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SOCIEDADE DE ADVOGADOS, RL

NATIONALITY LAW

ACQUISITION OF NATIONALITY

PROOF OF RELEVANT CONNECTION TO THE PORTUGUESE COMMUNITY

The Supreme Administrative Court issued its Ruling (Ruling 4/2016, from September 30, 2016) on the acquisition of Portuguese nationality through marriage, specifically in what concerns the requirement of proving a relevant connection to the Portuguese community and in allocating said burden. The Court overturned the decision of a lower Administrative Court wherein it had been previously established that the burden was on the applicant to prove a relevant connection to the Portuguese community, as part of the application process to obtain Portuguese Nationality.

The Supreme Administrative Court has established that in a motion to oppose the acquisition of nationality brought under the Portuguese Nationality Law, the burden falls on the State Prosecutor's Office (Ministério Público) to prove the inexistence of a relevant connection to the Portuguese community.

Under Portuguese Nationality Law, applicants wishing to acquire nationality through conscious will effect, benefit from a de facto rebuttable presumption of a relevant connection to the Portuguese community. In this context, the national legislator opted to harmonise the statute pursuant to the European Convention on Nationality, under the terms of which the party opposing the acquisition of nationality has to rebut the presumption establishing a relevant connection to the aforementioned national community.

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