

Gender and
Statelessness



Federated States of Micronesia

Gender, Citizenship Laws and Statelessness

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CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

A child is considered a citizen of the Federated States of Micronesia ('FSM') by birth where either parent is a citizen of FSM.¹ All persons born in FSM are deemed to be citizens, except persons who at birth or otherwise have acquired another nationality.²

Children born outside of the country

As stated above, a child is considered a citizen of FSM by birth where either parent is a citizen of FSM.³ A child born outside of FSM of parents who are citizens shall be considered a citizen.⁴

ADOPTED CHILDREN

Conferral of citizenship to adopted children is not mentioned in the citizenship legislation of FSM.

FOUNDLINGS

Conferral of citizenship to foundlings is not mentioned in the citizenship legislation of FSM.

REGISTRATION OF THE BIRTH OF A CHILD

FSM legislation does not set out any obligations for parents to register the birth of a child. It does however state that the Department of Health Services is responsible for the prompt collection of vital statistical information concerning all births; preparing relevant forms; and filing copies of birth certificates.⁵

LOSS AND RENUNCIATION OF CITIZENSHIP

A citizen of FSM may only be deprived of their citizenship as follows:

- Voluntarily obtaining naturalisation in a foreign state upon one's own application;
- Voluntarily taking a formal declaration of allegiance to a foreign state;
- Voluntarily serving in the armed forces of a foreign state (other than the Armed Forces of the United States of America);
- Voting in the political election of a foreign state where a prerequisite to vote is citizenship of that state; or

¹ *Constitution of the Federated States of Micronesia* 1979 Art III s 2 ('*Constitution*').

² *Federated States of Micronesia Code Title 7 Citizenship* s 101(1) ('*Code Title 7 Citizenship*').

³ *Constitution* (n 1) Art III s 2.

⁴ *Code Title 7 Citizenship* (n 2) 101(2).

⁵ *Federated States of Micronesia Code Title 41 Public Health, Safety and Welfare* s 105.

- When over 18 years of age, voluntarily making a formal renunciation of FSM citizenship.⁶

NATURALISATION FOR SPOUSE OF CITIZEN

A person may be naturalized as a citizen of FSM if they are the spouse of a citizen.⁷

A person may also be naturalized as a citizen of FSM if the person has lawfully resided within FSM for at least five years immediately preceding the date of application⁸ and has competence in at least one of the indigenous languages of FSM (evidenced by passing a language examination).⁹ Upon naturalisation, the person must renounce previous citizenship and provide documentary evidence as such.¹⁰

DUAL NATIONALITY

Dual citizenship is prohibited in FSM.¹¹ A citizen of FSM who is recognised as a citizen of another nation is required to, within three years of their 18th birthday, register intent to remain a citizen of FSM and renounce citizenship of another nation. If a person fails to comply with this requirement, they become a *national* of the FSM (and no longer a citizen).¹²

In 2016, the legislation was amended to add that a citizen who holds an FSM passport that has been renewed twice in a row is entitled to a rebuttable presumption that he has renounced the citizenship of another nation and that he is solely an FSM citizen.¹³ This amendment was made with the

purpose of recognising that it is often burdensome for citizens to show evidence that they have relinquished foreign citizenship, particularly in the case of passport renewal.¹⁴

GENDER EQUALITY ACHIEVED

Gender equality with respect to citizenship appears to have been achieved in FSM in 1979, with the introduction of the *Citizenship and Naturalisation Act*. As historic versions of FSM's citizenship legislation are not available it is unclear if there was discriminatory legislation prior to this date. In the current legislation provisions regarding citizenship by birth or marriage do not make distinctions based on gender of the parent or spouse, respectively.

It is to be noted however that the legislation still uses gendered language, using the pronoun "he". This is true for both the Constitution and the *Citizenship and Naturalisation Act*.

GENDER AND STATELESSNESS RISKS

The citizenship laws of FSM may contain risks with respect to gender discrimination and statelessness due to its gaps in some areas.

The legislation provides no reference to foundlings and adopted children. There are no comprehensive provisions regarding obligations as to the registration of births or adoptions.

The legislation also does not contain provisions regarding re-gaining citizenship, for example, where a marriage with a citizen of another state has ended. These gaps create risk given the lack of clarity in these areas of citizenship law for FSM.

It is also worth noting that the prohibition on dual citizenship may create issues where a

⁶ Code Title 7 Citizenship (n 2) s 206.

⁷ Ibid s 204(2)(b).

⁸ Ibid s 204(1)(a).

⁹ Ibid s 204(1)(d).

¹⁰ Ibid s 204(1)(e).

¹¹ Constitution (n 1) Art III s 3; Code Title 7 Citizenship (n 2) s 203.

¹² Constitution (n 1) Art III s 3; Code Title 7 Citizenship (n 2) s 203.

¹³ Public Law 19-091: To amend title 7 of the Code of the Federated States of Micronesia s 2.

¹⁴ Ibid s 1.

child is born to parents with differing citizenships.

UNHCR Representation in Canberra

Note: *This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.*