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Togo/Democratic Republic of Congo: Nationality of a woman born in Togo in January 1969 of a Zairian father and a Togolese mother; if the woman is not Togolese by birth, steps that she could have taken to obtain Togolese nationality; the influence that her departure from Zaire in 1980 and her return to Togo in 1990 would have on her nationality; discretionary power of the Togolese government concerning granting of nationality (January-November 2004)

Research Directorate, Immigration and Refugee Board, Ottawa

According to Article 5 of Law No. 81-002 of 29 June 1981 on Zairian (Congolese) Nationality, [translation] "a child is Zairian ... if the child's father [or mother] is Zairian." The United Kingdom's *Country Report* on the Democratic Republic of Congo states that Decree 197, which amends the Congolese Nationality Law of 1981, provides that a child whose father or mother is Congolese obtains Congolese nationality from his or her Congolese parent (Oct. 2004, 5.5).

During a 12 November 2004 telephone interview, a Université Libre de Bruxelles law professor, who specializes in sub-Saharan Africa, indicated that a child born of a Congolese father automatically obtains Congolese nationality, regardless of the nationality of the mother or where the child was born.

According to Article 26 of Law No. 81-002, [translation] "a person loses Zairian nationality when he or she renounces it or acquires a foreign nationality" (Zaire 29 June 1981). However, *Citizenship Laws of the World* lists an exception to this rule: a child born abroad, who obtains the citizenship of the country of birth, may retain dual citizenship until the age of 21 years; a person then has 12 months to renounce the foreign citizenship, or the Congolese citizenship will be revoked (United States Mar. 2001, 55). No corroborating information could be found among the sources consulted by the Research Directorate.

Titles I, II and III of the Togolese Nationality Code of 7 September 1978 are attached. Article 1 indicates that [translation] "a child is Togolese if the child was born in Togo of a father and a mother who were born in Togo, who reside in Togo and who are of Togolese nationality" (Togo 7 Sept. 1978). Article 3 states that a child has Togolese nationality if

[translation]

1. the child is born of a Togolese father;
2. the child is born of a Togolese mother and of a father who is stateless or

whose nationality is unknown (ibid.).

Article 8 provides that any person born in Togo of foreign parents may acquire Togolese nationality by making a declaration upon reaching legal age, 21 years, [translation] "if the person has had the status of a Togolese national in Togo since the age of 16 years" (ibid.). Article 8 also provides that [translation] "the government can oppose the acquisition of nationality," but does not specify the conditions that would justify such an opposition. However, Article 12 states that a person wanting to be naturalized will not be subject to [translation] "any residence condition ... if born in Togo" (ibid.).

According to *Citizenship Laws of the World*, Togo recognizes dual citizenship (United States Mar. 2001, 198). However, according to article 23 of the Code, a Togolese adult loses his or her Togolese nationality if he or she voluntarily acquires a foreign nationality (Togo 7 Sept. 1978). No corroborating information or information indicating whether this law has been amended since 1978 could be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

The Europa World Yearbook 2004. 2004. Vol. 1. London: Europa Publications Ltd.

Law professor, Université Libre de Bruxelles. 12 November 2004. Telephone interview.

Togo. 7 September 1978. Ordinance No. 78-34 of 7 September 1978 on the Togolese Nationality Code.

United Kingdom. October 2004. Home Office, Immigration and Nationality Directorate. "Democratic Republic of Congo." *Country Reports*. <http://www.ind.homeoffice.gov.uk/ind/en/home/0/country_information/country_reports.Maincontent.0045.file.tmp/DRC%20October%202004.pdf> [Accessed 17 Nov. 2004]

United States. March 2001. Office of Personnel Management. *Citizenship Laws of the World*. <<http://www.multiplecitizenship.com/documents/IS-01.pdf>> [Accessed 15 Nov. 2004]

Zaire. 29 June 1981. Law No. 81-002 of 29 June 1981 on Zairian Nationality.

Additional Sources Consulted

Oral sources: Embassy of the Democratic Republic of Congo in Ottawa, Embassy of the Republic of Togo in Ottawa, Embassy of the Republic of Togo in Paris, Embassy of the Republic of Togo in Washington, D.C.

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