

# Portuguese citizenship for descendants of Sephardic Jews: Ethnographic notes on the law and agents in Portugal

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## Abstract

In 2015, an amendment to Portugal's Law on Nationality allowed descendants of Jews who were expelled in the Inquisition to become Portuguese citizens if they "belong to a Sephardic community of Portuguese origin with ties to Portugal." This text aims to describe and analyse such Law No. A/2015, namely the agents involved in helping the applicants who claim to be of Sephardic descent, to obtain a new Portuguese passport. The notions of "agency" and "bricoleur" are used in the analysis to understand the ways in which new citizenships are constructed, under this recent Portuguese decree-law. The study is a brief ethnographic research, based on qualitative data, using documentary sources and semi-structured interviews carried out with some of the agents in Portugal who are more closely involved in the process.

## Introduction

Jewish identity is plural and, in Portugal, it is also linked to times of persecution, namely during the Inquisition (1536-1821), which practically annihilated the presence of Jews in the country, forcing them to conversion to Christianity or compulsive exile.

Today, many of the diasporic Jews descend from these Sephardic<sup>1</sup> families who resisted assimilation and perpetuated an affective and effective connection to Sepharad (Portugal and Spain). Sharing their own language, rites, history and a common cultural identity, they transmitted such ties between generations, creating communities with transnational, global links, extending what is perceived as “Portugality”. Many still resist the anti-Semitism to which they are subjected, in the name of such identity.

Portugal’s efforts to try to repair the effects of the Edict of Expulsion of Jews (1496), date back to the decree of the liberal courts of 1821, which granted not only to Jews from expelled families, but to all Jews, the right to return to Portugal (Silva, 2014, p. 278).

The new Nationality Law (NL) nr. 30-A/2015, 27 February, is the 5th amendment to Law nr. 37/1981 and allows those who prove they belong to a Sephardic community of Portuguese origin, to require Portuguese citizenship, based on proven objective requirements of connection to Portugal, namely: surnames, family’s language and direct or collateral descent. However, to restrict access to such a naturalization, a new Law was issued in March 2022<sup>2</sup> to further control over candidates and to streamline procedures and backlogged processes.

This research aims to characterize the main agents in Portugal, involved in the process of acquiring Portuguese nationality, under the 2015 Portuguese NL. Among these are genealogists, lawyers or solicitors, the Jewish communities of Lisbon and Porto’s staff dealing with the certification, public registrar staff and applicants for a new Portuguese passport, who claim descent from Portuguese Jews who fled during the Inquisition period. Due to space limitations, the latter will not be analysed here.

As an ethnographic approach to the ways in which human action deals with new contingencies of the social structure – in this case, the search for a new citizenship due to a new amendment to the Portuguese NL -, it is important to frame the outlined research aims within the theories of social action, namely those referring to agency. In the social sciences, human action or agency is generically described as the ability of individuals to act according to their will, or *habitus* (Bourdieu, 1980). This ability, however, always occurs within a certain context or structure, being subject to rules, objectives, negotiations, skills, resources and creativity that are available at any given time. Such structures not only constrain agents but also lead them to seek new action strategies to deal with new challenges. Thus, according to Holy and Stuchlik (1981):

<sup>1</sup> *Sepharad* appears only once in the Bible, in Obadiah 1:20 and has an uncertain origin, but it was the Roman name given to its Iberian colony.

<sup>2</sup> See: <https://dre.pt/dre/analise-juridica/decreto-lei/26-2022-180657814>.

The essence of the process of social life is that it is continuous. People did not create their society once and for all, for everybody else born afterwards to be born into a predetermined world. By learning the world into which they were born, and by continually thinking and acting in it, people continually create and change it. (p. 16)

Levi-Strauss' (1969) classical formulation of "bricolage", is also useful in the analysis of these agents. It refers to the ability to select fragments of existing cultural configurations and re-deploy them in novel ways. Looking with an interpretive eye at the things immediately available, local and on the ground, the "bricoleurs" work as improvisers, to cobble together something to serve a new purpose, reinterpreting it for a new use and new meaning. Such agents-bricoleurs bring innovation through acute observation, broad knowledge, and cunning recognition of opportunity and are active entities, especially useful in times of crisis or new changes, in order to make sense of the world.

The study is based on a qualitative ethnographic approach, anchored in documental research and semi-structured interviews, carried out with some of the participants in the new Portuguese citizenship acquisition process. Among the interviewees are two genealogists (G1 on 24/3/2022 and G2 on 4/4/2022), two lawyers (L1 on 17/5/2022; and L2 on 19/5/2022), a registrar civil service (R1 on 30/3/2022) and one of the agents of the Israeli Community of Lisbon (CIL1 on 24/2/2022) who manages certification requests<sup>3</sup>.

## The Jewish Communities of Lisbon (CIL) and Porto (CIP)

Among the main facilitators involved in these nationality processes for the Portuguese Sephardic descendants are the CIL and CIP staff, genealogists, lawyers and civil registrar.

The CIL was officially established in 1912 and was consulted by the government for the elaboration of the new 2015 NL, and also entrusted to certify applicants for Portuguese nationality. In order to deal with the thousands of applicants who began to flow in, this congregation was forced to hire a "Procedural Management" team (to answer all questions and receive and carry out a prior analysis of the documentation); a "Historical Analysis" team (specialists in Sephardic genealogies and migratory routes of the Iberian

<sup>3</sup> Access to the agents in the CIP was not possible.

Jewish diaspora, and analyze and evaluate the evidence presented); and a "Certification Commission", to issue and send the certificates to the candidates or their legal representatives. These teams grew, from a single person in the secretariat in the early years, to the more than two dozen they currently have, including historians. Genealogical evidence is of special relevance to the CIL. CIL has made available on its website all the information on contacts, steps, procedures, forms and official documents required<sup>4</sup>.

One week after delivery of the documents, the applicant must pay the "donation" of €500 to CIL and wait for the certificate, which takes approximately 6 to 8 months. With the expiring of the similar Law in Spain, the end of CIP's certification services and the recent changes on the Portuguese NL, CIL is now overwhelmed with all applicants knocking on its door.

Like CIL, also CIP was delegated the power to certify applicants. This community, established in 1923, is headed by Rabbi Daniel Litvak, and was also consulted in 2013, for the elaboration of the Law and to certify applicants. Since the State did not create an international committee for certification, at that time, as suggested by the CIP's board, CIP created its own "Internal Committee" for the purpose, headed by Rabbi and Vice-President Francisco Garrett. On suspicion of crimes in certification concessions, in April 2022, Rabi and Garrett were involved in a judiciary inquiry, which is still ongoing. The stir led CIP to stop issuing certificates for nationality, block the blog, keeping only an informative text from 2018 on its website<sup>5</sup>.

Until then, however, the applicant had to obtain information, formalize the application, pay the 250€ "donation" and communicate with the Porto Certification Committee by email or through the CIP's website or blog.

At CIP, any elements that would guarantee that the applicant has an effective traditional connection to a Portuguese Sephardic community or synagogue was considered as evidence. Included here were: surnames; cemetery registers; ketubot or family objects; religious or food rites; family episodes narrated in history books; connection to the Jewish world in terms of halacha; synagogues attended today; knowledge of Ladino (surnames and Ladino are objective criteria, but CIP did not assume them as determinants in the process) and genealogy. DNA tests were also accepted (CIP, 2018, p. 10-11), as were family records, archives of Jewish congregations with birth, marriage and death records, circumcision, state migration records (ship lists with entry and exit from the country) and documents showing a migratory route pattern, expert opinions on the Jewish diaspora and evidence of reputable witnesses. Among these proofs, records of known history by rabbis or credible scholars

<sup>4</sup> See: <https://cilisboa.org/concessão-da-nacionalidade-portuguesa/>.

<sup>5</sup> See: <http://www.comunidade-israelita-porto.org/x#0>.

about the applicants' families were accepted, and a letter from a rabbi of some Orthodox Sephardic community in the diaspora was generally required, attesting to the applicant's Jewish origin and current Jewish practice. Questions on interpretation of this latter precondition arose, since "the law only refers to the requirement regarding the tradition of belonging to a Sephardic Jewish community, with proof of Jewish practice of the applicant's ancestor as sufficient, and not of his own in the present," (Interview L1). In fact,

These are evidences enough for civil registries, but they are also very circumstantial, as they are better preserved only among families with ancestors with privileged positions. When these ancestors are linked to a synagogue and if they had some prominent role, this memory is preserved. The possession of written documentation, among these families in general is very scarce, due to the secrecy that was kept – even in countries of greater religious tolerance. Even today, Christians in Europe do not assume their religious identity when they introduce themselves, out of fear! (Interview CIL1)

Once submitted, the documents were evaluated as a whole and the applicants were advised by the CIP to have a lawyer (CIP, 2018: 11).

Michael Rothwell, delegate of the CIP Certification Commission, told *Expresso* (16 February, 2022), that 90% of all certificates issued in Portugal came from CIP. This is probably due to the fact that at CIP, the process was half the price and more facilitated for applicants, comparing to the CIL.

On March 13, 2022, however, the CIP posted a statement on its website informing that it is no longer interested in collaborating with the Portuguese State in the issuance of certificates, adding a range of justifications and considering outrageous the suspicions that have arisen, which increase the potential of antisemitism in Portugal.

As confirmed by a registrar, "the €250 fee is the same amount that any applicant pays for registrations for a Portuguese passport at the registry offices, and nobody accuses them of receiving millions of profits" (Interview, R1). Compared to countries with large ultra-Orthodox communities, Portugal welcomed 7000 new residents, some investing heavily in the country and promoting Jewish ethnic institutions in a very significant way, such as museums, schools, synagogues, cemeteries, *ashdut* youth centers, etc. Rothwell also told *Expresso* (February 16, 2022).

The CIP sees the extensive genealogical evidence required by the CIL as too complex to decipher (requiring transcription) and attest; they consider that Spain has too difficult criteria (demanding Spanish language and culture tests, after 500 years); but requires that the applicant must be Jewish. For the CIP, there are no non-Jewish Sephardim<sup>6</sup>. However:

Each community interprets the law in its own way. Converts are included in the CIL, but not in the CIP, where they only consider Orthodox “Jews” and with some proof of religious Judaism, through a *Ketubah* for example. Take the case of children of mixed marriages... In Porto it is easier because a Jew can prove more easily that he/she has a Sephardic ancestry – which is not the same as proving that he/she has a forcibly converted ancestry – the proof documents are different. To accept children of converted ancestors, the CIL asks for a letter, in which people expose their oral memory. These are evidence reports that do not weigh much in the process, nor in the set of documents to be presented, due to the danger of lack of reliability. If there are family passports with birth dates and names of several family members and children, this should force Porto to accept them all. If all this is about historical reparation, it makes no sense to marginalize some and not others. But in reality, some brothers or sons were accepted and others were not. The trauma is common to all because the process is not religious but political, humanitarian, diplomatic. (Interview CIL1)

By selecting fragments of the existing legal regulation, the CIL and CIP have become creative bricoleurs in this process.

## Genealogists

Not being mandatory, but advisable, many applicants look for a genealogist to help with Sephardic ancestry research for certification, especially at CIL. Upon being contacted, one of these agents (Interview G1) says that some people already know what he does, while others ask for explanations about the procedures. He then asks the applicant to send him copies of all the genealogical data of

<sup>6</sup> See: <https://www.mjporto.comhttps://dre.pt/dre/analise-juridica/decreto-lei/26-2022-180657814>.

his closest relatives (especially dates and places of birth and marriage, as death records have little information) and suggests them to get also a lawyer. Based on the data received, the genealogist does a first free analysis and research, to check if the case is viable. He then sends a first service proposal with a price and, if accepted, he makes the complete genealogical report. In this process, there are three possibilities: a) the genealogist sees that his efforts are not worth it, since there are many cases in which there might even be a distant Sephardic ancestor, but this ancestry has not been documented and no evidence is found, so the contact ends there. Then, either the genealogist asks for more data, or tells his client that it is unreasonable to continue this research, as it would take years (with no guarantees) to find a “viable line” of that family, making the work too costly; b) or he may consider that the result is viable and a fixed cost is presented; c) or he considers that the work can be done and is justified, but further research is needed without commitment to find the “viable line”. This allows the disappointed client, to choose to look for another specialist, who might discover a “viable line”, due to differences of genealogical sources knowledge.

Each of us have our own domain of the written sources and there may be a colleague who has access to documentation of family lines that I don't have. It would be legitimate to charge for this work/analysis, but I prefer to have a clear conscience, so that no one will ever accuse me of being a profiteer. (Interview, G1)

If the person accepts the budget, the next step is, for the genealogist, to start making a small outline of the “relevant line” and to present a text with the complete data of that line, with all the proof that the client has a New-Christian ancestor.

Some of these agents added an opinion from a recognized academic in the field of Portuguese genealogy, who analysed the reports and all the evidence attached, signing their agreement and this served as a peer-review safeguard in cases that may be considered dubious.

Initially the genealogists sent the all the documentation directly to the applicants, but later, they started to send them to the lawyers who began to deal with the applications in the CIL/CIP, where the analysis for certification, takes 6 to 8 months. Some processes are approved right away, while others may have details that raise doubts to the communities' analyst, who sends it back to the lawyer, who in turn sends it back to the genealogist to review/clarify. For professional genealogists, there are questions posed that show the total ignorance of historians in the communities regarding genealogy. If necessary, additional supporting documents will be provided in response to such requests for clarification. There is of course a concern to certify all documentation, but it is often frustrating for genealogists,

The lack of communication with the CIL, especially since it changed its managing board and since the lawyers started to act as intermediaries. It was much easier and faster than before, when we were dealing directly with the CIL. We clarified all doubts immediately. The thing is that there are very few genealogists in Portugal, and these young historians know nothing about the subject. There are one or two out of the 20 historians that CIL has, who showed that they knew what they were asking, but most did not. It makes no sense for the CIL to have cut off communication. (G1 interview)

This idea is shared by other genealogists, such as interviewee G2, who adds that:

We could even train them; I wouldn't mind at all. They don't accept one brother but accept the another; there are parents who were approved and their children are not. You cannot do this without understanding why. There is no communication with them, it is a pity. The CIL defends its historians and there is no opened mindedness. In the beginning it was very different. All this [the 2022 NL's amendment] was a relief for me, because I'm tired. There are approved Brazilians who are now Portuguese, with very tenuous signs [of a true Sephardic ancestry]. We mainly use primary sources and some secondary sources – we complete with what is found on baptisms, marriages. There has to be rigor. At CIL, they don't like this and they sometimes accept less detailed sources, because historians can't even read paleography and accept less rigorous genealogy. Even Cau Barata, a prominent and renowned genealogist in Brazil, copies us... he copies our processes, because for decades we have been studying, exchanging and we know well our sources. (Interview G2)

For these genealogists who worked mainly with the CIL, what the CIP did is unconstitutional, as it only accepts those who are Jewish (arguing that, by law, no one can be discriminated due to their religion). They perceived that there were many dubious processes that could raise doubts, especially in Porto. But they think that although the CIP and CIL had different requirements, they did their best to assess the right criteria for certification, according to the 2015 law and consider that the current regulation regarding the latest amendments to the NL is purely ideological. The Portuguese NL



Is one of the most open in the world. You see, the children of illegal immigrants become Portuguese... it's opening the doors wide for illegals. I've done several pro-bono processes, eg. a Brazilian boy – paid €500 to CIL and €250 to the registry office and became Portuguese. But the politicians have this idea, that the applicants are all rich Jews! The new law opens our citizenship to everyone, and closes it off to the 'rich Jews'. Very few of these foreigners came, but people here thought it was too much for them to come and invest in Portugal. Now the illegals enter, but for the descendants of Sephardim it's finished, after September. It is an ideological problem. (G2 interview)

## Lawyers

Also not being mandatory, there are many applicants for citizenship who seek the services of lawyers or solicitors and their agencies, to expedite, with an added cost depending on the fees charged, the acquisition of Portuguese nationality.

Lawyers are seen as facilitating agents, providing information and mediation in citizenship processes, and dealing with the preparation of all necessary documentation, especially legal argumentation, within the requirements of the law, until the certificate and/or citizenship is granted.

There are around 33,000 registered lawyers with the Portuguese Bar Association (Pordata, 2020), many of whom have dedicated themselves to this cause of nationality. Some work in isolation in this specialty of administrative law, while larger offices create specialized departments, hiring historians and consultants with experience in processes related to the analysis of the genealogical strategy of the applicants' ancestors. This analysis is done through the study of the documentation presented, compiling the life and migration histories of the applicant's ancestors, gathering relevant places and dates to discover where they passed and thus find possible similarities with the migratory pattern of the Sephardic diaspora, recognized by historiography. All this, in order to assess the profile of these applicants so that they are certified by the CIL/CIP.

Some lawyers are specialized in foreign law and Portuguese citizenship, and assist in the search for documents in the registry offices and in the documents' transcription and apostille. With the intensification of agenciality in this area, many lawyers have been increasing their skills and tools, creating their own libraries on Portuguese Judaism to gain familiarity with the subject and better develop each case's "puzzle", as creative thinkers and bricoleurs.

“My office is now full of books on Jews, and I’ve gained a lot of taste for this cause. It’s a shame they treated this law as if it were a business or a political issue. Many applicants do not even know how to explain this very special connection they feel to Portugal, from a distance. I deal with many North Americans and they have no interest in entering Europe, because for them it is really a symbolic issue. Others even come here to live... to the Alentejo. In the Odemira area, for example, there are already many Jews, New-Portuguese communities settled there” (Interview A1).

These agents also serve as mediators between the genealogists and the CIL or CIP, having to send back and forward, documentation, requests for clarification on any data sent to the communities and to be asked to verify evidence. In addition to legal advice, within the scope of the instruction of processes for certification in Jewish communities, these agents will also be able (with a new power of attorney for the purpose) to assist in the preparation of the application addressed to one of the civil registry offices, and accompany the administrative process until the final phase, which is the issuance of the passport. This application must contain the argumentation for the application and the essential identification of the applicant and the lawyer or solicitor. Many of these professionals advertise their services on their websites and social networks on the internet, and many offer “a free and online initial consultation so that each case is analysed and the necessary guidance is given. But now, this [2022 amendment] is the final nail in this coffin” (Interview A2).

## Registrars

Once all the documentation has been compiled, it is forwarded to the Portuguese Civil Registry Conservatories, to complete the second phase of the process: the request of citizenship. There, each process costs €250 and lasts for at least 6 more months, but it generally takes 14 to 24 months, given the lack of specialized technical personnel. This is because all the documentation of each process has to be scanned, digitized and classified by the civil registers staff, before it is delivered to one of the registrars who will then analyse it and make an opinion that is not binding, as it has to finally get favourable order from the minister of justice, who has the last word, because she has a discretionary power, which registrars do not have.

Since 2017, the minister delegated this task to a secretary of state. An agent of the conservatories confirmed that, “usually the judges do not understand anything about notary and delegate to a secretary of state who understands the matter” (Interview C1). Until 2018, all processes were headed to the Lisbon

Central Civil Registers Conservatory services. Since then, however, especially in Porto, with the huge increase in citizenship seekers, pressures began so that the Porto Central Archive could also handle the processes. Since they had too much work in the central services in Lisbon, they began to distribute the processes to other smaller conservatories. Here, agencality is also very compromised, because the job is done

By untrained people, with too much work in hands and, on the part of the registrars, there is no motivation to work faster, given the low wages and because we received the fees according to the profits of each conservatory. Since the central services naturally have more work, all the registrars wanted to go and work there, in order to achieve the objectives and obtain a better performance evaluation. There was envy among colleagues and so, to alert our bosses, among the registrars, it was agreed that everyone would do only 380 processes per month. Anyone who worked 500 or more and exceeded these goals was not well regarded. And that is why there is a general lack of zeal. (Interview C1).

Given these imbalances, the minister has decided that, since November 2021, the old and new registrars must earn the same. Also, the Ombudsman has already warned the ministry that there are registrars who earn less than certain civil registers staff. "There is no incentive to dispatch processes. And some registrars like me, are proud to help applicants. Now, it is all over. The new 2022 law's regulation mentions in point 26 that the minister can delegate to the registrars the issuance of the final opinion" (Interview C1), but this does not happen in practice. This interviewee adds that, if it is true that the number of people with Portuguese nationality has been increasing over the last years, this fact does not translate into an increase in the population residing in Portugal.

As for the investigation and processing of cases, mechanisms were created to simplify the procedures, namely the exemption from presenting certificates and acts of the national civil registry of the Portuguese criminal record, or documents proving legal residence in Portugal, since the Public Administration has direct access to that information, and, in exceptional situations, the possibility of waiving the need to present documents that must support the process, provided that there is no doubt as to the facts in question. Notwithstanding the simplification carried out in the processing of cases, given the growing volume of requests for nationality, the competent services have not been able to respond to them within the period considered reasonable.

## Conclusions

The NL in Portugal has adjusted to the times and its successive changes show a gradual opening, namely, for reparations of historical injustices. “The Portuguese NL is, therefore, strongly committed to the integration of foreigners who have chosen our country as a place of residence, being considered one of the most liberal in Europe (Carneiro, 2021, p. 63). Having been unanimously approved, the new Law 30/A/2015 that allows descendants of Sephardic Jews to acquire Portuguese citizenship, seemed a sign of this openness. Being the correction of a historical error or a just act referring to circumstances fifteen generations ago, each case must surely be carefully examined. Although the number of candidates and what they would do after naturalization was uncertain, regardless of whether they reside in Portugal or speak Portuguese or not, it is also certain that this law has extraordinary symbolic effects for many people and an undoubted international impact on the country's image.

But soon came the suspicions about this 2015 NL, and anonymous reports were built in the media, linking it to big business or Freemasonry, which subsist and reproduce old anti-Semitic preconceptions. It was a law open to all but it came to be seen as a “law of convenience” that was not supposed to rehabilitate the Jewish presence or culture in Portugal. The agents involved in these processes, in addition to the applicants themselves (genealogists, certifying Jewish communities in Lisbon and Porto, lawyers and registrars), described here, did not have consensual understandings regarding the regulations of the law and criteria for citizenship's acquisition. They worked as responsive and often spontaneous improvisers/bricoleurs to deal with this NL and the thousands of citizenship applicants and share a unanimous regret, however, that the new 2022's regulation has put an end to these processes.

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