NEW CHANGES TO THE PORTUGUESE NATIONALITY LAW ENACTED IN 2024

New amendments to the Portuguese Nationality Law were approved in the Parliament. Subsequently, the President of the Republic, Dr. Marcelo Rebelo de Sousa, submitted these changes to preventive inspection by the Constitutional Court, which, last month, determined that the rule was not unconstitutional. Conclusively, the President of the Republic promulgated the law, which has now been published and will come into force on the first day of next month.

Thus, on March 5, 2024, the Tenth amendment to Law No. 37/81, of October 3, was published, which approves the Nationality Law, through Organic Law No. 1/2024, of 5 of March. By Organic Law No. 1/2024, of March 5th, changes were introduced to Law No. 37/81, of October 3rd (Nationality Law), which substantially modified the regimes for the attribution and acquisition of Portuguese nationality.

The main changes to note are:

1) Counting of the legally required period of residence
From the entry into force of the new amendments to the Nationality Law, the waiting time will be considered, that is, the residence time for nationality purposes will be counted from the submission of the process, instead of effective starting of the process. counting

the time from the date of issuance of the first residence card, as long as it is granted.

Article 15 of the Nationality Law, for the purposes of acquiring nationality, stated: "it is understood that individuals who are here legally residing in Portuguese territory, with their situation regularized before the Portuguese authorities, under any of the titles, visas or authorizations provided for in the regime of entry, stay, exit and removal of foreigners and in the regime of the right to asylum".

The law now provides: "For the purposes of counting legal residence periods provided for in this law, the time elapsed since the moment the temporary residence permit was requested is also considered, provided that it is granted."
The question that remains is whether the entry of the submission (payment of the initial fee) or its acceptance will be considered.
Nevertheless, this change constitutes a notable improvement in relation to what was foreseen in the previous legislation, as due to the delays and slowness of the processes that have been observed in recent years, considering the significant number of processes pending decision, there are applicants who wait more than 2/3 years to obtain the first cards.

2) Descendants of Sephardic Jews
As of the entry into force of the new changes to the Nationality Law, descendants of Portuguese Sephardic Jews will now have to prove their connections to Portugal and, especially, to prove their legal residence in Portugal for a period of at least 3 years.
The law now provides: "(...) to descendants of Portuguese Sephardic Jews who cumulatively meet the following requirements:
a) Demonstrate the tradition of belonging to a Sephardic community of Portuguese origin, based on proven objective requirements for connection to Portugal, namely surnames, family language, direct or collateral descent;
b) Have legally resided in Portuguese territory for a period of at least three years, consecutive or interpolated."
For processes submitted until the new law came into force, a transitional regime was approved, upon proof of effective and lasting connections to Portugal.

3) Recognition of adult children
Following the entry into force of the new amendments to the Nationality Law, it will be permitted to recognize the nationality of older children, as is already the case with the recognition of children under the age of 18, as long as the establishment of filiation results from a judicial procedure and that the submission of the nationality process does not exceed 3 years since such date.

The law now provides: "(…) When filiation is established at the age of majority, original nationality can only be attributed in cases where the establishment of filiation occurs following a judicial process or when it is the subject of recognition in a judicial action, after the sentence becomes final, without prejudice to what is established in matters of review of a foreign decision."

And "(…) the attribution must be requested within three years following the final decision."

For cases in which affiliation is established until the new law comes into force, a transitional regime was also approved, and the 3-year period starts from the entry into force of the law now approved and not from the final judgment of the decision. In these cases, they must, during the next 3 years, request the attribution of their original nationality.

The law now provides:" (…) The three-year period provided for in paragraph 3 of article 14 of Law no. 37/81, of October 3, is counted from the entry into force of this law, in relation to cases of establishment of affiliation that occurred before its entry into force."

What is missing?

The entry into force of this tenth amendment to Law No. 37/81, of October 3, which approves the Nationality Law, through Organic Law No. 1/2024, of March 5, on the first day of the following month at the time of its publication, that is, on April 1, 2024.
Furthermore, the Government has, within 90 days, counting from the publication of the aforementioned law, that is, March 5th, to make the necessary changes to the Portuguese Nationality Regulation, approved by Decree-Law No. 237-A /2006, December 14th.

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