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Preliminary Title. General provisions

Article 1

Malian nationality attaches at birth, as the nationality of origin, by operation of law.

Malian nationality is acquired and lost after birth either by an operation of law or by the decision of a public authority under the law.

Article 2

Provisions regarding nationality contained in international treaties or agreements duly ratified and published shall have effect, even though contrary to the provisions of Mali internal legislation.

Article 3

The new laws concerning the granting of Malian nationality as nationality of origin shall be applicable to the persons born before the date of their entry into force, provided they have not attained their majority at this date.

Without prejudice to the validity of the acts in the law of the person concerned or rights acquired by third parties on the ground of previous laws.

Article 4

The conditions for acquisition and loss of Malian nationality after birth shall be regulated by the law in force at the time facts and acts likely to lead to acquisition and loss happen.

Article 5

Majority, for the purposes of this Code, is attained at the full age of twenty-one years.

Article 6

Usual residence shall mean permanent residence in the Republic of Mali.

Article 7

Changes resulting from acts of the Malian authority or international treaties shall be taken into account, at any time, for the determination of the Malian territory.

Title I. Malian nationality by origin.

Article 8

Malian nationality is attached, either born in Mali or abroad, to:

- (1) a legitimate child born of a Malian father,
- (2) a legitimate child born of a Malian mother and a stateless father or a father of unknown nationality,
- (3) an illegitimate child born of parents of whom one is Malian when his affiliation to that parent was first established;
- (4) an illegitimate child born of parents of whom one is Malian, though his affiliation to that parent be later established, if the other parent is stateless or of unknown nationality,
- (5) a child born of a Malian mother and a foreign father but subject to the minor's right to renounce Malian nationality, as provided by the law, within six months following his majority.

Article 9

Malian nationality is attached to any legitimate or illegitimate child born of a Malian mother when the father or the paternal family did not contribute to his welfare and education.

Article 10

Malian nationality is attached, subject to the right to renounce it within six months following majority if he was not born in Mali, to:

- (1) a legitimate child born of a Malian mother and a foreign father,

(2) an illegitimate child born of parents of whom one is Malian, though his affiliation to that parent is later established, if the other parent is a foreigner.

Article 11

Malian nationality is attached to any child born in Mali of unknown parents.

He shall keep Malian nationality even if during his minority, his affiliation is established with a foreign parent and, in accordance with the national law of the foreign parent, he possesses the nationality of the latter.

Provided that he shall have the right to decline Malian nationality as provided by law, within six months following his majority.

A new-born child found in Mali shall be presumed *prima facie* to have been born in Mali.

Article 12

Malian nationality is attached to any legitimate or illegitimate child born in Mali of a father or a mother of African origin born in Mali.

Article 13

The provisions of Article 12 are not applicable to children born in Mali to foreign monarchs, diplomatic representatives and career consuls or foreign international civil servants.

Provided such children may have the right of option under the terms of Article 27.

Article 14

A child, having Malian nationality under the provisions of the present title, shall be deemed to have been Malian from birth even if the conditions required by law for the attachment of that nationality were established after his birth.

Provided

the attachment of Malian nationality from birth shall not affect the validity of the acts-in-the-law of the person concerned or the rights acquired by third parties on the basis of the child's apparent nationality.

Article 15

Affiliation shall affect the attribution of Malian nationality only if proved in accordance with the provisions of the Malian civil law.

Article 16

Where the affiliation of the illegitimate child with regard to both parents has been established by the same act or judgement, it shall be deemed to have been established first with regard to the father.

Article 17

Affiliation of the illegitimate child shall affect the attribution of Malian nationality only if it has been established during his minority.

Article 18

Option to renounce Malian nationality in the cases referred to in the present Title shall occur through a declaration submitted in accordance with Article 45 and following Articles.

Article 19

In the cases referred to in the foregoing Article, no individual shall be allowed to renounce Malian nationality unless he proves that he holds, by affiliation, a foreign nationality and, if need be, that he has met the military obligations imposed by that foreign country, subject to the dispositions of international agreements.

Title II. Acquisition of Malian nationality

Chapter I. Means of acquisition of Malian nationality

Section I. Acquisition of Malian nationality by descent

Article 20

Malian nationality is attached to any child fully adopted by a Malian father.

Article 21

Malian nationality is attached with full rights, provided his affiliation is established in accordance with the Malian law, to:

- (1) any minor legitimate or illegitimate child, whose father or widowed mother acquires Malian nationality;
- (2) any minor illegitimate child whose parent having first established the affiliation or, if need be, the surviving parent, acquires Malian nationality;
- (3) any minor child whose neither father nor paternal family participated in his welfare and education and whose mother acquires Malian nationality.

Those provisions shall not apply to the married child even if a minor.

Article 22

A child born of a first marriage to a foreign woman who has acquired Malian nationality through marriage may opt for Malian nationality within six months following his majority and, in accordance with the provisions of Article 45 and following Articles, provided his father is deceased and he had his usual residence in Mali.

Subject to the provisions of Article 47 and following Articles, the person concerned shall acquire Malian nationality from the date of submission of the declaration.

Section II. Acquisition of Malian nationality by marriage

Article 23.

A foreign woman marrying a Malian national shall acquire Malian nationality.

Provided that, if her national law permits her to retain her nationality of origin, she may declare, prior to the celebration of the marriage, that she declines Malian nationality. She may exercise that right without authorisation even if a minor.

Article 24

Within one year, the Government may by decree oppose such acquisition. Where the marriage has been celebrated in Mali, the time limit mentioned above shall be set from the date of celebration of the marriage. Where it has been celebrated abroad, the time limit shall be set from the date of transcription of the act on the civil status registers.

In case of opposition of the Government, the person concerned shall be deemed never to have acquired Malian nationality.

Article 25

A woman shall not acquire Malian nationality if her marriage with a Malian national is declared null by a decision rendered by a Malian law or enforceable in Mali, even if the marriage was contracted in good faith.

Children from the annulled marriage are Malian nationals.

Article 26

When the validity of acts executed before the decree of opposition or the judiciary decision noting the nullity of the marriage was subjected to the acquisition of Malian nationality by the woman, such validity shall not be contested on the ground of non acquisition of the nationality.

Section III. Acquisition of Malian nationality through birth and residence in Mali

Article 27

Any person born in Mali of foreign parents may acquire Malian nationality provided he has had his usual residence in Mali for five years when he attains his majority.

He has the right to exercise that option within six months following his majority.

The effects of such option are regulated by the provisions of the foregoing Article 22.

Section IV. Acquisition of Malian nationality by decision of the public authorities

Paragraph 1. Naturalisation

Article 28

After inquiry, Malian nationality shall be conferred by decree on a foreign person requesting it.

The decree shall intervene within a year following the application. Otherwise, it shall be deemed as

being rejected.

The decree granting naturalisation shall not be motivated.

The formal or implicit refusal of naturalisation shall not be appealed.

Article 29

Malian nationality shall not be conferred to a person who has not had his usual residence in Mali for at least five years at the time of presenting his application.

That period is reduced to two years for a foreigner married to a Malian woman or who has rendered outstanding services to Mali.

Article 30

Malian nationality may not be conferred on a person:

(1) who has not attained the full age of eighteen years unless, as a minor, he benefits from the naturalisation granted to his parent;

(2) who is not of good character and morals;

(3) who has been sentenced either to a term of more than one year of imprisonment, not expunged by rehabilitation, for an offence against ordinary law leading, according to Malian law, to a conviction for serious crimes or a penalty of two months to five years imprisonment or for one of the correctional offences, not expunged by rehabilitation, as provided for in Articles 150, 179, 183, 196, 207, 210 of the Penal Code or for possession of stolen goods, swindling or breach of trust.

Sentences passed abroad may not be taken into consideration; in that case, the decree of naturalisation shall be pronounced after recommendation by the Supreme Court.

(4) who does not justify of his assimilation in the Malian community.

Article 31

A foreigner subjected to a deportation order may be naturalised provided such order be recalled in the forms it intervened.

Article 32

A minor having attained eighteen years of age may apply for naturalisation without authorisation.

Paragraph 2. Restoration

Article 33

Restoration to Malian nationality shall be conferred by decree after inquiry.

Paragraph 3. Common provisions

Article 34

A Decree of naturalisation or restoration may be revoked if it appears after signature:

- (1) that the applicant did not fulfil the conditions required by law for that purpose;
- (2) that the applicant has knowingly made a false declaration, submitted documents containing false or incorrect information or used by fraudulent means to obtain the naturalisation or restoration.

A fee payable to the Treasury shall be charged for each naturalisation or restoration. The amount shall be fixed by decree.

Section V. Common provisions relating to some means of acquisition of Malian nationality.

Article 35

Where residence in Mali is a requirement for Malian nationality, is assimilated to such residence:

- (1) a stay abroad to hold an office conferred by the Malian government or to work in an Embassy, a legation or a consulate;
- (2) a stay in a country belonging to the Union of African states;
- (3) a stay abroad in a detachment of the Malian army.

Chapter II. Effects of acquisition of Malian nationality

Article 36

Acquisition of Malian nationality implies enjoyment of all rights from the same day of being granted nationality.

The naturalised foreigner is, however, subject to the following restrictions:

- (1) Within ten years from the decree of naturalisation, he shall not be appointed to any office or elective mandate, which may be undertaken only by a Malian national;
- (2) Within five years from the decree of naturalisation, he shall not be able to vote where Malian nationality is conditional to registration on the electoral rolls;
- (3) Within five years from the decree of naturalisation, he shall not be appointed to any public office remunerated by the State, be registered at the Bar or hold a ministerial function.

Article 37

In exceptional cases, these restrictions may be annulled by a decree issued in the Council of Ministers after recommendation by the Minister of Justice.

Title III. Loss and forfeiture of Malian nationality

Article 38

Malian nationality is lost by any Malian adult national usually residing abroad who wilfully acquires a foreign nationality provided he declares it expressly in accordance with the provisions of Article 45

and following Articles of the present Code.

Article 39

Malian nationality is lost by any Malian national who, having acquired a foreign nationality, is allowed to lose Malian nationality upon his request.

Such authorisation shall be granted by decree.

Article 40

A minor having attained the age of eighteen years may submit the foregoing request without authorisation.

Any person over sixteen years of age and under eighteen shall need the authorisation of his father or, if need be, of his mother, authorised by the council as provided by the law on marriage and guardianship, or his guardian after consultation of the family council.

Any person under sixteen years of age is represented by the person and as provided for in the foregoing paragraph.

Article 41

A Malian woman marrying a foreigner shall retain Malian nationality unless she renounces it before the celebration of the marriage in the manner prescribed by Article 45 and following Articles.

Provided that no such declaration shall be valid unless she may acquire her husband's nationality.

Article 42

Any Malian national acting like a national of a foreign state may, by decree, be freed of his allegiance to Mali, provided he requests it as provided by law.

Article 43

With the exception of the persons referred to in Article 20, any person may be deprived of the Malian nationality within ten years from the acquisition of such nationality if:

- (1) he has been convicted of an act qualified as a criminal act or an offence against internal or external security of the state;
- (2) he has been convicted of an act qualified as a criminal act according to Malian law and has been sentenced to a term of imprisonment of more than five years;
- (3) he has been convicted for non submission to his military obligations in accordance to the law on army recruitment and civil service;
- (4) he has committed acts in favour of a foreign state which are incompatible with the status of a Malian or harmful to the interests of Mali.

Article 43 bis

Malian nationality is lost by any Malian national serving in or helping a foreign army or foreign

public service provided the host country is, with his help, engaged in hostilities against Mali.

Likewise, Malian nationality is lost by any Malian national working in an international organisation without the agreement of the Government.

The person concerned shall be declared to have lost Malian nationality if, within a time limit fixed by the injunction, of no less than fifteen days and no more than two months, he has not resigned his post.

Article 44

Forfeiture shall be pronounced by decree after a report of the Minister of Justice

Title IV. Forms of acts relating to acquisition or loss of Malian nationality

Article 45

Any declaration for:

- (1) acquiring Malian nationality;
- (2) declining acquisition of Malian nationality;
- (3) renouncing Malian nationality

shall be signed before the judge of the court designated by the President of the Court of First Instance or the Justice of the Peace whose jurisdiction includes the residence of the applicant.

Article 46

A claimant residing abroad shall sign the declaration before a diplomatic or consular representative of Mali.

Article 47

Any declaration of nationality signed in accordance with the foregoing Articles shall be void unless registered at the Ministry of Justice.

Article 48

Where the person concerned does not satisfy the conditions required by law, the Minister of Justice shall refuse to register the declaration. The applicant who shall be notified of the refusal may, within two months, appeal to the Civil Court. The court shall decide on the validity or nullity of the declaration.

Article 49

Within one year from the date either of submission of the declaration, as referred to in Articles 22 and 27, or the judiciary decision admitting the validity of the declaration in the case referred to in the foregoing Article, the Government may oppose by decree the acquisition of Malian nationality for appropriate reasons. No appeal shall be lodged.

Article 50

If, within one year from the date of the declaration, there has been neither a decision to refuse registration nor a decree establishing the opposition of the Government, the Ministry of Justice shall transmit to the declarant a copy of his declaration mentioning the completed registration.

Article 51

Unless the Civil court has already ruled in *res judicata*, the validity of a registered declaration may be contested at any time by the Legal Department or any person concerned. In this case, the Legal Department shall always be made a party to the suit.

Article 52

Clerks of the repressive jurisdictions shall have to transmit to the Minister of Justice, within one month from the date of ruling, a copy of the decisions ruled in *res judicata* as referred to in Article 49.

Title V. Certificates of nationality

Article 53

The President of the Court of First Instance or a competent Justice of the Peace shall have exclusive jurisdiction to deliver a certificate of Malian nationality to any person who proves that he has the nationality.

Abroad, such certificate shall be delivered by Malian diplomatic or consular representatives.

Article 54

Such certificate shall refer to the provision of the law under which the person concerned is a Malian national together with the documents establishing his claim. It shall be *prima facie* proof of its truth.

Article 55

When the competent authority refuses to deliver a certificate of nationality, the person concerned shall apply to the Minister of Justice who shall decide whether such certificate should be delivered.

Title VI. Disputes about nationality

Article 56

Civil courts of common law are solely competent to deal with disputes concerning nationality as principal plea or following an appeal against an administrative act.

Article 57

Pleas of Malian nationality and foreign nationality are of public nature; they must be raised by the judge of his own motion.

They constitute before any other jurisdiction than the civil courts of common law, a detrimental question which obliges the judge to postpone the ruling .

Article 58

If the plea of nationality is raised before a repressive jurisdiction not including a criminal jury, the latter shall, within thirty days, send an appeal before the competent civil court either the party invoking the plea or the Public Prosecutor 's office if the person concerned holds a certificate of Malian nationality delivered in accordance with Articles 53 to 55.

The repressive jurisdiction shall postpone the ruling until the question of nationality be settled or, when the civil court has not been referred to, until the above mentioned allotted time expires.

Article 59

The action shall be brought before the court of the domicile or failing this of the residence of the person whose nationality is being disputed or, if he has in Mali, neither domicile nor residence, before the court of Bamako.

Article 60

Actions concerning nationality are filed by petition in accordance with Articles 1 and 8 of the Code of Civil, Commercial and Social Procedure.

Article 61

Any person wishing to establish that he possesses or not Malian nationality shall petition the State Prosecutor who has sole quality to defend the action without prejudice to the right of interested third party to intervene.

Before the competent Justice of the Peace, the State Prosecutor shall conclude in writing.

Article 62

The State Prosecutor has sole authority to bring against any person, an action directed mainly and objectively to establish whether the person concerned is or is not a Malian national. Any interested third party may intervene.

Article 63

The State Prosecutor has obligation to act, if requested by a public administration or a third party having invoked a plea of nationality, before a jurisdiction which postponed its ruling in accordance with Article 57. The claimant party shall be involved and, unless it obtains legal aid, shall ensure the payment of legal fees and proceedings damages it may be sentenced to.

Article 64

The public prosecution shall be involved even when the question of nationality is raised as an incidental plea between private parties and shall be heard in its substantiated conclusions.

Article 65

Final judgements on questions of nationality are res judicata against the world.

Article 66

Judgements of repressive jurisdictions are never res judicata on a question of nationality when the

civil jurisdiction has not been summoned to give a decision in accordance with Article 56.

Article 67

When a dispute about nationality requires interpretation of provisions of international treaties relating to nationality, such interpretation shall be asked from the Minister of Foreign Affairs by the public prosecution through the Minister of Justice, at the request of the jurisdiction in charge.

Such interpretation by the Minister shall rule before the courts. It shall be published in the Official Gazette.

Title VII. Transitional provisions

Article 68

Any person usually residing in Mali at the date of entry into force of the present Code and justifying of the quality of Malian national shall be deemed to possess Malian nationality by origin.

Such presumption shall be prima facie until proven contrary by the person concerned or the public authorities in accordance with the provisions of Title VI of the present Code.

Article 69

Where marriage has effect on attribution or loss of Malian nationality, proof shall be established by submission of a civil status act or, for marriages performed before the date of entry into force of the law on marriage and guardianship, a declarative judgement from the competent civil jurisdiction.

Article 70

Any person, born in Mali of foreign parents, who had had his usual residence in Mali for at least five years and attained majority at the date of entry into force of the present Code, shall have the right to acquire Malian nationality.

Such option has effect as provided in Article 27.

Article 71

A foreign woman, who has married a Malian national before the date of entry into force of the present Code, shall be deemed to have acquired Malian nationality at the date of celebration of the marriage.

Provided that she shall have the right to decline such nationality if her national law allows her to retain her nationality.

Article 72

A legitimate child born of a Malian mother and a foreign father shall have the right of renunciation as provided for in Article 10.

An illegitimate child shall also have such right provided that the parent whose affiliation was established as being a Malian national and the other parent is a foreigner.

Article 73

A Malian woman who has married a foreigner and wants to acquire her husband's nationality may declare that she renounces Malian nationality.

Article 74

Declarations provided for in the foregoing Articles of the present Code shall have to be submitted within one year from the present Code's publication.

Article 75

Within six months from the present Code's publication, any person having his usual residence in Mali may, even though born abroad, opt for Malian nationality by a declaration submitted in accordance with Articles 45 and 46 of the present Code.

The competent authority shall refuse acceptance such declaration if it is not accompanied by:

(1) an act of submission by which he undertakes solemnly to act as a loyal and worthy citizen of the Republic of Mali and educate his children in the same spirit;

(2) an affidavit presented, in person, by two Malian nationals, certifying that the applicant has proven his assimilation and national feeling.

The provisions of Articles 47 to 49 are applicable.

The Minister of Justice shall have to rule within three months.

Registration shall imply all the effects of Malian nationality by origin.

Article 76

Holders of an office conferred for life by a public authority who are regularly established in the Republic of Mali shall hold their office until promulgation of the status of such office.

Likewise for officials currently exercising some functions in the administration of Mali.

Article 77

The decree No. 55 of 24 November 1960 concerning the attribution of Malian nationality to all the nationals of Mali is hereby abrogated.

Article 78

The present law shall be enforced as Law of the Republic of Mali and published in the Official Gazette.

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