

I. GENERAL PROVISIONS

MINISTRY OF JUSTICE

**10441** *Instruction of 29 September 2015 of the General Directorate for Registrars and Notaries on the application of Law 12/2015 of 24 June on the granting of Spanish nationality to Sephardic Jews originally from Spain.*

Law 12/2015 of 24 June on the granting of Spanish nationality to Sephardic Jews originally from Spain satisfies a legitimate aspiration of the communities of the Sephardic Diaspora whose ancestors were forced into exile or to convert to Christianity as a result of the Edict of the Palace de la Alhambra of 31 March 1492.

The Law introduces a new way of obtaining Spanish nationality by providing that the exceptional circumstances referred to in article 21 of the Civil Code are met by Sephardic Jews originally from Spain who prove their status as such and their special links to Spain, regardless of whether or not they reside in Spain. Complementing this article 23 of the Civil Code is amended to avoid their having to renounce their previous nationality on acquiring Spanish nationality. This remedies the previous anomaly that Sephardic Jews were the only group obliged to make this renunciation on being granted Spanish nationality on grounds of two years' residence.

The Law also contains a procedure which is novel both on account of its being entirely electronic, in line with the need for modernisation which society imposes on all parts of the public administration, and in terms of the form of proof of the requirements for the obtaining of Spanish nationality. Thus the processing of the application begins with the notary who must examine the documentation, assess the validity and evidentiary weight of the documents presented as a whole and, if he initially finds the requirements of article 1 of the rule to be met, have the applicant appear before him and issue a decision as to whether the said requirements are complied with, which will be recorded in a certificate of fact specific to these purposes. Finally when the supplementary reports referred to in the Law have been obtained the ruling of the General Director for Registrars and Notaries will allow registration to take place.

The role of the Civil Registrar should also be emphasised with a rule of jurisdiction being introduced which seeks to allow for the possibility, indeed probability, of the applicant residing outside Spain, and provides for the oath or promise to be sworn or given before the Civil Registrar for their place of residence, the acquisition of nationality being recorded in the Civil Registry for their place of birth.

The imminent coming into force of Law 12/2015 of 24 June has led this Directorate, in use of its powers for the processing and deciding of applications for Spanish nationality and their being entered in the Civil Register, to issue this Instruction in order to lay down the rules

necessary to comply with the terms of the Law, dispel any doubts which might arise in practice and provide the following guidelines both on matters of processing and documentation.

## I

Requirements for obtaining Spanish nationality under Law 12/2015 of 24 June.

### I.1 Application

The procedure set out in the Law is completely electronic and commences with the application, which must be made by way of the computer application provided for such purposes by the Ministry of Justice. The domain which will house the nationality portal for the obtaining of Spanish nationality in accordance with Law 12/2015 of 24 June, through which the application for the issuing of the certificate of fact will be processed, is [www.justicia.sefardies.notariado.org](http://www.justicia.sefardies.notariado.org).

The application will be made in Spanish and will be addressed to the General Directorate for Registrars and Notaries. The identifier number provided at that point may be used by the applicant to enter the system and ascertain the stage of processing the application has reached.

### I.2 Persons able to use the procedure set out in the Law

Two exceptional circumstances are required for acquiring Spanish nationality: proof of the applicant's status as a Sephardic Jew originally from Spain and proof of a special link with Spain.

Anyone who proves they are a Sephardic Jew of Spanish origin may use the Law regardless of their ideology, religion or current beliefs, although they must also prove current links to Spain as the Law lays down the need for both of these requirements to be satisfied.

I.3 Capacity: Special consideration of applicants below the age of 18. Prior authorisation in the case of those below the age of 14 and the incapacitated

#### I.3.1 Capacity of applicants

As regards the capacity of applicants for Spanish nationality the general rules of article 21.3 of the Civil Code will apply, although given that applicants may, and in fact in most cases will, be non-resident in Spain, various situations which may arise should be dealt with, in particular where the applicant is below the age of 14 or incapacitated.

Article 21.3 of the Civil Code provides in this regard that the following are able to make an application for Spanish nationality: the interested party if emancipated or aged eighteen or over, persons aged fourteen or over assisted by their legal guardian, the legal guardian of persons under fourteen, and finally the legal guardian of incapacitated persons, or incapacitated persons, by themselves or duly assisted in accordance with the terms of the judgment of incapacity.

Persons aged 18 or over may make the application whatever their nationality or habitual residence, as the article provides for this requirement regardless of the personal law or law

governing parental responsibility or protective measures which is applicable to them. In the case of emancipated persons article 9.1 of the Civil Code will be applicable which provides that the personal law of natural persons will be that determined by their nationality. This law will govern capacity, civil status, family rights and duties and succession on death, and the applicant must thus prove their status as an emancipated person in accordance with their respective personal law. The same rule is applicable to cases of incapacitated persons aged 18 or over, proof having to be provided of the declaration of incapacity and of the measures adopted for the protection of the incapacitated person, and of the persons designated legal guardians in accordance with the personal law.

Persons aged 18 or over must apply for Spanish nationality themselves and must appear before the designated notary in person, it being impossible for an authorised representative to do so.

#### I.3.2 Special consideration of applicants aged 18 or over

The second paragraph of article 9.4 of the Civil Code, as amended by article 2.1 of Law 26/2015 of 28 July altering the system of protection of children and young people, provides that the law applicable to the exercise of parental responsibility is to be determined in accordance with the Hague Convention of 19 October 1996 on jurisdiction, applicable law, recognition, enforcement and co-operation in matters of parental responsibility and child protection matters. The second article of the Convention provides that it is applicable to children from birth until they reach the age of 18, although article 4 states that it does not apply to matters of emancipation.

Article 16 of the Convention governs the attributing and extinction of parental responsibility in the following terms: "1. The attribution or extinction of parental responsibility by operation of law, without the intervention of a judicial or administrative authority, is governed by the law of the state of the habitual residence of the child. 2. The attribution or extinction of parental responsibility by an agreement or a unilateral act, without intervention of a judicial or administrative authority, is governed by the law of the state of the child's habitual residence at the time when the agreement or unilateral act takes effect. 3. Parental responsibility which exists under the law of the state of the child's habitual residence subsists after a change of that habitual residence to another state. 4. If the child's habitual residence changes, the attribution of parental responsibility by operation of law to a person who does not already have such responsibility is governed by the law of the state of the new habitual residence." And article 17 provides that: "The exercise of parental responsibility is governed by the law of the state of the child's habitual residence. If the child's habitual residence changes, it is governed by the law of the state of the new habitual residence".

In the case of minors the habitual residence is particularly important for the purposes of establishing who are their legal guardians. If they reside in Spain and the minor is subject to powers of parental supervision which are being jointly exercised the application must be made by both parents, or by one with the express or implied consent of the other, as according to the Instruction of this General Directorate of 26 July 2007 on the processing of applications for Spanish nationality based on residence, given that the acquisition of Spanish nationality affects the minor's civil status, which is governed by a general principle of stability, it falls outside

those acts which may be carried out by just one of the holders of powers of parental supervision, as the changing of the minor's "status nacionalitatis" is not one of the acts the Civil Code makes an exception to the general rule of joint exercise of powers of parental supervision. In cases of the exercise of powers of parental supervision by just one parent, where this is proved or it has been assigned to them in proceedings for separation, nullity or divorce, it will be that parent who must make the application. In these cases the content of the judgment must be examined carefully as to its effects on the exercise of powers of parental supervision. Finally in the event of the parents disagreeing as to whether or not to apply for Spanish nationality, a court order must be obtained in order for the application to be made.

In the case of minors residing abroad, in accordance with the above those with parental responsibility for the minor must prove this in accordance with the law of the state of the minor's habitual residence, in order to assist them if they are 14 or over or to make the application in their name if they are below that age.

As regards protective measures for minors article 9.6 of the Civil Code provides: "6. The law applicable to the protection of minors shall be determined in accordance with the Hague Convention of 19 October 1996 referred to in section 4 of this article". Article 3 of this Convention provides for the following protective measures: "c) guardianship, curatorship and analogous institutions; d) the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child; e) the placement of a child in a foster family or in institutional care, or the provision of care by *kafala* or an analogous institution"; and in section 1 of article 5 provides on a general basis that: "The judicial or administrative authorities of the contracting state of the habitual residence of the child have jurisdiction to take measures directed to the protection of the child's person or property".

The place of habitual residence of the minor subject to such measures must again be taken into account. If the minor resides in Spain and is subject to guardianship or curatorship Spanish law will be applicable and it will be the person appointed in the proceedings in question who, having duly accredited their status, must either assist the minor or make the application for Spanish nationality on their behalf. In cases of fostering in Spain the Instruction of 26 July 2007 will apply. In the case of minors subject to protective measures residing abroad the persons representing or responsible for them must prove their status as such in accordance with the law of the state of the minor's habitual residence in order to assist them if they are aged 14 or over or make the application on their behalf if they are below that age. In all of these cases the content of the judicial or administrative order must be carefully examined as to its effects on the exercise and scope of representative powers.

As regards accreditation of the circumstances referred to above article 40 of the Hague Convention of 19 October 1996 provides that the authorities of the child's habitual residence or of the state in which the protective measure was adopted may issue a certificate to the holder of parental responsibility or to any other person entrusted with the protection of the child's person, at their request, indicating their capacity and the powers which have been granted to them.

I.3.3 Prior authorisation in the case of persons below the age of 14 and incapacitated persons

If the applicant is below the age of 14 or is incapacitated the prior authorisation of the Civil Registrar of the declarant's domicile is necessary in accordance with article 21 of the Civil Code, who will grant it if it is in the interests of the applicant having obtained a report from the Fiscal's Office.

In the case of Law 12/2015 of 24 June there is no reason "a priori" why the acquisition of Spanish nationality could have consequences running contrary to the minor's interests. Authorisation must however be obtained in any of the following circumstances: a) where in accordance with the applicable law the exercise of parental responsibility is to be carried out by both parents and the application is made by just one of them; b) in cases in which in accordance with the applicable law parental responsibility must be exercised by just one of the parents and there is no record of the other's express consent on presentation of the application; c) in cases of custody, guardianship or fostering and in general in all cases of legal representation other than that attributed to the parents.

Given that residence in Spain is not a requirement for the obtaining of Spanish nationality pursuant to this Law, in the case of non-residents the Consular Registrar for the applicant's domicile will have power to authorise the application following a report by the Consular Chancellor acting as Fiscal or, if there is no statutory replacement, by two capable and learned Spanish citizens appointed by the Head of the Consular Office or the Diplomatic Mission in accordance with general rules of procedure (article 54 of the Regulations of the Civil Registry).

Given the entirely electronic nature of the procedure both the documentation proving the representation of the minors and any authorisation obtained must be submitted by internet together with the application, without prejudice to the presentation of the original documents on the issuing of the notary's certificate.

#### I.4 Documents to be presented

On a general basis the documents referred to in the sections below must be sent by internet together with the application to the General Directorate for Registrars and Notaries, which will in turn send them by internet to the General Council of Notaries. This Council will process them and will appoint the notary to assess the documentation presented, taking into account the preferences of the interested party if these have been stated in the application. This notary will make a first assessment of the documentation prior to arranging for the applicant to appear, which he will not do if he does not consider the requirements for the granting of Spanish nationality to be initially met.

The documents which must be presented by internet with the application are the following:

##### I.4.1 Identification documents

Birth certificate, full passport or national identity card for citizens of the European Union and, if of full age, certificate of criminal record from their country of origin. These documents are compulsory and must therefore be presented for the procedure to continue. They must hence be attached to the application in all cases, regardless of the other documents necessary for the subsequent drawing up of the certificate of fact, and will be sent together with the application

to the General Directorate for Registrars and Notaries for the subsequent stages of the procedure. They must be duly legalised or bear the apostille and, if necessary, be translated.

#### I.4.2 Tests on language (DELE A2 or higher) and constitutional and socio-cultural knowledge of Spain (CCSE)

Proof must be provided on making the application of having passed the tests on language and constitutional and socio-cultural knowledge as failure to do this will prevent the procedure from proceeding.

The diploma for having passed the test on basic knowledge of the Spanish language, DELE level A2 or above, and the certificate for having passed the test on knowledge of the Spanish Constitution and Spanish society and culture must be presented. These documents are also indispensable given the requirements contained in section 5 of article 1 of the Law.

Applicants who have previously obtained a diploma in Spanish as a foreign language (DELE) of level A2 at least, who must provide proof of this, and nationals of Argentina, Bolivia, Chile, Columbia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Equatorial Guinea, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Dominican Republic, Uruguay and Venezuela, will be excused from having to take the DELE test.

The diplomas for having passed these tests may be attached directly by the applicant. The results of tests for DELE level A2 or above and constitutional and socio-cultural knowledge of Spain (CCSE) may also be ascertained with the applicant's consent by consulting the Instituto Cervantes by internet. The result of such internet consultation will have the same evidential value as the presentation by the applicant of the relevant certificates.

Persons below the age of 18 and those whose capacity has been modified by the courts are exempt from the tests and must provide certificates from any education, residential, fostering, special attention or education centres in which they have been registered. An educational certificate will be compulsory in cases of children of school age. In the case of children of pre-school age or persons whose capacity has been modified by the courts the presentation of this certificate will be voluntary. If such certificates are drawn up in a language other than Spanish a translation must be provided.

#### I.4.3 Documents proving the requirements for obtaining Spanish nationality by naturalisation contained in Law 12/2015 of 24 June.

##### A) Proof of Sephardic origin

Article 1.2 of the Law lists various forms of documentary evidence to be assessed as a whole by the notary issuing the certificate of this status. There is no maximum or minimum number of documents to be presented with the application, but the fact that they are to be assessed as a whole indicates the necessity to present more than one. Nor is it compulsory to present any of the documents mentioned, nor are these the only ones which may be presented as any other circumstance which reliably shows the applicant's status as a Sephardic Jew originally from Spain will be taken into consideration.

## 1. Certificates

Paragraphs a), b) and c) of article 1.2 include among the various types of evidence certificates issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain, by the president or analogous office-holder of the Jewish community of the area of residence or place of birth of the applicant, and by a competent rabbinical authority legally recognised in the applicant's habitual country of residence.

### a) Certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain

A certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain is of particular evidential weight in light of the Agreement of Co-operation with the State approved by Law 25/1992 of 10 November, and may be applied for either by using the website of the Federation <https://certificadosefardies.fcje.org>, or the electronic application provided for such purposes by the Ministry of Justice.

For these purposes the Federation of Jewish Communities of Spain may, using all of the means at its disposal, analyse the various types of evidence set out in the Law or any others the applicant may provide to prove their status as a Sephardic Jew of Spanish origin, in such a way that, the truth and validity of this having been affirmed and the certificate having been issued, it is not necessary to attach any other document.

Notwithstanding the above, the documents which the Federation of Jewish Communities of Spain has considered sufficient to certify the Sephardic origin will be available for consultation by the notary drawing up the certificate of fact.

### b) Certificate issued by the president or analogous office-holder of the Jewish community of the area of residence or place of birth of the applicant, and certificate of a competent rabbinical authority legally recognised in the applicant's habitual country of residence

These certificates may be presented supported by a certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain, or by themselves with the requirements set out below:

#### b.1) Supported by a certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain

A certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain may be attached to support the status of the president or analogous office-holder of the Jewish community of the area of residence or place of birth of the applicant or of the competent rabbinical authority legally recognised in the applicant's habitual country of residence who issue the certificate of the applicant's Spanish Sephardic origin, and the certificates receiving this support will be given the same weight for the purposes of proving Sephardic origin.

The certifiers of origin, i.e. the presidents and rabbis of the Jewish communities of the applicant's country of origin or residence, may present their credentials for these purposes in

the platform of the Federation of Jewish Communities of Spain which, to vouch for these signatures, will request: a) a copy of the original bylaws of the foreign religious entity; b) certificate of the foreign entity containing the names of those who have been designated its legal representatives; c) certificate or document showing that the foreign entity is legally recognised in its country of origin; and d) certificate issued by the legal representative of the entity showing that the rabbi signing currently holds that status in accordance with the requirements laid down in the bylaws.

If the supporting document of the Federation of Jewish Communities of Spain refers only to the status of the president or analogous office-holder of the Jewish community or of the competent rabbinical authority, the documentary evidence set out in the Law or any other evidence the applicant has presented to the certifier of origin and which has served as a basis for certifying their status as a Sephardic Jew of Spanish origin must also be provided.

If the Federation of Jewish Communities of Spain, in addition to vouching for the status of the president or analogous office-holder of the Jewish community or of the competent rabbinical authority of the area of residence or place of birth of the applicant, examines, using all of the means at its disposal, the various types of evidence set out in the Law, or any other evidence the applicant may present to demonstrate their status as a Sephardic Jew of Spanish origin, and asserts the truthfulness and validity of this status, it will not be necessary to present any other document.

b.2) Certificate issued by the president or analogous office-holder of the Jewish community of the area of residence or place of birth of the applicant and certificate of a competent rabbinical authority legally recognised in the applicant's habitual country of residence to which a certificate of the Federation of Jewish Communities of Spain is not attached.

If the certificates issued by the president or analogous office-holder of the Jewish community or by the competent rabbinical authority of the area of residence or place of birth of the applicant are not accompanied by a certificate of the Federation of Jewish Communities of Spain, the Law provides that the applicant may as an alternative present all of the following documents to prove his status, duly issued, apostilled or legalised and, if necessary, translated into Spanish by an official translator:

1º Copy of the original bylaws of the foreign religious entity. It is not necessary to present the full text, a partial copy is sufficient containing, in addition to the data identifying the document itself, information on the constitution, objectives, functioning and form of representation of the entity.

2º Certificate of the foreign entity containing the names of those who have been designated its legal representatives.

3º Certificate or document showing that the foreign entity is legally recognised in its country of origin.

4º Certificate issued by the legal representative of the entity showing that the rabbi signing currently holds that status in accordance with the requirements laid down in the bylaws.



In this case, together with the certificate which proves the applicant's status as a Sephardic Jew issued by the president or analogous office-holder of the Jewish community or by the competent rabbinical authority of the area of residence or place of birth of the applicant, the various documents referred to in the Law or any others the applicant has used to demonstrate their status as a Sephardic Jew originally from Spain on the basis of which the certificate was issued must also be presented.

The Ministry of Justice will make available to interested parties a list of entities entitled to issue certificates of Sephardic origin, either on the basis that they have been recognised and their representatives vouched for by the Federation of Jewish Communities of Spain on the terms referred to above, or on the basis that they have directly requested recognition from the Ministry of Justice by way of the General Directorate for Registrars and Notaries following presentation of the documents legally required. The list will be available on the website of the Ministry of Justice [www.mjusticia.gob.es](http://www.mjusticia.gob.es) and will be updated on an ongoing basis.

The documentation provided by entities for their recognition must be consulted by the notary appointed to draw up the certificate.

Once an entity has been recognised it is not necessary to provide the documentation again for each successive application, except in the case of alteration of the legal representatives or the signing rabbi, which must be duly accredited.

Communities recognised for the purposes of issuing certificates of status as a Sephardic Jew of Spanish origin in accordance with the provisions of the Law may only issue certificates in the applicant's country of origin or residence, which must be the same as the area in which they have their main offices.

## 2. Other documents proving status as a Sephardic Jew of Spanish origin

In relation to the other documents referred to in the Law for the proving of Sephardic origin, these refer to the maintaining of the traditions of this community such as use of the Ladino language, certified by a competent body, or the applicant's family names belonging to the Sephardic line of Spanish origin. These documents may be issued by entities whose competence in such matters is recognised by the public authorities of the applicant's country of origin or residence or by Jewish communities or rabbinical authorities themselves.

It should be noted in this regard that only family names unequivocally Sephardic of Spanish origin are valid for the purposes of the Law. To prove this requirement the applicant must present a reasoned report issued by a sufficiently competent body showing the family tree or that the family names come from the Sephardic Jews who were expelled from the kingdoms of Castille, Aragon and Navarre or forced to convert to Christianity after 1492. Any variations of these names which have occurred as a consequence of the influence of the languages of the places where the Sephardic communities settled after being expelled from Spain must also be proved.

As regards the birth certificate or the "ketubah" or marriage contract entered into in accordance with the traditions of Castille these must be presented together with a certificate

of the president or analogous office-holder of the Jewish community or the rabbinical authority of the applicant's area of residence proving their validity.

#### B) Proof of special links with Spain

Article 1.3 of the Law sets out various documents which are to be assessed as a whole by the notary issuing the certificate demonstrating such links. What is stated above in relation to documentary evidence and the competence of the entities issuing it is also applicable here.

As regards the inclusion of the petitioner or their relatives in the directly ascending line in the lists of Sephardic families protected by the Decree-Law of 29 December 1948 or who obtained their naturalisation by way of the Royal Decree of 20 December 1924, referred to in letter c) of section 3 of article 1, and the applicant's blood ties with any of the said persons referred to in section d), the applicant's status as direct descendant or blood relation must be adequately proved. To prove they are descendants of the families protected by Spain under these laws the applicant may present, among other evidence, a copy of the immigration or naturalisation records of the relative who was granted Spanish nationality or consular protection, and the birth certificates necessary to demonstrate their blood ties to the applicant.

As regards charitable, cultural or economic activities these may be proved by a certificate recording such activities issued by the Institute offering them.

There are many other circumstances which may be used to prove special links with Spain. The following are given as examples: being married to a Spanish national, being a relative in direct line of a Spanish national, holding shares in a Spanish company, having a home or other property in Spain, having done exchange studies in a Spanish city, employment in Spain, being a sponsor of Spanish institutions which have charitable, scientific or cultural activities, making donations to Spanish charities, living or having lived in Spain for at least six months, having attended courses of various natures given in Spain, having children attending Spanish schools, being a member of a cultural centre for Spain located abroad or of any type of Spanish club (sporting, cultural). The evidence of the link to Spain will also be assessed as a whole by the notary issuing the certificate.

#### I.5 Legalisation of documents

It will be necessary to run strict checks on the authenticity of documents issued by foreign officials or entities, which must also be translated into Spanish. Documents presented in the course of the procedure must generally be legalised. The designated notary must thus check both legalised documents and those documents which have not been legalised as they were issued by public officials of states party to the Hague Convention of 5 October 1961, in which case legalisation is replaced by the apostille.

There are also other conventions which do away with the need to legalise certain documents, such as the Convention of Vienna nº 16 of the International Commission on Civil Status on multilingual birth, marriage or death certificates, the Convention of Athens nº 17 of the International Commission on Civil Status on documents referring to civil status, the capacity or family situation of natural persons, their nationality, domicile or residence, whatever use they are put to and any other document which has been issued for marriage or the formalisation of

an act of civil status, the Convention of London nº 63 of the European Council on documents issued by diplomatic or consular agents and also official declarations, such as registration entries, visas of a certain date and certifications of signature in any other document and in general the various bilateral conventions signed by Spain in relation to exemption from legalisation for certain documents.

#### I.6 Translation

Documents must be translated into Spanish. Translations made by a Sworn Interpreter licensed by the Ministry of Foreign Affairs and Co-operation (exempt from legalisation by amendment of article 13 of Royal Decree 2555/1977 of 27 August approving the regulation of the Office of Languages of the Ministry of Foreign Affairs), translations made or reviewed by a diplomatic or consular representative of Spain abroad and those made by a diplomatic or consular representative in Spain of the country which has issued the document (the latter having to be legalised subsequently by the Ministry of Foreign Affairs and Co-operation in order to be presented to the Spanish public authorities) are all valid. Local translations made in the applicant's country of origin or residence are also valid, although for them to have effect in Spain they must be legalised or apostilled.

#### I.7 Validity of certificates

As regards the certificates which must be presented, particularly the applicant's birth certificate, marriage certificate and children's birth certificate, and certificates of criminal record of the countries of origin or residence of foreign citizens presented in the procedure, these will have the validity stated in the document itself, running from the date they were issued. As regards certificates of criminal record with no specified period of validity, given the nature of this type of document which contains important and very sensitive data, if no period of validity is given this General Directorate applies a maximum period of validity of six months from the date of issue. In order to determine the validity of certificates of criminal record, regardless of the specific date of expiry, certificates of criminal record from the country of origin must be in force on the date of the presentation of the application, with extensions of certificates of criminal record granted by Embassies or Consulates in Spain not being accepted, as each country has a competent authority to issue these certificates and it is only that issuing authority which may extend the validity of the certificate. All of which without prejudice to those cases in which Spanish Consulates are authorised to issue such certificates.

In federal states (Germany, Argentina, Australia, Brazil, United States, India, Mexico, Russia and Venezuela) the certificate of criminal record must be for the whole country and not just for a particular federal state. If there is no single certificate for all of the Federal State, certificates for the federal states in which the applicant has resided in the five years prior to the date of the application must be presented.

## II

Acquisition procedure laid down by Law 12/2015 of 24 June on the granting of Spanish nationality to Sephardic Jews of Spanish origin.

#### II.1 Certificate of fact

When the application has been completed and the documents referred to in section I above attached, the notary designated to draw up the certificate of fact has examined them and if he considers that the documentation presented complies with the requirements laid down by the Law, arrangements will be made for the applicant to appear.

It is hence compulsory to travel to Spain for the issuing of the certificate. In order to quicken the procedure for entering Spain, and given the fact that some applicants for Spanish nationality under this Law will be nationals of states subject to visa requirements, the necessary making of the journey will be grounds for a visa being granted, and in the same way for persons not requiring a visa the issuing of the certificate will be grounds for entering Spain, provided in both cases proof is provided of the application and of the notary's favourable decision prior to the issuing of the certificate. For these purposes the notary will issue a certificate of invitation for the identification of the applicant when they enter Spain. A standard form of the certificate of invitation is attached as annex I.

The Law provides for a single format of the electronic copy of the certificate of fact which is attached to this Instruction as annex II.

Apart from the special features of the certificate referred to in the Law the general notarial regulations will apply to it.

The notary may request a certificate of law issued by a Spanish Consulate in the applicant's country of origin to record the text of an applicable law or legal provision and the date it is or was in force, and its interpretation according to the uses and customs of that country. In the same way and for the same purposes the notary may request a statement or report by a diplomat, consul or competent official of the country of the applicable law.

Prior to the issuing of the certificate of fact the applicant must prove payment of the fee on the terms referred to in the section below.

The applicant may appeal to the General Directorate for Registrars and Notaries in accordance with notarial regulations against a decision by the designated notary not to issue the certificate.

## II.2 Fee

Payment of the fee will be in accordance with the second additional provision of Law 12/2015 of 24 June, the applicable tax regulations and any regulations issued by the Ministry of Justice on management and payment of the fee for presentation of applications in procedures for Spanish nationality based on residence and naturalisation for Sephardic Jews originally from Spain.

## II.3 Decision of the General Directorate for Registrars and Notaries. Registration. Appeals

### II.3.1 Decision

When this General Directorate has received the certificate of fact certifying the facts proved, it will request the necessary reports from the appropriate sections of the Ministry of the Interior and the Ministry of the Presidency and, once it has received these, it will issue a reasoned

decision on the application within a maximum period of twelve months, granting the application if appropriate and sending a copy of the decision to the competent Civil Registrar for the registration of the birth.

### II.3.2 Registration

Favourable decisions of this Directorate will be sufficient basis for the making of the appropriate entry in the Civil Register, although the entry's taking effect will be subject to compliance by the applicant with the conditions referred to in section 6 of article 2 of the Law, within one year of the day following notification of the applicant of the decision, before the Civil Registrar competent based on the applicant's domicile whom they must contact to arrange the necessary appointment.

The Civil Registrar competent based on the applicant's domicile will inform the Civil Registrar competent for the registration of the birth, who in accordance with the above will have received a copy of the decision of the General Directorate for Registrars and Notaries, of compliance with the conditions for the latter to make the entry in the register.

The making of the entry will be notified to the General Directorate for Registrars and Notaries and the applicant by way of the computer application, thus concluding the process.

### II.3.3 Special consideration of assignment of family names

In the assigning of family names to foreigners who acquire Spanish nationality the general rule is the prevalence of Spanish law (article 213 of the Regulations of the Civil Registry) in accordance with which parentage determines family names (article 109 Civil Code). If parentage is determined in both lines, the first family name of a Spanish citizen is their father's first family name and the second family name is the mother's first family name, without prejudice to the option to invert the order of article 109 of the Civil Code, which must be exercised prior to registration before the Civil Registrar for the domicile.

Various special situations which may occur should also be taken into account.

In cases where parentage does not give rise to the use of other family names, or where it is impossible to ascertain the identity of the applicant's parents, the family names they already use will be retained. In both cases if the applicant only had or used one family name, it is duplicated in order to comply with the legal requirement of having two family names (article 55.V of the Law of the Civil Registry).

If in the foreign country of the applicant's previous nationality family names have different masculine or feminine terminations according to gender, the appropriate variant must be used according to the gender of the new Spanish citizen, regardless of the gender of the parent who passes the name on to them (article 200 of the Regulations of the Civil Registry). It should be borne in mind however that the children of the new Spanish national will have the family name given to their father or mother irrespective of the gender of the former.

The prevalence of the application of Spanish law also applies in cases of multi-nationality (article 9.9 of the Civil Code). However if the person acquiring Spanish nationality has the

nationality of origin of another Member State of the European Union, in compliance with the judgment of the Court of Justice of the European Union in the "García - Avello" case, once the entry in the register has been made in accordance with Spanish law the interested party may request a change of family names to those they have in accordance with their other Community nationality (2nd Guideline - Instruction of the General Directorate for Registrars and Notaries of 23 May 2007). Finally article 199 of the Regulations of the Civil Registry provides for the possibility of persons acquiring Spanish nationality keeping the family names they have in a form not legal in Spain, provided they declare this on acquiring Spanish nationality or within two months of acquiring it or of reaching the age of majority, where their use is not prejudicial to what is known as Spanish international public policy which, in this area, is applied at least in relation to two legal principles: a) that of Spanish citizens having two family names, subject to the Community law applicable to holders of dual Spanish-Community nationality referred to in the second guideline of the Instruction of 23 May 2007; and b) the principle of the non-fungible nature of lines of descent, which means that where parentage has been determined in both lines, the passing on of two family names by just one line, whether the father's or the mother's, is contrary to Spanish public policy. The exercise of this right to preserve family names from prior to the acquisition of Spanish nationality is incompatible with the subsequent exercise of the right to invert family names.

In the case of Sephardic Jews who take advantage of Law 12/2015 of 24 June, in order to ease processing and avoid as far as possible the need for subsequent rectification procedures, there is the possibility of the applicant providing in advance together with the initial application the family names with which they wish to be registered, to be included in the data sheet for the registration entry which must be completed before the Civil Registrar competent to administer the oath or receive the promise, documents supporting the designation of these family names also having to be attached where they are not the same as those under the nationality of origin. These documents may be included in the notary's certificate in order to record the applicant's declaration as to identification if the application is granted, although the designation of given and family names does not form part of the certificate of fact.

The provisions of articles 199 and 213 of the Regulations of the Civil Registry will be taken into account at the time of the oath or promise. Registration of the proposed family names is in any event subject to the assessment to be made by the Civil Registrar of the place in which the registration is to take place.

In any event if the family names given in accordance with Spanish law are different from those the applicant had under their previous personal law, an application may be made for the annotation contemplated in article 38.3 of the Law of the Civil Registry.

A certificate of differing names as contemplated in Convention nº 21 of the International Commission on Civil Status of the Hague may also be applied for.

The provisions of the previous paragraph are without prejudice to the general possibility of applying to the Civil Registrar of the person's domicile for change of family names, who will process the application and refer it to the General Directorate for Registrars and Notaries.

#### II.3.4 Family names initially appearing in an alphabet other than the Latin alphabet

If the birth certificate, which must be presented with a translation, includes a transliteration, i.e. assignment of Latin characters, or if this is done by the Civil Registrar if they have sufficient knowledge of the language, the two family names will be registered in this form. If it does not, or if a given or family name is impossible or very difficult to pronounce in Spanish, they may be transcribed by approximation to the original sound of the adapted family name even if this is not an accurate reproduction of the original spelling. Translation is only applicable to the given name, never to the family names, and is always voluntary on the part of the applicant and may be recorded as such in the application.

### II.3.5 Appeals

In the event of the application being rejected, in addition to the optional request for reconsideration by the General Directorate for Registrars and Notaries, a further internal appeal may be made to the Undersecretary for Justice, and the decision in that appeal may be appealed against in the administrative courts to the High Court of Justice for Madrid.

This instruction will come into force on the day following its being published in the Official State Gazette.

Madrid, 29 December 2015. The Director General of Registrars and Notaries, Francisco Javier Gómez Gállico.

### ANNEX I

NUMBER .....

INVITATION IN ORDER TO DRAW UP CERTIFICATE OF FACT FOR ACCREDITATION OF STATUS AS SEPHARDIC JEW

In the city of ....., my place of residence, on .. of ..... two thousand and fifteen

By and before me, ....., Notary of the College of Notaries of .....

### I DECLARE

1º That on ..... I received by way of the internet application of the Ministry of Justice the application presented by Mr. .... with domicile in ..... passport number ..... and of ..... nationality, to appear in my office between days .. and .. of ..... of ..... in order to draw up the certificate of fact which will allow him to prove his status as a Sephardic Jew and his links with Spain in accordance with the provisions of Law 12/2015 of 24 June in order to obtain Spanish nationality.

The documentation provided by internet to date makes it appear likely the applicant is entitled to apply for and obtain the said certificate of fact.

2º I therefore hereby INVITE Mr. .... to appear in my office between the said dates and for the aforesaid purposes.

3º The Spanish consular authorities are therefore requested to issue the appropriate visa to travel to Spain for the said purposes (if a visa is required). And the competent authorities of

the Ministry of the Interior at the Spanish frontier are requested to allow the entry of the applicant for Spanish nationality under Law 12/2015 of 24 June.

4º The undersigned Notary DOES NOT ASSUME any responsibility for the civil or criminal acts and liabilities of the person invited, and does not assume any responsibility for his maintenance, medical or hospital care, social assistance or any other commitment to him, being excluded in any event from all responsibility.

The person appearing accepts the contents of this invitation in all respects.

#### EXECUTION AND WITNESSING

The relevant legal cautions have been given, tax cautions being given expressly.

I, the Notary, state for the record that the execution of this document is in accordance with the law and the duly informed wishes of the person executing, deriving from the new article 17 bis of the Law on Notaries.

This deed having been read by me, I ratify its contents, accept it and sign it.

I, the Notary, BEAR WITNESS to all that is set out in this public instrument, on two folios of paper exclusively for notarial documents, of the same class and series, this one and that of the preceding number in the appropriate order.

#### ANNEX II

NUMBER .....

CERTIFICATE OF FACT FOR PROOF OF STATUS AS A SEPHARDIC JEW ORIGINALLY FROM SPAIN  
AND OF LINKS TO SPAIN

In the city of ....., my place of residence, on .. of ..... .....

Before me, ....., Notary of the College of Notaries of .....

#### APPEAR

MR. / MS. ....., of or over 18 years of age, born on ..... in ..... of ..... nationality, civil status ....., residing in ..... He / she proves his / her identity to me by passport / foreigner's identity number ....., of which I make a full photocopy which I attach to this certificate.

He / she acts in his / her own name and right\*

\* If the person appearing is the legal guardian of a person under the age of 18 or a person whose capacity has been modified by court order, give details of identification and appointment

I identify him / her by his / her said identity document which is exhibited to me and I return, and I judge him / her to have the capacity necessary for the execution of this certificate, and for such purposes



## IT IS DECLARED

I. That the person appearing is a Sephardic Jew of Spanish origin being the descendant of Sephardic Jews who were forced to leave Spain in 1492.

II. That pursuant to the provisions of Law 12/2015 of 24 June he / she wishes to obtain Spanish nationality, and for these purposes he / she requests of this Notary this certificate declaring it a known fact that he / she is a Sephardic Jew of Spanish origin and that he / she has special links to Spain, circumstances required by the Law as necessary for obtaining Spanish nationality on the terms provided for by law.

III. The person appearing declares he / she has passed the tests of the Instituto Cervantes on knowledge of the Spanish language (DELE level A2 or above) and on constitutional and socio-cultural knowledge of Spain (CCSE) (\* He / she presents to me the secure verification code allowing access to verify his / her statements, which I will record in a subsequent note or \* He / she presents to me a diploma or certificate issued by the Instituto Cervantes proving he / she has passed these tests).

IV. He / she also proves having paid the required fee by presenting the receipt for payment into the account of the public authority (\* of which I make a photocopy which I attach to the master copy, or \* He / she authorises me to pay the fee on his / her behalf).

V. The above requirements being complied with HE / SHE STATES

1º That on ..... he / she accessed the technological platform of the Ministry of Justice and applied for the issuing of a certificate of fact stating compliance with the requirements laid down in the Law for the obtaining of Spanish nationality, the application being identified with number .....

2º That he / she passed the tests of the Instituto Cervantes which he / she duly accredited on making the application.

3º That he / she proceeded to select a notary from among those competent to draw up this certificate of fact in the place in Spain where the person appearing prefers to have this certificate dealt with.

4º That having made the selection he / she sent scanned copies of the following documents using the said platform, all of them duly translated and apostilled as appropriate:

- Identity documents
  - Passport, European Community identity document or card
  - Birth certificate
  - Marriage certificate if appropriate
  - Birth certificates of children if appropriate

In the case of persons aged 18 or over

- Certificate of criminal record from country of origin

If the applicant needs to be represented or assisted by his / her legal guardians

- Document giving rise to the guardianship of the person for whom Spanish nationality is applied for and identity documents of the guardians
- Prior authorisation of the Civil Registrar in the case of persons under the age of 14 and persons whose capacity has been modified by court order, if necessary
- Documents proving the status of the person appearing as a Sephardic Jew of Spanish origin

a) Certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain

b) Certificate issued by the president or analogous office-holder of the Jewish community of the area of residence or place of birth of the applicant

c) Certificate of the competent rabbinical authority legally recognised in the applicant's habitual country of residence \*

\* (As appropriate) certificate issued by the Chairman of the Standing Committee of the Federation of Jewish Communities of Spain vouching for the status of those issuing the documents referred to in b) and c) or the following documents: 1º Copy of the original bylaws of the foreign religious entity. 2º Certificate of the foreign entity containing the names of those who have been designated its legal representatives. 3º Certificate or document showing that the foreign entity is legally recognised in its country of origin. 4º Certificate issued by the legal representative of the entity showing that the rabbi signing currently holds that status in accordance with the requirements laid down in the bylaws.

d) Proof of the use of Ladino or Haketia as a family language, or other evidence showing the tradition of belonging to that community

e) Birth certificate or ketubah or marriage certificate recording the marriage was entered into in accordance with the traditions of Castille

f) Reasoned report issued by entity of sufficient competence showing that the applicant's family names belong to the Sephardic line of Spanish origin

g) Any other circumstance which reliably shows his / her status as a Sephardic Jew originally from Spain

- Documents which show the special links with Spain of the person appearing

a) Certificates of the study of Spanish history and culture issued by officially recognised official or private institutions

b) Proof of knowledge of the Ladino or Haketia languages

c) Inclusion of the petitioner or their relatives in the directly ascending line in the lists of Sephardic families protected by Spain referred to, in relation to Egypt and Greece, in the Decree-Law of 29 December 1948, or of those others who obtained their naturalisation by way of the special procedure of the Royal Decree of 20 December 1924

d) The applicant's blood ties with any of the persons referred to in letter c) above

e) Charitable, cultural or economic activities in favour of Spanish persons or institutions or in Spain, and those in support of institutions for the study, preservation and spreading of Sephardic culture

f) Any other circumstance which reliably shows their special links with Spain

4º The documents having been received by the notary selected, and following their examination, the applicant was summoned to appear today to present the originals of the documents sent by internet, to be personally identified by the notary and for the issuing, if appropriate, of a certificate of fact attesting his / her status as a Sephardic Jew originally from Spain and their special links with Spain.

VERIFICATION MEASURES. To record:

- That at ... on ..... I access the website of the Instituto Cervantes where, having introduced the data provided by the applicant, I verify that he / she has passed the language and constitutional and socio-cultural knowledge of Spain tests, to which I BEAR WITNESS herein

- That the documents presented, duly issued and legalised or apostilled and translated as appropriate, are the originals of those sent by way of the electronic application, to which I BEAR WITNESS herein.

CERTIFICATE OF FACT

Having made the above verifications,

IT IS APPROPRIATE TO ISSUE A CERTIFICATE OF FACT on the applicant, this public official considering that he / she meets the condition of being a Sephardic Jew of Spanish origin and that he / she has special links with Spain, complying with the requirements for applying for Spanish nationality by naturalisation pursuant to Law 12/2015 of 24 June.

#### SUPPLEMENTARY PROVISIONS

1º The person appearing expressly authorises the notary to send a copy of this instrument to the General Directorate for Registrars and Notaries in order to commence the procedure for approval of Spanish nationality, giving the following email address for the receiving of notices and demands ..... where all incidents and decisions in the procedure must be communicated.

2º Finally the person appearing expressly authorises the inspection of the data of this procedure by any Spanish public official in the course of their duties and without time limit, exclusively in relation to the obtaining of Spanish nationality pursuant to Law 12/2015 of 24 June, and the inclusion of the said data in the databases of the Ministry of Justice and in the Notarial Single Computerised File.

In accordance with the provisions of Fundamental Law 15/1999 the person appearing is informed of and accepts the inclusion of his / her data in the automated files of the Notary's office, which will be kept there on a confidential basis, without prejudice to its being released where this is legally compulsory.

The person appearing accepts the contents of this certificate in their entirety.

#### EXECUTION AND WITNESSING

The relevant legal cautions have been given, tax cautions being given expressly.

I, the Notary, state for the record that the execution of this document is in accordance with the law and the duly informed wishes of the persons executing, deriving from the new article 17 bis of the Law on Notaries.

I read this certificate to the persons appearing, at their choice, having advised them of their right to do so themselves, of which they do not make use; they ratify its contents, accept it and sign it with me.

I, the Notary, BEAR WITNESS to all that is set out in this public instrument, on four folios of paper exclusively for notarial documents, of the same class and series, this one and those of the three preceding numbers in the appropriate order.