

OFFICIAL STATE GAZETTE

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I. GENERAL PROVISIONS

HEAD OF STATE

7045 LAW 12/2015 of 24 June on the granting of Spanish nationality to Sephardi Jews of Spanish origin

FELIPE VI

KING OF SPAIN

To all those who see and understand this.

Be it known: That Parliament has passed and I approve the following law

PREAMBLE

I

"Sephardi" refers to Jews who lived in the Iberian peninsula and in particular to their descendants, those who after the Edict of 1492 which ordered forcible conversion or expulsion chose the drastic latter option. The name comes from "Sefarad", the word in both classical and contemporary Hebrew for Spain. Jews had in fact been firmly established in Iberia for over a thousand years, and their presence can still be discerned linguistically and in physical remains. History however dictated that they once again take the path of exile, forming groups or new communities principally in North Africa, the Balkans and the Ottoman Empire.

The children of the Sephardi preserved a store of memories immune to the effects of distance and the passing of the generations. These memories were kept in the Ladino or Haketia languages, forms of Old Spanish enriched by borrowings from the languages of the areas where they settled, in which they repeated prayers, recipes, games and stories in the Spanish of their ancestors. They retained the usages and respected the names which so often invoked the shaping of their origins, and accepted without resentment the silence of a Spain which had come to forget them.

The memory of these "Spaniards without a homeland", as the Sephardi are also known, has remained intact over the years in a large community which merited the honour of being acknowledged with the Prince of Asturias Award for Concord in 1990. This was a decision motivated by the desire to contribute, after five centuries of separation, to the process of reconciliation already initiated which calls on the Sephardi communities to

rediscover their origins, opening to them once and for all the doors of their ancestral homeland. The presentation of this award had been preceded some years previously by an historic event: the first visit by a King of Spain to a synagogue. This was on 1 October 1987 at the Sephardi temple of Tifereth Israel in Los Angeles, California.

At the dawn of the XXI century the Sephardi communities of the world face new challenges: some fell victim to the fury of totalitarianism, others have opted to return to the Jerusalem they had longed for; all of them discern a pragmatic and global identity in future generations. But there is still a love of Spain, which now at last recognises the historical and emotional heritage of the Sephardi. It is only right that such recognition be given the appropriate legal basis so as to grant the right to be Spanish to those who fought so tenaciously not to cease to be so despite the persecutions and suffering so unjustly inflicted on their ancestors until their expulsion in 1492 from Castille and Aragon and shortly afterwards in 1498 from the Kingdom of Navarre. The Spain of today wishes with this Law to take a firm step towards achieving definitive reconciliation with the Sephardi communities.

II

The forming in Spain of a current of opinion favourable to the Sephardi dates to the time of Isabel II when Jewish communities were granted licences to have their own cemeteries, for example in Seville, and later authorisation to open some synagogues.

When Fernando de los Ríos was Minister of State the Presidency of the Government studied the possibility of granting Spanish nationality on a general basis to the Sephardi Jews of Morocco, but the idea was abandoned due to the opposition of certain elements in the Magreb. It should also be recalled that a process of accommodation of the Sephardi began in 1886, at the instigation of Práxedes Mateo Sagasta, and in 1900 due to the efforts of Ángel Pulido as a result of which the government authorised the opening of synagogues in Spain, the founding of the Spanish-Hebrew Alliance in Madrid in 1910 and the opening of the House of the Sephardi in 1920. All of this strengthened the ties between the Sephardi and Spain.

Spanish nationality was historically also acquired by Sephardi in exceptional circumstances. An example of this was the Royal Decree of 20 December 1924 the preamble to which referred to "formerly protected Spaniards or their descendants, and in general persons belonging to families of Spanish origin who have at some time been entered in Spanish registers and these Hispanic elements, with a deep love of Spain, who due to ignorance of the law and for other reasons beyond their control and desiring to be Spanish, have not been able to attain Spanish nationality". This opened up a process of naturalisation which allowed the Sephardi to acquire Spanish nationality within a period which was extended until 1930. Only three thousand Sephardi exercised this right. However despite the end of the time allowed many received the protection of Spanish Consulates even without having formally acquired Spanish nationality.

World War II saw approximately two hundred thousand Sephardi come under German rule. Flourishing communities in western Europe and especially in the Balkans and Greece suffered the barbarism of the Nazis with shocking results such as the more than fifty thousand killed in Salonica, a city with deep Sephardi roots. The brutal sacrifice of thousands of Sephardi is Spain's ineradicable link with the memory of the Holocaust.

The Royal Decree of 20 December 1924 had an unexpected use probably not foreseen by those who drafted it: it was the legal framework which allowed Spanish diplomatic missions during the Second World War to give consular protection to those Sephardi who had obtained Spanish nationality under the Decree. The humanitarian spirit of those diplomats extended the protection to non-naturalised Sephardi and finally to many other Jews. This was true among others of Ángel Sanz Briz in Budapest, Sebastián de Romero Radigales in Athens, Bernardo Rolland de Miotta in Paris, Julio Palencia in Sophia, Javier Martínez de Bedoya in Lisbon, José Rojas in Bucharest or Eduardo Propper de Callejón in Bordeaux. Thousands of Jews thus escaped the Holocaust and were able to re-make their lives.

III

There are currently two ways in which the Sephardi may obtain Spanish nationality: firstly, by proving that they have resided legally in Spain for at least two years, their position be treated in the same way as that of nationals of other states and nations, such as those of Latin America, which have special links with Spain. And secondly by a grant of naturalisation, made discretionally in view of the applicant's exceptional circumstances. As a corollary to these provisions the Law now states that these exceptional circumstances referred to in article 21 of the Civil Code are present in Sephardi originally from Spain who are able to prove their status as such and their special links with Spain. It is also lays down the requirements and conditions to be taken into account for proof of status. This meets a legitimate aspiration of the communities of the Sephardi Diaspora whose ancestors were forced into exile. Among the documents required particular importance is given to the certificate issued by the Federation of Jewish Communities of Spain in line with the Co-operation Agreement with the State approved by Law 25/1992 of 10 November.

It is also necessary as a measure complementary to the above to amend article 23 of the Civil Code removing the requirement for the Sephardi to renounce their previous nationality on acquiring Spanish nationality, as they are the only group obliged to do so on acquiring Spanish nationality on the basis of two years residence.

This Act seeks to be a meeting point between Spaniards of today and the descendants of those who were unjustly expelled in or after 1492, and is based on a common determination to build together, despite the intolerance of times past, a new space for co-existence and harmony, permanently re-opening for those who were expelled from Spain the doors of their old country.

IV

This rule consists of two articles, four additional provisions, one transitional provision and six final provisions.

Article 1. Granting of Spanish nationality by naturalisation to Sephardi originally from Spain

1. For the purposes of section 1 of article 21.1 of the Civil Code as regards the exceptional circumstances required to acquire Spanish nationality by naturalisation,

such circumstances shall be deemed to be present in the case of Sephardi foreign citizens of Spanish origin who prove such status and a special link with Spain, even if they do not legally reside in Spain.

2. The status of Sephardi persons of Spanish origin shall be established by the following evidence assessed as a whole:

a) A certificate issued by the President of the Standing Committee of the Federation of Jewish Communities of Spain.

b) A certificate issued by the president or analogous office holder of the Jewish community of the applicant's place of residence or place of birth.

c) A certificate issued by the relevant rabbinical authority legally recognised in the applicant's country of habitual residence.

The applicant may present a certificate issued by the President of the Standing Committee of the Federation of Jewish Communities of Spain which accredits the authority of the person who issues it. Alternatively to accredit the suitability of the documents referred to in b) and c) the applicant must provide:

1° Copy of the original by-laws of the foreign religious entity.

2° Certificate of the foreign entity which contains the names of those who have been appointed its official representatives.

3° Certificate or document showing that the foreign entity is legally recognised in its country of origin.

4° Certificate issued by the legal representative of the entity stating that the rabbi signing currently holds that status in accordance with the requirements laid down in its by-laws.

The documents referred to in the above paragraphs, except the certificate issued by the President of the Standing Committee of the Federation of Jewish Communities of Spain, shall also be duly authorised, translated into Spanish by a sworn translator and must bear the Apostille of The Hague or the appropriate seal of legalisation.

d) Proof of the use of Ladino or Haketia as a family language, or by other means which demonstrate the tradition of belonging to that community.

e) Birth certificate or ketubah, marriage certificate which records the marriage having been solemnised in accordance with the traditions of Castille.

f) Reasoned report issued by entity of sufficient competence showing that the applicant's family names belong to the Sephardi lineage of Spanish origin.

g) Any other circumstance which verifiably demonstrates the applicant's status as a Sephardi of Spanish origin.

3. The special link with Spain shall be proved by the following evidence assessed as a whole.

a) Certificates of study of Spanish history and culture issued by recognised official or private institutions.

b) Proof of knowledge of the Ladino or Haketia language.

c) Inclusion of the applicant or his or her relatives in the direct ascending line in the lists of Sephardi families protected by Spain referred to in relation to Egypt and Greece by the Decree-Law of 29 December 1948, or of those others who obtained naturalisation by the special procedure of the Royal Decree of 20 December 1924.

d) The applicant's blood relation to a person referred to in section c) above.

e) Charitable, cultural or financial assistance for Spanish persons or institutions or on Spanish territory and work in support of institutions for the study, preservation and spreading of Sephardi culture.

f) Any other circumstance which verifiably demonstrates the applicant's special link with Spain.

4. A birth certificate must be presented in all cases duly legalised or bearing the Apostille and translated if necessary.

5. Accreditation of a special link with Spain shall also require the passing of two tests.

The first test shall be of basic knowledge of the Spanish language, level A2 or above, of the Common European Reference Framework for the languages of the Council of Europe, in the form of an examination for the Diploma in Spanish as a Foreign Language DELE level A2 or above.

The second test shall be of knowledge of the Spanish Constitution and of Spanish society and culture.

These tests shall be devised and administered by the Cervantes Institute on terms to be laid down in regulations.

Applicants who are nationals of countries or territories in which Spanish is an official language shall be exempted from the test on knowledge of Spanish but not from the test on knowledge of the constitution and society and culture.

Only persons who have attained the age of 18 and who are not subject to a judicial ruling on their capacity must sit the DELE examination and the test on knowledge of the Spanish Constitution and of Spanish society and culture. Minors and persons who are subject to a judicial ruling on their capacity are exempt and must provide certificates from any training, residence, fostering, attention or special education centres in which they have been registered.

Article 2. Procedure

1. The procedure of granting of nationality governed by this Law shall be electronic. The application shall be made in Spanish and shall be sent to the General Directorate of Registrars and Notaries. The applicant shall be provided immediately with an application identification number.

2. The application shall be sent telematically to the General Council of Notaries. This Council shall process it by the channels laid down taking into account the preferences stated by the applicant and shall determine the notary competent to assess the documentation presented.

3. When the documents have been examined, and if the applicant's status as a Sephardic Jew of Spanish origin and their special link with Spain is considered initially demonstrated, the notary shall call the applicant to appear with a formal record being made of their appearance. To this shall be attached the original documentary evidence presented by the applicant referred to in the previous article, duly translated as appropriate, and for applicants who have attained the age of eighteen a certificate or certificates of previous criminal convictions for their country of origin and any countries in which they have resided in the five years immediately prior to the application. All of these documents must be duly authorised and legalised or bear the Apostille and translated as appropriate, the translation being officially sworn. The applicant must give assurances on his or her responsibility either appearing personally before the notary or by way of their official representative as to the truth of the facts on which their application for Spanish nationality is based.

When the applicant has appeared and all of the documents presented have been examined the notary shall decide whether or not the applicant's status as a Sephardi of Spanish origin and his or her special link with Spain have been proved, declaring his or her opinion as to whether the requirements of article 1 are met and recording this decision in the certificate of fact.

The said certificate shall be subject to the provisions of the Notarial Regulations with following special requirements:

a) The request for the drawing up of the certificate and the declaration of the notary concerning compliance with the requirements of article 1 shall be contained in the same instrument, which shall be filed by the notary according to the date and the number of the initial request.

b) The notary shall assess the relevant documentary evidence of the type referred to in article 1 and, in view of the documents presented and the applicant's declaration, shall declare whether or not in his or her judgment the legal requirements are met.

c) Once authorised the notary will send an electronic copy of the certificate, in the uniform format determined by a resolution of the General Directorate of Registrars and Notaries, which shall be sent telematically to the General Directorate of Registrars and Notaries.

4. When the certificate of fact has been received bearing witness to the facts proved the General Directorate of Registrars and Notaries shall request reports from the appropriate

bodies of the Ministry of the Interior and the Ministry of the Presidency, deciding in a reasoned way and declaring, if appropriate, that the application is granted.

5. The decision issued shall be sufficient for the making of the appropriate entry in the Civil Register following compliance with the requirement to swear or promise loyalty to the King and obedience to the Constitution and the law laid down in section a) of article 23 of the Civil Code and the other requirements laid down in the following section. The General Directorate of Registrars and Notaries shall send an official copy of the decision to the Director of the Civil Registry competent to register the birth.

6. The decision to grant nationality shall take effect subject to the condition of the applicant complying with the following conditions at the Civil Registry for the area in which he or she resides within one year of the day following that on which the decision is notified.

a) Application for registration.

b) Presentation of a new current certificate stating the applicant has no criminal record, legalised or bearing the Apostille and translated if necessary.

c) Making before the Director of the Civil Registry the declarations required by law concerning the oath or promise of loyalty to the King and obedience to the Constitution and the law.

Failure by the applicant to comply with the above conditions within the time laid down shall cause the application to lapse.

First additional provision. *Time limits*

1. Interested parties must make their application within three years of this Law coming into force. The time may be extended for a further year by resolution of the Council of Ministers

2. Applications for the acquisition of Spanish nationality governed by this Law must be decided within a maximum period of twelve months from the file and the reports provided for in section 1 of article 2 being received by the General Directorate of Registrars and Notaries.

3. If this period elapses without an express decision having been given applications shall be deemed rejected by virtue of the doctrine of implied rejection by silence on the part of the public authority.

Second additional provision. *Electronic procedure and fee for handling of applications*

1. The Ministry of Justice shall issue regulations for the electronic procedure for handling applications for Spanish nationality on the basis of residence, naturalisation or dispensation.

2. The procedure for the granting of Spanish nationality by naturalisation referred to in the Law shall give rise to a fee of 100 Euros for the handling of each application. The

fee is charged on the application to commence the procedure for obtaining Spanish nationality, the applicant being liable to pay the fee regardless of the outcome of the procedure.

The fee shall be administered by the Ministry of Justice which shall determine how the same is to be paid.

Third additional provision. *Exceptional circumstances and humanitarian reasons*

After the period referred to in section 1 of the first additional provision where exceptional circumstances or humanitarian reasons are shown Sephardi who comply with the requirements of this law and using its procedure may apply for Spanish nationality, which may be granted by the Council of Ministers acting on a proposal of the Ministry of Justice.

Fourth additional provision. *Entry in the Civil Register*

The Director of the Civil Registry competent for the registration of the birth shall also be competent for any entries to be made in the Civil Registry as a consequence of the granting of Spanish nationality by naturalisation to Sephardic Jews of Spanish origin who demonstrate special links with Spain in accordance with the provisions of this law.

Single transitional provision. *Concurrence of procedures*

1. Those who come within the personal criteria for application of this law on account of their complying with the requirements laid down in the same and who, prior to its coming into force, have applied for Spanish nationality by grant of naturalisation by way of the ordinary individual procedure without having received notice of any decision may opt to continue with the processing of their application in accordance with the procedure referred to in this Law, and shall expressly request this and provide any documentation required in accordance with the provisions of article 2 they have not already provided.

2. The option must be exercised by way of the electronic platform created pursuant to the second additional provision during the period referred to in section 1 of the first additional provision. When the option has been exercised the procedure already commenced for nationality by grant of naturalisation shall continue in accordance with the substantive and procedural rules contained in this Law, although the applicant may either personally or by way of an authorised representative request of the General Directorate of Registrars and Notaries the returning of the documents presented in the course of the procedure for them to be attached to the notarial certificate and may also, personally or by way of an authorised representative, complete the file with any documentation required in accordance with article 2 which has not previously been presented or execute a new notarial certificate if necessary. All applications, including those made by exercising the option, shall be dealt with according to the order in which the documents and reports required are received.

First final provision. *Amendment of the Civil Code*

Article 23 of the Civil Code shall be worded as follows:

"Article 23.

The following are common requirements for the validity of the acquisition of Spanish nationality by option, grant of naturalisation or residence:

- a) Persons aged fourteen and over who are capable of declaring for themselves must swear or promise loyalty to the King and obedience to the Constitution and the law.
- b) The same persons must declare they renounce their previous nationality. Persons from countries referred to in section 1 of article 24 and Sephardi originally from Spain are not subject to this requirement.
- c) The acquisition must be registered in the Spanish Civil Register."

Second final provision. *Amendment of the restated version of the General Law on the rights of disabled persons and their social inclusion approved by Royal Legislative Decree 1/2013 of 29 November*

A new twelfth additional provision is added to the General Law on the rights of disabled persons and their social inclusion approved by Royal Legislative Decree 1/2013 of 29 November which shall read as follows:

"Twelfth additional provision. Access to Spanish nationality on terms of equality

Disabled persons shall have access to Spanish nationality on terms of equality. Any rule which causes discrimination, direct or indirect, based on disability in access to nationality on grounds of residence shall be void. In procedures for the acquisition of Spanish nationality disabled persons who need it shall be provided with reasonable support and adjustments to allow the effective exercise of this guarantee of equality."

Third final provision. *Supplementary provisions*

All matters not provided for in this Law shall be governed on a supplementary basis by the provisions of Law 20/2011 of 21 July on the Civil Registry and, failing that, Law 30/1992 of 26 November on the legal system of the public authorities and the common administrative procedure and Law 11/2007 of 22 June on the public's right to electronic access to public services.

Fourth final provision. *Enablement*

The Minister of Justice is enabled to issue any provisions which may be necessary for the implementation of the provisions contained in this Law.

Fifth final provision. *Competence*

This law is made pursuant to article 149.1.2 of the Spanish Constitution as regards nationality.

Sixth final provision. *Entry into force*

This law shall come into force on 1 October 2015.

Therefore,

I order all Spaniards, private citizens and public authorities, to observe and to ensure the observance this law.

Madrid, 24 June 2015

FELIPE R

The President of the Government

MARIANO RAJOY BREY