

UDENRIGSMINISTERIET

Borgerservice
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NOTAT

Udlændingestyrelsens skrivelse af 25. maj 2012 vedr. regler for statsborgerskab i Vietnam.

Udlændingestyrelsen har ved skrivelse af 25. maj 2012, i forbindelse med asylbehandling, anmodet Udenrigsministeriet om assistance til at søge en række spørgsmål vedr. regler for statsborgerskab i Vietnam belyst.

Udenrigsministeriet blev anmodet om at søge følgende spørgsmål belyst:

1. Fratages vietnamesere, der er flygtet fra Vietnam, deres statsborgerskab?
2. I hvilket omfang har fratagelse af statsborgerskab fundet sted?
3. I hvilket omfang finder det stadig sted?
4. I hvilken udstrækning er det muligt for personer, der er blevet frataget sit statsborgerskab at få det tilbage?
5. Hvilken dokumentation kræver det?
6. Kan børn af personer, der tidligere havde vietnamesisk statsborgerskab, få statsborgerskab?
7. Hvilken dokumentation kræver det?

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Udenrigsministeriet har forelagt spørgsmålene for en repræsentant fra det vietnamesiske udenrigsministerium, en repræsentant fra [REDACTED], en repræsentant fra [REDACTED] ambassade i Hanoi samt repræsentanter fra NGO'erne [REDACTED].

I nedenstående besvarelse henvises til "Law on Vietnamese Nationality of 2008" og "Decree No. 78/2009/ND-CP of September 22 2009".

* En anden vietnamesisk myndighed

1. Are Vietnamese that have fled Vietnam deprived their citizenship?

No, they are still considered Vietnamese overseas, if they did not commit acts that caused serious harms as mentioned in article 31:

Article 3: Interpretation of terms.

In this Law, the terms below are construed as follows: "Overseas Vietnamese" are Vietnamese citizens and persons of Vietnamese origin who permanently reside in foreign countries.

Article 31: Grounds for deprivation of Vietnamese nationality:

1. Vietnamese citizens residing abroad may be deprived of Vietnamese Nationality, if they commit acts that cause serious harms to the national independence, national construction and defense or the prestige of the Socialist Republic of Vietnam.
2. Persons who have been naturalized in Vietnam under Article 19 of this Law, regardless of whether they reside inside or outside the Vietnamese Territory, may be deprived of Vietnamese nationality, if they commit acts specified in Clause 1 of this Article.

Article 26: Grounds for loss of Vietnamese nationality:

1. Being permitted to renounce Vietnamese nationality.
2. Being deprived of Vietnamese nationality.
3. Failing to register for retention of Vietnamese nationality as prescribed in Clause 2, Article 13 of this Law.
4. Falling into cases specified in Clause 2, Article 18, and Article 35 of this Law.
5. Falling into cases specified in treaties to which the Socialist Republic of Vietnam is a contracting party.

2. To what extent has the deprivation of citizenships been taking place?

(Please see article 31 above and the answer to item 3 below)

3. To what extent does it take place today?

(Please see article 31 above)

NGO representatives had not heard of or had any information indicating that deprivation of citizenships has taken place today. The representative of [REDACTED] reports that in practice there are no cases of deprivation of citizenships, but

discontinuation of citizenship has happened over the years for overseas Vietnamese citizens, who have not applied for extension or renewal of their passports. They will automatically lose their nationality.

4. To what extent is it possible to regain citizenship after being deprived of it?

It is possible to regain Vietnamese citizenship provided that the citizen can fulfill the below demands, however no information from NGOs or any foreign Embassy was received.

Article 23: "RESTORATION OF VIETNAMESE NATIONALITY

Cases in which restoration of Vietnamese nationality is permitted:

1. A person who has lost his/her Vietnamese nationality as prescribed in Article 26 of this Law and applies for restoration of Vietnamese nationality may restore his/her Vietnamese nationality, if he/she falls into any of the following categories:

- a/ Having applied for permission to return to Vietnam;
- b/ His/her spouse, a natural parent or a natural offspring is a Vietnamese citizen;
- c/ Having made meritorious contributions to Vietnam's national construction and defense;
- d/ Being helpful to the State of the Socialist Republic of Vietnam;
- e/ Conducting investment activities in Vietnam;
- f/ Having renounced Vietnamese nationality for acquisition of a foreign nationality but failing to obtain permission to acquire the foreign nationality.

2. Persons applying for restoration of Vietnamese nationality may not restore Vietnamese nationality, if such restoration is detrimental to Vietnam's national interests.

3. A person who has been deprived of his/her Vietnamese nationality may only be considered for restoration of Vietnamese nationality for at least 5 years after the date he/she is deprived of Vietnamese nationality.

4. Persons applying for restoration of Vietnamese nationality shall use their previous Vietnamese names, which must be written in the decisions permitting the restoration of Vietnamese nationality.

5. Persons permitted to restore Vietnamese nationality shall renounce their foreign nationality, except for the following persons in special cases, if so permitted by the President, who:

- a/ Are spouses, natural parents or natural offsprings of Vietnamese citizens;
- b/ Have made meritorious contributions to Vietnam's national construction and defense;
- c/ Are helpful to the State of the Socialist Republic of Vietnam.

6. The Government shall specify conditions on restoration of Vietnamese Nationality.

5. What kind of documentation does it take?

Article 24: Dossiers of application for restoration of Vietnamese Nationality.

1. A dossier of application for restoration of Vietnamese nationality comprises:

- a/ An application for restoration of Vietnamese nationality;
- b/ A copy of the birth certificate, passport or other valid substitute papers;
- c/ A curriculum vitae;
- d/ A judicial record, issued by a competent Vietnamese authority for the period the applicant resides in Vietnam, or a judicial record, issued by a competent foreign authority for the period the applicant resides in the foreign country. Judicial records must be issued within 90 days before the day of submission of the dossier;
- e/ Papers proving that the applicant is a former Vietnamese national;
- f/ Papers proving the eligibility for restoration of Vietnamese nationality prescribed in Clause 1, Article 23 of this Law.

According to Article 10 of Decree No. 78/2009/ND-CP dated September 22nd, 2009 detailing and guiding a number of articles of the Law on Vietnamese Nationality, papers specified at the above-mentioned points e and f include:

- a/ Paper evidencing that the applicant is a former Vietnamese national is either of the following papers: copy of the birth certificate; copy of the decision permitting renunciation of Vietnamese nationality or the certificate of loss of Vietnamese nationality; or another paper stating his/her previous Vietnamese nationality or valid for evidencing his/her previous Vietnamese nationality;
- b/ Paper evidencing the eligibility for restoration of Vietnamese nationality is any of papers prescribed at Points a, b, c and d, Clause 2, Article 7 of this Decree or paper

evidencing that the applicant is carrying out procedures for repatriation or a copy of the certificate of investment in Vietnam.

2. The Government shall specify papers in dossiers of application for restoration of Vietnamese nationality.

Article 25: Order of and procedures for processing dossiers of application for restoration of Vietnamese nationality.

3. Within 20 days after the receipt of a valid and complete dossier, the overseas Vietnamese representative mission shall verify and transfer the dossier, together with its opinions on the restoration of Vietnamese nationality, to the Ministry of Foreign Affairs for forwarding to the Ministry of Justice. In case of necessity, the Ministry of Justice may request the Ministry of Public Security to verify the applicant's identity.

4. Within 20 days after the receipt of the written proposal of the provincial level People's Committee president or the overseas Vietnamese representative mission, the Ministry of Justice shall re-examine the dossier, if finding that the applicant is eligible for restoration of Vietnamese nationality, it shall send a written notification to the applicant for carrying out procedures to renounce his/her foreign nationality, unless the applicant wishes to retain his/her foreign nationality or is a stateless person. Within 10 working days after the receipt of the certificate of the applicant's renunciation of his/her foreign nationality, the Minister of Justice shall report the case to the Prime Minister for submission to the President for consideration and decision.

In case the person applying for restoration of Vietnamese nationality wishes to retain his/her foreign nationality or is a stateless person, within 15 days after the receipt of the proposal of the provincial-level People's Committee president or the overseas Vietnamese representative mission, the Ministry of Justice shall re-examine the dossier, if finding that the applicant is eligible for restoration of Vietnamese nationality, it shall report the case to the Prime Minister for submission to the President for consideration and decision.

5. The President shall consider and make decision within 20 days after the receipt of the Prime Minister's proposal.

6. Is it possible for children born of former Vietnamese citizens to obtain Vietnamese citizenship?

If children of former Vietnamese citizens were born during the time that their mother or father held Vietnamese nationality, the children are automatically given Vietnamese citizenship.

If neither the mother nor the father were holding a Vietnamese citizenship at the time of birth of the children, the children will be considered as foreigners and, if the children want to obtain Vietnamese citizenship, they need to carry out procedures for naturalization in Vietnam as stipulated in Article 19 for foreigners (see article 19 below). There will be no favor or priority for those children; they will be treated as foreigners. See also article 15 & 16.

Article 19: Conditions for naturalization in Vietnam.

1. Foreign nationals and stateless persons permanently residing in Vietnam who file applications for Vietnamese nationality may be permitted for naturalization in Vietnam if they satisfy the following conditions:

- a/ Having the full civil act capacity as prescribed by Vietnam's laws;
- b/ Obeying the Constitution and laws of Vietnam; respecting the traditions, customs and practices of the Vietnamese nation;
- c/ Understanding Vietnamese sufficiently enough to integrate themselves into the Vietnamese community;
- d/ Having resided in Vietnam for 5 years or more by the time of application for naturalization;
- e/ Being capable of making their livelihood in Vietnam.

2. Those who apply for Vietnamese nationality may be permitted for naturalization in Vietnam without having to fully meet the conditions prescribed at Points c, d and e, Clause 1 of this Article if they fall into one of the following cases:

- a/ Being spouses, natural parents or natural off-springs of Vietnamese citizens;
- b/ Having made meritorious contributions to Vietnam's national construction and defense;
- c/ Being helpful to the State of the Socialist Republic of Vietnam.

3. Persons naturalized in Vietnam shall renounce their foreign nationality, except for those defined in Clause 2 of this Article in special cases, if so permitted by the President.

4. Persons applying for Vietnamese nationality must have Vietnamese names. These names may be selected by the applicants and written in the decisions on naturalization in Vietnam.

5. Persons applying for Vietnamese nationality may not be permitted for naturalization if such naturalization is detrimental to Vietnam's national interests.

6. The Government shall specify conditions for naturalization in Vietnam.

Article 15: The nationality of children whose parents are Vietnamese Citizens.

A child born inside or outside the Vietnamese territory whose parents, at the time of his/her birth, are both Vietnamese citizens has Vietnamese nationality.

Article 16: The nationality of children either of whose parents is a Vietnamese citizen.

1. A child born inside or outside the Vietnamese territory either of whose parents is a Vietnamese citizen and the other is a stateless person at the time of his/her birth or whose mother, at the time of his/her birth, is a Vietnamese citizen and whose father is unknown, has Vietnamese nationality.

2. A child either of whose parents is a Vietnamese citizen at the time of his/her birth and the other is a foreign national has the Vietnamese nationality if so agreed in writing by his/her parents at the time of birth registration. In case a child is born in the Vietnamese territory but his/her parents fail to reach an agreement on the selection of his/her nationality, the child has Vietnamese nationality."

7. What kind of documentation is needed?

Article 20: Dossiers of application for Vietnamese nationality.

1. A dossier of application for Vietnamese nationality comprises:

- a/ An application for Vietnamese nationality;
- b/ A copy of the birth certificate, passport or other substitute papers;
- c/ A curriculum vitae;

- d/ A judicial record issued by a competent Vietnamese authority for the period the applicant resides in Vietnam and a judicial record issued by a competent foreign authority for the period the applicant resides in the foreign country. Judicial records must be issued within 90 days before the date of filing the dossier;
- e/ Papers proving his/her Vietnamese language skills;
- f/ Papers proving his/her place and period of residence in Vietnam;
- g/ Papers proving his/her ability to make livelihood in Vietnam.

According to Article 7 of Decree No. 78/2009/ND-CP dated September 22nd, 2009 detailing and guiding a number of articles of the Law on Vietnamese Nationality, papers defined at the above-mentioned point's b, d, e and g are specified as follows:

- a/ Other papers which may substitute for the applicants' birth certificates or passports are papers valid for evidencing their foreign nationality;
- b/ Paper evidencing the applicants' Vietnamese language skills is either of the following papers: copy of Vietnamese postgraduate, university, college, professional secondary, upper secondary or lower secondary diplomas; copy of a diploma or certificate of Vietnamese language skills granted by a Vietnamese language training establishment.

In case the applicants declare that they know Vietnamese sufficiently to integrate into the Vietnamese community according to Clause 1, Article 5 of this Decree but have none of the above-said papers, provincial-level Departments of Justice shall directly interview them to test their Vietnamese language skills under the guidance of the Ministry of Justice. Interview results must be recorded in writing. Interviewers shall base themselves on criteria specified in Clause 1, Article 5 of this Decree to make proposals and take responsibility for their proposals;

- c/ Copies of birth certificates of minor children who are naturalized in Vietnam together with their parents or other papers proving their father/mother-child relations. If only one parent is naturalized in Vietnam and the minor child who is living with that parent is also naturalized in Vietnam, written consent of both parents on the naturalization in Vietnam of their child is also required;
- d/ A copy of the permanent residence card;
- e/ Papers proving the applicants' ability to make a living in Vietnam is any of the following papers: paper evidencing property ownership rights; written certification of the wage or income level, issued by the employing agency or organization of the applicant; written certification of taxable incomes, issued by a tax office; paper

evidencing the guarantee by an organization or individual in Vietnam; or written certification of the applicant's ability to make his or her living in Vietnam, made by People's Committee of commune, ward or township (below referred to as commune-level People's Committee) where the applicant resides.

2. For persons exempt from several conditions on naturalization in Vietnam specified in Clause 2, Article 19 of this Law, papers corresponding to exempted conditions are not required.

3. The Government shall specify papers in dossiers of application for Vietnamese nationality.

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Der vedlægges følgende bilag:

- Law on Vietnamese Nationality of 2008
- Decree 78 – 2009 – ND – CP
- Note Verbale af 24. august 2012 fra det vietnamesiske udenrigsministerium til den danske ambassade i Hanoi.

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Udenrigsministeriet har intet at indvende imod, at der meddeles partsaktindsigt i nærværende skrivelse i forbindelse med Flygtningenævnets eller Udlændingestyrelsens behandling af sager vedrørende asylansøgninger fra vietnamesiske statsborgere.

Borgerservice, den 1. oktober 2012

