

The new paths to Portuguese citizenship and their impact on the country's laws

Article By [Sara Sousa Rebolo](#) on December 17, 2018

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By **Sara Sousa Rebolo**

Portugal is a country bordering the Atlantic Ocean, independent since 1143, currently with about 11 million inhabitants. The Portuguese Empire was one of the largest and longest-lived empires in world history, existing for almost 600 years. With that comes the expression "there is a Portuguese in every corner of the world," since thousands of influences are left in the different continents from Africa to China.

As a result of an innate migratory tradition and the colonies that were part of its empire, there are many and vast branches of Portuguese blood throughout the world, thus justifying that the Portuguese language is currently spoken by more than 244 million people and considered as one of the world's ten most powerful languages, according to the 2018 Power Language Index.

THE RIGHT TO PORTUGUESE CITIZENSHIP

Associated with the language is the right to Portuguese citizenship, since the law that determines its attribution frequently requires proof of knowledge of the Portuguese language (level A2) in order for it to be attributed. There are however several ways of accessing Portuguese nationality and different requirements for each way.

Over the past ten years, the Portuguese nationality law has been amended five times. The purpose of these changes was not only to clarify what situations should give right to the Portuguese nationality, but also to reflect the demands of the Portuguese people's migratory tradition, restoring some, although debatable, social justice arising from previous decolonization processes and migratory flows.

Another reason was to also embrace in a broad and unprejudiced manner all those who decided to establish their residence in Portugal to raise their children, although sometimes illegally, but prolonged in time by several years. In this sense, currently the access routes to Portuguese nationality derive from three essential factors - family ties, residence in a Portuguese territory (which in some cases means effective presence in the territory and in others just the ownership of a residency card and compliance with its requirements), and, the connection to the overseas provinces (ex-colonies), namely Angola, Guinea, Mozambique, Sao Tome and Principe, Cape Verde, Macao, India and Timor.

Under the law in force, not only the children of a Portuguese parent, born in Portugal or abroad are considered Portuguese of origin but also the grandchildren of Portuguese citizens born abroad (even if their parents are not Portuguese citizens and only if they have effective connection ties to Portugal or to the Portuguese community), the individuals born in Portuguese territory, children of foreigners, if at least one of the parents is also born in Portugal and resides there (legal or illegal), at the time of birth, as well as, individuals born in the territory Portuguese, children of foreigners, if at the time of birth one of the parents has been a legal resident in Portugal for at least two years.

LEGAL REQUIREMENTS FOR CITIZENSHIP

On the other hand, the current law also allows Portuguese citizenship to be requested by any adult foreigner who has been legally living in Portugal (meaning, holder of a residence card) for at least five years and is sufficiently familiar with the Portuguese language. It is also important to highlight the concern of the Portuguese law with the preservation of the family nucleus by guaranteeing the right to Portuguese nationality by minor or incapacitated children of a father or mother who acquires the Portuguese nationality, as well as, by a foreigner who has been married for more than three years to a Portuguese national.

Legal provisions have also been recently introduced allowing the Portuguese Government, through verification of certain requirements such as the Portuguese language proof of knowledge, or the residence (even if illegal) in Portuguese territory for more than five years, or the proof of effective connection to the Portuguese community, to grant the Portuguese nationality to minors or adults who were born in the Portuguese territory, being children of a foreign resident in Portugal, as well as, to the descendants of Portuguese citizens, to members of communities of Portuguese ancestry, to foreigners who have provided or called upon to render relevant services to the Portuguese State or to the national community, to the descendants of Portuguese Sephardic Jews, and to resident individuals who are parents of Portuguese citizens.

The concern with the well-being and with the inclusion and social justice is indeed one of the characteristics of the Portuguese people, and perhaps for this reason, Portugal is not only the sole European country in the top 10 of InterNations' most recent study on the world's most friendly countries for foreign residents, but rather the first in this ranking, with great distinction, according to data and comments provided by about 13,000 people who work or live in 18 countries.



Moreover, the numbers of residence permits awarded in recent years have grown significantly according to the latest data available in the Border and Asylum Immigration Reports of 2017 by the Aliens and Borders Services (SEF). There are several international companies and personalities that have chosen to establish themselves in Portugal, taking advantage of the excellent offer of the Portuguese real estate market, the 300 sunny days a year and an unequalled quality of life that is perceived as soon as you visit Portugal, the third most peaceful country in the world according to the latest Global Peace Index report.

There was an effort by the Portuguese Government to implement legal and tax conditions that could respond to this migratory flow. As such, investment programs were created, such as the Golden Visa that grants a residence card to the investor and family while only requesting a seven days presence in the Portuguese territory per year or the StartUp Visa that grants a residency card to anyone who starts or move an innovative business to Portugal. Also, changes to the law were approved that made the access to residence permits more flexible, in particular to entrepreneurs and intra-group labor transferees, and more favorable tax regimes were implemented, such as the non-habitual resident tax regime.

It is important to emphasize that the attribution of Portuguese nationality, although in the exclusive competence of the Portuguese Republic Assembly, requires some political balance due to the membership of Portugal in the European Union.

PORTUGAL'S CONNECTION WITH THE EUROPEAN UNION

It cannot be ignored that when a Portuguese citizenship is granted, access is also given to a European passport, which has automatically associated four fundamental freedoms: the free movement of goods, services, persons and capital in the European Union. Although the Portuguese passport allows much more – it allows Portuguese citizens to have a visa-free or visa on arrival access to 186 countries and territories, ranking the Portuguese passport as the 4th strongest passport in the world according to the Visa Restrictions Index.

Borders and security of movement are one of the most complex and important issues at present, even so, Portugal has managed to successfully combine this balance and, step by step, without harming its position in the European Union, has responded to the voices and expectations of those who, not being Portuguese, have a connection to the Portuguese community and aspire to become Portuguese citizens. Likewise, many applicants have been successful in obtaining the Portuguese nationality. Almost half a million foreign citizens have acquired Portuguese nationality between 2007 and 2016, according to the latest statistics released by the Migration Observatory. Brazil is naturally the country of origin with most applicants, but there are also 2100 approved applicants of Sephardic Jews during the same time period. Portugal was consequently ranked second in the ranking of obtaining nationality in OECD countries.

Although small, Portugal has always noted its independent voice, forming part of all major organizations such as the United Nations, the European Union, the North Atlantic Treaty Organization, the Organization for Economic Co-operation and Development and the Community of Portuguese-Speaking Countries, always giving a great contribution for relevant regulation and decisions and maintaining an international policy based on pacifism, the promotion of human rights and the promotion of international trade relations.

Notwithstanding the recent changes, the Portuguese nationality law is a work in progress. There are still situations and cases that are not foreseen, are not properly regulated or need a more adequate and fair solution.

Although it seems simple, there is a great legal complexity inherent in the interpretation and application of the Portuguese nationality law. Thus, it is easy to see frustrated processes and refusals by the competent entities due to wrong submissions or by lack of proof regarding the legal requirements, as well as avoidable conflicts due to the ignorance of the applicant.

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