

SPANISH NATIONALITY

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1.- INTRODUCTION.

Nationality is the link between a person and his or her State, conferring on both parties a series of rights and obligations that are binding on each of them.

A distinction must be made between nationality by origin and derivative nationality. Nationality by origin is that which is attributed to a person from birth, on the basis of political-legal criteria. Derivative nationality refers to those cases in which a person acquires nationality by various means, other than birth.

2.- NATIONALITY BY ORIGIN

The fundamental criterion for the attribution of the Spanish nationality by origin is the birth of a person whose father or mother is Spanish, regardless of the place of birth.

The following are considered to be native Spaniards:

- a) Those individuals born of a Spanish parent.
- b) Those individuals born in Spain of foreign parents if at least one of the parents was also born in Spain.
- c) Those individuals born in Spain of foreign parents if neither of them has a nationality, or if the legislation of either's parent's home country does not confer the child any nationality.
- d) Those individuals whose first known abode was in Spanish territory are presumed to have been born in Spain.

In the case of adoption by Spaniards of foreign minors, a distinction is made between:

1. If the adoptee is under eighteen years of age, he/she acquires, as from adoption, the Spanish nationality by origin.
2. If the adoptee is over eighteen years of age, he/she may opt for Spanish nationality by origin within a period of two years from the constitution of the adoption.
3. Without prejudice to the provisions of section 1, if in accordance with the legal system of the country of origin the adopted minor retains his/her nationality, this shall also be recognised in Spain.

3.- SPANISH NATIONALITY BY POSSESSION OF STATUS

This way of acquiring Spanish nationality is not very common, as it is a very specific case and is used in those cases in which the nationality was not legally possessed, but the person has acted in good faith during the possession of the nationality.

For further information, see section 10 "Links of interest"

4.- SPANISH NATIONALITY BY OPTION

This way of obtaining Spanish nationality is foreseen for those persons who lack the necessary requirements to hold the nationality of origin, but who are connected to Spain due to their circumstances.

The Democratic Memory Law provides for a novelty with regard to the acquisition of Spanish nationality and recognises the right to claim Spanish nationality for people born outside Spain to a father, mother, grandfather or grandmother, originally Spanish and who, having suffered exile for political or ideological reasons, beliefs or sexual orientation and identity, lost or renounced their Spanish nationality.

5.- SPANISH NATIONALITY BY NATURALISATION

Spanish nationality will be granted at the discretion of the Government based on the concurrence of the requestor's exceptional circumstances.

For further information, see section 10 "Links of interest"

6.- SPANISH NATIONALITY BY RESIDENCE

This type of application for Spanish nationality is the most common. It is granted mainly on the basis of the length of time the applicant has resided in Spain legally and on a continuous basis and immediately prior to submitting the application.

The temporary requirements for the application for nationality are as follows:

1. For the granting of nationality by residence, it is required that the residence has lasted ten years.

Five years shall be sufficient for those who have been granted refugee status and two years in the case of nationals from Latin American countries, Andorra, Philippines, Equatorial Guinea or Portugal and Sephardic Jews.

2. A period of residence of one year shall be sufficient, *inter alia*, for:
 - People born in Spanish territory
 - People who have not exercised the right to opt in due time
 - People who at the time of the application have been married for one year to a Spanish man or woman and is not legally or *de facto* separated.

- Widows or widowers of a Spanish national, if there was no legal or de facto separation when the spouse died
 - People born outside Spain, with a father or mother, grandfather or grandmother who were originally Spanish
3. In all cases, residence must be legal, continuous and immediately prior to the application.
 4. The interested party must prove good civic conduct and sufficient degree of integration into Spanish society.

Who can apply for it?

- a) The interested party who is emancipated or over eighteen years of age.
- b) The person over fourteen years of age assisted by his or her legal representative.
- c) The legal representative of a minor under fourteen years of age.
- d) The interested party with a disability with the necessary support and procedural adjustments.

What documents do I need to submit?

The application for Spanish nationality by residence will require the presentation of the following documents:

- a) Standard application form and, where appropriate, mandate or power of attorney of the voluntary representative.

- b) Birth certificate from the country of origin, duly legalised and translated, if necessary, unless the interested party proves their status as a refugee or stateless person.
- c) Passport, unless the interested party accredits their status as a refugee or stateless person.
- d) Documentation relating to the degree of integration into Spanish society.
- e) Proof of payment of the fee.

How to prove my integration into Spanish society

In order to accredit the integration into Spanish society of applicants for nationality, the following tests must be taken:

1. Pass both the exams for obtaining the Spanish as a Foreign Language Diploma (DELE) at least at level A2, and the test that accredits knowledge of the historical, constitutional and socio-cultural values of Spain (CCSE).
2. Both tests will be designed and administered by the Instituto Cervantes.

The tests will be face-to-face, but may also be taken remotely using electronic means that allow the identity of the interested parties and the correct development of the tests to be verified, in the cases and with the requirements determined by the Instituto Cervantes.

3. The test on constitutional and socio-cultural knowledge of Spain will consist of sixty percent of questions relating to knowledge of the Constitution and the administrative and territorial organisation of Spain and forty percent of questions on Spanish culture, history and society. All the

questions in this test will be closed-answer questions and will have the same value within the test as a whole.

If the applicant does not provide the certificates certifying that he/she has passed the tests at the Instituto Cervantes, he/she must authorise, on the nationality application form, direct access to this information in the Instituto Cervantes databases.

Applicants who have previously obtained a diploma in Spanish as a Foreign Language (DELE) of at least level A2 will be exempt from the DELE exam, as well as nationals of: Argentina, Bolivia, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Equatorial Guinea, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Dominican Republic, Uruguay and Venezuela.

7.- REQUIREMENTS COMMON TO THE ACQUISITION OF NATIONALITY BY OPTION, NATURALISATION OR RESIDENCE

There are a series of common requirements for the validity of the acquisition of Spanish nationality by option, naturalisation or residence:

- a) That the person over fourteen years of age and capable of making a declaration by himself/herself swears or promises fidelity to the King and obedience to the Constitution and the laws.
- b) That the person himself/herself declares that he/she renounces his/her previous nationality (this requirement does not apply to nationals of the countries mentioned in Article 24(1) of the Civil Code, and of Sephardic Jews native to Spain).
- c) That the acquisition is recorded in the Spanish Civil Registry.

8.- LOSS OF SPANISH NATIONALITY

Spanish nationality can be lost in the following cases:

1. Emancipated persons who, while habitually residing abroad, voluntarily acquire another nationality or exclusively the foreign nationality they had before emancipation. The loss shall occur three years after the acquisition of the foreign nationality or after the emancipation, respectively.

However, the interested parties may avoid the loss if within the period indicated they declare their desire to retain their Spanish nationality to the Civil Registry.

The acquisition of the nationality of Ibero-American countries, Andorra, the Philippines, Equatorial Guinea or Portugal is not enough to cause the loss of Spanish nationality by origin.

2. Emancipated Spaniards who have another nationality, habitually reside abroad and voluntarily renounce their Spanish nationality lose it.
3. In the case of Spaniards who were born and reside abroad and are Spanish because they were born to a Spanish father or mother who was also born abroad, when the laws of the country in which they reside attribute to them the nationality of that country, they will lose their Spanish nationality if they do not declare their desire to retain it before the Civil Registry Office within three years, from emancipation or majority.

9.- REACQUISITION OF SPANISH NATIONALITY

Spanish nationality can be reacquired after having been lost when the following requirements are met:

1. *Be legally resident in Spain. This requirement does not apply to emigrants nor to emigrants' children.*
2. *State their wish to reacquire Spanish nationality before the Spanish Civil Registry.*
3. *Record the reacquisition in the Civil Registry.*

10.- LINKS OF INTEREST

<https://www.mjusticia.gob.es/es/ciudadania/nacionalidad/que-es-nacionalidad/como-adquiere-nacionalidad/modos-adquisicion>

https://administracion.gob.es/pag_Home/Tu-espacio-europeo/derechos-obligaciones/ciudadanos/residencia/obtencion-nacionalidad.html

11.- REFERENCE LEGISLATION

- Spanish Constitution of 1978
- Organic Law 4/2000, 11 January, on the rights and freedoms of foreign nationals in Spain and their social inclusion
- Law 20/2011, 21 July, from the Civil Registry
- Law 19/2015, 13 July, on measures for administrative reform concerning the Administration of Justice and the Civil Register
- Law 20/2022, 19 October, on Democratic Memory
- Royal Decree, 24 July 1889, for which the Civil Code is published
- Royal Decree 1137/2002, 31 October, which regulates the diplomas of Spanish as a Foreign language (DELE)

- Royal Decree 1004/2015, 6 November, approving the Regulation that regulates the procedure for the acquisition of Spanish nationality by residence
- Royal Decree, 14 November 1958, approving the regulations of Civil registration Act

Legal warning: the information contained in this guide is for information purposes only, and does not give rise to any rights, expectations or responsibilities of any kind for Diputación de Alicante.

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