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**THE ACQUISITION
OF
PORTUGUESE
NATIONALITY
BY DESCENDANTS
OF PORTUGUESE
SEPHARDIC JEWS**

Lisbon 2015

I. Preliminary Note

On May 31th, 2013, the Portuguese Parliament adopted a law that allows the government to grant Portuguese nationality to descendants of Portuguese Sephardic Jews.

This law resulted from the merger of two draft laws, one created by the Socialists Party's parliamentary group and the other created by CDS/ Popular Party's parliamentary group.

This legislative solution had unanimous vote.

The legal solution that allows the granting of Portuguese nationality to Sephardic Jews from Portugal - in line with the identical law adopted in Spain – is intended, for all, to be a reconciliation with History and with the Jewish communities that were expelled from the Iberian Peninsula in the 15th century.

The Portuguese Jews fled to various locations, namely, the Netherlands, where they organized the plunder and colonization of Pernambuco, where they dedicated themselves to the sugar industry. In Rio Grande do Norte, they changed name of the city of Natal to New Amsterdam (1624-1651).

Persecuted, once more, they fled to North America and founded another New Amsterdam (1625), on the island of Manhattan, on which New York was built.

In Spain, the Spanish nationality is granted by royal decree.

In Portugal it is granted by the Minister of Justice, by means of naturalization, with exemption of residence assumptions in Portugal and the knowledge of the Portuguese language.

The granting of Portuguese nationality to the descendants of Sephardic Jews originating in Portugal depends, essentially, on two diplomas:

- a) Portuguese Nationality Law (Law no. 37/81, of 3rd of October), with the changes introduced by Law no. 43/2013, of 3rd of July.
- b) The Regulation of Portuguese Nationality (Decree-Law no. 237-A/2006, of 14th of December), whose changes mark the entry into force of the provisions of Law no. 43/2013, cited above.

Essentially, the legal regime of naturalization, including specificities of the new Article 7, 7 of the Nationality Law and the Regulation of Portuguese Nationality applies to this type of nationality acquisition.

The Decree-Law no. 30-A/2015, of 27th February, which entered into force on 1st March, 2015, established the rules of procedure relating to this way attaining Portuguese nationality.

In summary, regarding this diploma, that the applications are only viable if they are regarded as such by a Jewish Portuguese community, duly registered as religious legal persons.

Perhaps the legislator hasn't thoroughly understood that the Jewish issue is not necessarily a religious issue. But, after so many centuries of sacrifice, there is no use in creating a new controversy on the subject, and one should count on the committees of the various communities to use the caution that is so distinctive of the Jewish culture, to take advantage of this opportunity and heal wounds that religious radicalism spread throughout the Sephardi diaspora.

Being that this is a reconciliation with History, it is understandable that this type of nationality acquisition by naturalization is used with caution, which should give a sense of justice to discretionary acts.

In theory, the discretionary power to grant Portuguese nationality is incumbent upon the Minister of Justice. But the truth is that it is managed, almost by tradition, by officials who are not always sensitive to historical realities and often do not even have the necessary information to understand them.

This reality has allowed the progressive disappearance of important Portuguese communities, such as Malacca, Zanzibar or Karachi.

The Nationality Law also provides that "those which shall be accounted as descendants of Portuguese, by the members of the communities of Portuguese ancestry" (article 6, 6), may acquire Portuguese nationality by naturalization but those who have experience in this process know that this is virtually impossible, even when the degree of kinship is high or when unequivocally proven that the person concerned is an active and effective member of the community of Portuguese ancestry or even a community of Portuguese.

We hope that the spirit of generosity and justice toward the descendants of Portuguese Jews can open other doors. And that in other areas, other doors may open toward finding unanimities, just as has now happened.

Miguel Reis

II. *The Context of the Sephardic Jews Issues*

*Sephardic*¹ (is the word used to describe the Jews originating in the Iberian Peninsula². These Jews spoke the *sefardi*, also called Spanish Jewish and had a liturgical language, the *Ladin*.

The so-called Jewish diaspora had special relevance following the second destruction of Jerusalem, when the First Jewish Roman War occurred (A.D. 66-73 A.D.), also known as the Great Jewish Revolt (הגדול המרד ha-Mered Ha-Gadol).

The main cause of this war was the wave of protests against the payment of taxes to Rome and ended when the Titus legions annihilated Jerusalem and surrender to Judaea.

Although there is news of the presence of Jews on the Peninsula since the time of the first Phoenician colonies, it was especially after the Great Jewish Revolt that their presence was most evident.

Established at the time of the Roman presence in Iberia, they survived Christianization and the Moor and Visigoth invasions.

Before the Inquisition, Arabs and Jews lived for 400 years in perfect harmony, in the Iberian Peninsula, where Jewish and Moor quarters flourished, side by side, and still existing today as historic sites.

"Being both peoples originating from the patriarch Abraham, it is difficult to understand the reasons for the later animosity in these relations" - refers ARNOLD NISKIER.³

¹ In Hebrew ספרדים, *sefardi*; in the plural, *sefardim*

² ספרד Sefarad

³ Jewish Heritage in Portugal, in Morash Magazine, Ed. 74, December 2011. (NISKIER 2011)

The first major persecutions of Jews of the Iberian Peninsula were ordered by the Catholic Kings, Fernando and Isabel (1492).⁴

Many Spanish Jews crossed the border and fled to Portugal, where peace would be short-lived. D. Manuel I, would marry Isabel of Aragon, daughter of the Catholic Kings, and promised to continue the persecution, which began in 1496.

On 5th December, 1496, D. Manuel I signed the decree of expulsion of heretics, by granting the Jews - also accused of heresy - a deadline, to leave the country by October 31st, 1497, if they did not chose to convert to Catholicism.

This conversion was originally presented as a mere formal requirement, justified by the nuptial contract. It would suffice if the Jews were baptized and concealed their true religion.

Because the measure was based on a commitment to the in-laws - the cited Catholic Kings - D. Manuel wouldn't mind the fact that the conversion was a sham. But, even so, there were many Jews who did not accept it.

In 1497, more than 20 thousand Jews gathered in Lisbon, waiting for transportation to leave the Portuguese territory, which led the king to kidnap the children younger than 14 years, so they would be Christianized by Catholic families. In that same year, forced baptisms were performed throughout the country.

Thus, new Christians were born, also called *Marranos*.

⁴ See, in Documents, the edict of expulsion of the Jews from Spain

One of more shocking historical facts of the reign of D. Manuel I was the so-called Massacre of Lisbon, in 19th April, 1506.⁵

When a small crowd prayed for the end of the drought in the Convent of São Domingo, somebody drew attention to a face of Christ illuminated on the altar.

A new Christian tried to explain that the phenomenon resulted from simple reflection, which led the mob to kill him. This event became the fuse for the persecution of Jews.

Harassed by Dominican friars, the Lisbon residents tortured and killed men, women and children, because of the mere fact that they were identified as Jews, on behalf of the Catholic belief.

D. Manuel I confiscated property of the Jews involved and punished the instigating friars with death by hanging.⁶

This massacre aggravated anti-Semitism environment in Portugal.

In 1540, the Court of the Inquisition - which operated until 1821 - came into operation and turned the lives of Jews in Portuguese territory almost unbearable.

In spite of being banished, the Iberian Jews could only leave the territory after paying a ransom to the king and to abandon their properties or selling them for a cheap price.

⁵ See, the end, extract the Chronicle of D. Manuel I, de DAMIÃO DE GÓIS.

⁶ After the expulsion of the Jews from Spain, by the Catholic kings Fernando and Isabel, in 1492, D. João II tried to bring them to Portugal, creating a kind of "*Gold Visa*". Whoever paid eight duchies of gold, a fortune, could reside in the kingdom. Those who did not pay, lost half of their goods. When D. João II died and D. Manuel I succeeded him, the Jewish community believed that there would be more tolerance, but this only happened up until his marriage with Isabel of Aragon.

The new Christians or *Marranos* are the embodiment of the Crypto-Judaism, in other words, a Judaism smothered by the New Christian value. This social phenomenon characterized the emigration of many families of Iberian colonizers, both for the Portuguese and Spanish possessions.

These families were composed of new Christians but, in reality, they didn't stop practicing Jewish habits and prayers in strictest secrecy.

Pedro Álvares Cabral himself was a *Marrano*, as were Fernão de Noronha, the pioneer in the exploitation of Brazilwood, and many of the captains that penetrated into the Brazilian backlands.

The captaincies regime began precisely in the Island of São João, currently Fernando de Noronha, a *Marrano* nobleman, by concession of D. Manuel I, on 16th February, 1504.

In essence, the captaincies regime, already tested by the Portuguese crown in Madeira and Cabo Verde Islands, was a donation to the captain that colonized the territory, at their own expense.

The first captaincies in Brazil were 15, created between 1534 and 1536 by D. João III. Soon they attracted new Christian families that originated the development of the sugar exploitation.

The city of Salvador da Baía, the first capital of Brazil, received several families of Jewish origin, consisting of *Marranos*, soon after its discovery. They were the ones that developed the interior and expanded to the territories that today constitute the states of Sergipe and Alagoas.

There were also families of new Christians who developed the trade in Pernambuco, especially in Olinda and Recife and hence evolved to Paraíba, Rio Grande do Norte and Ceará.

This reality, which immediately followed the discovery of Brazil, facilitated the Dutch invasion, which relied on the active contribution of Portuguese Jews who fled to the Netherlands, after the persecutions that started in the last decade of the 15th century.

At the end of the 15th century, the Jews constituted between 10% and 15% of the Portuguese population, having gone from 50 thousand to 170 thousand after the expulsion from Spain, ordered by the Catholic Kings.

The Jews of the Iberian Peninsula escaped persecution, fleeing to other territories, including England, the Netherlands and the north of Africa. Thousands immigrated to Brazil and Mexico, where many *Marranos* descendants still live.⁷

In the 15th and 16th centuries the word *Marrano* had a pejorative meaning, and was applied to all Jews, even those who had "converted" to Roman Catholicism, who were considered insincere or Crypto Jews.

According to CECIL ROTH (1899-1970), editor of the *Jewish Encyclopaedia*, the word *Marrano* is an old Spanish word that means *pig*, and was originally applied, to both Jews and Muslims, who do not eat pork. "*The word expresses, in a*

⁷ *Marrano* is a historiographical concept, applied to the Jews that were converted to Catholicism in Christian kingdoms of the Iberian Peninsula which, however, continued to secretly follow ancient Jewish traditions and religion.

nutshell and unequivocally, all the depth of hatred and contempt that the Spanish felt toward the insincere neophytes by which he was now surrounded. It was the perseverance shown by them and by their descendants that redeemed the term of its previously offensive connotation."

With the expulsion of the Jews, many businessmen and bankers who were involved in the Discoveries came out of the Peninsula and as a result of these changes, fled to other territories.

The first destinations of Portuguese Jews were the Netherlands and Flanders.

Both in Portugal and in overseas territories, in spite of the persecutions of the Inquisition, many Jewish communities remained, assimilated by the local populations or retracted, in the secret of their homes.

In spite of this, the Portuguese Jews or Jews of Portuguese origin continued to assume their traditions in a very secluded way.

For this reason, there isn't a lot of information available about the culture of the *Marranos*. There is still very little knowledge of the origins and the recovery of the Sephardic *Marranos* culture.

Many of them migrated to the north of Africa - where they still live together with Muslims - fleeing later to the Brazilian Amazon, where they maintained the *Ladino* language and then to India, where had experienced relationship problems with the Ashkenazi Jews.⁸

⁸Ashkenazi (אַשכּנזי "Ashkenazi"; אַשכּנזים Ashkenazim) is the name given to the Jews from Central and Eastern Europe.

The Sephardic Jews are currently classified in two groups: the western and the eastern.

Western are the so-called Jews of the Portuguese nation, while the eastern are those who lived in the Ottoman Empire.

The massacre of 1506, also known as a Lisbon Pogrom, caused a migratory movement to the north of Europe (the Netherlands, England and Germany), to the south (France and Italy), but also to the Ottoman Empire.

Those who went to the Netherlands founded the Great *Esnoga*⁹ in Amsterdam and even established a dialect, known as Jew-Portuguese, a language written in Hebrew characters, which did not survive in Portugal but was spoken and written in the Netherlands, until the era of Napoleon.

Records show that there was approximately 100 Portuguese Jews in Amsterdam, in 1599. In 1610, the records show that about 200 lived there and in 1725 there were 2500, despite the migration to other territories.

The Sephardic Jews of the Netherlands reduced, in terms of number, as a result of emigration to the Americas and the migration of Jews from Eastern Europe.

In spite of this, the Portuguese Jews from the Netherlands still have a reputation, which marks the very identity of the famous synagogue in Amsterdam.

According to Genesis, chapter 10, verse 3, Ashkenaz was the great grandson of Noah, grandson of Japheth and eldest son of Gomer. The descendants of Ashkenaz, according to tradition, were Scythians that, according to Jeremiah 51:27, lived in the vicinity of Mount Ararat and were called *ashkuza* in Assyrian inscriptions. The region of Ascania, in Anatolia was named after it.

⁹ *Esnoga* Means synagogue in Portuguese Jewish dialect.

This community generated individuals whose names were noticeable in History, such as the Mendes da França, ascendants of Pierre Mendes France, David Ricardo, Bento Espinosa or Gracia Nasi.

The name of the Jews of the Portuguese nation is closely connected to the foundation of the Dutch West India Company, *West-Indische Compagnie* or *WIC*).

This company was founded on 6th June, 1621 by Calvinists refugees in the Republic of the Seven United Provinces of the Netherlands, to escape religious persecution in the Catholic world. It received, shortly after, a royal trade monopoly license with the colonies of western Caribbean, as well as the slave trade with Brazil, the Caribbean and North America, also having the power to operate in Africa, between the Tropic of Cancer and the Cape of Good Hope and across the region of the Americas, including the Pacific.

The main scope of WIC was to eliminate the Spanish and Portuguese competition in the main trade routes. The accusations of Spain and Portugal toward the new Christians and their persecution in the respective overseas territories are closely linked to the destinations of the persecuted Jews.

Although the involvement of Sephardic Jews in WIC capital was kept to a minimum, in relation to the whole investment, there is no doubt of their intense involvement in the company. The Portuguese Jew Isaac Pinto was one of 19 administrators, the Heeren XIX.

The Dutch campaign in Pernambuco (1630-1654) relied the active participation of Portuguese Jews, to whom we owe the foundation of Kahal Zur Israel synagogue in Recife, - elected capital of New Holland - which was the first synagogue in the Americas.

An individual of great importance in these events was Isaac Aboab da Fonseca.

Isaac da Fonseca was born in Castro Daire, in 1605 and died in Amsterdam in 1693, at 88 years of age. He went to the Netherlands at seven years of age, but never concealed his Portuguese origins, quite the contrary. He mentioned them in his written works.

Isaac da Fonseca had another Portuguese Jew as master, Uriel da Costa, born in Porto in 1585, into a family of new Christians. After having convinced the family to return to Judaism, they were forced to immigrate to Amsterdam, where Uriel socialized with Bento Espinosa.

Accused of heresy, Uriel Costa committed suicide in 1647. The *Herem* - a kind of excommunication - was applied, some years later (1656), to Espinosa, for the Portuguese Synagogue in Amsterdam, because of their critical reading of the Bible.

To Bento Espinosa God was - in his theorization of modern biblical criticism - an immanent mechanism of nature and the Bible a metaphorical-allegorical work, lacking rational interpretation, which does not express neither truth nor the will of God.

The proximity to Uriel da Costa and the Espinosa, may have influenced the emigration of Isaac Aboab da Fonseca to Brazil, in 1642. As Rabbi, he was the first religious person of Jewish origin coming to Brazil and the first to write Jewish prayers in the Americas.

After the reconquest of the territories occupied by the Dutch in Brazil, rabbi Fonseca returned to Amsterdam, in 1654, having participated in the court that excommunicated Espinosa in 1656.

With the reconquest of north-eastern Brazil by the Portuguese and the persecution of the Jews in the colony's territory, the communities of Jews and new Christians dispersed. Some returned to Amsterdam, others went to other Dutch colonies and some families fled to the interior where they continued to respect the traditions.

On 23rd September, 1654, 23 Jews from Recife arrived on the island of Manhattan. The island had been colonized by WIC since 1625, after the purchase by Pierre Minuit, for 60 guilders (24 dollars). The New Amsterdam of North America surrendered to the British in 1664 and was given to England by the Treaty of Breda (1667), to be renamed as New York.

The Dutch won it back in 1673, and renamed it New Orange, only to resume the name of New York after the Dutch exchanging it for Suriname.

Just as it had happened in South America, from Recife, it was from New Amsterdam, incidentally, New York, that the Jewish communities dispersed on the continent, in particular to New Jersey, Montreal, Newport, Philadelphia, Charlotte and New Orleans.

The history of Brazil is filled with *Marranos* who were converted by force, by order of D. Manuel I (1497).

Historians are consensual in the conclusion that one in every three Portuguese settlers was New Christian, in other words, concealed Jewish or of Jewish descent

The historian ANITA NOVINSKY, from the University of São Paulo, tells an exemplary story.¹⁰

In the 17th century, the professor of a Jesuit school asked one of the student's surname.

¹⁰ ANITA NOVINSKY - (NOVINSKY 2006) *The myth of Marranos surnames*

The student replied: *"Which one of them, from the inside or the outside"?*

To expose or not the family surname outside of the house, implied the risk of being identified by the Inquisition and accused of the crime of Judaism.

Quoting NOVINSKY, O Globo newspaper writes:

"The fear and the delicacy of the subject caused the genealogy of the descendants of Portuguese Jews in Brazil to be wrapped, for centuries, in a mist of myths and ignorance. In recent years, however, researchers have revealed surprises regarding the Marranos surnames in Brazil".

And in another moment:

"Until recently, it was believed that these converted Jews abandoned their "infidel" surname to adopt new "invented" surnames, based exclusively on names of plants, trees, fruits, animals and geographical accidents. Thus, it would be easy. All Portuguese with the surnames Pinheiro, Carvalho, Pereira, Raposo, Serra, Monte or Rios, among others who immigrated to Brazil after 1500, must have been Marranos, right? Wrong.

- In my research, I have found no documentary evidence that names of trees, animals, plants or geographical accidents belonged only or almost always the Marranos - says Anita Novinsky, one of the highest authorities on the subject.

What causes confusion, according to Novinsky, is the fact that the surnames adopted by new Christians were the same as those used by old Christians, some due to nostalgia, others for fear of persecution. After all, in Brazil, the Marranos were persecuted for 285 years by Portuguese Inquisition. Anyone who showed an attachment to the ancient religion could be sentenced to death by fire in "acts of faith", ceremonies of penance on the infidels.

So, how to identify, who was Marrano? The most important clue is precisely in the archives of the Inquisition. Approximately 40 thousand trials have withstood the test of time, 95% of them for the crimes of Judaism. Anita Novinsky found exactly 1,819 surnames of new Christians arrested, in the 18th century alone, in the so-called "Livro dos Culpados" (Book of the Guilty). The more common surnames of the detainees were Rodrigues (cited 137 times), Nunes (120), Henriques (68), Mendes (66), Correia (51), Lopes (51), Costa (49), Cardoso (48), Silva (47) and Fonseca (33) ."

NOVINSKY explains that the Inquisition took note of all the names of the detainees and kept a list of goods belonging to new the Christians for confiscation.

However, as the historian noted, this does not mean that all people with the surnames mentioned in the listings of the Inquisition belong to *Marranos* families. According to the Israeli historian AVI GROSS no surname was exclusive of new Christians, because they changed whenever they could, in addition to adopting multiple names.

PAULO VALADARES, a Brazilian historian, organized a *Sefaradi Dictionary of Surnames*¹¹, which identifies thousands of surnames from Jews of the Iberian Peninsula, adding to these, information about the miscegenation of Jews with other cultures and races.

Overtime, Jewish traditions were weakened, although some families have made considerable efforts to keep them, by isolating themselves, especially in the Brazilian Northeast and practicing endogenous weddings.

¹¹ Fraiha Editora, Rio de Janeiro

As a condition of the application for the acquisition of Portuguese nationality, the new law refers the need for demonstration of *tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent.*

The website *Name your roots*¹² can help find connections. But these connections won't be enough to identify whether a person is a descendent of Portuguese Jews.

Referring specifically to the case of the descendants of Brazilian Jews, PAULO VALADARES says that we need to go further and identify if there are Portuguese ancestors who arrived in Brazil in the 16th or 17th centuries or if they were mentioned in the annals of the Inquisition until the 18th century, if the family was established in any specific region and if it keeps "strange" traditions.

Jewish LUCIANO CANUTO DE OLIVEIRA, wrote that to be a Marrano is to be a Jew on the inside and Catholic on the outside. This reality makes the verification of assumptions for the naturalization under Article 7, 7 of the Portuguese Law of Nationality especially demanding

The Liberal Revolution led to the extinction of the Inquisition, on 31th of March 1821. On 7th of September, 1822, Brazil became an independent country. And in 5th of October, 1910 the republic of Portugal was established.

¹² <http://pt.nameyourroots.com/>

The Second World War had a huge impact on the population of Portuguese Sephardic Jewish scattered throughout Europe. The largest Sephardi community of Portuguese origin was from Amsterdam, which is believed to have been exterminated in approximately 80% by the Nazis.

In the well-known Circular 14, of November 14th, 1939, Oliveira Salazar, who assumed the position of Minister of Foreign Affairs, was determined that "the consular posts may not grant consular visas without prior consultation of the Ministry to (...) Jews expelled from the countries of their nationality or from which they came".

The Portuguese diplomat Aristides de Sousa Mendes, consul of Portugal in Bordeaux, disobeyed the instructions of the dictator and granted more than 30 thousand visas.

The Rabbi Jacob Kruger, of Antwerp, the city in which Sousa Mendes performed consular functions, had a great influence on Sousa Mendes' courageous decision. He and his family were saved by the diplomat.

On 16th of June, 1940, Aristides de Sousa Mendes informed the Ministry of Foreign Affairs: *"from now on, I will give visas to everyone. There is no nationality, race or religion"*.

Helped by Rabbi Kruger and their relatives, he fulfilled this promise while he could can, more precisely, until he was dismissed by Salazar, on 23rd of June, 1940.

On 8th July, 1940, the diplomat returned to Portugal, having been dismissed from his duties and barred from practicing law. He survived thanks to the help of the Jewish community of Lisbon.

Hypocritically, Salazar congratulated him in 1945 for having helped the refugees. However, he did not include him,

leaving him to die in misery at the Hospital of the Franciscans,
in Lisbon.

III. Assumptions

1. Who can request the acquisition of nationality

The new article 6, 7 of the NL¹³ expresses the following:

The Government may grant citizenship by naturalization, with waiver of the requirements provided for in subparagraphs (b) and (c) of paragraph 1, to the descendants of Portuguese Sephardic Jews, through demonstration of tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent.

The subjects with the right to request the Portuguese nationality are the *descendants of Portuguese Sephardic Jews*, in any degree that prove a tradition of belonging to a Portuguese Sephardic community.

2. The quality of descendant of Portuguese Sephardic Jews

¹³ Approved by Law no. 43/2013, of 3 July

Descendants of Portuguese Sephardic Jews are the direct or collateral relatives of those who had that quality, regardless of the time in which they lived.

The kinship is defined in the Portuguese law as the bond that unites two people, as a result of one of them descending from the other or both have a common parent (Article 1578 of the Civil Code).

The kinship is determined by the generations that bind the relatives to each other: each generation forms a degree, and the number of degrees is the line of kinship (Article 1579 (1) of the Civil Code).

On the lines of kinship – in other words, the number of degrees – the following is provided in article 1580 of the Civil Code:

1 - The direct line is when one of the relatives descend from the other; it is collateral when none of the relatives is descended from the other, but both come from a common ancestor.

2 - The direct line can be descending or ascending. It's descending when going from the ascendant to who proceeds the ascendant; ascending is when going from the ascendant to the parent.

Therefore, we have, descendants in a direct line, in relation to a particular person, the children (1st degree), grandchildren (2nd degree), the great-grandchildren (3rd degree), the great-great grandchildren (4th degree), and the great-great-great grandchildren (5th degree) and so on.

Those who do not descend from one another, but descend from a common parent are collaterals between themselves, in the same degree or in different degrees.

The following is provided in Article 1581:

1 - The direct line has as many degrees as persons who form the line of kinship, excluding the parent.

2 – In the collateral line the degrees are counted the same way, ascending one of the branches and descending in the other, but without counting the common parent.

Article 1582 of the Civil Code provides that unless otherwise provided by law to the contrary, the effects of kinship are produced in any degree of direct line and up to the sixth degree in collateral.

The text of Article 6, 7 the Nationality Law mentions the descendants of Sephardic Jews in two moments:

The Government may grant citizenship (...) to the descendants of Portuguese Sephardic Jews, through demonstration of tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent

The first moment refers to the right to request the granting of nationality and the second refers to the tradition of belonging to a Sephardi community of Portuguese origin.

Taking into account the provisions of Article 1582 of the Civil Code, it's apparent that those who are descendants of Portuguese Sephardic Jewish, in any degree of direct line or up to the 6th degree of the collateral line may require the granting of Portuguese nationality by naturalization.

3. The demonstration of tradition of belonging to a Sephardi community of Portuguese origin

The law establishes, as a requirement of the application, the demonstration of the tradition of belonging to a Sephardi community of Portuguese origin.

From the analysis of preparatory works, it seems that the legislator did not intend to discriminate against those who have converted to Christianity, conferring the right to nationality only to those who managed to escape and survive the Inquisition.

4. Procedure Rules

The acquisition of Portuguese nationality by Sephardic Jews was ensured by Organic Law No 1/2013, of 29th July.

The Decree-Law no. 30-A/2015, of 27th February, provided the amendment to the Regulation of Portuguese Nationality approved by Decree-Law no. 237-A/2006, of 14th December, establishing the rules to which the process of naturalization of Sephardic Jews are subjected.

According to this decree, "Sephardic Jews" are the Jews descending from the ancient and traditional Jewish communities of the Iberian Peninsula.

The Nationality Law provides the new article 24-A of the Regulation of Nationality.

The Government may grant citizenship by naturalization, with waiver of the requirements provided for in subparagraphs (b) and (c) of paragraph 1, to the descendants of Portuguese Sephardic Jews, through demonstration of tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent.

This means that the applicants who are descendants of Sephardic Jews are exempt from the requirements of legal residence in Portuguese territory for at least six years and from sufficient knowledge of the Portuguese language.

Article 24-A of the Regulation of Nationality, with the amendment introduced by Decree-Law no. 30-A/2015, of 27th February, specifies the terms under which naturalization may be granted:

"The Portuguese government can award Portuguese nationality by naturalization to the descendants of Sephardic Jews, when they meet the following requirements:

- a) Are the age majority or emancipated under the Portuguese law.
- b) Have not have been convicted, with final judgment of sentence for committing a crime punishable with a maximum prison sentence equal to or exceeding three years, under Portuguese law.

The application must indicate and demonstrate the circumstances that determine the tradition of belonging to a Sephardi community of Portuguese origin, namely:

- Family names.¹⁴
- Family language.
- Direct descendant or kinship in the common collateral line from the Portuguese Sephardi community.

The application must be accompanied by the following documents:

- Birth certificate;
- Criminal record certificate issued by the competent Portuguese services,
- Criminal record certificate from the country of applicant's nationality.
- Criminal record certificates from the countries where the applicant has been resident, which must be authenticated when issued by foreign authorities.
- Jewish community Certificate, with religious legal person status based in Portugal, under the law in force at the date of entry of the regulation, stating the tradition of belonging to a Sephardi community of Portuguese origin, materialized, particularly, in

¹⁴ We suggest the consult of the *Sefaradi Dictionary of Surnames*, by GUILHERME FARGUENBOIM, PAULO VALADARES and ANNA ROSA CAMOPAGNANO, Ed. Avotaynu, Rio de Janeiro

the name of the applicant, in the family language, in the genealogy and in family memory.

This certificate must contain the following data:

- Full Name;
- Date of birth;
- Place of birth;
- Filiation;
- Nationality;
- Residence of the applicant.
- Description of the direct descent or of kinship in the collateral line of the common parent, from Portuguese Sephardi community of origin.
- Evidences of all these elements.

In the absence of the certificate, other means of evidence may be admitted, including the following:

- Document issued by the Jewish community to which the applicant belongs, attesting to the use, by the applicant, of Portuguese expressions in Jewish rites, or having as the spoken language in this community, the Ladino.
- Documentary records, such as records of synagogues and Jewish cemeteries, as well as residence permits, property deeds, wills and other documents proving the applicant's family connection, by means of direct descent or kinship in the collateral line of the common

parent, from the Portuguese Sephardi community of origin.

In case of doubt regarding the authenticity of the content of the documents issued abroad, the member of the government responsible for the justice area can ask the Jewish communities registered in Portugal for an opinion regarding the evidences.

The request for the application for naturalization of descendants of Sephardic Jews can be presented starting March 1st, 2015 and there is no term for the exercise of this right.¹⁵

5. On the certificates to be issued by Jewish communities

The acquisition of Portuguese nationality by descendants of Portuguese Sephardic Jews depends, particularly, on the issue of the certificate referred to in Article 24-A, paragraph 3 subparagraph c) of the Regulation of Nationality by a Jewish community with religious legal person status based in Portugal.

¹⁵ The original proposal was for a term of 10 years

The religious legal persons are subject to a registration in the Legal Religious Persons Register, governed by Decree-Law no. 134/2003, of 28th June.

6. Rules of the Israeli Community of Lisbon

The rules established by the Israeli Community of Lisbon, for the handling of the request for the certificate are published on the site. www.cilisboa.org

The application may be submitted by the applicant or an authorized representative, addressed to the Commission of the Israeli Community of Lisbon.

A time limit for a response is not guaranteed and there may be a negative opinion that "as result of a negative unanimity regarding the validity of the applicant's claim of progeny of a Sephardi community of Portuguese origin".

According to the information from the Community, "regardless of the direct or indirect nature of the evidence presented, the Commission's belief will always be based on the evidence provided by the applicant, and considered in a critical manner in conjunction with all relevant facts established during the investigation of the case."

The request for the certificate must be accompanied by the following documents:

A copy of the passport.

Birth Certificate or similar document that contains date of birth, place of birth and the name of the applicant's parents.

- Proof of residence
- All additional evidence necessary for a proper assessment and decision-making.

The Israeli Community of Lisbon accepts documents in the original language, with certified translation into Portuguese, copies certified and recognized by the Portuguese consulate of the country of origin.

7. The evidence in Israeli Community of Lisbon

According to the Israeli Community of Lisbon, the evidence of Jewish-Portuguese descent, through family names, language, direct or collateral descent or other elements, may be direct or circumstantial.

According to ICL The evidence may be,

- Circumstantial evidence,
- Documented evidence.
- Testimonial or expert evidence.

According to the ICL manual of procedures, circumstantial evidence can be provided by means of any kind of evidence, provided that, when considered together or individually, in combination with the direct evidence, are convincing as to the validity of the claim of the applicant's ties to a Sephardi community of Portuguese origin.

The documented evidence (direct evidence) - may be provided through family records, family tree, community archives relating to births, marriages and deaths, cemeteries and lists of tombs, records of *Brit Mila* or *Bar mitzvah* (respectively, rituals of circumcision and coming of age), government files showing the arrivals from Portugal, lists of ships and passengers arriving from Portugal.

The *testimonial evidence*, is the result of testimony of witnesses that can testify to the oral tradition of a family.

The testimonial evidence must be submitted in writing in the form of written statements, signed by the witnesses and certified by a notary.

The testimonies, translated into Portuguese, must be sent to the Jewish Community of Lisbon, together with certified copies of passports or identity cards of the witnesses. The witnesses must be credible and their testimony convincing.

The *expert evidence*, can be produced by an expert in Portuguese Jewish diaspora.

The expert evidence must be submitted in writing.

The reports of the experts in the Portuguese diaspora must be submitted in writing and signed by respective expert, authenticated by a notary and accompanied by a biographical note from the expert.

IV. The law

Law no. 43/2013, of 3rd July
Fifth Amendment to Law no. 37/81, of 3rd
October (Nationality Law)

(DR NO. 126, Series I, July 3rd 2013; Date of Availability
July 3rd 2013)

The National Assembly decrees, the following, under
the terms of paragraph (c) of article 161 of the Constitution:

Article 1 Amendment to Law no. 37/81, of 3rd October

Article 6 of Law no. 37/81, of 3rd October, amended by
Law No 25/94, of 19th August, by Decree-Law no. 322 -
A/2001, of 14th December, in writing given by Decree-Law
no. 194/2003, of 23rd August, by the Organic Law 1/ 2004, of
15th January, and the Organic Law 2 /2006, of 17th April, is
replaced by the following:

"Article 6 ...

1 - ...

2 - ...

3 - ...

4 - ...

5 - ...

6 - ...

7 - The Government may grant nationality by naturalization, with waiver of the requirements provided for in subparagraphs (b) and (c) of paragraph 1, to the descendants of Portuguese Sephardic Jews, through demonstration of tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent.

Article 2 Regulations

The Government will make the necessary changes to the Regulation of Portuguese Nationality, approved by Decree-Law no. 237-A/2006, of 14th December, within 90 days from the publication of the present act.

Article 3 Taking Effect

This law shall take effect on the effective start date of the act referred to in the previous article.

Approved on 31st May, 2013.

The President of the National Assembly, Maria da Assunção
A. Esteves.

Promulgated in 25th June, 2013.

To be published.

The President of the Republic, Aníbal Cavaco Silva.

Countersigned on 26th June, 2013.

The Prime Minister, Pedro Passos Coelho.

V. The Regulation

Decree-Law no. 30-A/2015, of 27th February proceeds to the second amendment to the Regulation of the Portuguese Nationality, approved by Decree-Law No. 237-A / 2006 of 14th December, allowing the granting of Portuguese nationality through naturalization, to the descendants of Sephardic Jews

Sephardic Jews are Jews who descend from the ancient and traditional Jewish communities of the Iberian Peninsula.

The presence of these communities in the Iberian Peninsula is very old, and even prior to the formation of the Iberian Christian kingdoms, as is the case of Portugal from the 12th century.

Having those Jewish communities, since the end of the 15th century and after the Edict of Alhambra of 1492, been object of persecution on the part of the Spanish Inquisition, many of its members took refuge in Portugal.

However, in 1496, the king D. Manuel, who had initially enacted a law that guaranteed them protection, ordered, the expulsion of all Sephardic Jews (also known as *Marranos*) who would not submit to a Catholic baptism. Thus, many Sephardic Jews were expelled from Portugal in the late 15th century and early 16th century.

In general, these peninsular Jews settled in countries such as the Netherlands, the United Kingdom and Turkey, as well as in the Northern regions of Africa and, later, in American territories, particularly in Brazil, Argentina, Mexico and the United States of America (USA).

In spite of the persecutions and the expulsion from their ancestral territory, many Sephardic Jews of Portuguese origin and their descendants kept not only the Portuguese language, but also the traditional rites of the ancient Jewish worship, in Portugal, preserving, for generations, the family names, objects and documents proving their Portuguese origin, in addition to a strong memorial relationship that leads them to qualify themselves as themselves as "Portuguese Jews" or "Jews of the Portuguese Nation".

With the "*conversão em pé*", title given to the forced conversion of Jews, decreed by D. Manuel, Jews in Portugal officially no longer existed, only old Christians and new Christians, being that the title of new Christians hid the Jewish origin.

During the period of the Inquisition many of these new Christians and Portuguese Jews managed to escape and get out of the Kingdom, settling in some regions of the Mediterranean (Gibraltar, Morocco, South of France, Italy, Croatia, Greece, Turkey, Syria, Lebanon, Israel, Jordan, Egypt, Libya, Tunisia and Algeria), northern Europe (London, Nantes, Paris, Antwerp, Brussels, Rotterdam and Amsterdam), Brazil, West Indies and the United States, among other places, creating renown communities and founding notable synagogues, such as the Portuguese Synagogue in Amsterdam, the Shearith Israel Synagogue in New York, the Bevis Marks Synagogue, in

London, the Touro Synagogue in Newport (Rhode Island, USA), the Portuguese Synagogue in Montreal and the Tzur Israel Synagogue in Recife.

In the beginning of the 19th century, some descendants of Sephardic Jews who had fled to Morocco and Gibraltar returned to Portugal, having, created in 1801, the first modern Jewish cemetery, next to the English cemetery in Lisbon, and in 1868, by royal charter of D. Luis, permission was granted to "Jews from Lisbon, to build a cemetery for the burial of their coreligionists", currently the cemetery of Rua D. Afonso III, in Lisbon.

Even today, many of the names of Jewish Sephardic families, maintain the Portuguese root, although, in some cases, it's mixed with the Castilian.

In the diaspora of the Netherlands and the United Kingdom these family names can still be found, among others: Abrantes, Aguilar, Andrade, Brandão, Brito, Bueno, Cardoso, Carvalho, Castro, Costa, Coutinho, Dourado, Fonseca, Furtado, Gomes, Gouveia, Granjo, Henriques, Lara, Marques, Melo e Prado, Mesquita, Mendes, Neto, Nunes, Pereira, Pinheiro, Rodrigues, Rosa, Sarmento, Silva, Soares, Teixeira e Teles.

In the Latin America diaspora, the following family names persist: Almeida, Avelar, Bravo, Carvajal, Crespo, Duarte, Ferreira, Franco, Gato, Gonçalves, Guerreiro, Leão, Lopes, Leiria, Lobo, Lousada, Machorro, Martins, Montesino, Moreno, Mota, Macias, Miranda, Oliveira, Osório, Pardo, Pina, Pinto, Pimentel, Pizarro, Querido, Rei, Ribeiro, Salvador, Torres e Viana.

In other regions of the World, there are also descendants of Sephardic Jews of Portuguese origin who have the following family names: Amorim, Azevedo, Álvares, Barros, Basto, Belmonte, Cáceres, Caetano, Campos, Carneiro, Cruz, Dias,

Duarte, Elias, Estrela, Gaiola, Josué, Lemos, Lombroso, Lopes, Machado, Mascarenhas, Mattos, Meira, Mello e Canto, Mendes da Costa, Miranda, Morão, Morões, Mota, Moucada, Negro, Oliveira, Osório (or Ozório), Paiva, Pilão, Pinto, Pessoa, Preto, Souza, Vaz e Vargas.

In addition to the family names and the use of the Portuguese language, namely in the rites, there are descendants of Portuguese Sephardic Jews who, even today, talking among themselves the *Ladino*, language used by the Sephardic expelled from Spain and Portugal in the 15th century, derived from the Spanish and the Portuguese and currently spoken by about 150 000 people in communities in Israel, Turkey, the former Yugoslavia, Greece, Morocco and in the Americas, among many other places.

The present diploma allows the exercise of the right of the Portuguese Sephardic Jews descendants of origin to return, if they wish to so, by means of the acquisition of Portuguese nationality by naturalization, and their integration in the national community, with full correspondent rights and obligations.

The following entities were heard on a voluntary basis: the Israeli Community of Lisbon, the Israeli Community of Porto, the Superior Council of the Judiciary, Superior Council of the Administrative and Fiscal Courts, the Superior Council of the Prosecution Service, the Portuguese Bar Association, the Notary Association, the Committee of Solicitors, the Registrars Syndicate and the Council of Justice Officials.

Other entities were heard on a voluntary basis, such as the Belmonte Jewish Community, the Portuguese Judges Syndicate, the Public Prosecutors Syndicate, the Registry and Notary Officials Syndicate the Syndicate of Registrars and Notary

Workers of the Northern Region, the Syndicate of Registrars and Notary Workers of the Southern Area and Islands, the Judicial officials Syndicate, the Bailiffs Syndicate and the Bailiffs Association.

Thus:

Under the provisions of Article 2 of the Organic Law 1/ 2013, of 29th July, and in accordance with subparagraph (a) of paragraph 1 of article 198 of the Constitution, the Government decrees the following:

Article 1 Object

This diploma is a second amendment to the Regulation of Portuguese Nationality, approved by Decree-Law no.237-A/2006, of 14th December 1998, as amended by Decree-Law no. 43/2013, of 1st April, allowing the award of Portuguese nationality by naturalization, to the descendants of Sephardic Jews.

Article 2.

Addendum to the Regulation of Portuguese Nationality

The article 24 -A is added to the Regulation of Portuguese Nationality, approved by Decree-Law no. 237-A/2006, of 14th December 1998, as amended by Decree-Law no. 43/2013, of 1st April, with the following:

"Article 24-A

Naturalization of foreigners who are descendants of Portuguese Sephardic Jews

1 - The Government may grant Portuguese nationality by naturalization, to descendants of Sephardic Jews, when they meet the following requirements:

A) Are of legal age or emancipated under the Portuguese law;

(B) Not have been convicted, with final judgment of sentence, for committing a crime punishable with a maximum prison sentence equal to or exceeding three years, under Portuguese law.

2 - The circumstances that determine the tradition of belonging to a Sephardi community of Portuguese origin, namely, family names, family language, direct descendants or kinship in collateral line of a common parent from the Sephardi community of Portuguese origin are indicated and demonstrated in the application to be submitted by the person concerned.

3 - The application is accompanied by the following documents, subject to the waiver of submission by the applicant in accordance with Article 37.

a) Birth Certificate.

b) Criminal record certificates issued by competent Portuguese services, from the birthplace and nationality, as well as from countries where they were resident, which must be authenticated, when issued by foreign authorities.

c) Jewish community Certificate, with religious legal person status based in Portugal, under the law in force at the date of entry of the regulation, stating the tradition of belonging to a Sephardi community of Portuguese origin, materialized, particularly, in the name of the applicant, in the family language, in the genealogy and in family memory.

4 - The certificate referred to in subparagraph (c) of the preceding paragraph shall contain the full name, date of birth, birthplace, filiation, nationality and residence of the applicant, as well as the indication of direct descent or kinship in collateral line of common parent from the Sephardi community of Portuguese origin, accompanied by all the evidence.

5 - In the absence of the certificate referred to in subparagraph (c) of paragraph 3, and to demonstrate the direct progeny or kinship in collateral line of common parent from the Sephardi community of Portuguese origin and tradition of belonging to a Sephardi community of Portuguese origin, the following evidence are allowed:

A) Authenticated document, issued by Jewish community to which the applicant belongs, attesting to the use by the applicant of Portuguese expressions in Jewish rites, or having as the spoken language in this community, the Ladino;

(B) Authenticated documentary records, such as records of synagogues and Jewish cemeteries, as well as residence permits, property deeds, wills and other evidence of the applicant's family link, by way of direct descent or kinship in collateral line of a common parent from the Sephardi community of Portuguese origin.

6 - In case of doubt regarding the authenticity of the content of the documents issued abroad, the member of the Government responsible for the area of justice may request to the Jewish community referred to in subparagraph (c) of paragraph 3, opinion about the evidence presented under the provisions of the preceding paragraph."

Article 3

Entry into force

The present law shall enter into force on the 1st day of the month following its publication.

Seen and approved by the Council of Ministers of January 29th, 2015. - Pedro Passos Coelho - Rui Manuel Parente Chancerelle de Machete - Anabela Maria Pinto de Miranda Rodrigues - Paula Maria von Hafe Teixeira da Cruz - Nuno Paulo de Sousa Arrobas Crato - Luís Pedro Russo da Mota Soares..

Promulgated on 24th February, 2015.

To be published.

The President of the Republic, Aníbal Cavaco Silva.

Countersigned on 26st February, 2015

The Prime Minister, Pedro Passos Coelho.

VI. Background

8. Request by Member of Parliament José Ribeiro e Castro (CDS/PP) - 10th May, 2010

Subject: Return of expelled Jews. The retrieval of Portuguese nationality by Sephardic Jews

Recipient: Minister of Justice

To the President of the National Assembly

Whereas:

a) I was approached by representatives of the community of Sephardic Jews, living abroad, who wish to be able to recover the Portuguese nationality of their ancestors.

b) The Sephardic Jews were expelled from Portugal or forced into exile from the persecutions of the late 15th century, and continue to be considered and to refer to themselves as "Portuguese Jews" or "Jews of the Portuguese Nation".

c) At present, they represent a small group, some members having Israeli citizenship, being that the majority of them are living in Brazil most of the time and being the majority individuals with higher education, in general independent workers, and that, for the most part, speak languages other than Portuguese.

d) There are many Sephardic Jews who aspire to retrieve the Portuguese nationality, which they are prevented from, thanks to the expulsion and/or forced exile of their ancestors.

d) Spain – where similar expulsions occurred - has already adopted a legislation, since 1982, that allows for the naturalization of Sephardic Jews of Spanish origin after two years of residence in Spain, similar to the norm applicable to a limited set of origins. And, in 2008, the country adopted the option *carta de naturaleza*"¹⁶ and awarded the Spanish nationality to the Sephardic Jews, regardless of residence, thanks to a set of objective indicators (names, family language) and competent certification by the community Rabbi. The Sephardic Jews interested in recovering the Portuguese nationality stress that other countries, such as Greece, have already adopted a legislation of reacquisition of nationality for

¹⁶ General process for applications where exceptional circumstances concur.

Jews expelled and their descendants and that even Germany did this, in the face of a more recent tragedy.

g) Portugal is one of the few countries, perhaps the only one that does not have norms for reacquisition of nationality by the descendants of expelled Jews.

Thus, bearing in mind the constitutional norms and rules applicable,

The CDS-PP Member of Parliament, undersigned, thereby requests the Minister of Justice, through Your Excellency, in the terms and fundamentals that precede, the answer to the following questions, which are also addressed, on this day, to the Minister of Internal Affairs.

1. Are you aware of the situation and this desire of Sephardic Jews of Portuguese origin?

2. Do you consider it is possible to take into account the retrieval of the Portuguese nationality, under the law and regulations in force? In what manner?

3. Being that there is no legislation that can meet the needs of the Sephardic Jews of Portuguese origin, is there any chance it may be adopted soon? Do you agree particularly with the adoption of a regime of naturalization of Sephardic Jews originating in Portugal similar to what is already in place in neighbouring Spain?

Palácio de São Bento, 10th May, 2010

Member of the Parliament
José Ribeiro e Castro

**9. Response from the Ministry of Justice to
Member of the Parliament José Ribeiro e
Castro 9th July, 2010 (letter no. 1897)¹⁷**

Ministry of Justice

Office of the Minister

Subject; Question No 2835 /XI/1^a, 14th MAY, 2010

In answer to question no. 2835 /XI/1^a, of 14th May, regarding the "Return of expelled Jews". The acquisition of Portuguese nationality by Sephardic Jews, presented by Members of the Parliamentary of the CDS-PP Group. The Ministry of Justice is honoured to clarify the following:

1. With the entry into force of the Organic Law No 2/2006, of 17th April, on 15th of December, 2006 (via the publication of Decree-Law no. 237-A/2006, of 14th December) fourth amendment to the Law that regulates the legal regime of the award, acquisition and loss of Portuguese nationality - Law no. 37/81, of 3rd October, this matter has come to be the competence of the Ministry of Justice, and the Ministry of Internal Affairs, through the Foreigners and Borders Service, a competence only for, and when it is consulted by the Central Registry, in the context

¹⁷ The Minister of Justice was Alberto Martins (PS), and Prime Minister José Sócrates.

of the processing of the requests for the acquisition of Portuguese nationality by wish and naturalization, the issuance of the opinion, in accordance with paragraph 5 The article 27 and paragraph 6 of article 57 of the Regulation of Portuguese Nationality, which is based on the verification of existing background in its databases, and may, for this purpose, consult other entities, services and security forces.

2. The Central Registry, where the processes of nationality are carried out, is unaware of any manifestation or specific and real intention on the part of Sephardic Jew citizens as organized community.
3. The various legal norms in the scope of nationality never explicitly devoted any form of recognition or acquisition of Portuguese nationality to the Jewish community with Portuguese ancestors,
4. The current legal context, with the reform introduced by Organic Law No 2/2006, of 17th April, does not contain any exceptional norm of recognition of nationality directed to communities with Portuguese ancestors, especially of Jewish origin, but allows the Government (Art. 6, 6), in the context of discretionary power, to grant the Portuguese nationality to individuals experiencing a variety of circumstances, including "being considered descendants of Portuguese" and "being a member of the communities of Portuguese ancestry".

5. This provision, which allows the acquisition of nationality in the use of a discretionary power, has been applied in a proportional manner, within the framework of a systematic assessment and inserted in a realistic context, in accordance with the principles and guidelines that help establish a standard of justice that is acknowledged and respected by all actors and concerned parties.
6. The creation of a special regime to apply specifically to a particular community, with roots in such a distant past would not only have to be based on a historical study and an in-depth analysis, with current statistical data, supported by deep discussion on Portuguese society, but it would also have to take into account the necessary balance and respect the wished of other communities of Portuguese ancestry that date back to a not-so-distant past.
7. This matter has been the object of a consolidated and constant understanding on the part of the Ministry of Justice, whereas mere historical roots cannot, per se, matter in the appeal to special regime provided for in paragraph 6 of article 6.

With our best regards
The Head of the Office
Nuno Ferreira da Silva

VII. The draft laws

10. Draft Law No. 373 /XII/2nd¹⁸

*Fifth Amendment to Law no. 37/81, of 3rd October
(Nationality Law)*

Explanatory statement

Although we do not know first Jews arrived in the territory that is today known as Sefarad and "roughly" constitutes the Iberian Peninsula, it is believed that their presence in the region relates to the establishment of Phoenicians trading posts along the seafront. There are, however, in Portuguese territory two archaeological findings that attest to the seniority of their presence. The first is a tombstone of the 5th century in the Municipal Museum of Mértola. The second is a stone ring dating from the 2nd century in the ancient city of Castelo Branco on the outskirts of Marvão.

Throughout the Middle Ages these Sephardic Jews played, along with the Arab conquerors a very important cultural role, promoting the dissemination of philosophy and traditional cultures, among other things. Often, in addition to devoting themselves primarily to the crafts, the peninsular Jews were also

¹⁸ Project presented by the Socialist Party

"physicians" (doctors), philosophers, theologians, astronomers, cosmographers, poets, writers and traders.

At the dawn of the Kingdom of Portugal, a Jew named Iehudah ben Iaish ibn Iahia (or Yahia ben Yahia) a companion of Afonso Henriques in the conquering of Santarem, Lisbon, Mértola and Alcácer do Sal (where he died in battle) was ordered Knight by our first king as a reward for the services rendered, is granted the right to use a crest, named grand Rabbi of Portugal and given vast properties in the outskirts of Lisbon, and at the border of Alentejo.

Between the 9th and 16th centuries, the Iberian Peninsula reached in one of its golden moments in terms of culture. Individuals such Shmuel ibn Negrela, Shlomo ibn Gabirol, Ibn Paquda, Moshe ibn Ezra, Yehuda Halevi, Avraham ibn Ezra, Moshe bem Maimon (Maimonides), Moshe bem Nachman (Nachmanides), Avraham Zacuto, Itzchak Abravanel, among others are born here. A consequence of such a vast and diverse wisdom is, without doubt, the creation of the Toledo School for Translators by Alfonso X of Castile, grandfather of D. Diniz, bringing forth a philosophical, theological and scientific renaissance of classic cultures which, at the time reverberated throughout Europe.

With some degree of certainty, it's safe to say that during the first dynasty and part of the second, there was a growing awareness of the presence of Jews and Jewish culture in the

national territory. Through their poetry, it's possible to follow the evolution and intensification of the adoration of peninsular Jews toward Sefarad. It is not, therefore, surprising that when D. Manuel signed the Decree of Expulsion of Heretics in 1496, the Portuguese Jews, just as the Spanish Jews had previously done in 1492, considered the expulsion from Spain and Portugal as a "second expulsion of Jerusalem".

Not so many years ago, Sam Levy, a notable figure of the Israeli Community of Lisbon, a historian, collector (a large part of his museological collection was donated to the National Museum of Archaeology), a trader and great friend of Portugal, born in Smyrna (present-day Turkey), had in his magnificent collection an iron key that he said was the key to the door of the house of their ancestors in Portugal before the expulsion of the Jews. This was not rare among the Sephardic Jews of Portuguese origin who sought refuge and settled in the region when they were banished from Portugal.

On the other hand, these descendants of Portuguese Jews have kept alive the Ladino language, (*El djudeo-espanyol, djidio, djudezmo o ladino es la lingua favlada por los sefardim, djudios arrondjados de la Espanya en el 1492 i de Portugal en 1496. Es una lingua derivada del kastilyano i del portugues i favlada por 150.000 personas en komunitas en Israel, la Turkiya, antika Yugoslavia, la Gresia, el Marroko i las Amerikas, entre munchos otros*) which, as well expressed above in that same language: the Jew-Spanish, "djidio", "judezmo" or Ladino is the language spoken by the Sephardic Jews expelled from Spain in 1492 and Portugal in 1496. The language derives from the Spanish and the Portuguese and is

spoken by 150,000 people in communities in Israel, Turkey, the former Yugoslavia, Greece, Morocco and in the Americas, among many other places.

With the "*conversão em pé*", title by which the forced conversion of Jews decreed by D. Manuel in 1497 became known, Jews in Portugal officially ceased to exist, only old Christians and new Christians. This new nomenclature of new Christians revealed the desire of the dismemberment with Jewish culture in the Kingdom, and empowered the clergy and the nobility to take their properties.

This situation was worsened by the "slaughter of the Jews of Lisbon" in 1506 and later with the introduction of the Inquisition in Portugal.

Established permanently in Évora, in 1536 through the "Cum ad nihil magis" Bull of Paul III, the Inquisition in Portugal fiercely persecuted those considered heretics at the time, particularly the new Christians of Jewish origin, not only because of the religious divergence, but fundamentally and up to where we were able to assess, but also the desire to take possession of their belongings and economic and financial capacity.

The pernicious inquisitorial activity was cancelled with the License of 2nd May, 1768, issued by the Marquis of Pombal, promulgated by D. José, who put an end to "*Rois feints*" confirming in his preamble: "...being the blood of the Hebrews

the same as the blood of the Apostles, deacons, priests and Bishops they ordained and consecrated. (...) I had to investigate further and discover the cause for the distinction of New Christians and Old Christians in my Kingdoms and Domains (...), which for that a long period of time have discouraged and oppressed so many of My faithful vassals." He also recalls some Bulls, in particular of Boniface IX and Clement VI: " (...) That no Christian forced the Jews to being baptized; that they do nothing to prevent their feasts and solemnities; that they do not violate their cemeteries; and that if they do not impose on them higher taxes than those paid by the Christians of the respective provinces". The License issued by D. José ends the following way: "I order that all Licenses, Letters, Orders and other Provisions, designed and introduced to separate, disunite and turning the States and vassals of these Kingdoms against each other in a continuous and perpetual discord, with the pernicious promotion of the above distinction between New Christians and Old Christians, are abolished and extinguished starting on the date of this publication, as if they had never existed and that the respective records are locked, cancelled and crossed out in such a way that they cannot be read; so that it is completely abolished until the memory of this attack on the Spirit and Canons of the Universal Church, of all the local Churches and against the Laws and praiseworthy customs of My Kingdoms, oppressed with such beguiling and deplorable damages caused for more than a century and a half, by these malicious machinations."

Ironically, in the future, this License caused the Portuguese crypto-Jews a serious problem in the identification of their ancestors prior to Marquis of Pombal. The situation created by the destruction of all records of new Christians is so

serious that only sporadically, can the genealogy articulate preceding facts with subsequent facts and only indirectly.

However, the Inquisition in Portugal was only formally extinct with the advent of Liberalism, after the pronouncement, by the unanimous vote in Constitutional Courts on 24th August, 1820, of the proposal presented by Member of Parliament Francisco Simões Margiochi in his session on 31st March, 1821.

During the inquisitorial period, the new Christians and the Portuguese Jews who managed to escape and exit the Kingdom, fled to some regions of the Mediterranean (Gibraltar, Morocco, South of France, Italy, Croatia, Greece, Turkey, Syria, Lebanon, Israel, Jordan, Egypt, Libya, Tunisia and Algeria), northern Europe (London, Nantes, Paris, Antwerp, Brussels, Rotterdam, Amsterdam), Brazil, West Indies and the United States of America, among others.

At the beginning of the 19th century, began some Sephardic Jews originating in Morocco and Gibraltar returning to Portugal and in 1801 the

Jewish modern cemetery is built, next to English cemetery in Lisbon. However, only it was only in 1868, by royal charter of D. Luis, permission was granted to "Jews from Lisbon, to build a cemetery for the burial of their coreligionists", currently the cemetery of Rua D. Afonso III, in Lisbon.

However, the establishment of the Community was happening at a very slowly rate and, it's only in 1897 that the first Israeli Committee of Lisbon is elected and also commission with the purpose of building a Synagogue in Lisbon, the current "Shaarei Tikva" Synagogue (Doors of Hope), near the Rato Square.

With the establishment of the Republic, through order of a License by the *Governo Civil* of Lisbon, on 9th May, 1912, the Jewish community was now legally recognized in Portugal.

However, throughout the 20th century, despite the magnitude of their problems and frequent anti-Semitic persecution throughout the world, a certain stability in the Israeli community in Lisbon was taking shape. During the War of 1939-45, the support given by the community of Lisbon to refugees escaping the Nazi barbarism was remarkable, refugees that sought a new life in new places, in particular in the United States and Brazil. For this reason, the Shaarei Tikva Synagogue is frequently visited by relatives and descendants of these refugees who came through somehow thank the support they have received.

During this long period of two centuries between the dawn of the 19th century and today, some descendants of Portuguese Jews who fled inquisitorial persecution, returned to Portugal, settled there and created new family, intellectual, cultural, political, professional and commercial ties. However, their ancestors had created some greatly renowned communities in the lands where they gone through or settled to escape the ignominy of the Court of the Inquisition and of their followers,

and founded notable synagogues such as the Portuguese Synagogue in Amsterdam, the Shearith Israel Synagogue in New York, the Bevis Marks Synagogue, in London, the Touro Synagogue, in Newport (Rhode Island, USA), the Portuguese Synagogue in Montreal, the Tzur Israel Synagogue in Recife, among others.

On the other hand, in the first quarter of the 20th century, Samuel Schwarz reveals to the world the existence of a Jewish community hidden in slopes of the Serra da Estrela in Belmonte. Thanks to the isolation of the village and a certain complicity of its inhabitants, it was also possible to observe that a group very few people kept some traditions of a distant past Jew in secrecy. This fact, in addition to having created a pole of strong reference for the Jewish diaspora, triggered new research and stimulated the tireless spirit and entrepreneurial spirit of a soldier, the Captain Barros Basto (rehabilitated unanimously by the 1st Commission of the National Assembly on 29th February, 2012) to create structures to support the rehabilitation of other crypto-Jews in Portugal. The National Assembly, in its Resolution no. 119/2012 of 10th August recommended the Government to "proceed to the rehabilitation and reintegration of Artur Carlos Barros Basto, infantry captain in the Army, who was a target of political and religious segregation in 1937".

As a result of many studies and works developed by some of our more notable historians, other communities have been discovered, even in the 20th century that live semi-isolated and are still convinced of their Jewish descent, in particular in the border regions of Beira interior and Trás-os-Montes.

The peak of Portuguese Sephardic Jewish happened in 1989, in Castelo de Vide, when the then President of the Republic, Mário Soares publicly presented his apologies on behalf of the Portuguese State, to the descendants of Jews who were persecuted by the Inquisition and for damage caused, thus rehabilitating their image and social condition.

Another event of utmost importance to the Sephardic Jews was the Iberian "Evocative Session of the 500 years after the Decree of Expulsion of the Jews from Portugal" promoted by the National Assembly, in December 1996, in which the annulment of the Decree of D. Manuel was voted, unanimously. This session was filled with symbolism and emotion. This act of homage to resilience, perseverance, fight, faith and hope of the Jewish people, was also sponsored by the President of the Republic, Jorge Sampaio.

As a result of the rehabilitation of a strong image and culture that was almost destroyed by Portuguese Inquisition with the connivance of the sovereigns, it makes sense to promote the return of the descendants of Jews expelled or those who escaped the terror of the Inquisition to the middle of their people and their Portuguese nation. But it also makes sense that the descendants of Portuguese Sephardic Jews that demonstrate objectively the tradition of belonging to a Sephardi community of Portuguese origin are granted the possibility of acquisition of Portuguese nationality by naturalization.

This is the object of this Draft Law.

Article 1

Amendment to Law no. 37/81, of 3rd October

Article 6 of Law no. 37/81, of 3rd October, as amended by Law no. 25/94, of 19th August, by Decree-Law no. 322-A/2001, of 14th December, as amended by Decree-Law no. 194/2003, of 23rd August, by the Organic Law no. 1/2004, of 15th January, and the Organic Law no. 2/2006, of 17th April, is replaced by the following:

"Article 6.

[...]
[...]
[...]
[...]
[...]
[...]
[...]

The Government may grant nationality by naturalization, with waiver of the requirements provided for in subparagraphs (b) and (c) of paragraph 1, to the descendants of Portuguese Sephardic Jews, through demonstration of tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent."

Article 2.

Regulations

The Government will make the necessary changes to the Regulation of Portuguese Nationality, approved by Decree-Law no. 237-A/2006, of 14th December, within 30 days of the date of publication of the present law.

Article 3

Entry into force

The present law shall enter into force on the effective start date of the act referred to in the preceding article.

National Assembly, 7th March, 2013

Members of the Parliament

Maria de Belém Roseira (PS)
Carlos Zorrinho (PS)
António Braga (PS)
Alberto Martins (PS)
Ricardo Rodrigues (PS)
Ana Catarina Mendonça Mendes (PS)
Filipe Neto Brandão (PS)
Pedro Delgado Alves (PS)
Isabel Oneto (PS)
Pedro Silva Pereira (PS)
Odete João (PS)
Rosa Maria Bastos Albernaz (PS)

Jorge Fão (PS)

11. DRAFT LAW. 394 /XII/2nd

*Fifth amendment to Law no. 37/81, of 3rd October
(Nationality Law) - Portuguese Nationality of
members of the communities of Sephardic Jews
expelled from Portugal*

Explanatory statement

Sephardic Jews are the Jews descending from ancient and traditional Jewish communities of the Iberian Peninsula (*Sefarad*), the name deriving from the Hebrew *Sefardim* (*Sefardi*, in the singular).

The presence of these communities in peninsular Spain goes a long way back. It's believed that they settled there during the era of the Phoenician navigations, although their presence can only be attested from the time of the Roman Empire. And here they stayed, at the dawn of Christianity, as well as the subsequent Visigoth (and Christian), and Moor (and Muslim) invasions. They were, therefore, communities that existed before the formation of the Iberian Christian kingdoms, as was the case of the formation of Portugal from the 12th century.

These Jewish communities were subject to persecution by the Spanish Inquisition, from the end of the 15th century, when the first expulsions of 1492 occurred. Many sought refuge in

Portugal, where persecutions did not yet exist, on the contrary, a law originally enacted by D. Manuel guaranteed them protection. However, this situation quickly changed, as the Portuguese king D. Manuel determined, in 1496, the expulsion of all Sephardic Jews (also known as *Marranos*) who did not submit to a Catholic baptism. Many Jews were, thus, expelled from Portugal in the late 15th century and early 16th century - both those on neighbouring kingdoms of Castile and others, who had sought refuge in our country, and the members and descendants of ancient and traditional Jewish communities established on Portuguese soil.

In general, these peninsular Jews fled to countries such as the Netherlands and the United Kingdom and to the North of Africa, and later to American territories, currently Brazil, Argentina, Mexico and the United States of America. There, we can still find descendants of the European communities expelled from Portugal, especially in Brazil and in the USA.

In spite of the persecutions and the distance from their ancestral territory, as well as the fact that to survive they had, in several periods, to secretly follow their traditions or even interrupt their practice, many Sephardic Jews passed on the Portuguese feeling from generation to generation. Particularly, many maintained rites and traditional objects, typical of the ancient Jewish worship in these lands, and kept and reproduced their Portuguese surnames, in addition to cultivating a strong memorial relationship with Portugal.

To cite names of Sephardic Jews from regions of Alentejo, Beira-Baixa and Trás-os-Montes:

Amorim; Azevedo; Álvares; Avelar; Almeida; Barros; Basto; Belmonte; Bravo; Cáceres; Caetano; Campos; Carneiro; Carvalho; Crespo; Cruz; Dias; Duarte; Elias; Estrela; Ferreira; Franco; Gaiola; Gonçalves; Guerreiro; Henriques; Josué; Leão; Lemos; Lobo; Lombroso; Lopes; Lousada; Macias; Machado; Martins; Mascarenhas; Mattos; Meira; Mello e Canto; Mendes da Costa; Miranda; Montesino; Morão; Moreno; Morões; Mota; Mucada; Negro; Nunes; Oliveira; Osório (ou Ozório); Paiva; Pardo; Pilão; Pina; Pinto; Pessoa; Preto; Pizzarro; Ribeiro; Robles; Rodrigues; Rosa; Salvador; Souza; Torres; Vaz; Viana e Vargas.

In turn, we found the following names in Sephardic Jewish families in Diaspora in the Netherlands, the United Kingdom and the Americas:

Cardoso; Carvalho; Castro; Costa; Coutinho; Dourado; Fonseca; Furtado; Gomes; Gouveia; Granjo; Henriques; Lara; Marques; Melo e Prado; Mesquita; Mendes; Neto; Nunes; Pereira; Pinheiro; Rodrigues; Rosa; Sarmiento; Silva; Soares; Teixeira e Teles.

And, finally, it is common to find the following Sephardic Jewish names in Latin America:

Almeida; Avelar; Bravo; Carvajal; Crespo; Duarte; Ferreira; Franco; Gato; Gonçalves; Guerreiro; Léon; Leão; Lopes; Leiria; Lobo; Lousada; Machorro; Martins; Montesino; Moreno; Mota; Macias; Miranda; Oliveira; Osório; Pardo; Pina; Pinto; Pimentel; Pizarro; Querido; Rei; Ribeiro; Robles; Salvador; Solva; Torres e Viana.

The Portuguese pattern of many of these family names is clear enough, along with other evident Castilian pattern.

There are descendants of these Jewish communities that never hid the desire to recover the ancient nationality that they are prohibited of having thanks the expulsion of their ancestors. This issue has been the object of normative reflection both in Spain and in Portugal, at different historical moments. In Portugal, however, a satisfactory and lasting solution was never established.

In 2010, during the 11th Legislature, the Parliamentary Group of the CDS-PP became interested in this issue, responding to the approach taken by "*representatives of the community of Sephardic Jews, living abroad, who wish to be able to recover the nationality (Portuguese) that was their ancestors'.*" In this context, Member of Parliament Ribeiro e Castro, who was also at the time the president of the Committee on Foreign Affairs and Portuguese Communities, addressed parliamentary questions to the minister of Justice and the minister of Internal Affairs of the 18th Constitutional

Government (minority government of PS, chaired by Prime Minister Jose Socrates).

In 2010, an electronic petition, entitled "*Restitution of Portuguese Nationality to Portuguese Sephardic Jews* ", was carried out, which called for the following:

"Therefore, we, Portuguese citizens, through the signatories to this petition, hereby request, before the Powers consisting of the Portuguese Republic, the restitution of the Portuguese nationality to Portuguese Sephardic Jews."

This petition, addressed to the National Assembly, having as first subscriber Marco Antonio da Silva Moreira, collected 1,181 signatures, didn't have official admission and apparently is still pending on the site <http://www.peticaopublica.com/?pi=SEFARDIM> . The most obvious parliamentary sequence that it had were the parliamentary questions from the CDS, which resumed several issues.

These were, respectively, the parliamentary questions no. 2835 /XI/1st and no. 2837 /XI/1st, both of 10th of May, 2010, later renewed as parliamentary questions no. 4034 /XI/1st and no. 4032 /XI/1st, both of 8th of July, 2010.

Here, it is alleged that:

"The Sephardic Jews were expelled from Portugal or forced into exile from the persecutions of the late 15th century, and continue to be considered and to refer to themselves as "Portuguese Jews" or "Jews of the Portuguese Nation".

Currently, they are a small group, with some members having Israeli citizenship, being that the majority of them are living in Brazil most of the time and corresponding in majority to individuals with higher education, in general independent workers and who, for the most part, speak languages other than the Portuguese.

There are many Sephardic Jews who wish to retrieve the Portuguese nationality, which they were prohibited to have thanks to the expulsion and/or forced exile of their ancestors.

Spain – where similar expulsions occurred - has already adopted a legislation, since 1982, that allows for the naturalization of Sephardic Jews of Spanish origin after two years of residence in Spain, similar to the norm applicable to a limited set of origins. And, in 2008, the country adopted the option "carta de naturaleza"¹⁹ and awarded the Spanish nationality to the Sephardic Jews, regardless of residence, thanks to a set of objective indicators (names, family language) and competent certification by the community Rabbi.

The Sephardic Jews interested in recovering the Portuguese nationality stress that other countries, such as Greece, have already adopted a legislation of reacquisition of nationality for Jews expelled and their descendants and that even Germany did this, in the face of a more recent tragedy.

¹⁹ General process for applications where exceptional circumstances concur.

Portugal is one of the few countries, perhaps the only, which does not have norms for reacquisition of nationality by the descendants of expelled Jews".

The CDS party received a response from the Government in office at the time to the following questions:

“Are you aware of the situation and this desire of Sephardic Jews of Portuguese origin?”

Do you consider it is possible to take into account the retrieval of the Portuguese nationality, under the law and regulations in force? In what manner?

Being that there is no legislation that can meet the needs of the Sephardic Jews of Portuguese origin, is there any chance it may be adopted soon? Do you agree particularly with the adoption of a regime of naturalization of Sephardic Jews originating in Portugal similar to what is already in place in neighbouring Spain?

The minister of Justice would respond to the issues addressed by CDS-PP in a response with the date of registration in the National Assembly of 14th July, 2010 and which can be viewed in DAR, II - series B, No.171 /XI/1 , Suppl. 2010.07.14 (pp. 99-100).

Then, after inserting the issue in the context of Nationality Law in force (Law no. 37/81, of 3rd October) and its normative evolution (latest amendment by Organic Law no. 2/2006, of 17th April), as well as addressing the problem in general, the Government in office pointed out the possibility of considering individual cases under the provisions of Article 6, paragraph 6

of the law, in the context of discretionary power, considering the application "in a proportional manner, within the framework of a systematic assessment and inserted in a realistic context, in accordance with the principles and guidelines that help establish a standard of justice that is acknowledged and respected by all actors and concerned parties." The Government to the regime included in the current Nationality Law, since 1981, which allows the Government to "award Portuguese nationality by naturalization (... to the descendants of Portuguese [or] to the members of the communities of Portuguese ancestry", with exemption of general and permanent residence requirements in Portuguese territory and sufficient knowledge of the Portuguese language.

On the other hand, the response of the Government in office at the time admitted the following: " The creation of a special regime to apply specifically to a particular community, with roots in such a distant past would not only have to be based on a historical study and an in-depth analysis, with current statistical data, supported by deep discussion on Portuguese society, but it would also have to take into account the necessary balance and respect the wished of other communities of Portuguese ancestry that date back to a not-so-distant past."

But the same response of the then Government mitigated the apparent openness, emphasizing that "This matter has been the object of a consolidated and constant understanding on the part of the Ministry of Justice, whereas mere historical roots cannot, per se, matter in the appeal to special regime provided for in paragraph 6 of article 6."

On the other hand, the almost simultaneously answer by the Ministry of Internal Affairs to the questions addressed by CDS-PP does didn't add anything relevant to the understanding of the Ministry of Justice - cfr. DAR, II - series B, No.179 /XI/1st, Suppl. 2010.07.23 (pp. 108-109).

The understanding of the Parliamentary Group CDS-PP diverged from the response given by the Government at office, since our interpretation is that the Article 6, paragraph 6 of the existing law was already enough to decide in favour of the applications for naturalization that were submitted by descendants of ancient communities of Sephardic Jews expelled from Portugal. We considered that the relevant administrative procedures should be carried out with an open criteria, in order to achieve a proper historic compensation to applicants proving their descent from those ancestors forced into exile or expelled from the country.

However, we would agree on a special regime inspired by the law in force, but because it contains an expressed provision addressed to the case of the descendants of Portuguese communities of Sephardic Jews, would help avoid conflicts of interpretation, would go beyond the mere discretion and encase, therefore, an appropriate and desirable legal security.

Thus, the CDS-PP party was pleased to observe the presentation, by the Socialist Parties, of the Draft Law no. 373 /XII/2nd - Fifth amendment to Law no. 37/81, of 3rd October (Nationality Law), - which certainly means the historical study and in-depth analysis that is alluded in government responses of 2010, had been concluded.

Now, there are legal conditions to move forward, in a suitable context of broad and extended cross-party political consensus.

Thus, in accordance with the constitution and applicable laws, the members of the Parliamentary Group CDS-PP present the following Draft Law:

Article 1
Amendment to Law no. 37/81, of 3rd October

Article 6 of Law no. 37/81, of 3rd October, as amended by Law no. 25/94, of 19th August, by the Decree-Law no. 322-A/2001, of 14th December, as amended by the Decree-Law no. 194/2003, of 23rd August, by the Organic Law no. 1/2004, of 15th January, and the Organic Law 2/2006, of 17th April, is replaced by the following:

"Article 6.

[...]

1- [...]

2- [...]

3- [...]

4- [...]

5- [...]

6- [...]

7- The Government will grant the nationality by naturalization, with waiver of the requirements provided for in subparagraphs (b) and (c) of paragraph 1, the Sephardic Jews of ancient Portuguese origin, through demonstration of tradition of

belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal, namely family names, family language, direct or collateral descent”.

Article 2.
Regulation

The Government will make the necessary changes to the Regulation of Portuguese Nationality, approved by Decree-Law no. 237-A/2006, of 14th December, within 60 days from the publication of the present law.

Article 3
Entry into force

The present law shall enter into force on the effective start date of the act referred to in the preceding article.

National Assembly, 4th April, 2013

Members of the Parliament

Nuno Magalhães (CDS-PP)
José Ribeiro e Castro (CDS-PP)
Telmo Correia (CDS-PP)
Teresa Anjinho (CDS-PP)

José Lino Ramos (CDS-PP)
Helder Amaral (CDS-PP)
Michael Seufert (CDS-PP)
João Rebelo (CDS-PP)
Inês Teotónio Pereira (CDS-PP)
Isabel Galrica Neto (CDS-PP)
John Pinho de Almeida (CDS-PP)

VIII. The parliamentary debate on the draft laws²⁰

(...)

To proceed with the presentation of the legislative initiative of the PS party, Member of Parliament Maria de Belém Roseira has the floor.

Maria de Belém Roseira (PS): - the President, Honourable Members of the Parliament: The draft law that the Parliamentary Group of the Socialist Party presents today is intended to allow the acquisition of Portuguese nationality by

²⁰ The Assembly of the Republic Gazette, I Series - Number: 077, 12nd April, 2013, page 43

naturalization, to descendants of Portuguese Sephardic Jews, through demonstration of tradition of belonging to a Sephardi community of Portuguese origin, based on objective and proven requirements of connection to Portugal.

Mr. Carlos Zorrinho (PS): - Very well!

Maria de Belém Roseira (PS): - This solution accompanies one that, in a democratic context, was adopted by neighbouring Spain. I take this opportunity to welcome Mr. Ambassador of Spain and the Jewish communities here present, who are attending the meeting.

Applause from the PS, the PSD and the CDS-PP parties.

On the day in which we are celebrating the 50th anniversary of the encyclical *Pacem in Terris*, I think that it is symbolically important to invest in peace and tolerance among peoples. But this draft law is much more than the definition of its object. It is, truly, a reunion with the History of Portugal. Its explanatory statement, abundantly justifies its fairness and justice.

Despite the fact that Jewish diaspora in Iberian territory, according to Inácio Steinhardt, is difficult to date in exact terms, the existing historical sources places it well before the birth of Jesus, and has been reinforced and extended with the communications that the vastness of the Roman empire allowed.

But what is really important to emphasize is the importance of the role that the Jews played in the formation of the Portuguese kingdom, beginning with D. Afonso Henriques and the conquering of Santarem - strategically vital to the conquering of Lisbon - as well as the Revolution of 1383, which

allowed the consolidation of nationality and, later, in the Restoration.

The centrality of the role of the Jews in Portugal while holders of political and economic power, the relations with Europe and also the knowledge in humanities or in exact sciences were decisive for the construction of our history and of our expansion.

Voices of PS: - Very well!

Maria de Belém Roseira (PS): - The number of Jew Quarters in Portugal, recently formed, allows the discovery of the history of the Jews in the history of Portugal. And this work is essential, because only by knowing our history well we can get to know ourselves and project our collective future.

The establishment of the Inquisition in Portugal, imposed by the Catholic kings in exchange for the marriage of D. Manuel I with *Infanta* D. Isabel, in an era in which the Jews would represent about a fifth of the Portuguese population, as well as the decree of expulsion of heretics", in 1496, were seen as a "second expulsion from Jerusalem", according to the poetry of the time.

Many authors refer to the difference in the activities of the Portuguese Inquisition from those of the Spanish. But such considerations, to be true, will never erase the shame of the heinous crimes committed by this institution, nor erase the fact that the expulsion or the condemnation of eminent personalities of the Portuguese society, personalities who influenced Europe and the world, represented the amputation of the country's resources in various levels.

The proof is the strong influence that many of those who were expelled or managed to escape had in the countries where they settled, in the fields of thought, knowledge and entrepreneurship.

The atrocities committed give expression to the ethical, intellectual, economic and social impoverishment that fanaticism, intolerance and the obscurantism, combined, always generate, through the production of monstrosities that shame us and that compromise not only the period in which they are committed but the times that follow.

This was a true symbol of the "banality of evil", created in our contemporary world, in the context of the Holocaust. Of all those who fought against the Inquisition, Father António Vieira holds a special place. He was insistently pursued and even arrested because of this. He produced many revealing speeches. The pressure that he exerted upon D. João IV, "not asking for favour, but justice", or saying "if there is hatred in the judgment, no matter how justified the innocence of the accused is, never will the sentence of the judge be fair".

Abundantly cited by Anita Novinsky, Father António Vieira affirms, whereas "the new Christian martyrs of Catholicism itself subject to a criminal court".

This is a place where "the innocent perish and the guilty triumph, because the latter have the remedy in their mouths and poison in their hearts".

Many authors have masterfully described what the Inquisition represented, as well as the persecution that Jews suffered in Portugal, giving expression to the deep feeling of the

Portuguese people. I quote, just as examples, Oliveira Martins, in his History of Portugal, or Camilo Castelo Branco in The Jew. Antero de Quental considered the expulsion of the Jews one of the causes of the decay of peninsular peoples. This was done in the name of God or of the purity of blood, but, in fact, had as main goal to alienate them from positions of power and from owing the wealth that they possessed! The fanaticism, intolerance and the blindness of the Inquisition represented only came to an end with the powerful Marquis of Pombal.

I would like to remind you of the event described by Cecil Roth, when, as a result of an order dictated by king D. José, that all the Portuguese who had Jewish blood should use a yellow hat, the Marquis appeared in the court with three hats under his arm.

Inquired by the king what he intended to do with them, the Marquis replied, saying that, in obedience to the orders of the king, one of hat was for himself, one for the grand inquisitor and another for his majesty.

This diploma, if approved, will be a practical demonstration of *A Theory of Justice*, by Amartya Sen: It's not enough to have fair institutions and fair people; we need fair achievements.

What the Parliamentary Socialist Party really intends, following the apology presented to the Jewish people, on behalf of the Portuguese State, by the President in office Mário Soares, in 1989, and to pay tribute to our heritage of tolerance, universalism and miscegenation, is that, within our reach, "the feet of the Jews", which have its roots in Portugal "find rest here", if that is their wish.

Applause from the PS, the PSD and the CDS-PP parties..

The President: I now give the floor to Member of the Parliament José Ribeiro e Castro to present the project of law no. 394/XII (2nd), authored by the CDS-PP.

Mr. Jose Ribeiro e Castro (CDS-PP): - President, Honourable Members: First of all, I would like to salute the Jewish community, who is watching this debate from the gallery, and ask them to extend greetings from the CDS to the Rabbi of the synagogue, who we know had begun to watch the debate, but that he had to leave.

I also salute Mr. Ambassador of Spain, who I have already welcomed. Today is a historic day for many of our compatriots from the Jewish community, it is also a historic day for us, the National Assembly, and for Portugal.

It's a day of historic restoration, a day of memory restoration, a day in which we re-establish a connection that suffered 520 years of forced separation, in which we close the gap that should never have existed. It's as if we're renovating the succession of Portuguese nationality, the succession of common belonging, which, in the heart of the one who left, has never been interrupted.

Mr. Artur Rêgo (CDS-PP): - Very well!

Mr. Jose Ribeiro e Castro (CDS-PP): - It's a day in which we again welcome who should never been forced to leave Portugal. Therefore, it's a happy day.

I quote a text of a Jewish author who made the chronicles of Sephardic diaspora, so we can have an idea of the importance that this has had to the New World: "The dispersion of the people of Israel, especially after the establishment of the Inquisition in the Iberian Peninsula, in this case in Portugal, witnessed a brain drain to the entire world, including the islands and the Portuguese colonies overseas. In the New World, a favourite was Brazil, to where many new Christians decided to travel, especially after the second half of the 16th century, thanks to their level of education - to cover all branches of human knowledge - and their economic means, both of which are very large.

The history of the Jewish diaspora in the Americas began with the exodus of 1492" – from Spain - "" and continued with the expulsion of Portugal, in 1496-98. For more than a century, Jewish cartographers, cosmographers and scientists were indispensable to establish the bases of both Iberian empires in the Americas. They would be the foundation of European discoveries, from Africa to the Americas. With the expulsion of the Jews from Iberian territory and with the atrocities of the Inquisition, the future Iberian colonial powers lost not only a very important intellectual fraction, which was indispensable to national economic growth, but also, and limited and even stunted their connection with the rest of Europe, which was financially in the hands of the Jews. This applies in particular to Portugal, which had an empire that covered all continents."

a) And the study is concluded by stating the following: "Even if not many, the presence of Sephardic Jews, especially of Portuguese origin, was very important in the economic growth of the Americas, from Canada to Brazil, through the Anglo American colonies and Caribbean."

a) Therefore, it's not a surprise that in a documentary series produced a few years ago in RTP, entitled *Portugal Sem Fim* (Endless Portugal), which visited the Portuguese presence around the world, four of the 33 episodes, signed by important Portuguese journalists, were specifically about the Sephardi diaspora.

These works were signed by Seruca Salgado, and, indeed, it would be important that RTP could reprise in the coming days (I was able to watch some of the episodes at the time), and tell the story of the presence of Sephardic descent in Israel, Turkey, in Belmonte, Faro, in Jerusalem, in Curacao, in the Netherlands and in the United States. We also know that there is a strong presence of Sephardic descent in Brazil, and is hence, the reason why CDS party was involved with this process.

For us, on the CDS bench, it's a day of great satisfaction and joy, honour and pride.

I would like to say, in order to illustrate the importance that social networks have today in politics, that it was through Facebook that we were alerted to the existence of this trail that cannot be extinguished in our memory and that we became interested on the subject. It was the Sephardic Jews in Brazil that approached us.

In 2010, we followed an electronic petition, which has collected more than 1000 signatures in a short period time, and that is still active, and we have two questions for the Ministers of Justice and Internal Affairs in office at the time, to hear appeal to their sympathy to the acceptance of this request. We received a response of these ministers, pointing out that the mere historical tradition was not enough, and that was a more thorough investigation what was needed.

At that time, we had the understanding that the existing law would be enough for a favourable administrative action, since the paragraph 6 of article 6 of the law (which, incidentally, serves as the basis and inspiration of the PS party draft law, as well as ours) already allowed discretion recognition of the Portuguese nationality or the attribution of nationality could prove they descended from Portuguese communities, as is the case.

We have continued to work in this direction and also recently addressed the Central Registry and the Minister of Justice, in order to raise awareness for this issue and that administrative clear guidelines were to be defined. The Socialist Party took the initiative, which is a very important step, which we welcome.

We are committed to this initiative and also presented a very similar draft law. In our understanding, this has advantages because it overcomes the administrative discretion and the uncertainty that could exist, and helps build a structure that will be now passed and regulated, which will be endowed with normative certainty and regulatory certainty, therefore have the indispensable legal certainty. This is a big step.

I have to say that I will recall the dialog that I established for CDS, as a very touching, moving dialog. It is, in fact, very touching to hear that there are people who do not have our nationality, but who want to, and that, in spite of 500 years of mistakes - and we know that they are 500 years of much suffering - , have kept the names, language, traditions, and have maintain and cultivated the specific symbols and rites and still have the wish to return and be among us.

Voices of the CDS-PP: - Very well!

Mr. Jose Ribeiro e Castro (CDS-PP): - This is, for us, the most important sign of *portugality* that can exist, the most important sign that they belong here. For this reason, it's great that we welcome them back, with the same flag and in the same community.

It is, therefore, very important that this Parliament unanimously vote the draft laws that were presented here today.

Applause from the CDS-PP, the PSD and the PS parties.

(a) *(In From Exodus to Success: Chronicles of Sephardi Success in the New World (1492-1820), Joseph Abraham Levi, Rhode Island College, 2003).*

The President (Teresa Caeiro): - Member of Parliament Paulo Simoes Ribeiro has the floor for an intervention.

Mr. Paulo Simoes Ribeiro (PSD): - President, Honourable Members.

First of all, I would like to, on my own behalf and on behalf of the Parliamentary Group PSD, welcome the Jewish community, watching this debate, which is important to us.

We are discussing today, in this House, on the basis of historical reasons, the amendments to Article 6 of the Nationality Law, in order to be awarded nationality by naturalization to descendants of Portuguese Sephardic Jews.

In short, we can say that the first presence of Jews in the Iberian Peninsula territory date back to the era of Phoenician navigations. They have always had an important intervention in the foundation of nationality, as it mentioned before, and played a very important role in the culture of the peninsula in the Middle Ages and the Modern Age, until the moment of their expulsion at the end of the 15th century.

We also know about their presence among us as new Christians, as well as the persecution they suffered at the hands of the Inquisition. However, we all recognize that there is a great difficulty in the identification of the descendants of Portuguese crypto-Jews prior to the time of the Marquis of Pombal, attending to the destruction of all records of new Christians decreed by royal charter of 1768 that determined the end of inquisitorial activity in Portugal.

After that date, some descendants of Portuguese Jews fleeing persecution returned to Portugal, establishing themselves, creating new family, cultural and professional ties and having their history and uniqueness recognized, in particular through the apology of the Portuguese State in 1989, which restored their image and identity, in addition to the evocative session of the 500 years after the decree of expulsion of the Jews from Portugal, promoted by this House in December 1996.

In spite of the persecutions and the distance from their ancestral territory, many Sephardic Jews always passed the Portuguese sentiment from generation to generation. However, the effect of the rehabilitation and recognition process of this identity and culture will be the promotion of the return to Portugal of the descendants of Jews expelled or persecuted, in

particular through the possibility of acquisition of Portuguese nationality by naturalization to objectively demonstrate the tradition of belonging to a Sephardi community of Portuguese origin.

Therefore, in addition to today making history, it is the opinion of the Parliamentary Group of the PSD that we are doing an act of elementary justice. For us, a country without memory is a country without history, and a country without history will always be a country without glory.

Applauses from the PSD, the PS and the CDS-PP.

The President (Teresa Caeiro): - Member of the Parliament Cecília Honório has the floor for intervention.

Cecília Honório (BE): - President, Honourable Members: The Bloco de Esquerda Party has observed the legislative initiatives presented here by PS and CSD for the award of nationality to descendants of Sephardic Jews, recognizing that History isn't made with "ifs", that there is no correction of the past and that the persecution that people and this community suffered has reshaped the course of History of this Country.

The importance that we attribute to these initiatives is not to rewrite History, it's not to erase the past, but to face and to restore justice in face of the biggest massacres with biggest national impact. Therefore, we approve these two legislative initiatives, not knowing the incidence of this initiative – we do not have the effective knowledge. We salute the generosity of CDS as regards the exemption criterion regarding knowledge and domain of the Portuguese language for the recognition of this right and we salute the two political parties for bringing bring this effort to deal with the

past, complementing the initiative undertaken in the neighbouring country.

Applauses of the BE Party.

The President (Teresa Caeiro): - Member of Parliament António Filipe, of the CFP Party, has the floor, for an intervention.

Mr. António Filipe (PCP): - President, Honourable Members, we have nothing to add to what has already been said here. We would just like to say that we will be voting in favour of these initiatives.

IX. History

12. The Decree of Alhambra

This is the decree of expulsion promulgated by Queen Isabel and king Fernando of Spain, in 1492, which forced the Spanish Jews - the *Sefaradim* - to leave Spain forever.

King Fernando and Queen Isabel, by the grace of God, king and queen of Castile, Leon, Aragon and other dominions of the kingdom - to prince João, the dukes, marquises, counts, to the holy order, Priors, masters of cavalry, lords of castles, knights, and all the Jews, men and women of any age, and any other who this letter may concern - health and grace to you.

You know well that in our dominions there are certain bad Christians who judaized and committed apostasy against our Holy Catholic Faith, much due to communications between Jews and Christians [new]. Therefore, in the year of 1480, we ordain that the Jews are separated from the cities and towns of our dominions, and that separated quarters are given [*calles*, in Spanish, or Jewish Quarters] in the hopes that through such separation the situation can be remedied. And we ordain the establishment of an Inquisition in these areas; and in the 12 years she has operated, the Inquisition found many guilty people. In addition, we have been informed by the Inquisition and by others that the great insult to Christians persists, and continues as a result of conversations and communications they maintain with the Jews, Jews who attempt in all ways to subvert our Holy Catholic Faith and try to move Christians of their beliefs.

These Jews instruct these Christians [new] in their ceremonies and in compliance with the Law, undergo circumcision to children, and giving them books of prayers, and declaring to them the days of fasting, and meeting with them to teach them the stories of their Law, notifying them when they should wait for Easter and how to observe it, giving them bread without yeast and ceremonial beef and instructing them about things of which they should abstain, with respect to power and other items of compliance with the Law of Moses, making them understand that there is no other law or truth beyond. Everything is clear, on the basis of the confessions of these Jews and also those perverted by them, that this result has major damage to our Holy Catholic Faith.

And because we knew that the real remedy for such damage and difficulty is the interruption of all communication between the so-called Jews and Christians and to get them out of all our kingdoms, we seek to expel the Jews from all cities and towns and places of Andalusia where there seems to be a greater damage, believing that it will be enough for the those in other cities and towns and places of our kingdoms and possessions will cease to commit the deviations cited. And because we have been informed that neither that, nor the justice made to some of the Jews found guilty in above crimes and transgressions against our Holy Catholic Faith, has been a complete remedy to prevent and correct such a reproach and insult to the faith and Christian religion; because every day the Jews seem to grow and continue their malevolent and offensive purpose wherever they reside or relate; and because our Holy Faith has been offended in every way, and so many people that God has protected until this day as well as those already affected, it the Holy Mother Church role to repair and reduce the subject to its original state, because of

our human frailty, we could succumb to the diabolical temptation that is continuously upon us, if the main cause was not removed, which would be the expulsion of so-called Jews of the kingdom. Because when a serious and detestable crime is committed by some members of a given group, it is reasonable to assume that the group is dissolved or wrecked, the minority by the majority being punished for one another, those who perverted the good and honest people in the cities and towns, and which by its contagion could offend others, are cast from among the people, and even by other lesser causes, that would be offensive to the Republic, and all the more for the largest of these crimes, dangerous and contagious as they are.

In addition, with the council and opinion of eminent men and knights of our kingdom, and other people of knowledge and wisdom of our Supreme Council, after much deliberation, it's decided that all Jews and Judaism are ordered to leave our kingdoms, never being allowed to return.

And we ordain beforehand in this edict that all Jews any age who reside in our areas and territories, to leave with their sons and daughters, servants and relatives, large or small, of any age, until end of July of this year, and not dare return to our land, not even a step on or cross them in any other way. Any Jew who does not comply with this decree, and is found in our kingdom or areas, or returns to the kingdom of any way, will be punished with the death and the confiscation of all their belongings.

We ordain beforehand that no person in our kingdom, of any state, or nobility, hide or hold or defend any Jew, be it publicly or secretly, from the end of July, at their home or anywhere in our kingdom, under penalty of loss of their belongings, vassals, fortresses and hereditary privileges.

In order for the mentioned Jews to have their homes and belongings in given period of time, we assure the royal protection and security, until the end of the month of July, so they can sell and exchange their belongings and furniture and other items, and to dispose of them as they wish; and that during the said period, nobody harm or injury or injustice their people or property, which goes against justice and will incur in punishment that happens to those who violate our royal security.

Thus we guarantee the permission to the referred Jews to remove their goods and belongings from our kingdoms, whether by sea or by land, with the condition that do not take gold or silver or coined money or any other item prohibited by the laws of the kingdom.

Therefore, we ordain all advisers, judges, magistrates, knights, bearers of blazon, officers, good men of the city of Burgos and other cities and towns of our kingdoms and domains, and all our vassals and subjects, to observe and comply with the letter and everything contained in it, and to give all the help and support that is necessary for its implementation, subject to punishment by our sovereign grace to confiscate all their assets to our royal house.

And that this is known by all, and for which no one should pretend ignorance, we ordain that this edict is proclaimed in all the squares and customary meetings of all given cities; and that in the major cities and towns of the diocese, that it is proclaimed by the city *Clamador* in the presence of public scribe and that neither one nor the other will do the opposite of what was intended, subject to punishment by our sovereign grace of the spoil of their positions and the confiscation of the goods of those who do the opposite. And we ordain that a testimony is provided

to the court, in the manner of signed testimony, of how this edict is being carried out.

Given in the city of Granada, in the thirty-first day of March in the year of our Lord Jesus Christ - 1492.

Signed,
I, the King,
I, the Queen.
Juan de Coloma, Secretary of the King and the Queen, who has written by order of their Majesties.

13. DAMIEN GÓIS

In "Chronica do Felicissimo Rey D. Emanuel da Gloriosa Memória "

"In the monastery of São Domingos there is a chapel, called Jesus, and in it there is a Crucifix, where a sign was then seen, to which forums of miracle were given, although those who were in the church judged otherwise. Among these, a new Christian (thought he saw), a candle lit next to the image of Jesus. Hearing this, some men of low condition pulled him by the hair, out of the church, and killed him and burned the body in Rossio.

Many people came forward to witness the tumult and the friar addressed a preaching by inciting against the new Christians, after which two friars came out of the monastery bearing a crucifix in their hands and shouting: "Heresy! Heresy!" This impressed great mob of foreigners, seamen coming from the Netherlands, Zealand, Germany and elsewhere. More than five hundred began to kill the new Christians who were in the streets, and the bodies, dead or alive, were burned in bonfires that were lot in riverside (Tejo) and Rossio. The Portuguese slaves and servants helped, with great diligence, carried wood and other materials to light the fire. And, on this Sunday of *Pascoela*, they killed more than 500 people.

This crowd of bad men and friars who, without fear of God, went through the streets inciting people of such cruelty, joined more than a thousand men (from Lisbon) of quality (social) of (foreign seamen), who, on Monday, continued this evilness with even greater harshness. And the streets no longer

had new Christians, so they assaulted the houses where they lived and dragged them into the streets, with the children, wives and daughters, and threw them into the fire, living and dead, without any mercy. It was such a cruelty that even the children and babies were executed, ripping them into pieces or smashing them against the walls. And did not forgotten to pillage the houses and steal all the gold, silver and linen that they could find. And this came to such dissolution that they (even) dragged innocent men, women, young men and girls from the church, separating them from the Tabernacles, and images of Our Lord, Our Lady and other saints, that the fear of death had embraced them, and thence dragged them out, killing them and fanatically burning them without fear of God.

On this (Monday), more than a thousand souls perished, and no one in the city would dare resist, because there were few people in the streets because of the plague, only the most honoured were outside. And if the lord mayors and other justices wished to go against such evil, felt so much resistance that were forced to retreat so the same didn't happen to them.

There were, among the Portuguese involved in this vicious, horrid and inhumane affair, some who, because of hatred toward the Christians, to avenge themselves, gave the impression to the foreigners that they were new Christians, and in the streets or in their (own) houses they would rob and the harm them, without anyone putting an end to such misfortune.

On Tuesday, these men continued the evil, but not as much as in the previous days; they no longer found people to kill, because all new Christians, who escaped this fury, were kept safe by honoured and pious people, (however) they were unable to prevent the death of more than 900 people.

On the evening of that day, Regent Aires da Silva and the Governor Dom Alvaro de Castro went to the city, with the

people who could gather, but (all) was done. They gave the King the news in the village of Avis, (who) immediately sent the Prior of Crato and Dom Diogo Lopo, Baron of Alvito, with special powers to punish the guilty. Many of them were arrested and hanged for justice, especially the Portuguese, because the foreigners, with the theft and spoil, went to their ships and fled to their destination. (As for) the two friars, who walked the city with a Crucifix, they were removed from the orders and sentenced to burn."

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