Citizenship requirements for public office

Many countries have rules prohibiting people with dual citizenship or those who are naturalised citizens rather than citizens from birth from holding senior public office, on the grounds that such office holders should not have divided loyalties. Only a few, including Ethiopia, provide that all citizens have equal rights, regardless of how nationality was obtained.

Some countries require naturalised citizens to wait before they can enter public life. Citizenship laws in Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Republic of Congo, Côte d’Ivoire, Egypt, Gabon, Guinea, Libya, Madagascar, Mauritania, Niger, Senegal, Togo, Tunisia, and other countries impose a waiting period of three to 10 years before naturalised citizens can hold a range of offices. Mozambique has a wide prohibition on naturalised citizens being deputies of the parliament, members of the government, and members of the diplomatic service and military. Specific prohibitions on naturalised citizens holding the presidency exist in, among other countries, Botswana, Burundi, Côte d’Ivoire, Equatorial Guinea, Ghana, Liberia, Mali, Mauritania, Niger, and Togo. Kenya’s new constitution adopted by referendum in 2010 introduced for the first time the same restriction on naturalised citizens holding the presidency.

In Algeria, the Constitutional Council has at least twice criticised (in 1989 and 1995) a clause introduced into the electoral law forbidding candidates to stand for election as president if they or their spouses do not hold Algerian nationality of origin.

Dual nationality restrictions apply in a smaller number of countries. Ghana has an absolute prohibition on dual citizens holding a set of listed positions, and many Ghanaian politicians have been barred from taking up ministerial positions until they have renounced a foreign nationality. Senegal requires its presidents to hold only Senegalese nationality, though it is alleged that all of the country’s presidents have held French passports. In Côte d’Ivoire, the constitution prohibits those who have ever held another citizenship from becoming the president of the republic or the president or vice president of parliament. Kenya’s new constitution also introduced—at the same time as the general prohibition on dual citizenship was lifted—a ban on dual national

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185 Ghana Citizenship Act, 2000, Section 16(2). For example, in the cases of Ekow Spio-Garbrah, Akwasi Agymang Prempeh, and Stephen Dee Larbi.
187 Constitution of Côte d’Ivoire, Articles 35 and 65.
holding any state office (except for judges and members of commissions). Similar rules have recently been the subject of challenge in Egypt (see below). Several other countries, including Djibouti, Equatorial Guinea, and Togo, also disallow dual nationals from holding the presidency.

In Nigeria, however, the courts have held that dual citizenship is no disqualification for public office, given that a Nigerian citizen from birth is free, under the constitution, to hold another nationality.

**Egypt: Dual citizenship and political rights**

Egyptian law on the question of dual citizenship is complicated. The constitution says simply that "Egyptian Nationality is defined by law." The law in effect is Law No. 26 of 1975 Concerning Egyptian Nationality (as amended in 2004), which forbids an Egyptian citizen from obtaining citizenship of another country without the permission of the minister of the interior. Unless the request for permission includes a request to retain Egyptian citizenship, citizenship of Egypt is then lost. Even if Egyptian citizenship is retained, it can at any time be revoked.

Between 1998 and 2003, 26 individuals lost their citizenship because they obtained foreign nationalities without the consent of the Egyptian government. In addition, between 1986 and 2004, 7,196 individuals lost their Egyptian citizenship after being allowed to obtain foreign nationalities and abandon their Egyptian one. It is possible for a person to appeal the minister’s decision to revoke citizenship with the Council of State.

The issue of dual citizenship in Egypt has proved contentious in recent years, particularly as it relates to politicians and other prominent public figures. The controversy came to the fore on the eve of the parliamentary elections in October 2000, when a candidate contested the credentials of his opponent and asked for his exclusion on the grounds that he had both Dutch and Egyptian nationalities. In January 2001, three court decisions barred Egyptians who held dual citizenship from being members of parliament. In the first case, the Administrative Court ruled that a business magnate, Rami Lakah, who

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191 In addition, Law 45 of 1982 prohibits Egyptians who work for the diplomatic corps from marrying foreigners, and Law 232 of 1959 also prohibits military officers from marrying foreigners.
192 “It is not permitted for an Egyptian to obtain a foreign nationality without the Minister of Interior’s permission; otherwise he will be considered an Egyptian citizen in all forms and situations provided the Council of Ministers does not decide to revoke his citizenship in accordance with Article 16 of the Law. The Egyptian citizen will lose his nationality if he obtains a foreign citizenship after receiving permission from the authorities. However, it is permitted that the applicant’s request to obtain a foreign nationality contain a request to keep the Egyptian citizenship for himself, his wife, and his children. If he expresses his wish to keep his Egyptian citizenship during a period that does not exceed one year following his naturalization, he and his family will keep their Egyptian citizenship despite their naturalization.” Egypt Nationality Act (No. 26 of 1975), Section 10 (unofficial translation by UNHCR). See also Consulate General of the Arab Republic of Egypt in San Francisco, “Instructions to apply for the permit from the Egyptian authorities for dual citizenship approval.”
193 A. Khalil, Halat Isqat wa Zawal Al-Genseya Al-Misriya. (Cases of Revocation and Loss of Egyptian Citizenship), 2005. On the other hand, between 1986 and 2005, 819 persons had their citizenship restored following a decision/decree issued by the Minister of Interior in accordance with Section 18 of the Nationality Law.
CITIZENSHIP REQUIREMENTS FOR PUBLIC OFFICE

held a French passport in addition to his Egyptian nationality, could not be a parliamentarian. Basing its decision on Article 90 of the Constitution, the court held that, since Egyptians who carry other nationalities are exempt from military service and prohibited from enrolling in military and police academies, “it cannot be imagined that the person who is required to look after the country’s interest may share his loyalty to Egypt with another country.” The second and third decisions, by the Supreme Administrative Court, went against Mohamed Ahmed Mohamed Saleh, who was said to have forfeited Egyptian citizenship after gaining German nationality, and Talaat Mutawi`, who held American and Egyptian passports. The decisions were final and could not be appealed. In September 2001, the Supreme Administrative Court confirmed that the parliamentary membership of businessman Rami Lakah was null and void because he had dual citizenship.94

These decisions encouraged other persons to file similar appeals against prominent ruling National Democratic Party (NDP) candidates believed to hold dual citizenship, including Economy Minister Youssef Boutros Ghali; Minister of Housing Mohamed Ibrahim Suleiman; and a businessman, Mohamed Abul-Enein. Ghali and Suleiman presented the court with documents attesting that they did not hold a second nationality.95

Mohamed Moussa, chairman of the Constitutional and Legislative Affairs Committee in the Peoples’ Assembly (the Egyptian parliament), said that the 26-member committee would convene, prepare a report on the ruling, and present it to the plenary assembly. This would take place at the start of the new parliamentary session in November. The assembly would then put the matter to a vote. A two-thirds majority was required for the annulment of Lakah’s membership. Although Zakariya Shalash, head of the Court of Cassation, argued that the ruling should be implemented immediately in accordance with the constitution, the assembly argued that it had sole jurisdiction over its own affairs.96 In November, the Peoples’ Assembly confirmed the cancellation of the membership of Lakah and Mutawi.97

In 2004, the Constitutional and Legislative Affairs Committee stated its opinion that appointing dual nationality persons to the cabinet did not violate the law or the constitution, on the grounds that the court ruling banning dual-nationality persons from standing for election did not apply to ministers and executive officials. The chair of the committee, Mohamed Moussa, added that he saw no need to amend the nationality law, noting that dual nationals should enjoy all constitutional and legal rights granted to citizens except nomination for parliament.98

195 Ibid.
197 Akher Sa’a (Cairo), 2 November 2001.