

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

DECREE-LAW No. 1/2004

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REGULATION ON THE LAW ON CITIZENSHIP

The Regulation on the Citizenship Law is required by the Law on Citizenship, and has been the subject of several in-depth studies and discussions involving a number of Ministry officials.

The implementation phase of the Law on Citizenship is the bottom line of the legislation enabling the initiation of the related process of granting citizenship to foreigners who lodge a citizenship application with Timorese authorities.

The Regulation on the Law on Citizenship is a legal instrument enabling the implementation of the Law on Citizenship No. 9/2002, of 5 November, and deals with the provisions of section 3 of the Constitution of the Democratic Republic of Timor-Leste.

This decree-law regulates, notably, the documents required to handle files, administrative procedures for acquisition, loss and registration of Timorese Citizenship.

The procedures are balanced and simple, taking into account the reality, and assure the persons concerned their right to Timorese Citizenship without moving away from either constitutional provisions or the law.

The approval of the present decree-law does not imply the revocation or derogation of any legal instrument. Rather, it enables the enforcement of the Law on Citizenship, known as Law No. 9/2002, of 5 November.

Pursuant to the provisions of section 31 of Law No. 9/2002, of 5 November, the Government enacts the following decree-law that shall have the force of regulation:

CHAPTER I

Granting of Citizenship

PART I

Original citizenship by virtue of the law

Section 1
Original citizenship

1. Entitled to Timorese citizenship is every individual born in Timorese territory:
 - (a) to a parent born in Timor-Leste, in whose birth record is mentioned the Timorese citizenship of either of his or her parents;
 - (b) in whose birth record is mentioned his or her parents' unknown citizenship, no mention is made of his or her parentage or the proof of his or her statelessness is mentioned;
 - (c) to a foreign parent, who, after turning 17 years old, declares his or her intention of becoming a Timorese citizen.
2. Every individual born in a foreign territory, whose birth record specifically mentions that either of his or her parents is a Timorese citizen, is entitled to Timorese citizenship.

Section 2
Contents of a birth record

1. The record of a birth occurred in Timorese territory shall mention the place of birth and citizenship of the registered person's parents, be they Timorese citizens or not, or that their citizenship is unknown.
2. Applicants shall exhibit a supporting document in connection with a mention made under the terms of subsection (1) above.
3. In the record of a birth occurred in Timor-Leste, of a person born to a foreign parent who is working for the State to which s/he belongs, the special status of such parent shall be mentioned as an identifying element of the registered person.
4. Unless the registered person is identified as a child of a diplomatic or consular career official accredited to the Timorese Government, the applicant shall exhibit a document issued by the respective diplomatic or consular services and certified by the Ministry of Foreign Affairs and Cooperation, proving that either parent of the registered person was in Timor-Leste working for his or her State when the registered person was born.

Section 3
Parentage process

1. The act or process of determining the parentage of a foreigner born in Timorese territory shall be handled with proof of Timorese citizenship of either parent.
2. The ruling or act in which parentage is determined and the notice of entry into the birth record shall mention the citizenship of the Timorese parent.

3. The mention referred to in subsection (2) above shall also be made, as an identifying element of the registered person, in the entry of determination of parentage to be written in the margin of the birth record.

Section 4
Birth record of a stateless person

1. In the records of births occurred in Timor-Leste, of individuals who prove to have no other citizenship, such a circumstance shall be specifically mentioned, as an identifying element of the registered person, through an entry authorized under the terms of subsection (2) below.

2. Once proof of statelessness has been established, the civil registry official shall forward it along with information on its merit, accompanied by the respective birth record, to the Registrar General, who shall authorise or refuse the entry thereof, and may determine the complementary action deemed necessary to be taken prior to authorization or refusal.

Section 5
Birth records of Timorese born overseas

1. In the records of births occurred overseas, of children born to a Timorese parent working for the Timorese State, special mention of such a circumstance shall be made as an identifying element of the registered person.

2. The declarant shall exhibit a document proving the Timorese citizenship of either of his or her parents.

3. The exhibition of such a document is not required where the parent is identified in the record, through a specific mention, as a diplomatic or consular official from Timor-Leste, or where the respective civil registry official is officially aware, and this shall be mentioned under the same terms, that the parent was overseas working for the Timorese State.

PART II
Original citizenship by virtue of will

Section 6
Declaration of citizenship

1. A child born overseas to a Timorese parent, who wishes to be granted Timorese citizenship, shall have his or her birth recorded in the Timorese civil registry, through a declaration filed by himself or herself, if s/he is legally able to do so, or by his or her legal representative, if s/he is legally unable to do so.

2. The declaration or registration application shall be filed with proof of Timorese citizenship of either parent.

Section 7
Declaration of citizenship

1. Every individual born in Timorese territory to foreign parents shall declare whether s/he wants to be a Timorese citizen, after s/he has turned 17 years old.
2. The declaration shall be filed together with the birth certificate of the person concerned and a document issued by the competent service, thereby proving the circumstances relating to his or foreign parents, as referred to in subsection (1) above.
3. The service referred to in subsection (2) above may issue the supporting document on the basis of the documents existing on its files or of an investigative process organised for that purpose.

CHAPTER II
Acquisition of citizenship

PART I

Acquisition of citizenship by virtue of will

Section 8
Acquisition of citizenship by the will of the parents

1. Where either of the parents who has acquired Timorese citizenship wishes his or her underage children to also acquire Timorese citizenship, s/he shall declare his or her intention.
2. The registration of acquisition of citizenship by either parent shall be indicated in the written declaration made by the parents.
3. Whoever acquires citizenship by virtue of the provisions of subsections (1) and (2) above may, upon reaching the age of majority, change his or her citizenship, if s/he so wishes.

Section 9
Acquisition of citizenship through marriage

1. A foreigner married to a Timorese national, who wishes to acquire Timorese citizenship, shall file a citizenship application with the Minister of Justice.
2. The applicant's birth certificate, as well as proof of citizenship of his or her Timorese spouse, shall be attached to the application to be addressed to the Minister of Justice, and filed with the National Directorate of Registries and Notarial Services.
3. The application shall be filed with the following documents attached:

- (a) Birth certificate of the Timorese spouse;
- (b) Marriage certificate, which shall be legalized by the relevant consular authority, where marriage was contracted overseas;
- (c) A valid residency card, issued by the competent national authority;
- (d) A document proving that the applicant has the knowledge of either of the official languages of Timor-Leste, issued by an entity recognized by the Ministry of Justice;

4. The loss of citizenship, as referred to in subsection 11.2 of the Law on Citizenship, is proved by the production of a written declaration from the foreign State or a copy of the law of that State, duly translated into either of the official languages of Timor-Leste.

5. Sections 12 and 13 shall apply, *mutatis mutandis*, in regard to the procedures to be adopted.

PART II

Acquisition of citizenship through adoption

Section 10

Acquisition of Timorese citizenship by mere virtue of the law.

Every individual in whose birth record is mentioned that s/he has been fully adopted by a Timorese national is presumed to have acquired Timorese citizenship, provided that there is no subsequent mention that, under the terms of the law, is in conflict with such presumption.

Section 11

Proof of Timorese citizenship by the adopter

1. A request for full adoption of a foreigner by a Timorese national shall be lodged together with proof of Timorese citizenship by the adopter, and mention of this citizenship shall be made in the ruling or act in which adoptive parentage is determined, as well as in the notice for entry of adoptive parentage into the birth record.

2. The mention referred to in subsection (1) above shall also be made, as an identifying element of the registered person, in the entry of adoption to be written in the margin of the birth record.

3. The provisions of the preceding subsections shall apply, *mutatis mutandis*, to the conversion of restricted adoption into full adoption.

PART III

Acquisition of citizenship through naturalisation

Section 12

Naturalisation

1. A foreigner seeking Timorese citizenship through naturalisation shall apply to the Minister of Justice.

2. The application shall bear the signature of the person concerned, made in the presence of, and certified by, a notary. The application shall subsequently be filed with the competent service of the National Directorate of Registries and Notarial Services and shall contain the full name, date of birth, marital status, place of birth, name of the parents, citizenship, current area of residency and, where applicable, the previous area of residency, occupation and the grounds on which s/he is applying for naturalisation.

3. An application shall be filed with the following documents attached:

- (a) birth certificate, duly legalized by the competent authorities from the place of origin of the certificate, and translated, if need be;
- (b) valid residency card, issued by the competent authority in the country;
- (c) document proving the applicant's entry into, and stay in, Timor-Leste;
- (d) document proving that the applicant has the knowledge of either of the official languages of Timor-Leste, issued by the Ministry of Education, Culture, Youth and Sports;
- (e) document proving his or her integration into Timorese society, issued by any of the existing community associations, notably, social clubs or cultural centres;
- (f) proof of means of subsistence;
- (g) document proving his or knowledge of Timorese history and culture, issued by the Ministry of Education, Culture, Youth and Sports;
- (h) updated criminal record certificate from the country of origin, duly legalized and translated, and updated criminal record certificate from Timor-Leste;

4. The Ministry of Education, Culture, Youth and Sports and the Ministry of Justice shall establish by joint ministerial order the procedures concerning paragraphs (d) and (g) of subsection (3) above.

Section 13 Procedures

1. Once the application has been processed by an official appointed to that effect by the National Directorate of Registries and Notarial Services, the file shall be forwarded, with all the required enclosures, to the Director of the aforementioned services, within eight days.

2. Upon receipt of the file, the Director shall summarily verify, within ten days, the correctness thereof and shall make a substantiated, written decision as to the adequacy or inadequacy of such an application, affixing the date thereto.

3. In case of inadequacy in the application, the Director shall serve a notice to the applicant within the three subsequent workdays.

4. The applicant shall collect the missing elements, provide information or take any other action required within 30 days from the date of receipt of the notice, except in case of just impediment. Failure to do so shall cause the dismissal of the application.

5. The National Director of Registries and Notarial Services shall, within eight days from the date on which the task of attaching the required documents to the application is deemed complete, order the posting of public notices on such application at the entrance of the Ministry of Justice building and at the entrance of the District Administration building in the area of residency of the applicant and the publication of notices twice, at an interval of eight consecutive days, in a widely-circulated newspaper, at the expense of the applicant.

6. The National Director of Registries and Notarial Services shall forward to the Public Prosecution Service, within three days from the date of the second publication, the whole file, including the original copies of the notices.

7. Upon receipt of the file, and once information from the National Police of Timor-Leste and from the Information Services has been gathered, the Public Prosecution Service issues its opinion under the terms of the provisions of sections 16 and 17 of Law No. 9/2002, of 5 November, forwarding the whole file to the Minister of Justice.

8. Upon receipt of the file, the Minister of Justice decides within 30 days.

Section 14 Decision on the proceeding

1. The decision on the proceeding entails:

- (a) in the event of a favourable decision from the Minister of Justice in line with the opinion issued by the Public Prosecution Service, the citizenship applied for is acknowledged, and its entry in the Citizenship Register ordered;
- (b) in the event of a decision from the Minister of Justice denying the granting of citizenship, in line with the opinion from the Public Prosecution Service, the person concerned may appeal against such a decision to the Supreme Court of Justice, within thirty days from the date on which the notice has been hand-delivered to the former;
- (c) in the event of discrepancy between the Minister's decision and that of the Public Prosecution Service, the latter shall appeal to the Supreme Court of Justice within thirty days.

2. The appeal shall be processed in accordance with the general terms of the civil procedure.

PART IV Naturalisation by high and relevant services

Section 15

Naturalisation by high and relevant services

The granting of Timorese citizenship by the National Parliament, under the terms of section 13 of Law No. 9/2002, of 5 November, is subject to registration in the National Directorate of Registries and Notarial Services.

CHAPTER III Loss of citizenship

PART I Loss of citizenship

Section 16 Loss of citizenship

1. A person voluntarily loses his or her Timorese citizenship who:
 - (a) having acquired citizenship of another State, expresses his or her intent to cease to be a Timorese citizen;
 - (b) having been born overseas to a foreign parent, expresses his or her intent to waive his or her Timorese citizenship;
2. A person who has lost his or her Timorese citizenship under the terms of the paragraphs of subsection (1) above shall:
 - (a) make a declaration expressing his or her intent to cease to be a Timorese citizen;
 - (b) exhibit a certificate or document proving the acquisition of citizenship of another country;
 - (c) The National Directorate of Registries and Notarial Services enters such intent in the loss of citizenship register.

Section 17 Loss of citizenship procedures

1. Having become aware, by any means, of any of the situations provided for in subsection 14.2 of Law 9/2003, of 5 November, the Public Prosecution Service lodges with the Ministry of Justice an application for loss of citizenship acquired through naturalisation.
2. Upon receipt of the loss of citizenship application, the Ministry of Justice informs the citizen, through a hand-delivered notice, of the need to adduce evidence for his or her defence within thirty days.
3. Upon expiry of the deadline established in subsection (2) above, the Ministry of Justice makes a decision, informing the Public Prosecution Service of such a decision and personally notifying the person concerned of the decision.

4. Where the Ministry of Justice decides against the loss of citizenship application lodged by the Public Prosecution Service, the latter shall appeal to the Supreme Court of Justice within thirty days.

5. Where the Ministry of Justice decides in favour of the loss of citizenship application, the person concerned may appeal to the Supreme Court of Justice within thirty days.

6. Such an appeal shall be processed in accordance with the general provisions of the civil procedure.

7. Where the ruling on the appeal is in favour of loss of citizenship, the Ministry of Justice reports the fact to the Registry for record purposes.

PART II **Reacquisition of citizenship**

Section 18 **Reacquisition of citizenship**

1. A person who has lost his or her Timorese citizenship by virtue of a statement of intention made by his or her parents at his or her minority age, and now wishes to reacquire it, shall, if legally able to do so, file an application in this respect, proving that s/he is a resident of Timor-Leste for at least one year.

2. A person who has voluntarily acquired foreign citizenship and expressed his or her intention of ceasing to be a Timorese citizen, and now wishes to reacquire his or her Timorese citizenship, shall file an application in this respect, proving that s/he is a resident of Timor-Leste for at least five years.

3. An underage child born overseas to Timorese nationals and, as a result, has also another citizenship, and, upon reaching the age of majority, has expressed his or her intention of ceasing to be a Timorese citizen, shall, if s/he so wishes, apply for reacquisition of his or her Timorese citizenship, proving that s/he is a resident of Timor-Leste for at least five years.

Section 19 **Procedure**

The procedure for reacquisition of Timorese citizenship shall follow the terms set out in sections 13 and 14 of the present decree-law.

CHAPTER IV **Registration of citizenship**

Section 20 **Registers**

1. There shall be in the National Directorate of Registries and Notarial Services a yearly citizenship register that may be split into others, as needed by the service.
2. Registration of citizenship may be undertaken in electronic form.

Section 21
Register Contents

1. In the citizenship register are entered, through separate registration, all facts determining the granting, acquisition, loss or reacquisition of Timorese citizenship.
2. Excepted from subsection (1) above is the granting of citizenship through registration of birth in the Timorese civil registry, and the acquisition of citizenship through adoption, by mere virtue of the law.

Section 22
Transcription of records

1. Citizenship records are entered through transcription, without the intervention of the person concerned, and signed by the registrar.
2. Records shall have a yearly serial number, the numbering thereof beginning on 1 January.

Section 23
Register contents

1. The text of the records shall contain:
 - (a) the serial number, day, month and year in which they are entered, as well as the designation of the office;
 - (b) full name, date of birth, parentage, place of birth and previous citizenship of the person concerned, if known;
 - (c) number and year of the birth record of the person concerned, and indication of the office where it can be found, where entered in the Timorese civil registry;
 - (d) the registered fact, its legal ground and its effects;
 - (e) the rank of the attesting official and his or her signature;
2. Citizenship records shall indicate the nature and date of the document based on which they have been entered.

Section 24
Entries into birth records

1. A registration of citizenship shall always be entered in the birth record of the person concerned.

2. The registration of the facts referred to in subsection 18.1 of Law No. 9/2002, of 5 November, is done at the request of the person concerned.

Section 25

Subsidiary legislation

1. The legal provisions relating to civil registration are applicable, *mutatis mutandis*, to the registration of citizenship, provided that they are not contrary to the nature of the registration of citizenship and to the special provisions of the present decree-law.

2. It is incumbent upon the Registrar General, without prejudice to the provision of the subsection below:

- (a) to declare the legal non-existence of a registration of citizenship arising from the lack of the signature of the official who was to sign it, and to cancel it;
- (b) to rectify any registration irregularities, provided that these are not grounded in doubts about the registered citizenship.

3. The declaration of non-existence of a registration, except for the case referred to in subsection (2) above, and that of its nullity, shall be incumbent upon the Supreme Court of Justice, which shall determine the cancellation thereof.

4. It is also incumbent upon the Supreme Court of Justice to declare the nullity of a registration of birth and to order the cancellation thereof, whenever a ruling of nullity depends on the citizenship issue of the registered person.

Section 26

Suspension of a registration

Where a registration of citizenship has been applied for, or is to be entered, and the action that underpins the validity of the fact that constitutes the ground for granting citizenship is pending, the entry of that registration shall be suspended, until exhibition of a certificate of the final court decision.

CHAPTER V

Common provisions

Section 27

Declaration of citizenship

1. A declaration of citizenship may be made before a diplomatic or consular agent in the area of residency of the person concerned, where the latter resides overseas, and is unofficially registered on the basis of the required documents, which are forwarded to the Central Registry for that purpose.

2. The declaration referred to in subsection (1) above is made by the person concerned, by himself or herself or by a competent attorney, where the former is legally able to do so, or by his or her legal representative, where s/he is legally unable to do so.

Section 28 **Contents of a registration**

1. A registration of citizenship that is not intended for recording a birth shall include:
 - (a) date and place at which it was entered;
 - (b) full name and capacity of the attesting official;
 - (c) full name, age, marital status, occupation, place of birth, parentage, habitual residency and citizenship, if other than Timorese, of the person concerned;
 - (d) number and year of the birth record of the person concerned and indication of the office where it can be found, if entered in the Timorese civil registry;
 - (e) full name and habitual residency of the attorney, where applicable, or of the legal representative of the person concerned, where the latter is legally disabled;
 - (f) mention of the manner in which the identity of the declarant was checked;
 - (g) the facts declared, the purpose of the application and the respective registration request;
 - (h) the applicant's signature, where s/he is able and knows how to sign, and that of the aforementioned official;

2. A declaration intended for recording a birth shall only meet the requirements established by the laws of the Civil Registry.

Section 29 **Identity of the applicant**

1. The applicant's identity may be checked:
 - (a) by the personal knowledge of the applicant that the official before whom the declaration is made has;
 - (b) by exhibition of the applicant's identity card or, where the latter is not a Timorese citizen, passport or document with equivalent legal force;
 - (c) supplementarily, by endorsement of two competent witnesses.

2. Where identity is checked by exhibition of the identity card or passport, the number, data and issuing entity thereof shall be indicated in the record.

3. In case of testimonial endorsement, the witnesses presented shall exhibit their respective identity card, in case of Timorese citizens, or passport, and shall be identified in the record, which they shall sign after the applicant and before the official.

4. In addition to the persons authorised by the general law, parents and relatives of the applicant and the official himself or herself may intervene as witnesses.

Section 30
Preparation of applications

Citizenship applications shall be prepared together with the documents required for proof of circumstances in which the granting, acquisition, loss or reacquisition of Timorese citizenship is grounded, as well as with all other documents required to perform the corresponding acts of mandatory civil registration.

Section 31
Proof of statelessness

For the purposes of the present decree-law, statelessness is proved by the means established by an international convention and, in the absence thereof, by documents emanated from authorities of the countries with which the person has relevant connections, namely the country of origin and of his or her last citizenship or of his or her parents' citizenship.

Section 32
Replacement of documents

Where the exhibition of any document to be issued by foreign authorities for the purpose of preparing a citizenship application is justifiably unfeasible, such a document may be waived, provided that the person concerned produces other sufficient evidence in order to make up for the lack thereof.

Section 33
Prior transcription of birth record

1. Once the Central Registry has received the declarations in which the granting or acquisition of citizenship is grounded, and the corresponding entry is ready to be written in the file, the official shall previously transcribe the foreign birth certificate of the person concerned, or an equivalent document under the law of the country s/he is a citizen of or is originally from, unless his or her birth is already recorded in the Timorese civil registry.
2. Where the person acquiring citizenship cannot obtain the certificate or document referred to in subsection (1) above, s/he may request that his or her birth be recorded in conformity with the applicable provisions of the Civil Registry.
3. A registration entered by transcription of the foreign birth certificate, referred to in subsection (1), may be in electronic form, under the terms to be established by the Minister of Justice.

Section 34
Transcription of facts recorded overseas

In addition to the registration of birth, all marital status facts recorded overseas and relating to individuals to whom Timorese citizenship has been granted, or who have acquired it, shall be obligatorily transcribed into the Timorese civil registry.

Section 35
Citizenship certificates

1. Citizenship certificates are issued by the Central Registry at the request of the persons concerned.
2. Where there is a citizenship register available, the certificate shall be issued on the basis of the respective register.
3. Where there is no special citizenship register available, the certificate shall be issued on the basis of the birth record of the person concerned.
4. In the case provided for in subsection (3) above, the person concerned shall attach his or her birth certificate to the application, unless the birth record is registered in the Central Registry.
5. Express reference shall be made in the certificate to the nature of the registration against which such certificate is issued.

Section 36
Reporting

The Central Registry shall report:

- (a) to the competent service of the Ministry of the Interior, and to the Civil Identification Service all registered changes to citizenship;
- (b) to the consular representative offices or other foreign authorities, the registration of any changes to the citizenship of their respective nationals, in case of agreement or other international convention imposing such requirement.

Section 37
Fees

Fees to be charged for these services shall be established by a joint order of the Ministry of Planning and Finance and of the Ministry of Justice.

Section 38
Doubts

It is incumbent upon the Minister of Justice, through the National Directorate of Registries and Notarial Services, to clarify any doubts arising out of the execution of the present decree-law.

Section 39
Entry into force

The present decree-law comes into force 10 days after the date of its publication.

The Prime Minister

[Signed]
(Mari Bim Amude Alkatiri)

The Minister of Justice

[Signed]
(Domingos Maria Sarmento)

Promulgated on 22 January 2004. -

To be published. -

The President of the Republic

[Signed]
(Kay Rala Xanana Gusmão)