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Immigration and
Refugee Board of Canada

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

Cuba: New exit-permit rules for Cuban citizens, including requirements and procedures; situation of Cuban citizens who left under the previous rules and are in violation of the law; whether doctors encounter obstacles to obtain exit permits because of their profession [CUB104288.E]

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1. Overview

Several sources indicate that, as of 14 January 2013, Cuban nationals no longer need an exit permit or foreign letter of invitation in order to leave Cuba (AFP 23 Jan. 2013; Cuba 14 Jan. 2013; EFE News Service 16 Oct. 2012). Sources report that Cuban nationals need only a valid passport and, if applicable, visas from destination countries to leave Cuba (*Granma Internacional* 16 Oct. 2012; *The Miami Herald* 14 Jan. 2013; AFP 23 Jan. 2013). For information on the former procedures to obtain exit permits see Response to Information Request CUB103999. Sources indicate that the period of time Cubans are permitted to stay abroad was extended from 11 to 24 months (*Sexenio* 15 Jan. 2013; AFP 16 Oct. 2012).

2. Requirements and Procedures for Obtaining a Cuban Passport

Articles 21 and 24 of the Migration Act (*Ley de Migración*), as amended by Decree 305 (*Decreto No. 305*) of 2012, list the following requirements for obtaining a Cuban passport:

[translation]

Article 21: When applying for a valid passport, Cuban citizens residing in the national territory must meet the following requirements:

- a. Present an identity card, or identification card for minors.
- b. In the case of minors or disabled persons, submit authorization from their parents or a legal representative that is authenticated by a notary public.

The acting authority collects the data required to fully identify applicants and verifies that they do not fall into any of the categories provided for in Article 23 of the Migration Act, in which case the issuing process may begin.

Article 24: Passports are valid for two years and may be renewed for two-year periods, up to a total of six years. Applications for renewal must be submitted to the appropriate offices of the Ministry of the Interior, or to diplomatic missions, consular posts, or other Cuban offices expressly authorized for this purpose. (Cuba 2012b)

Article 23 of the Migration Act, added to the Law by Decree Law 302 (*Decreto-Ley No. 302*) of 2012, specifies who may not obtain a passport.

[translation]

Article 23: Cuban citizens residing in the national territory may not obtain a valid passport under any of the following circumstances:

- a. Persons subject to criminal proceedings provided that these have been ordered by the appropriate authorities.
- b. Persons subject to the pending enforcement of criminal sanctions or security measures, except in those cases expressly authorized by the courts.
- c. Persons subject to compliance with the provisions concerning military service.
- d. When advisable due to defence or national security reasons.
- e. Persons with obligations to the Cuban State or civil responsibilities, provided that these have been expressly ordered by the appropriate authorities.
- f. Persons lacking authorization under the rules aimed at retaining a skilled workforce for the country's economic, social and technical development, and the security and protection of official information.
- g. Minors or disabled persons who do not have authorization from their parents or a legal representative that is authenticated by a notary public.
- h. Other reasons of public interest as determined by the competent authorities.
- i. Persons who fail to comply with the requirements under the Migration Act, its Regulations and supplementary provisions for the requesting, issuing and granting of passports. (ibid. 2012a)

The website of the Ministry of Foreign Affairs of Cuba indicates that passports can be obtained at any of the 195 Offices of Identity Documents and Immigration located throughout the country (ibid. 14 Jan. 2013). These offices also renew and update passports (ibid.).

For Cuban nationals living abroad, Articles 23 and 40 of the Migration Act, as amended by Decree 305, stipulate the following procedures for obtaining a passport:

[translation]

Article 23: When applying for a valid passport, Cuban citizens residing abroad must meet the following requirements:

- a. File their application using the official form.
- b. Present their old passport, birth certificate, citizenship card, or citizenship certificate issued by the competent authority, as appropriate.
- c. In the case of minors or disabled persons, submit authorization from their parents or a legal representative that is authenticated by a notary public.
- d. Submit two (2) photographs measuring 4 x 4 cm.
- e. Submit proof of payment of consular fees.

The acting authority collects the data required to fully identify applicants and begins the issuing process.

Article 40: Holders of a valid passport may apply to the Immigration and Foreign Aliens Branch, appropriate offices of the Ministry of the Interior, or to diplomatic missions, consular posts, or other authorized Cuban offices, as appropriate, for the following purposes:

- a. Extending stays abroad for more than 24 months for valid reasons in the event that it is impossible to return to Cuba within the prescribed time period.
- b. Acquiring residence abroad in the event that permanent foreign residence is being requested in order to maintain a legalized matrimonial union or a de facto union with foreign citizens, or for other exceptional family or humanitarian circumstances.

Residence abroad may also be granted to the parents or the minor children of persons eligible under this travel category. (ibid. 2012b)

Article 9.2 of the Migration Act, as amended by Decree Law 302, indicates the following regarding Cuban nationals who spend more than 24 months outside Cuba:

[translation]

2. Cuban citizens are considered to have emigrated when they travel abroad for personal matters and reside abroad continuously for a period of over 24 months without proper authorization, or when they take up residence abroad without complying with the immigration regulations in force. (ibid. 2012a)

3. Entry

3.1 Persons Inadmissible to Cuba

Article 24.1 of the Migration Act, which was added by Decree Law 302, indicates the following:

[translation]

Persons will be considered inadmissible to enter the national territory under any of the following circumstances:

- a. Persons with a history in terrorist activities, human trafficking, drug trafficking, money laundering, weapons trafficking or other activities that can be prosecuted at the international level.
- b. Persons involved in acts committed against humanity, human dignity, public health, or acts that can be prosecuted under international treaties to which Cuba is a party.
- c. Persons who organize, promote, carry out or participate in hostile actions against the political, economic and social foundations of the Cuban State.
- d. When advisable due to defence or national security reasons.
- e. Persons who are banned from entering the country for having been expelled or declared undesirable.
- f. Persons who fail to comply with the Migration Act, its Regulations and supplementary provisions for entering the country. (ibid.)

3.2 Ability to Enter Cuba of Cuban Citizens Who Left under the Previous Rules and Are in Violation of the Law

BBC cites the Secretary of the Council of State as saying in a television broadcast that [translation] "the temporary entry of those who illegally emigrated after the migration accords with the United States will be regularized" (BBC 25 Oct. 2012). The secretary is also quoted as saying that those who left Cuba through the US military base at Guantanamo will not be included in this regularization [translation] "for reasons of national defense and security" (ibid.). BBC also reports that among those eligible to repatriate are persons who left Cuba before reaching 16 years of age and those who are returning to Cuba to take care of relatives (ibid.).

The website of the Ministry of Foreign Affairs indicates the following:

[translation]

Cuban authorities announced a set of complementary measures to Decree Law 302 that regularize the temporary entry into Cuba of those who emigrated illegally after the migration accords of 1994, as long as eight years or more have passed since they left Cuba. This will also apply to health professionals and high performance athletes who left the country after 1990, if more than eight years have passed since they left the country, except in humanitarian cases where entry into the country can be approved after a shorter period of time. (Cuba 14 Jan. 2013)

Additional information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Ability of Doctors to Leave Cuba under the New Regulations

The website of the Ministry of Foreign Affairs indicates that, in the interest of preserving a qualified workforce in the country, a minority of people will be subject to special departure regulations, which do not constitute a prohibition but require that these individuals obtain the appropriate authorization (ibid.).

Decree 306 (*Decreto No. 306*) of 2012 says the following regarding the treatment of those who require authorization to travel outside Cuba:

[translation]

Article 1. The provisions in this Decree apply to persons in the following categories:

- a. senior managers and managers in central offices of national bodies, organizations and institutions, or administrative boards and senior business-management organizations, as well as managers and executives who perform vital roles in the economic, social and technical development of Cuba, and who hold decision-making positions involving financial and material resources;
- b. graduates with advanced degrees who perform vital roles in the economic, social and technical development of Cuba in strategic programs, research projects, and health services;
- c. specialized intermediate-level technicians who perform vital roles to maintain health services, and technical/scientific activities;
- d. high-performance athletes, coaches, and trainers essential to the Cuban sports movement.

Article 2. The subjects mentioned in the previous article will be treated as follows:

- a. The persons in paragraphs a), b), and d) may be authorized, on a case-by-case basis, to travel abroad for personal matters. Applications for foreign residence will be approved for periods not exceeding five calendar years as of the date of the application. Training relevant to vital function in question will be carried out during this period, if appropriate.
- b. The persons in paragraph c) will receive a treatment similar to that described in the previous paragraph.

Applications for foreign residence are approved for periods not exceeding three calendar years as of the date of the application.

For the subjects in Article 1, absence from the workplace does not constitute an exemption from adhering to the prescribed time limits for which applications for foreign residence are authorized.

When the authorized administrators consider that there are sufficient humanitarian grounds, they may permit travel abroad for the subjects under this Decree, including under past regulations, without abiding by the established terms. In the case of managers, the specific procedures for this purpose will be carried out expeditiously. (ibid. 2012c)

BBC reports that doctors are also allowed to travel outside Cuba under the new regulations (BBC 8 Jan. 2013). The article reports that, according to several doctors in Cuba, the Minister of Health notified the directors of hospitals that the new migration law would also apply to [translation] "most health care professionals" (ibid.). BBC cites an official immigration source in Cuba as saying that physicians will be treated the same as other professionals, in that most will be able to leave the country without obstacle, but those considered as [translation] "vital to the country" will have to follow the same process as before (ibid.). The article also cites the deputy head of the Migration Directorate as saying that those who are ineligible to benefit from the new law will know beforehand, because each sector will have to produce a list of people who are considered vital to the country (ibid.). According to the BBC, Cuba has 75,000 physicians and the capacity to graduate 5,000 per year (ibid.). Corroborating or additional information could not be found by the Research Directorate among the sources consulted 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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