuguese) at: <http://dre.pt/pdfgratis/2011/02/02300.pdf>, pp. 656-657.

⁷ Government Circular 1403A/2006 of 15 December available at: www.nacionalidade.sef.pt/docs/Portaria_15DEZ.pdf

Ministers of the Presidency, of Justice and of Education. During this ceremony, Portuguese nationality was granted to 324 people, who received a certificate, a Portuguese flag and a copy of the Constitution. The majority of these new Portuguese citizens were children, from Cape Verde, Angola, Guinea-Bissau, São Tomé and Príncipe, Brazil and Bangladesh. The ceremony sought to “*highlight the first attributions and acquisitions of Portuguese nationality under the new Law and also to represent an act of welcoming new Portuguese citizens*”.⁸ Since then, there have been no indications that the nationality ceremony will be repeated, nor will it begin to be a regular component of the naturalisation process in Portugal.

3. Decision-making process

The applicant can either submit all the required documents themselves, or the Central Registry Office can obtain relevant documents directly from the Immigration and Borders Service (SEF) (residence authorisations and permits) and/or Judicial Police (criminal records). Documents are usually checked only once, but if there is a decision on preliminary refusal (i.e. it is ascertained by the CRC that some documents are missing and so the application cannot be processed), the applicant may have to submit further documents to prove their eligibility.

The Central Registry Office (CRC) checks that the documents submitted by an applicant for nationality are complete and correct, and processes the application. As mentioned above, the CRC is part of the Institute of Registries and Notaries, under the Ministry of Justice. The Central Registry Office then issues an ‘official opinion’ (*parecer*) on the case to the Minister of Justice. The Minister of Justice takes the final decision on whether to approve the application, based on the opinion of the Central Registry Office. The Minister of Justice may make a decision to reject or accept regardless of the CRC's opinion, but this is uncommon in practice. The Minister of Justice makes the final decision and the CRC notifies the applicant of the decision. The naturalisation of a foreign citizen as Portuguese is then published in the official government journal, the *Diário da República*, as of which point the person is officially Portuguese.

Portugal has a centralised political system and therefore the procedures in different regions of Portugal do not differ substantially. All nationality applications are centrally assessed by the Central Registry Office and the Ministry of Justice, both with headquarters in Lisbon. The only way in which procedures may differ is that those living outside Lisbon or other major cities may experience more difficulty in obtaining information or documentation and/or submitting the application. As a consequence of the new law, the Central Registry Office created a new service branch at the National Immigrant Support Centre (CNAI) in Lisbon city centre, and later also at the CNAI in the city of Porto, in order to process nationality applications at that location. Applications can be submitted at any Nationality Desk at the Porto Central Archive and at the various Citizens’ Shops and branches of the Central Registry Office across the country, as well as at Portuguese consulates.

4. Documentation

The only documents specifically required from the country of origin in order to apply for naturalisation in Portugal are a birth certificate to prove identity and a criminal record. The

⁸ Ministério da Justiça, 20.05.2007. “Cerimónia da Nacionalidade Portuguesa, Lisboa, Mosteiro dos Jerónimos.”

documents are requested once, and are clearly specified both in the law (Art. 18 of Decree-Law no. 237-A/2006) and on the application form. This documentation must be translated and formally legalised. Even a copy of the applicant's current residence permit for Portugal is not strictly speaking necessary as this can be obtained by the authorities directly from the SEF, border police. The previous places or countries of residence must simply be listed on the application form.

The applicant is required to prove that they have not been convicted, in accordance with Portuguese Law, to a crime or crimes punishable by a sentence or sentences *res judicata* of three or more years in prison. Applicants also may not apply for five years after they have been sentenced to one or more years in prison. Applicants must provide criminal records from their country of origin (even if they have never lived there), their country of birth, from all other countries they have lived in, and from Portugal. The Portuguese criminal record may be obtained by the Registry Office directly from the relevant authorities. There is no right to exemption from the criminal record requirement on humanitarian grounds (e.g. for refugees or stateless people), nor on accessibility grounds (e.g. cost, distance, loss of documents).

The Central Registry Office has the possibility of directly contacting foreign representations in Portugal in relation to the civil status of applicants and to the identification of the organisation that issues the criminal record certificate (Presidência do Conselho de Ministros and ACIDI, 2009: 36). Nevertheless, in practice this requirement causes serious problems and delays in the process, above all for people who have lived in various different countries, and for some people it is impossible to obtain these necessary documents, rendering them unable to exercise their right to Portuguese nationality. Children who apply for Portuguese nationality are also required to provide criminal record certificates, despite the fact that they are minors, may be below the age of criminal responsibility or are from countries that they have the nationality of through their parents, but have never actually been to themselves.

Identity can be proven alternatively in cases where embassies and consulates in Portugal can provide substitute documents. It can also be proven through personal acquaintance with the official dealing with the case or by the testimony of two witnesses. There was also an intention in the Government's 1st *Plan for the Integration of Immigrants* (2007-2009) to dispense with the requirement for birth certificates in cases where some of the registries in a country of origin have been destroyed (for example, Angola), but this had not been carried out by the end of the 1st Plan's validity and is not included in the 2nd *Plan for the Integration of Immigrants* (2010-2013). In an article in the *Público* newspaper, Manuel Solla of the National Commission for the Legalisation of Immigrants was cited as saying that in the case of Angolans, it is sometimes very difficult to locate official certificates, many of which were destroyed during a civil war. In the case of Indian nationals, when they request a criminal record, it is not issued at a national level, but at the provincial level (Pereira, 17.02.2009).

By law (2006 Nationality Law, Circular 1403A/2006 and update in Circular no 60/2011 of 2 February, cited above), applicants can either take the official language test (which is currently suspended), or prove their knowledge of Portuguese with a certificate from any public, private or cooperative educational institution in Portugal or in any country with Portuguese as an official language or a certificate in Portuguese as a Foreign Language recognised by the Portuguese Ministry of Education.

5. Discretion

Under the previous regime, only applicants from Portuguese-speaking countries could apply for naturalisation after six years of legal residence, while all others had to prove ten years of legal residence, and only certain types of permit were accepted to attest to this legal residence. The new law clearly stipulates the residence requirement of six years, on any type of authorisation except a temporary visa, which can be either obtained internally by the authorities or presented by the applicant. Applicants who meet the conditions and grounds set out by law, as described above (identity, duration of residence, clean criminal record, language knowledge), have an explicit entitlement (*droit subjectif*) to naturalisation. As mentioned above, since the 2006 reform of the Nationality Law, the onus is on the Ministry of Justice to prove that an applicant is not eligible (that they do not have an "effective connection to the Portuguese community"), rather than the onus being on the applicant to prove their eligibility.

There is further discretion, in a positive sense, in relation to people who have provided a special service to the State, who do not have to fulfil the standard requirements apart from the criminal record stipulation. These are *“those foreigners who have provided or are called upon to provide relevant services to the Portuguese State or to the national community”*. One immigrant association leader cited in a 2011 study on the new nationality law (Healy, 2011) commented on this method of naturalisation – usually applied to sportspeople:

“Let’s just say that there is a business here with Portuguese nationality and a certain interest on the part of those who govern. People who need to work in order to support their family have to wait for years and years. An average player who doesn’t even make it onto the national team of his country of origin is granted nationality supposedly on the basis of national or public interest...”

This may represent a source of frustration for many immigrants who wish to naturalise, because there is a perception that the process is much easier for sportspeople, and this lends an appearance of injustice and that the system is vulnerable to manipulation.

There is one category of people for whom there should also be discretion in the positive sense – those who have been granted international protection and stateless people. The inclusion of such provisions is stipulated in the Geneva Convention on the Status of Refugees and in the European Convention on Nationality. The absence of this possibility in Portugal indicates a gap in the legislative base that guarantees rights for refugees and beneficiaries of subsidiary protection, which should be immediately corrected. Even though there are currently no significant arrivals of refugees or asylum applicants to Portugal, the legislative framework should allow for the possibility of this situation changing in the near future by providing more favourable terms to refugees in accessing Portuguese nationality.

There are no other discretionary grounds for refusing status than proven fraud (e.g. provision of false information) in the acquisition of citizenship or an actual and serious threat to public policy or national security - if the application included fraudulent documents or there is a threat to public order or security, then the application is refused. This is, however, not stipulated in the relevant laws (2006 Nationality Law and 2006 Decree-Law) but applies in practice, at the discretion of the Ministry of Justice. However, the Ministry of Justice may also decide to go to court to prove that the applicant does not have effective connections to the Portuguese community, at the Ministry's discretion. The Minister can also refuse to grant

nationality on the basis of the applicant exercising public functions that are not predominantly technical or carrying out non-compulsory military service for a foreign State.

The law foresees a discretionary procedure to prove identity in an alternative way if documents are available from embassies and consulates (e.g. for Cape Verdean and Brazilian citizens). At the Government's discretion, identity can also be ascertained through the testimony of two witnesses, or personal acquaintance of the applicant with the official. Relatively wide discretion is foreseen in general for the documentation requirements, as Art. 26 of the Decree Law of 2006 states that, in special cases, the Minister of Justice can, on the basis of a reasonable request from the applicant, provide exemption from the presentation of any document that should form part of the naturalisation application, provided that there are no doubts as to the verification of the requirements that this document is intended to prove.

There is no discretion in the assessment of language knowledge, as the Government Circulars mentioned above set out the interpretation of the language requirement and the decision is based on specific documents submitted by the applicant. Knowledge of A2 level Portuguese can be proven in the ways set out by law in the 2006 Decree-Law, 2006 Circular and in the 2011 Circular.

6. Costs and Exemptions

If applicants can prove a lack of funds, they may obtain civil registry and nationality documents for free. This must be officially proven by means of a document issued by the competent administrative authority, or issued by a public social welfare institution where the applicant is accommodated (the competent administrative authority is the local council (*junta de freguesia*) of residence of the applicant) and is therefore not subject to discretion. However, they are not exempt from paying the application fee. There is no exemption from the fees for refugees or stateless persons. Rather than a specific exemption, children under ten and those who are illiterate may take a different form of language test adapted to their capacities. There is no exemption from the language requirement for refugees or stateless persons.

The fee for a naturalisation application is 200 EUR for adults and 150 EUR for children. This is a significant cost in view of the fact that the current issuing fee for a standard Portuguese electronic passport is just 65 EUR. The cost of the official Portuguese language test for the purposes of naturalisation is 15 EUR for those taking the test in Portugal and 20 EUR for those taking the test abroad. However, it should be noted that there are other ways, some of them free, to prove Portuguese language knowledge. The process of signing the necessary documents in an official's presence is free. However any necessary translations of official documents, or confirmation with country of origin authorities of the authenticity of documents, are paid for by the applicant. Depending on whether the country of origin is Portuguese-speaking or not, this may cost up to 1,000 EUR. The issuing of the nationality title is free.

7. Time Limits and Delays

Applicants have the legal right to be informed of the progress of their application. The CRC must issue its opinion on a preliminary rejection of the application within 30 days and inform the applicant of this within 20 days. The applicant then has a further 20 days to rectify this

situation. The Judicial Police and/or the Immigration and Borders Service (SEF) must supply relevant information within 30 days, or a maximum of 90 days. The CRC must then issue its opinion to the Ministry of Justice within 45 days.

The maximum duration of the whole procedure is under six months. The Registry Office first analyses whether all the proper documents are included and issues a decision on this to the applicant within 30 days on this issue. If there are any problems, the applicant has 20 days to provide any additional documentation necessary. The Registry Office then has 60 days to consider the application. If it is refused, the Registry Office must inform the applicant, giving the reasons why, within 30 days. For an applicant who is ultimately refused, therefore, the maximum waiting time set out by law is 140 days (less than five months).

Nevertheless, this may be altered for applicants for naturalisation if the Minister chooses to legally oppose the naturalisation, for which he/she must prove a lack of "connection to the Portuguese community." It may also be delayed if the Registry Office has doubts about the authenticity of documents obtained outside Portugal, or if the Registry Office is waiting for information requested from another authority. These delays do not have a time limit specified by law. Neither does the law set out sanctions or actions. Time limits do apply to identity checks by the SEF (30 days, or, by request, up to 90 days). There is no time limit applied to criminal record checks.

For an applicant in respect of whom the Registry Office's opinion is positive, the case is passed on to the Minister of Justice, who will issue the final decision on approval - the deadline for this is not set out by law. However, Measure 49 in the Government's 2010-2013 *Plan for Immigrant Integration* sets out the aim to continue to reduce waiting times. The most recent year for which data are available on waiting times is 2008, which showed an average of 6 months for adults, 4 months for those aged 16-18 and 3 months for all other children. In 2009, a new computer system was introduced, aiming to further speed up the process.

8. Appeal Process

The CRC is obliged by law to provide its reasons for refusing an application. An applicant who has received a preliminary refusal may appeal to the administrative and fiscal courts, under the terms of the Procedural Code for Administrative Courts. Any applicant who has received a final refusal may take a case against the Minister of Justice at the administrative and fiscal courts. This right to appeal nationality decisions before these national courts is in accordance with Art. 26 of the Organic Law and Art. 62 of the Decree Law. Jurisprudence (10.02.2008, Case No. 014/08, Court of Conflicts) has established that the competence to decide on appeals of decisions of the CRC, taken in the process of administrative justification (i.e. administrative rather than substantive issues), lies with the judicial courts and not the administrative courts.

Further jurisprudence (07.10.2008, Case No. 08B505, Supreme Court of Justice) explicitly and unequivocally declares that the evaluation of the legality of an administrative act of refusal of an application for Portuguese naturalisation is *not* the competence of the Supreme Court of Justice, nor of any of the Judicial Courts. Appeals in relation to naturalisation can be taken to the Supreme Administrative Court on an "exceptional" basis, "*in the case of the appreciation of an issue which, by virtue of its judicial or social relevance, is of fundamental importance*" or "*if the admission of the appeal is clearly necessary in order*

to better apply the law” (Art. 150 no. 1 of the Procedural Code for Administrative Courts, cited in Case no. 047/12, 09.02.2012, Supreme Administrative Court). The right to appeal covers acts or omissions in the procedural aspects of the naturalisation application, or, in exceptional cases, the decision to refuse an application itself, taken to the Supreme Administrative Court.

There are no provisions for challenging the results of the language test. The two Government Circulars on the language test (Circulars no. 1403-A/2006 of 15 December 2006 and no. 60/2011 of 2 February 2011) make no mention of appealing the results and therefore it is not possible to appeal.

9. Impact

Applications for Portuguese nationality increased significantly in the wake of the introduction of the new law, in the context of an almost continuous reduction in the rate of migratory increase, to a low point of +0.14% in 2009 (www.ine.pt). For the period between 15 December 2006 and the end of the first trimester of 2008, 48,164 applications for nationality were registered at the Central Registry Office. The majority of these applications were for the *acquisition* of nationality by naturalisation (25,511) by adults (21,549) and by children (3,961). A further 15,849 applications were registered for the *attribution* of nationality, divided equally between foreigners born in Portugal and children of Portuguese citizens born abroad. The remaining applications (6,804) were for the acquisition of nationality through marriage, by children of those naturalised, and others (Healy 2011).

Between 2004 and 2008, the number of applications for the acquisition of nationality increased seven-fold. There was an increase in people eligible under the new law, but also an increase in applications from people who were already eligible under the previous law, but who have only applied for nationality during recent years because the process is easier and there has been an improvement in the infrastructure.

In 2008, the resident foreign population in Portugal was 440,277. This gives a rate of 8% of the population of immigrants (those who were not born in Portugal) who applied for nationality, a significant increase on the maximum of 1.5% up to 2003.⁹ The most common nationalities of origin among those who applied for Portuguese nationality in 2008, by order of importance, were Cape Verde, Brazil, Moldova, Guinea-Bissau and Angola (Healy 2011). Compared with other EU Member States, the combination of the lack of controversy in relation to the theme of national citizenship, low rates of naturalisation and the absence of a strong extreme right party, made it possible to liberalise the Portuguese law and policy in 2006.

⁹ Calculated on the basis of: SEF (2009) “Estatística dos Pareceres de Nacionalidade Emitidos pelo SEF em 2008” and SEF (2009). “População Estrangeira em Território Nacional, 2008”.

References

- Abranches, Maria and Tatiana Alves (2008). *Avaliação dos Serviços de Apoio ao Imigrante – ACIDI*. Lisbon: IOM.
- ACIDI (2007). *Folheto da Nacionalidade*.
- ACIDI (2009). *Imigração em Portugal: Informação Útil*. Lisbon: ACIDI.
- ACIDI (29.03.2007). “Prova de português para obtenção da nacionalidade”.
- ACIDI (21.01.2007). “Provas de português: Quase mil imigrantes mais perto da cidadania”.
- Assembleia da República (2006). “Lei Orgânica nº 2/2006 de 17 de Abril.” *Diário da República – I série-A – Nº 75*, 2776-2782.
- (2000) *Resolução da Assembleia da República nº 19/2000 Convenção Europeia sobre a Nacionalidade, aberta à assinatura em Estrasburgo em 26 de Novembro de 1997*.
- Baganha, Maria Ioannis and Constança Urbano de Sousa (2006). “Portugal” in: Rainer Bauböck, Eva Ersbøll, Kees Groenendijk and Harald Waldrauch. *Acquisition and Loss of Nationality: Policies and Trends in 15 European States. Volume 2: Country Analyses*. IMISCOE Research. Amsterdam: Amsterdam UP, pp 435-76.
- Cardoso, Inês (14.12.2008) “Portugal ganha 34 mil cidadãos em ano e meio”. *Jornal de Notícias*.
- Carrilho, Maria José and Lurdes Patrício (2008). “A Situação Demográfica Recente em Portugal” in *Revista de Estudos Demográficos*, no. 44.
- Carvalhais, Isabel Estrada (2006). “Condição Pós-Nacional da Cidadania Política: Pensar a integração de residentes não-nacionais em Portugal” in *Sociologia, Problemas e Práticas*, no. 50, pp.109-130.
- CDS-PP (2008). “Projecto de Lei nº 592/X Altera a Lei Orgânica nº 2/2006, de 17 de Abril – “Quarta alteração à Lei nº 37/81, de 3 de Outubro””.
- Diário da Assembleia da República I Série, Número 54, X Legislatura, 14-10-2005.*
- Diário da Assembleia da República I Série, Número 91, X Legislatura, 17-02-2006.*
- Diário da Assembleia da República I Série, Número 8, X Legislatura, Sessão 4, 03-09-2008.*
- Diário da Assembleia da República I Série, Número 111, X Legislatura, Sessão 3, 09-09-2008.*
- Fonseca, Maria Lucinda, Alina Esteves, Dora Possidónio and Jennifer McGarrigle (2009). *Country Report Portugal. Prominstat: National Data Collection Systems and Practices*.
- Healy, Claire (2011). *Cidadania Portuguesa: A Nova Lei de Nacionalidade de 2006*. Lisbon: ACIDI. Summary in English available at: www.oi.acidi.gov.pt
- Lusa (05.01.2008). “Estrangeiros iletrados ou com deficiência poderão fazer prova adaptada às suas limitações”.
- Ministérios da Coordenação Interterritorial, da Justiça e dos Negócios Estrangeiros (1975). “Decreto-Lei nº 308-A/75 de 24 de Junho”.
- Ministério da Justiça (20.05.2007) “Cerimónia da Nacionalidade Portuguesa, Lisbon, Mosteiro dos Jerónimos”.
- Ministério da Justiça (2006a). “Decreto-Lei nº 237-A/2006 de 14 de Dezembro.” *Diário da República, 1ª série – No. 239*, 8388 (2-16).
- (2006b). “Entra hoje em vigor o novo regime da nacionalidade portuguesa”, 15.12.2006.
- Ministério da Justiça e Ministério da Educação (2006). “Portaria nº 1403-A/2006 de 15 de Dezembro.” *Diário da República I Série – Nº 240*.
- Ministro da Presidência, “Apresentação da Proposta de Lei da Nacionalidade”, 18.10.2005.
- Oliveira, Catarina and Andreia Inácio (1999). “Nacionalizações em Portugal (1985-1996)”. Working Paper (11) SociNova.

- Pena Pires, Rui and Filipa Pinho (2009). "Immigration policies in Portugal" in: José Manuel Leite Viegas, Helena Carreiras and Andrés Malamud (eds.). Portugal in the European Context, vol. I: Institutions and Politics. Lisbon: CIES, ISCTE-IUL, Celta Editora.
- Pereira, Ana Cristina (17.02.2009). "Número de imigrantes que pediram para ser portugueses quadruplicou". Público.
- Pereira da Silva, Jorge (2004). Direitos de Cidadania e Direito à Cidadania: Princípio da equiparação, novas cidadanias e direito a cidadania portuguesa como instrumentos de uma comunidade constitucional inclusiva. Lisbon: Immigration Observatory.
- Piçarra, Nuno and Ana Rita Gil (2009). "Country Report: Portugal". EUDO Citizenship Observatory, Robert Schuman Centre for Advanced Studies, in collaboration with Edinburgh University Law School.
- Presidência do Conselho de Ministros & ACIDI, IP (2007). I Plano para a Integração dos Imigrantes. Lisbon: ACIDI.
- Presidência do Conselho de Ministros & ACIDI, IP (2008). Relatório Anual de Execução Maio de 2007 – Maio 2008: Plano para a Integração dos Imigrantes. Lisbon: ACIDI.
- Presidência do Conselho de Ministros & ACIDI, IP (2009). Segundo Relatório Anual de Execução do Plano para a Integração dos Imigrantes, Maio 2008 – Maio 2009. Lisbon: ACIDI.
- Presidência do Conselho de Ministros & ACIDI, IP (2010). Relatório Final do I Plano para a Integração dos Imigrantes. Lisbon: ACIDI.
- Presidência do Conselho de Ministros & ACIDI, IP (2010). Plano para a Integração dos Imigrantes (2010-2013). Lisbon: ACIDI.
- Ramos, Maria and Manuela Gomes (2007). "Dual Citizenship, Governance and Education: The Situation in Portugal" in: Kalekin-Fishman, Devorah, and Pirrko Pitkänen (eds.) Multiple Citizenship as a Challenge to European Nation-States. Rotterdam, Taipei: Sense Publishers.
- Ramos, Rui (2004). "Para uma história política da cidadania em Portugal" in *Análise Social*, October, no.172, p. 547-569.
- Serviço de Estrangeiros e Fronteiras (SEF) (2008). "População Estrangeira em Território Nacional, 2007", available at: http://www.sef.pt/documentos/56/DADOS_2007.pdf
- Serviço de Estrangeiros e Fronteiras (SEF) (2009). "População Estrangeira em Território Nacional, 2008", available at: http://www.sef.pt/documentos/59/Total_2008.pdf
- Serviço de Estrangeiros e Fronteiras (SEF) (2010). Relatório de Imigração, Fronteiras e Asilo, 2009. Lisbon: SEF.
- Serviço de Estrangeiros e Fronteiras (SEF) (2009). Relatório de Imigração, Fronteiras e Asilo, 2008. Lisbon: SEF.
- Sobral, José Manuel (2007). "Cidadania, Nacionalidade, Imigração: Um breve historial das suas inter-relações contemporâneas com referência ao caso português" in: Carvalhais, Isabel Estrada (ed). Cidadania no Pensamento Político Contemporâneo. Estoril: Príncipia Editora, pp. 137-163.
- Valente Rosa, Maria João, Hugo de Seabra and Tiago Santos (2003). Contributos dos "Imigrantes" na Demografia Portuguesa: O papel das populações de nacionalidade estrangeira. Lisbon: Immigration Observatory.

