

Burundi: Citizenship legislation; procedures for obtaining citizenship; whether dual citizenship is possible and, if so, how to obtain it; procedures for renouncing citizenship and the necessary documents; grounds for revoking citizenship

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During an 18 December 2006 telephone interview, the first secretary of the Embassy of Burundi in Ottawa stated that the 18 July 2000 law on the reform of the nationality code is still in force and that it deals with Burundian citizenship. The following is an English translation, provided by the Translation Bureau of the Department of Public Works and Government Services of Canada, of the full text of law 1/013 of 18 July 2000 on the reform of the nationality code (*Loi No 1/013 du 18 juillet 2000 portant réforme du code de la nationalité*), which addresses the issues of acquiring, renouncing and recovering Burundian citizenship, the question of dual citizenship, and the grounds for revoking Burundian citizenship.

[Translation provided by the Translation Bureau of the Department of Public Works and Government Services of Canada]

THE PRESIDENT OF THE REPUBLIC,

Considering the Constitutional Act of Transition, particularly its articles 11, 95 and 107.2;

And considering the decree-law No. 1/93 of August 10, 1971, on the Code of Nationality;

The Cabinet having deliberated;

The National Assembly having adopted;

ENACTS THIS LAW:

CHAPTER 1: DEFINITIONS

[Article] 1: For the purposes of this Law, the following terms have the following meanings:

1: Nationality is the legal and political link that binds an individual with the population that constitutes a Sovereign State.

2: Naturalization is the voluntary acquisition of Burundian nationality by a foreigner who has never held it previously.

3: The nationality option is the possibility offered by the legislation to decline or claim Burundian nationality.

4: Dual nationality is the legal situation of an individual who, as well as their nationality of origin, acquires a second nationality.

CHAPTER II: WAYS OF ESTABLISHING BURUNDIAN NATIONALITY

SECTION I: ATTRIBUTION OF NATIONALITY

Article 2: A person is Burundian by birth if he or she is:

(a) the legitimate child, even if born abroad, of a father who is on the day of the birth, or, in the case of the death of the father before the birth of the child, who was on the day of his death, Burundian;

(b) the illegitimate child of a mother of any filiation that is the object of a voluntary procedure of recognition, legitimation or judicial recognition establishing filiation with a Burundian father;

(c) an illegitimate child whose paternal filiation is not known and that is the object of a voluntary procedure of judicial recognition establishing his or her filiation with a Burundian mother;

(d) a child that has been repudiated by his or her father but whose mother is a Burundian national on the date of the repudiation.

SECTION II: ACQUISITION OF NATIONALITY

)1: ACQUISITION BY LEGAL PRESUMPTION

Article 3: A person is Burundian by legal presumption if he or she is:

(a) a child born in Burundi of parents whose legal identity is unknown;

(b) a child found in Burundi, unless it has been established that the child was not born on Burundian soil;

(c) a minor child, when the father or, if the paternal filiation is not established, the mother acquires or recovers Burundian nationality.

)2: ACQUISITION BY DECLARATION

Article 4: A foreign woman who marries a Burundian or whose husband acquires this status by option becomes Burundian by marriage.

However, Burundian nationality is only acquired when there is a celebration of a valid marriage.

Article 5: A person may acquire Burundian nationality by option if he or she is:

(a) the child born of parents of whom at least one, pursuant to articles 2 and 3, is Burundian at the time of the option;

(b) in the case of full adoption, the child adopted by a person of Burundian nationality, provided that the person concerned lives in Burundi when the option is declared.

)3: ACQUISITION BY DECISION OF PUBLIC AUTHORITY

Article 6: Burundian nationality can also be acquired by naturalization. Naturalization is granted by the President of the Republic by decree.

Article 7: The admissibility of the application for naturalization is subject to the following conditions:

(a) at the time of the application, the person concerned must be at least twenty-one years of age, or, if the child's application is made at the same time as that of the father or mother, twenty years old at most;

(b) The applicant must be of good behaviour, life and character, and must not have been sentenced for any crime;

(c) The applicant must prove his or her attachment to the Burundian nation and assimilation with Burundian citizens;

(d) The person concerned must have resided permanently in Burundi for at least ten years. This period is reduced to five years for foreigners married to Burundian women and foreigners who have done exceptional favours for Burundi.

Article 8: A decree determines the practical conditions of application of the preceding article and creates a naturalization advisory board.

Article 9: Persons who have become Burundian by naturalization do not have the right to be elected until after a period of ten years from the publication of the act of naturalization in the Official Bulletin.

SECTION III: THE PROCEDURE

)1: DECLARATION OF A FOREIGN WOMAN

Article 10: A foreign woman acquires, by marriage, the nationality of her Burundian spouse by simple declaration.

Article 11: The declaration is made at any time during or after the celebration of the marriage. It is received or registered by the officer of civil status.

Article 12: This declaration takes effect as of right from the time it is registered.

)2: THE DECLARATION OF OPTION

Article 13: The declaration of option is made before the Public Prosecutor, who informs, for investigation, the Municipal Administrator of the applicant's place of residence. The declaration is made by the person exercising parental authority if the person concerned is a minor and by the person concerned if he or she is of full age.

Article 14: The Public Prosecutor immediately posts the declaration on the doors of his or her office to allow anyone who may know of any potential objections to make them known to the Public Prosecutor.

Article 15: Once the investigation, which must not last longer than ten months from the date of the posting, is closed, the Municipal Administrator forwards the results of the investigation to the Public Prosecutor.

Article 16: Approval of the option is pronounced by order of the Minister of Justice and notified to the person concerned, the Public Prosecutor and the Municipal Administrator.

The approval order is recorded in register of instruments declaring or modifying nationality.

It is also published as an excerpt in the Official Bulletin of Burundi by the declarant, and the option does not take effect until this publication.

Article 17: The nationality option incurs payment of a fee, the amount of which is set by a joint order from the Minister of Justice and the Minister of Finance.

Said fee and publication costs are assumed by the declarant.

)3: THE APPLICATION FOR NATURALIZATION

Article 18: Any application for naturalization must carry the signature of the person who submits it. It is addressed to the Minister of Justice care of the appropriate Public Prosecutor, after completion of an investigation following the procedure set out [determined] in articles 13 to 15.

Once the investigation is closed, the Public Prosecutor forwards the file to the Minister of Justice, who, if appropriate, recommends the naturalization to the president of the Republic, after receiving the opinion of the naturalization advisory board.

Article 19: In addition to the investigation and publication costs, acquisition of nationality by naturalization entails payment of a fixed fee, the amount of which is determined by joint order of the Minister of Justice and the Minister of Finance.

Article 20: The notice of naturalization is recorded in the register of instruments declaring or modifying nationality. An extract is also published in the Official Bulletin by the beneficiary.

The naturalization does not take effect until this publication.

CHAPTER III: DUAL NATIONALITY

Article 21: Any Burundian, to whom the law confers this status as a native, is entitled to have dual nationality.

Article 22: Any person having held Burundian nationality as a native and having lost it by acquiring a foreign nationality may regain Burundian nationality, on condition of applying

for it, and keep his or her second nationality.

Article 23: An adopted child can, on reaching the age of majority, apply to recover Burundian nationality without losing the nationality of the adoptive parent.

Article 24: The recovery in question must comply with the rules of procedure provided in Chapter V of this Law.

Article 25: A minor child is a dual national as of right when the father or, if paternal filiation is not established, the mother acquires a dual nationality.

Article 26: The dual national cannot use his or her status as foreigner in Burundi to avoid fulfilling his or her civic obligations.

Article 27: Abroad, a Burundian citizen with dual nationality is entitled to diplomatic protection and consular services.

Article 28: For the resolution of potential nationality conflicts, the judge hearing the case will apply Burundian law.

Article 29: The status of dual national must be indicated in the register of instruments declaring or modifying nationality. The name of the other state of which the dual national is a national will also be clearly indicated in the register.

CHAPTER IV: LOSS OF BURUNDIAN NATIONALITY

SECTION I: RENUNCIATION

Article 30: Those who hold a foreign nationality may, [upon] reaching full age, renounce their Burundian nationality.

Article 31: The renunciation is addressed to the Minister of Justice. Persons residing abroad can address a declaration of renunciation carrying their authenticated signature to the Minister of Justice by registered letter, along with the documents establishing that they meet the required conditions.

Article 32: The renunciation is recorded in the register of instruments declaring or modifying nationality.

The renunciation, duly approved by the Minister of Justice, does not take effect until after its publication in the Official Bulletin.

SECTION II: DIVESTITURE

Article 33: Any person may be divested of Burundian nationality who:

(a) became Burundian pursuant to articles 4, 5 or 6, if it was acquired by deceit, fraud, corruption of a public officer or by any other illegal means;

(b) enlists in a foreign army of a state declared at war against Burundi.

Article 34: The divestiture is ordered by the high court in the place of residence of the person concerned, which will render its judgment on the action brought by the Public Prosecutor or by any person concerned.

Article 35: The judgment, the terms of which will mention the complete identity of the person concerned, is subject to objection, appeal and appeal for annulment.

Article 36: The Public Prosecutor will publish by excerpt in the Official Bulletin and will record in the register of instruments declaring or modifying nationality any decision having force of res judicata and ordering the divestiture.

Article 37: The judgment takes effect on the date of its pronouncement if it is contested and, if it is pronounced by default, the day of its service to the person concerned or of its publication in the Official Bulletin.

CHAPTER V: RECOVERY OF BURUNDIAN NATIONALITY

Article 38: A person having Burundian nationality as a Burundian native who lost it under the old Code of Nationality due to the voluntary acquisition of a foreign nationality can recover it by simple declaration.

Article 39: To recover Burundian nationality, the person shall make a declaration before the Minister of Justice.

Article 40: Recovery of Burundian nationality incurs payment of a fee, the amount of which is set by joint order of the Minister of Justice and the Minister of Finance, except in the case of the indigent.

Article 41: The act of recovery must be recorded in the register of instruments declaring or modifying nationality. It does not take effect until after its publication in the Official Bulletin.

CHAPTER VI: DISPUTE OF NATIONALITY

Article 42: The Government has the first privilege to determine that a person does not possess Burundian nationality.

Article 43: The high court of the place of residence of the person concerned holds original jurisdiction to deal with nationality challenges.

Any judgment in the matter is subject to objection, appeal and appeal for annulment.

Nationality exceptions are of public record and must be raised by the judge as a matter of course.

Article 44: Nationality proceedings are instituted by summons.

When it originates from the person contesting the decision made by the Government concerning them, the summons is directed against the Public Prosecutor. When it originates from a third party, the summons is directed against the person whose nationality is contested, but the Public Prosecutor is still an added party. The Public Prosecutor may also institute such proceedings, either as a matter of course or at the request of an interested third party.

Article 45: The definitive judicial decisions rendered in matters of nationality have, with regard to all parties, authority of res judicata. At the request of the Public Prosecutor, they are served on the Minister of Justice to be recorded in the register of instruments declaring or modifying nationality.

Article 46: The Minister of Justice can deliver a certificate of nationality to any Burundian who requests it and whose nationality is beyond question.

CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS

Article 47: Notwithstanding article 17, the applications prepared for a final decision at the coming into force of this Law will be forwarded to the President of the Republic without further formality.

Article 48: All previous provisions contrary to this Law are repealed.

Article 49: This Law comes into effect on the day of its enactment.

Dated at Bujumbura, July 18, 2000. (Burundi 18 July 2000)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection.

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Copy sent by the Embassy of the Republic of Burundi in Ottawa on 30 November 2000. English translation provided by the Translation Bureau of the Department of Public Works and Government Services of Canada.

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