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Sendt: 17. november 2015 14:28
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Vedhæftede filer: Ukraine - Citizenship.pdf

Kære Anna,

Flygtningesekretariatet har nu modtaget bekræftelse fra ambassaden i Kyiv's advokat om, at notatet "Comments on citizenship" gerne må lægges på Flygtningenævnets hjemmeside – DOG forudsat, at de indledende linjer samt personnavne fjernes fra advokatens svar, således at det fremstår mere i en spørgsmål/svar stil.

Det vil sige, at det **her vedlagte svar** er den udgave, der skal lægges på hjemmesiden og ikke det tidligere indsendte dateret 15.1.2015..

Med venlig hilsen
Vibeke

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Kære Vibeke.

UM har den 15. januar 2015 fremsendt et notat kaldet "Comments on citizenship 09.01.15" (FLSEK j.nr. 2014-29180) til Udlændingestyrelsen. Dette notat er vi nu kommet i besiddelse af. I forlængelse heraf ville jeg høre, om vi må lægge dette på vores hjemmeside som baggrundsmateriale?

På forhånd mange tak for hjælpen.

Venlig hilsen / Regards

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UKRAINE: Citizenship

- 1) *Does an Ukrainian citizen automatically loose his/her Ukrainian citizenship when voluntarily acquiring a foreign citizenship, or does he/she have to apply for a termination of his/her Ukrainian citizenship?*

Please note that there are no legal provisions regarding automatic cancellation of Ukrainian citizenship in Ukraine in cases when a citizen of Ukraine voluntarily acquires foreign citizenship. According to Article 19 of the Law of Ukraine No. 2235-III "On Ukrainian Citizenship", dated January 18, 2001 (hereinafter – the "Law on Citizenship"), the voluntarily acquisition of foreign citizenship by a citizen of Ukraine, who comes of full age at the moment of such acquisition, shall be grounds for the cancellation of Ukrainian citizenship. With respect to the voluntarily acquisition of a foreign citizenship, such voluntarily acquisition encompasses all cases when for the purposes of acquiring foreign citizenship a Ukrainian citizen should apply or petition for acquiring citizenship under the procedure established by the national legislation of the relevant country in which citizenship is being applied/petitioned for.

The date of termination of Ukrainian citizenship in cases when a Ukrainian citizen voluntarily acquires foreign citizenship is the date of issuance of the relevant Order by the President of Ukraine. However, according to Article 20 of the Law on Citizenship, a Ukrainian citizen, who loses his/her citizenship due to voluntarily acquisition of foreign citizenship, enjoys all rights and bears all obligations of a Ukrainian citizen up until the issuance of the Order by the President of Ukraine on termination of Ukrainian citizenship.

Therefore, it is possible to conclude that until the issuance of an Order by the President of Ukraine on termination of Ukrainian citizenship due to voluntarily acquisition of foreign citizenship by a Ukrainian citizen, such citizen is deemed a citizen of Ukraine.

In order for the President of Ukraine to issue an Order on deprivation of Ukrainian citizenship due to voluntarily acquisition of foreign citizenship by a Ukrainian citizen, the Commission of the President of Ukraine on Issues of Citizenship must in each specific case take a decision and submit executed materials to the President of Ukraine pursuant to Section 3 of the Procedure on Carrying Out Production under Applications and Petitions on issues connected with citizenship of Ukraine and performance of taken decisions, approved by the Decree No. 215 of the President



of Ukraine on March 27, 2001 (in version of the Decree No. 588/2006 of the President of Ukraine, dated June 27, 2006).

For the said Commission to take a decision on submission to the President of Ukraine of materials on deprivation of citizenship due to voluntarily acquisition of foreign citizenship by a Ukrainian citizen, the bodies of the migration service, diplomatic representative offices or consular sections under each specific case must prepare and submit the following documents to the aforementioned Commission:

- a) a petition on loss of Ukrainian citizenship;
- b) a document confirming that the individual in question is a citizen of Ukraine;
- c) a document confirming voluntarily acquisition of foreign citizenship by a Ukrainian citizen;
- d) a document which confirms that the Ukrainian citizen will not become an individual without a citizenship due to the loss of Ukrainian citizenship by voluntarily acquisition of foreign citizenship.

The Commission of the President of Ukraine on Issues of Citizenship shall check the following:

- 1) that the submitted documents are executed in compliance with the requirements of Ukrainian legislation;
- 2) that the documents confirm the availability of grounds for an individual's loss of Ukrainian citizenship.

The absence of grounds for termination of citizenship of Ukraine by any individual is not permissible.

Based on the results of the examination, the Commission of the President of Ukraine on Issues of Citizenship will adopt a decision on introduction of propositions to the President of Ukraine related to petitions on the loss of Ukrainian citizenship. If the said Commission accepts petitions on the loss of Ukrainian citizenship, it returns the said materials accordingly to the State Migration Service of Ukraine or to the Ministry of Foreign Affairs of Ukraine together with a copy of its decision.



The President of Ukraine takes a decision on accepting an individual for Ukrainian citizenship or on termination of Ukrainian citizenship by an individual. Acceptance into Ukrainian citizenship or termination of Ukrainian citizenship is carried out by way of issuance of the relevant decrees by the President of Ukraine.

2) *If a former Ukrainian citizen wishes to obtain his/her Ukrainian citizenship back, how could he/she do so, and what is the procedure?*

Pursuant to Article 10 of the Law on Citizenship, if a former citizen of Ukraine terminated Ukrainian citizenship or he/she is an individual without a citizenship and submits an application on renewal of his/her Ukrainian citizenship, such individual is registered as a Ukrainian citizen regardless of whether he/she is permanently living in Ukraine or abroad.

If a former Ukrainian citizen after termination of Ukrainian citizenship has acquired foreign citizenship or several foreign citizenships, returned to Ukraine for permanent residency and submitted an application on renewal of Ukrainian citizenship with the obligation to terminate his/her foreign citizenship(s), then such individual is registered as a Ukrainian citizen. A foreign individual, who is a citizen of several countries, should submit an obligation on termination of citizenship of all such countries. A foreign individual, who has been granted the status of a refugee in Ukraine or refuge was given to him/her in Ukraine, must submit a declaration on his/her refusal of foreign citizenship in place of an obligation to terminate foreign citizenship.

A foreign individual, who submitted an application to terminate foreign citizenship, should submit a document issued by the competent authority of the corresponding country on termination of citizenship of such country to the authorized body of the State Migration Service or the Ministry of Foreign Affairs of Ukraine within two years from the moment of his/her registration as a citizen of Ukraine. If a foreign individual has all grounds provided by the legislation of such country for obtaining the aforementioned document but he/she cannot obtain it due to reasons beyond his/her control, then he/she must submit a declaration on refusal of foreign citizenship.

The submission of an obligation to terminate foreign citizenship is not required (i) from citizens of countries where the legislation provides for automatic termination by individuals of citizenship of such countries at the same time when they acquire citizenship of another country, or if international agreements of Ukraine with other countries provide for termination of



citizenship of such countries by individuals at the same time when they acquire Ukrainian citizenship, as well as (ii) from individuals bearing refugee status in Ukraine or to whom refugee was given, and (iii) from individuals without citizenship.

The date of acquiring Ukrainian citizenship in cases provided by the said Article is the date of the registration of acquisition of Ukrainian citizenship by an individual.

An application on renewal of Ukrainian citizenship is submitted to the migration service body or to a diplomatic representative office or consular institution of Ukraine (hereinafter – “State Institution”) pursuant to points 92 and 99 of the Procedure on Carrying Out Production under Applications and Petitions on issues connected with citizenship of Ukraine and performance of adopted decisions.

The State Institution to which documents were submitted regarding acquisition of Ukrainian citizenship by an individual will examine compliance of their execution with the requirements of Ukrainian legislation and confirmation by such documents of the facts by which the Law connects that an individual is a citizen of Ukraine.

The State Institution submits the documents on renewal of Ukrainian citizenship to the Ministry of Internal Affairs of Ukraine and the Security Service of Ukraine for examination of the absence of grounds according to which renewal of Ukrainian citizenship is not permissible. The Ministry of Internal Affairs of Ukraine and Security Service of Ukraine must inform the State Institution on the results of their examination.

If the documents were duly executed and they confirm the availability of facts with which the Law connects the acquisition of Ukrainian citizenship by an individual (or, with respect to renewal of a citizenship of Ukraine by an individual, the relevant grounds according to which said renewal is permissible), then the Head of the State Institution or his/her Deputy takes a decision on execution of acquiring citizenship of Ukraine by an individual. The said State Institution informs the applicant on its decision in writing no later than in one week from the date on which the decision was taken. As to the decision on renewal of Ukrainian citizenship, a decision on satisfaction of an application on renewal of Ukrainian citizenship should be taken within 3 months from the moment of the filing the said application and the proper set of documents.



3) *If a former Ukrainian citizen's children, born in Syria, wish to obtain Ukrainian citizenship, how could they do so, and what is the procedure?*

Pursuant to Article 6 of the Law on Citizenship, Ukrainian citizenship may be acquired:

- 1) upon birth;
- 2) upon territorial origin;
- 3) due to acceptance of citizenship;
- 4) due to renewal of citizenship;
- 5) due to adoption;
- 6) due to putting a child in guardianship or care, placing a child into a child welfare institution or institution on health protection, placing a child into children's "family-type" institution or into a foster family, or due to transfer to a family of patronage tutor for upbringing;
- 7) due to putting an individual, who was recognized as legally incapacitated by a court, in guardianship;
- 8) if one or both parents are citizens of Ukraine;
- 9) due to recognition of paternity or maternity or due to establishment of the fact of paternity or maternity;
- 10) pursuant to other grounds provided by international agreements of Ukraine.

According to Article 7 of the Law on Citizenship, if, at the moment of birth of an individual, his or her parents or one of the parents were Ukrainian citizens, then such individual is recognized as a citizen of Ukraine. An individual, who has the right to acquire Ukrainian citizenship by birth, is a citizen of Ukraine from the moment of his/her birth.

Thus, if at the moment of child's birth his/her parents (or one of his/her parents) were citizens of Ukraine, then such child is a citizen of Ukraine from the moment of his/her birth. If at the moment of a child's birth his/her parents (or one of his/her parents) were not Ukrainian citizens, then such child may obtain Ukrainian citizenship under the territorial principle.

Pursuant to Article 8 of the Law of Ukraine on Citizenship, an individual, who has a parent(s), grandfather or grandmother or blood sibling that were born or permanently lived on the territory of Ukraine up to August 24, 1991, and who is an individual without citizenship or foreign individual who submitted his/her obligation to terminate a foreign citizenship and submitted an



application to acquire Ukrainian citizenship, as well as such individual's minor children, are registered as Ukrainian citizens. Such individuals shall undertake the obligation to terminate foreign citizenship or, in certain cases, submit a declaration on refusal of foreign citizenship by an individual with refugee status or with refuge in Ukraine.

Foreign individuals, who submitted an obligation to terminate foreign citizenship, should submit a document, issued by the competent authority of the corresponding country, about such fact to the authorized body of Ukraine within two years from the moment of their registration as citizens of Ukraine. If foreign individuals, who have all grounds for obtaining of the said document under legislation of such country, cannot obtain such document due to the reasons that do not depend on them, they should submit a declaration on refusal of foreign citizenship.

Submission of an obligation to terminate a foreign citizenship is not required (i) from foreign individuals, who are citizens of countries whose legislation provides for automatic termination of citizenship by individuals at the same time]they acquire citizenship of another country, or if the international agreements of Ukraine with other countries provide for termination by individuals of citizenship of such countries at the same time they acquire citizenship of Ukraine, as well as (ii) from individuals with refugee status in Ukraine or to whom refuge in Ukraine was granted and (iii) from individuals without citizenship.

The date of acquiring Ukrainian citizenship in cases provided herein is the date of registration of the acquisition of Ukrainian citizenship by the individual in question.

An application on acquisition of Ukrainian citizenship by territorial origin is submitted to the State Migration Service authority or to a Diplomatic Representative Office or to a Consular Institution of Ukraine (hereinafter – the “State Institution”) in accordance with Articles 24 and 25 of the Law on Citizenship and points 92 and 99 of the Procedure on Carrying Out Production under Applications and Petitions on issues connected with citizenship of Ukraine and performance of the adopted decisions.

In order to execute the acquisition of Ukrainian citizenship under territorial origin, an individual should, in addition to an obligation to terminate foreign citizenship or declaration on absence of or refusal from foreign citizenship, submit the following documents:

- a) an application on acquiring Ukrainian citizenship by territorial origin;



- b) a document confirming the fact of the birth of relatives indicated in Article 8 of the Law on Citizenship on the territory of Ukraine;
- c) documents which certify familial relations of an applicant with relatives who were born on the territory of Ukraine.

The State Institution to which the above documents were submitted will examine compliance of their execution with the requirements of Ukrainian legislation and confirmation by such documents of the facts, according to which the Law connects that an individual is a citizen of Ukraine under territorial origin.

The State Institution thereafter submits the documents related to acquiring Ukrainian citizenship under territorial origin to the Ministry of Internal Affairs of Ukraine and the Security Service of Ukraine for examination of absence of any grounds which would not permit Ukrainian citizenship under territorial origin. The Ministry of Internal Affairs of Ukraine and the Security Service of Ukraine inform the State Institution on the results of their examination.

If the documents were duly executed and they confirm all necessary facts and the absence of any grounds which would not permit acquisition of citizenship under territorial origin, then the Head of the State Institution or his/her Deputy will take a decision to execute the acquisition of Ukrainian citizenship by an individual. The said State Institution informs the applicant on its decision in writing no later than in one week from the date when the decision was taken.

On the basis of the said decision, information on obtaining Ukrainian citizenship by such individual is entered into the register of the State Migration Service of Ukraine.

4) *If they cannot obtain Ukrainian citizenship, could they obtain legal residence in Ukraine on other grounds?*

In case an individual is unable to obtain Ukrainian citizenship on the basis of the aforementioned Article 6 of the Law on Citizenship, then such individuals will be able to live on the territory of Ukraine as immigrants as soon as such foreign individuals or individuals without a citizenship obtain a permit for immigration and arrive to Ukraine for permanent residence. They may also stay in Ukraine on legal grounds if they obtained the relevant permit for immigration and remain in Ukraine for permanent residence. Permanent residence in Ukraine on the aforementioned grounds is possible due to the fact that individuals, who have the right to apply for Ukrainian



citizenship under territorial origin or bear the status of a “Ukrainian abroad”, have the right to immigrate to Ukraine outside of or despite the immigration quota established by the Cabinet of Ministers of Ukraine (pursuant to Article 4 of the Law of Ukraine No. 2491-III “On Immigration”, dated June 7, 2001).

Pursuant to Article 1 of the Law of Ukraine No. 1582-IV “On Ukrainians Abroad”, dated March 4, 2004, a Ukrainian abroad is an individual, who is a citizen of another country or is an individual without citizenship, but has Ukrainian ethnic origin or was born in Ukraine. Ukrainian ethnic origin means that an individual or his/her ancestors belong to the Ukrainian nation and recognize Ukraine as the homeland of his/her ethnic origin.

According to Article 4 of the aforementioned Law, an individual, who wants to acquire the status of a Ukrainian abroad, should file a written application on granting to him/her a status of a Ukrainian abroad to (i) the Ministry of Foreign Affairs on the territory of Ukraine, and (ii) to Diplomatic Institutions of Ukraine outside of the territory of Ukraine, pursuant to the form established by the Cabinet of Ministers of Ukraine. In addition to the application on granting the status of a Ukrainian abroad it is necessary to submit the following:

- 1) a passport document or substitute (comparable) document;
- 2) documents or certifications which confirm Ukrainian ethnic origin or Ukraine as the birthplace.

In addition, it is possible to submit a petition with characteristics issued by a public organization of Ukrainians abroad with which the applicant has membership.

Given the above, if an individual obtains the status of a Ukrainian abroad or he/she has the right to obtain Ukrainian citizenship by territorial origin, such individual may obtain a permit for immigration to Ukraine without being subject to the quota for immigration in Ukraine.

We hope this general information proves useful. As the information is quite voluminous and broad in nature, we welcome any follow up questions you may have.

Best regards,



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