

Brazil issues new resolution establishing the procedures for request of naturalization: what changes?

Last Friday (May 4, 2018), the Brazilian Ministry of Justice together with the Ministry of Security issued a resolution – *Portaria Interministerial 11 /2018*- establishing new proceedings for the request of nationality through naturalization. This resolution was issued in order to comply with the New Brazilian Immigration Law, which entered into force last year, in November.

This new resolution has made minor but relevant changes in the previous resolution regulating the request for nationality, which we explain below:

1) No need to provide proof of revenues in Brazil

A positive change in the new resolution is the elimination of the requirement to provide proof of revenues in Brazil. The previous resolution required the applicant to submit copy of his/her labour registry demonstrating a formal job in Brazil and proof of payments, or, for instance, copy of the by-laws of the company he owned and proof of revenues thereof. This requirement was very difficult to be complied with by people that were mainly employed in the informal market.

2) Requirement to do a specific Portuguese language test

A negative change promoted by the new resolution is the requirement that the applicant submits a specific certificate for proving his/her ability to communicate in Portuguese. This certificate is called Celpe-Bras – Certificate for Proficiency in Portuguese Language for Foreigners and is of responsibility of the Brazilian Ministry of Education. The relevant exam occurs only once or twice a year and the applicant wishing to make this exam has to pay applicable fees. So far, the Ministry of Education has not published any decision exempting the fees for refugees or people that are unable to pay for it.

For more information about this exam, please check the following website: <http://portal.inep.gov.br/web/quest/aco-es-internacionais/celpe-bras>.

Previous resolutions did not have a specific requirement for the submission of this certificate and other means could be used to prove the applicant's ability to communicate in Portuguese.



If you are willing to apply for nationality and wishes to avoid any type of problem in the proceeding and prevent any delays, ideally you should do this exam and obtain the Celpe-Bras certificate before making your request for naturalization.

However, there are some legal issues that could be raised by the applicant to request a waiver of the submission of this exam.

The Brazilian Law of Immigration only states that the applicant for ordinary nationality should demonstrate its ability to “communicate in Portuguese, considering the conditions of the applicant” (Article 65, III of the Law). It does not specify by which means the applicant should prove this ability. In addition, the Law takes into consideration the specific conditions and circumstances of the applicant. The requirement for submission of a specific certificate restricts the applicant’s ability to prove its knowledge of the language and does not consider the specificities of the applicant.

Although there are legal grounds to challenge this requirement of submission of the Celpe-Bras certificate, the Ministry of Justice and the Federal Police may not accept them and the applicant may need to resort to the Judiciary to guarantee that he can apply for nationality without the need to present this specific certificate.

3) Other documents

Other documents required by the new resolution for the request of nationality such as copy of RNE, proof of residence, among others, have remained the same as those required in the previous resolution.

Please feel free to contact us should you need any assistance in immigration or other legal issues in Brazil.

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