

Law No. 79/AN/04/5<sup>th</sup> L on the Djiboutian Nationality Code

THE NATIONAL ASSEMBLY HAVING ADOPTED THE PRESIDENT OF THE REPUBLIC  
ENACTS THE LAW WHOSE CONTENTS FOLLOWS:

CONSIDERING the Constitution of September 15, 1992; CONSIDERING Decree No. 2001-0053/PRE of March 4, 2001 appointing the Prime Minister; CONSIDERING Decree No. 2001-0137/PRE of July 4, 2001 appointing the members of the Government; CONSIDERING Law No. 200/AN/81 on the Djiboutian Nationality Code. The Cabinet having heard at its meeting of July 13, 2004.

TITLE I GENERAL PROVISIONS

Article 1: Djiboutian nationality is acquired under the provisions of this Code subject to the application of the treaties and other international commitments of the Republic of Djibouti.

Article 2: Djiboutian nationality by parentage is that which the individual holds, since birth, due to the origin of his parents of Djiboutian nationality.

Djiboutian nationality by acquisition is that which the individual obtains, after his birth, or by the effect of the law, or by decision of the public authorities.

Article 3: The acquisition of Djiboutian nationality is governed by the laws in force at the time of the act or the fact to which the law attaches its effects.

TITLE II DJIBOUTIAN NATIONALITY BY PARENTAGE

Article 4: The legitimate or natural child is Djiboutian, whose father and mother are Djiboutian.

Article 6: A child born in the Republic of Djibouti, whose parents are unknown, is also Djiboutian.

He will be deemed never to have been Djiboutian if, before his age of majority, his parentage by a foreigner has been established.

Article 7: The child who is Djiboutian under the provisions of Sections 4, 5, and 6 is deemed to have been Djiboutian since his birth, even if the existence of the legal requirements for the awarding of the Djiboutian nationality is only established later.

However, the establishment of Djiboutian status after birth does not affect the validity of acts previously acquired by third parties on the basis of the apparent nationality of the child.

Article 8: For a transitional period of five years, the Director of the Population and the Commissioners of the Interior Districts are authorised to issue identity documents to supplement birth certificates for individuals born in the Republic of Djibouti, who, through lack of knowledge or inability, could not establish their Djiboutian status. They are deemed to have been Djiboutian even if this status is only established after their birth.

### TITLE III

#### DJIBOUTIAN NATIONALITY BY ACQUISITION

Article 9: Djiboutian nationality can be acquired by a decision of the public authority. It is the result of naturalisation granted by decree and on request.

Article 10: Marriage does not automatically have any effect on the nationality of the foreign spouse.

Article 11: The acquisition of a foreign nationality does not cause the loss of Djiboutian status, unless the individual renounces his Djiboutian nationality by his own choice.

Article 12: The previously foreign individual who enters into marriage with a spouse of Djiboutian nationality can apply for Djiboutian citizenship after ten years of cohabitation.

This period is reduced to five years if their union results in at least one child.

However, he or she is ineligible for this provision, if it is established that on that date there had been a divorce between the spouses and he or she remarried to a foreigner.

In case of naturalisation, the children of the marriage are by right Djibouti.

Article 13: The adoption of a child does not by itself affect the nationality of the adopted individual.

Article 14: A commission is created to give a prior opinion on all applications for naturalisation.

- a judge, chairman;
- a representative of the Ministry of Interior, member;
- a representative of the Ministry of Health, member;
- the Director of the Population, member;
- the Commissioner of the Republic for the place of residence of the person applying for naturalisation, member.

The Committee is appointed by the President of the Republic.

It is convened by its President.

Article 15: Subject to the exceptions provided for in Articles 12 and 16, naturalisation can only be granted to a foreigner who shows proof of habitual residence in the Republic of Djibouti for at least ten years preceding the filing of his application.

Article 16: The period provided in Article 15 is reduced to five years for individuals who have rendered or may render, by their ability and talent, important services to the Republic of Djibouti.

Article 17: No one may apply for naturalisation if he has not attained the age of eighteen.

Article 18: No person may be naturalised if he is not of good character or has been convicted under Article 21 of this Code. The passing of sentences abroad can be taken into account.

A medical certificate must attest that he is in good health.

Article 19: No person shall be naturalised unless he demonstrates his assimilation into the Djiboutian community, in particular through adequate knowledge of one of the languages used in the Republic of Djibouti.

Article 20: No one may acquire Djiboutian nationality if he is the subject of a deportation order or order for house arrest that has not been reported in the manner in which it occurred at the time of the determination of the basis of acquisition of nationality.

The same is true of the individual who has been the subject of a decree of opposition to the acquisition of Djiboutian nationality.

Article 21: No one may acquire Djiboutian nationality if he has been convicted of an act considered a crime or offence against State security, or of a conviction not expunged by rehabilitation for an act considered a crime, or a conviction not expunged by rehabilitation by a penalty of more than six months in prison for one of the crimes under Articles 131 through 150 of the Penal Code and the crimes of theft, fraud, breach of trust, stolen property, extortion and blackmail, forgery and use of forgery, under Articles 485 through 498, 509 through 510, 520 through 521, 533 through 540, and 499 through 508.

Article 22: The individual who has acquired citizenship enjoys all the rights pertaining to Djiboutian status as of the date of this acquisition.

#### TITLE IV ACTS RELATING TO THE ACQUISITION OF DJIBOUTIAN NATIONALITY BY NATURALISATION

Article 23: Any application to obtain naturalisation is filed and sent to the Ministry of Interior (Director of the Population). A receipt is given for the filing of the application.

All applications must be recorded. Mention of this recording is shown on this application.

Article 24: The applicant shall produce the civil status certificates, documents and titles that are required of him, and of such a nature as to:

1-Establish that the application is admissible within the terms of the law;

2-Allow the Commission to give a prior opinion on naturalisation, determine whether the requested favour is justified from the national point of view, in particular because of the parentage or occupation of the person concerned and the length of his stay in the Republic of Djibouti.

3-Establish that he has not been convicted of a crime in the Republic of Djibouti or in his country of origin.

4-Establish that the applicant is in good health by producing a medical certificate.

Article 25: In the event that the person is unable to produce the civil status certificates necessary for the admissibility of the application for naturalisation, these certificates can be supplemented by identity documents issued by the judge designated in accordance with Article 38.

Article 26: Any application for naturalisation must be investigated by the police.

This investigation shall bear on the character, conduct and loyalty of the applicant and the interest that granting naturalisation would present from the national point of view.

Article 27: Within six months of the filing the naturalisation application, the Minister of the Interior shall transmit to the Chairman of the Naturalisation Commission the complete application file, as well as the results of the investigation and its reasoned opinion.

Article 28: The file must be submitted to the Naturalisation Commission within two months of its receipt by the Chairman of the Commission.

Article 29: Decrees concerning naturalisation of Djiboutian nationality are published in the Official Gazette.

Article 30: If the application does not lead to naturalisation or if the application is deemed inadmissible by the Chairman of the Commission in the latter's opinion, the Minister of the Interior notifies the rejection of the application.

The notification that pronounces rejection of the application need not state the reasons for the decision.

## TITLE V

### NATIONALITY DISPUTES

Article 31: The civil court of common law alone has jurisdiction to hear disputes over nationality.

Questions of nationality are prejudicial before any other judicial or administrative court.

Article 32: Any person has the right to take action to have it be decided whether he does or does not have Djiboutian status.

The public prosecutor has the same right with regards to any person. He is a necessary defendant in any action to declare nationality. He must be involved every time a question of nationality is raised incidentally before a court empowered to hear it.

Article 33: The prosecutor is bound to act if so required by a public authority or a third party who has raised the question of the existence of nationality before a court that has stayed proceedings pursuant to Article 38; the third party applicant must be involved in the case.

Article 34: The judgments and rulings rendered in matters of Djiboutian nationality take effect even with respect to those who were neither parties nor represented.

However, every interested party is entitled to dispute their validity by third party opposition on condition of involving the public prosecutor in the case.

## TITLE VI

### PROOF OF NATIONALITY BEFORE

### THE COURTS

Article 35: The burden of proof in matters of Djiboutian nationality is incumbent upon the one whose nationality is at issue.

However, this burden is incumbent upon the one who challenges the Djiboutian status of a third party holder of a Certificate of Nationality issued in accordance with Articles 38, 39 and 40 below.

Article 36: When Djiboutian nationality is granted or acquired otherwise than by naturalisation, proof may only be given by establishing the existence of all the conditions required by law.

does not meet any of the conditions required by law to have the quality of Djibouti.  
**[TRANSLATOR'S NOTE: The above phrase appears by itself in the original.]**

**Comment [CB1]:** Hello translator: I seem to recall that the above phrase occurs in a few other Africa docs, maybe you could find it and find the latter, but I suspect it's just a line that was supposed to be deleted and was not.

## TITLE VII CERTIFICATES OF NATIONALITY

Article 38: The Presiding Judge of the Court of First Instance of Djibouti or a judge specially appointed by him for this purpose shall have sole capacity to issue a Certificate of Djiboutian Nationality to any person who can demonstrate that he has this nationality. Before ruling on any application for a Certificate of Nationality, the case should be investigated by the police and sent to the Directorate of the Population for an opinion.

Article 39: The Certificate of Nationality indicates, in reference to the articles of this Code, the statutory provisions pursuant to which the person concerned is Djiboutian and the documents that helped to establish this.

It is witness thereof until proven otherwise.

Article 40: When the judge rejects the request and refuses to issue a Certificate of Nationality, the person concerned may refer the matter to the Minister of Justice who decides, after having commissioned a new police investigation, whether or not to proceed with this issuance.

Article 41: Decrees may be issued as necessary for the purposes of the application of this Law.

Article 42: All previous provisions contrary to this Law are repealed.

Article 43: This Law shall be enforced as State Law and published in the Official Gazette of the Republic as of its enactment.

Done in Djibouti on October 24, 2004. The President of the Republic, head of Government

ISMAÏL OMAR GUELLEH