

Title	Cuba: Requirements and procedures to obtain an exit permit and to extend an exit permit while outside Cuba; information on migration regulations and how they are applied to citizens, including consequences for returning to Cuba with an expired permit; whether individuals are prosecuted for violating migration regulations or experience restrictions after entering the country, such as being precluded from housing, health care or other social services
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Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Cuba: Requirements and procedures to obtain an exit permit and to extend an exit permit while outside Cuba; information on migration regulations and how they are applied to citizens, including consequences for returning to Cuba with an expired permit; whether individuals are prosecuted for violating migration regulations or experience restrictions after entering the country, such as being precluded from housing, health care or other social services

1. Background

According to Human Rights Watch, "the Cuban government forbids the country's citizens from leaving or returning to Cuba without first obtaining official permission" (Human Rights Watch Jan. 2012; see also Visiting Director 10 Feb. 2012). The Cuban Penal Code establishes the following with regard to the illegal entry and exit from Cuba:

ARTICLE 215.1. Whoever enters the national territory without completing the legal formalities or immigration procedures is liable to imprisonment for one to three years or a fine of three hundred to one thousand units (*cuotas*).

2. Whoever commits the act described in the previous paragraph in order to seek asylum bears no criminal liability.

ARTICLE 216.1. Whoever leaves or attempts to leave the national territory without completing the legal formalities is liable to imprisonment for one to three years or a fine of three hundred to one thousand units (*cuotas*).

2. If violence or intimidation against persons or force against things is used to commit the act mentioned in the previous paragraph, the penalty is imprisonment for three to eight years.

3. The punishment for the offences provided in the previous paragraphs applies, regardless of any other offences committed in leaving or attempting to leave the country illegally.

ARTICLE 217.1. Whoever organizes, encourages or incites others to leave the national territory illegally is liable to imprisonment for two to five years.

2. Whoever provides material assistance, offers information or in any way facilitates the illegal departure of persons from the national territory is liable to imprisonment for one to three years or a fine of three hundred to one thousand units (*cuotas*). (Cuba 1987)

2. Exit Permits Applicable to Cuban Citizens in Cuba

2.1 Permit to Travel Outside the Country (Permiso de Viaje al Exterior, PVE)

The website of the Cuban Interests Section in Washington, DC, indicates that Cuban citizens wishing to leave the country for [translation] "personal reasons" must have a "Permit to Travel outside the Country" (Permiso de Viaje al Exterior, PVE) (ibid. n.d.a). This permit, which is also known as *tarjeta blanca* (Visiting Director 10 Feb 2012; ABC 2 Aug. 2011), is obtained from immigration authorities near the person's residence in Cuba (Cuba n.d.a). The Ministry of Foreign Affairs' website indicates that, to obtain a PVE, a Cuban citizen living in Cuba must present a letter of invitation from a person living in another country and pay the fee (ibid. n.d.b). The letter can be written by the host in the foreign country and must be notarized at the Cuban consulate (ibid.). The letter is then sent by the consulate to the person in Cuba through the Office of the International Legal Consultancy in Havana (ibid.). The invitation letter expires one year after it is notarized by the Cuban consulate abroad (ibid.).

The PVE is valid for 30 days, after which the person must pay a fee for each additional month outside Cuba; it is valid for up to 11 months in total (ibid. n.d.a; ibid. n.d.c). To renew the PVE in Canada within the 11 month validity period, the holder of the PVE can go in person to the Cuban consulate with the passport and fee, or send the documents by mail along with a self-addressed stamped envelope (ibid.). The PVE can be extended beyond the 11 months for an additional three months as long as the person presents a medical certificate along with the application form, passport, the identity document that evidences the person's registration in the consulate, and a fee for processing (ibid.). The person must wait for authorization from Cuba, after which he or she must pay a fee for each additional month (ibid.).

2.2 Temporary Travel Permit (Permiso de Viaje Temporal, PVT)

Cuban authorities also issue a permit for temporary travel (Permiso de Viaje Temporal, PVT) to Cuban citizens who need to leave the country through a Cuban organization (ibid. n.d.a). The Research Directorate could not obtain information on the requirements to obtain this permit within Cuba among the sources consulted within the time constraints of this Response.

To renew a PVT, the person must first contact the Cuban entity or organization through which he or she obtained the permit to leave Cuba, to obtain authorization from the

Immigration and Foreign Affairs Directorate (DIE) (ibid.). Once the consulate receives authorization from the DIE, the person must present his or her passport, the fee and a self-addressed stamped envelope (ibid.).

3. Other Permits

3.1 Foreign Resettlement Permit (Permiso de Residencia en el Exterior, PRE)

This permit is granted to Cuban citizens who marry foreign nationals and wish to live outside Cuba indefinitely (Cuba n.d.d). The applicant can make the application abroad at the Cuban consulate or within Cuba at any of the offices of the Immigration and Foreign Affairs Directorate (ibid.). The applicant must present an application form, five photographs, a copy of the permit with which the person left Cuba, a marriage certificate issued within less than two years, a letter of request and the fee (ibid.). Another requirement is to [translation] "maintain a moral and social conduct according to [Cuban] society's norms of coexistence" (ibid. n.d.e). The website of the Cuban embassy in Colombia further indicates that, in order to obtain a PRE, an applicant who left Cuba with a PVE must provide a copy of their passport with its additional renewals; one who left the country with a PVT must provide a [translation] "letter of release" from the Cuban organization through which they travelled outside Cuba (ibid. n.d.f).

Cuban citizens who have this permit can visit Cuba for up to 3 months and can renew their stay up to 12 months in total (ibid.). If the person exceeds the 12-month limit, the permit expires and he or she must apply for a new authorization (ibid.). In order to maintain the permit, the person must register within the nearest Cuban consulate and report any change of address (ibid.).

3.2 Indefinite Exit Permit (Permiso de Salida Indefinida, PSI)

This permit is issued to Cuban citizens who are married to foreign nationals but [translation] "do not fulfill all the requisites to obtain a Foreign Resettlement Permit [PRE]" (ibid. n.d.d). In order to obtain this permit the person must get married to a foreign national in Cuba (ibid.). Alternatively, if the marriage took place outside Cuba, it must be registered providing the current status of the PVE or PVT (ibid. n.d.a). If the person is an official representative abroad, the registration of the marriage must be done within the authorized period of travel (ibid. n.d.a). The person must also [translation] "maintain a moral and social conduct according to [Cuban] society's norms of coexistence" (ibid.). Persons with a PSI need to obtain an entry permit to enter Cuba [see section 4.4 below] (ibid.).

4. Entry Permits Applicable to Cuban Citizens

According to the website of the Cuban embassy in Canada, Cuban citizens who are permanent residents or citizens of another country can have their Cuban passports [translation] "authorized" or *habilitados* to enter Cuba for up to 30 days per visit, renewable for an additional 30 days (n.d.c). However, persons who have either a PRE or a PSI must possess an entry permit to enter Cuba (Cuba n.d.c).

4.1 Humanitarian Entry Permit (Permiso de Entrada Humanitario, PE-1)

This permit is issued to Cuban citizens who do not have their passports [translation] "authorized" but have been authorized by the Immigration and Foreign Affairs Directorate to enter Cuba (ibid. n.d.a). To obtain this permit, family members in Cuba must make a request and produce evidence of the sickness or death of a family member (ibid.). Once the request has been authorized, the Immigration and Foreign Affairs Directorate advises the Cuban consulate to proceed with the issuance of the permit (ibid.). The person must then provide to the consulate an application form, a photograph, the passport, the fee, and a self-addressed stamped envelope (ibid.). Permanent residents or citizens of the US must provide a copy of their permanent resident card or US passport respectively (ibid.).

4.2 Application for Repatriation (Solicitud de Repatriación, PE-4)

This permit is issued to people who are 60 years of age or older who have a residence in Cuba or family members who will provide one, and who have not participated in [translation] "hostile activities" against Cuba (ibid. n.d.d). This permit is also issued to citizens for humanitarian reasons in [translation] "exceptional" cases, to persons 16 years of age or younger, or those who were victims of kidnapping and were taken from Cuba "illegally" (ibid.). In order to obtain this permit, the person must present an application form, chest X-rays, an AIDS test, background police check, and copy of his or her passport (ibid. n.d.f). In addition to these documents, people who are gravely or terminally ill must present a clinical history notarized and translated by the Cuban consulate (ibid.). Also, people applying under economic hardship must present proof that they do not have family members in Cuba, or that they do not have enough income to provide for food and housing (ibid.).

4.3 Entry Permit in a Cuban Organization's Interest (Permiso de entrada por interés de un organismo en Cuba, PE-6)

This permit is granted to Cuban citizens to enter the country when it is in the interest of a Cuban government institution (ibid. n.d.a). The government institution must formalize the request before the Immigration and Foreign Affairs Directorate; once it has been approved, it is sent to the consulate to prepare the permit (ibid.). The person must present to the consulate an application form, a photograph, passport, the fee and a self-addressed stamped envelope (ibid.). Permanent residents or citizens of the US must provide a copy of their permanent resident card or US passport respectively (ibid.).

4.4 Entry Permit for PSI Holders (Permiso de entrada para portadores de PSI, PE- 3)

This permit is issued to Cuban citizens who have a PSI (ibid.). The person must present an application form, a photograph, his or her passport with the PSI, a fee for the application, a fee for obtaining the permit, and a self-addressed stamped envelope (ibid.).

4.5 Entry Permit for Foreign Passport Holders (Permiso de entrada con pasaporte extranjero, PE-11)

This permit is issued to Cuban citizens who left Cuba before 31 December 1970 and wish to enter the country with a non-Cuban passport (Cuba n.d.a). The applicant must present to the Cuban consulate an application form, a photograph, a copy of the non-Cuban passport, documents that evidence their exit from Cuba before 31 December 1970, the fee, and a self-addressed stamped envelope (ibid.).

The website of the Cuban embassy in Canada also indicates that upon receiving an entry permit under any one of the previous two categories, the person must enter Cuba within three months (ibid. n.d.c). The website further indicates that these permits are for one entry and one exit only, and that a Cuban citizen must present upon entry into Cuba a document that proves his or her residence in the foreign country (ibid.). Failure to provide this document means that a Cuban citizen [translation] "will not be allowed to enter Cuba [and] will be returned to the country of origin" (ibid.).

5. Barriers to Obtaining Permits

In correspondence sent to the Research Directorate, a professor of Latin American history and Director of the University of Nottingham's Centre for Research on Cuba indicated that the "common formal obstacles" to obtaining an exit permit are the need for young men to take the compulsory military service and the obligation to complete a two-year period of social service for recent graduates of "specialized higher education training" such as teachers and doctors, and a "reluctance" to allow emigration of highly trained graduates from areas critical to Cuban development such as medicine, sciences and the military (21 Feb. 2012). The U.S. Department of State notes, in its *Country*

Reports on Human Rights Practices for 2010, that these professionals are "routinely denied exit permits" (U.S. 8 Apr. 2011, Sec. 2). The report also indicates that relatives of Cubans who migrated "illegally" are denied exit permits for several years, and exit visas are "withheld" from "dissidents" (ibid.).

In other correspondence, the Visiting Director of the Cuban Research Institute at the Latin American and Caribbean Center of Florida International University indicated that, since Cuban citizens must obtain a passport, an exit permit, and are required more often than not, to have a visa, and given that the length of time for these procedures is not defined, it happens that, by the time an applicant obtains one document, one of the others has already expired, thus [translation] "forcing the applicant to enter in an eternal cycle of applications" (10 Feb. 2012). He also added that, given the existence of [translation] "verbal directives" within the country, the granting of permits can be subject to "arbitrariness", which can halt someone's permit application without a known reason (ibid.). He supported this statement by citing Article 5 of Resolution 87 of 2007 (ibid.), which says,

FIVE: Consuls are authorized to reject the invitation when there are elements that so warrant. (Cuba 2007)

According to the Visiting Director, the law is [translation] "vague and for any reason, unknown to the applicant, these letters can be denied" (Visiting Director 10 Feb. 2012). Human Rights Watch notes that permission to leave the country is "often denied" (Jan. 2012).

The Visiting Director also indicated that applicants must make a [translation] "considerable" investment to obtain these documents (Visiting Director 10 Feb. 2012). For example, in the report entitled *The Cuban Diaspora in the XXI Century (La diáspora cubana en el siglo XXI)* produced by academics from Florida International University (FIU), Harvard University, the University of Puerto Rico and the University of Pittsburgh, and published by the Cuban Research Institute at the FIU, the authors indicate that the procedures to obtain travel documentation are very [translation] "tiresome and expensive" (de Aragón et al. July 2011, 47). The report presents the case of Cuban citizens in the US that have to spend up to US\$730 to obtain a passport at a Cuban consulate and keep it valid for up to six years (ibid.). The Inter-American Commission of Human Rights (IACHR) of the Organization of American States (OAS) had previously indicated in its annual report of 2009 that the cost of passports in Cuba for Cuban citizens, which is US\$50, is [translation] "very high" considering the average income in the country (OAS 30 Dec. 2009, Sec. 290). The U.S. Department of State's report notes that would-be migrants must pay, in addition to the fees for exit permission and a passport, fees for medical exams, airport taxes and exit fees, which can amount to US\$680 for an adult, or "nearly three years' salary" (U.S. 8 Apr. 2011, Sec. 2). The report also shows that persons seeking to migrate "legally" face "police interrogation, fines, house searches, harassment, and intimidation by the government" and were "sometimes fired from their jobs when their plans became known" (ibid.).

With regard to permits for entry into Cuba for Cuban citizens, the Visiting Director indicated that citizens who do not renew their permits are considered [translation] "deserters" and, therefore, are not allowed into the country (10 Feb. 2012; see also de Aragón et al. July 2011, 46-48). The Florida International University report indicates that in such cases, persons must apply for an entry permit (ibid., 46). According to the IACHR report, after 1 June 2004, Cuban émigrés can enter Cuba with their [translation] "authorized" Cuban passports; however, the Commission notes that there are no processing times stipulated for this procedure and applicants must wait a [translation] "long time" (OAS 30 Dec. 2009, Sec. 289). Furthermore, the report indicates that when a Cuban citizen acquires another nationality and wishes to travel to Cuba with his or her non-Cuban passport, he or she must produce evidence that a Cuban authority has declared the loss of his or her Cuban citizenship (ibid., Sec. 291). The report adds that to obtain such evidence is, however, "very difficult ... which implies that, in practice, these persons are not allowed into the country" (ibid.). The professor at the University of Nottingham further adds that barriers to renew entry permits are due to Cuban bureaucracy, given that "each institution and each level of any institution has a formal requirement to consult and report continually, but through many overlapping chains of

accountability and reporting" (21 Feb. 2012). Therefore, any step may result in a "long period of inaction" (ibid.). He also added that it is "not easy" for persons who need to seek permission from the workplace or university in order to renew a permit to do so from abroad" (ibid.).

6. Consequences for Having Expired Permits

Sources indicate that Cuban citizens seeking to enter Cuba with an expired permit will not be allowed to board the airplane to Cuba (Visiting Director 10 Feb. 2012; Professor 21 Feb. 2012). But, in the eventuality that a Cuban citizen enters Cuba with the expired permit, the professor indicated that [translation] "it is highly unlikely that any legal action or formal exclusion from any rights to access social provisions will take place" (ibid.). He also indicated in further correspondence that he has [translation] "never heard of anyone to whom such exclusion has happened, and, equally, no-one [he] consulted had heard of any such thing, either [but] that is not to say it does not [happen]" (ibid. 27 Feb. 2012). He further stated that exclusion from healthcare, for example, is [translation] "unlikely" (ibid.). However, employment [translation] "may be difficult" and "it is unlikely that such eventual employment would be in a prestigious, well-paid job" (ibid. 10 Feb. 2012). He concludes, nevertheless, that this issue is [translation] "complex, changing and uncertain" (ibid. 27 Feb. 2012).

On the other hand, the Visiting Director noted that, when a Cuban citizen's permit expires inside Cuba, Cuban migration authorities grant him or her a [translation] "status without rights for the time Cuban authorities consider" (10 Feb. 2012). In a further telephone interview, he indicated that when a Cuban citizen leaves the country, he or she must leave the national identification card behind with family members since it is illegal to take it outside Cuba (Visiting Director 8 Mar. 2012). He added that the card can be confiscated from family members by the authorities (ibid.). He explained that the national identity card is required for [translation] "everything," including going to the physician, obtaining employment, attending school, police checks (ibid.), and accessing the "food card" (ibid.; Canada 16 Apr. 2012). Therefore, he concludes that, when a Cuban enters the country with his or her travel permit expired and the state has confiscated the national identity card, he or she will be placed in a [translation] "legal limbo" and will not be able to access the aforementioned services (ibid.). He noted that in these cases, the person would need to ask authorities to reinstate the national identity card, but it would be [translation] "very difficult" (ibid.). Furthermore, the Visiting Director indicated that, when a person leaves Cuba, his or her [translation] "food card" expires and it is "very difficult to obtain it again" (ibid. 10 Feb. 2012).

In correspondence sent to the Research Directorate on 16 April 2012, an official of the Embassy of Canada in Havana indicated that a Cuban citizen who returns to the country with an expired permit will lose the right to have an identification card, access to health care and education, and the right to work. The official also indicated that, according to popular knowledge, rather than official regulations, a person can regain legal status in the country after staying for two years, but that it is a "grey area with unclear regulations, expectations and time processing" (Canada 16 Apr. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources also indicate that when a Cuban citizen emigrates, his or her belongings are confiscated by the state (de Aragón July 2011, 47; Visiting Director 10 Feb. 2011), as indicated in the Law 989 of 1961 (Cuba 1961). In Articles 1, 2 and 3 of the aforementioned law, which was provided by the Visiting Professor, the following penalties are stipulated for not returning to the country within the authorized time:

ARTICLE 1: The Ministry of the Interior shall issue permits for individuals to leave and re enter the national territory.

Whoever does not return within the time provided in the authorization of departure shall be deemed to have abandoned the country.

ARTICLE 2: For persons covered in the second paragraph of article 1, all their property of any kind, rights, shares and securities of whatever nature shall be deemed to have been

nationalized and confiscated by the Cuban state and shall be assigned to the appropriate agencies thereof.

ARTICLE 3: Concerning the property mentioned in the previous article, the Superior Council for Urban Reform shall proceed to occupy all property intended for housing and seize all the movable property therein. (ibid.)

The representative of the Embassy of Canada also indicated that a person who returns with an expired permit would lose "all of his or her possessions" (Canada 16 Apr. 2012).

7. Changes to Migratory Permits

ABC, a Madrid-based newspaper, reports that Cuban president Raúl Castro announced on 1 August 2011 [translation] "his intention to amend migration regulations" (ABC 2 Aug. 2011). However, sources report that, during the last meeting of the National Assembly of Cuba in December 2011, the President said that migration changes will be [translation] "gradual" (Agência O Globo 26 Dec. 2011; Reuters 12 Jan. 2012). Reuters quotes the Cuban president as saying that [translation] "the rhythm of reforms will depend, for example, on the time that takes to transform the laws" (ibid.). The Visiting Director indicated that, in December 2011, there were [translation] "rumours" about migration reforms, but that, in the end, the Cuban government did not come out with anything concrete (Visiting Director 10 Feb. 2012). The Research Directorate could not obtain additional information on proposed migration reforms within the time constraints of this Response.

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 sources consulted in researching this Information Request.

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Oral sources: Attempts to contact researchers at the Universidad de Puerto Rico, University of California, University of Miami, and representatives of the Cuban embassy in Canada were unsuccessful.

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