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ACCORD

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& Asylum Research and Documentation

Anfragebeantwortung zu Kuba: Verhaftung von Personen, die keine Arbeit haben; Information zu Ausreisegenehmigungen und Rückkehr nach Kuba [a-8295]

19. Februar 2013

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Die folgenden Ausschnitte aus ausgewählten Quellen enthalten Informationen zu den genannten Fragestellungen (Zugriff auf alle Quellen am 19. Februar 2013):

Verhaftung von Personen, die keine Arbeit haben

- NYT - New York Times: Economix; In Cuba, a Jobless Person Is a 'Dangerous' Person, 18. November 2009 (Blogbeitrag, Autor: Marc Lacey)
<http://economix.blogs.nytimes.com/2009/11/18/jailing-the-jobless-in-cuba/>

„A report released on Wednesday by [Human Rights Watch](#) on the human rights situation in Cuba takes the government of President Raúl Castro to task for, among other things, jailing those without jobs. The report cited the cases of dozens of people charged with 'dangerousness' for being unemployed.

'A person is considered to be in a state of dangerousness due to antisocial behavior if the person ... lives, like a social parasite, off the work of others,' the report quoted Cuba's Criminal Code as saying.

Joblessness can be illegal in Cuba but, at the same time, losing one's job is sometimes used as a punishment by the government, said the report, titled 'New Castro, Same Cuba.' Those regarded as enemies of the state, the report said, are routinely fired from jobs, denied other employment

and levied with fines, all of which put a significant financial burden on their families.“ (NYT, 18. November 2009)

- HRW - Human Rights Watch: World Report 2010: Cuba, Jänner 2010
<http://www.hrw.org/world-report-2010/cuba>

„Raul Castro's government has increasingly relied on a 'dangerousness' (*estado peligroso*) provision of the criminal code that allows the state to imprison individuals before they have committed a crime, on the suspicion that they might commit an offense in the future. Scores of individuals are currently imprisoned for 'dangerous' activities including handing out copies of the Universal Declaration of Human Rights, staging peaceful marches, writing critical news articles, and trying to organize independent unions.

Cuba has also applied the 'dangerousness' charge to Cubans who are unemployed or self-employed without authorization. Language in the provision regards being unemployed as a form of 'antisocial behavior,' and thus worthy of pre-criminal arrest. In a January 2009 campaign called 'Operation Victory,' dozens of individuals in eastern Cuba - most of them youths - were charged with 'dangerousness' for not having jobs.“ (HRW, Jänner 2010)

- HRW - Human Rights Watch: Imprisoned for 'Dangerousness' in Cuba, 27. Februar 2010
<http://www.hrw.org/en/news/2010/02/27/imprisoned-dangerousness-cuba>

„Under Cuba's 'dangerousness' law, authorities can imprison people who have not committed a crime on the suspicion that they might commit one in the future. 'Dangerous' activities include handing out copies of the Universal Declaration of Human Rights, writing articles critical of the government and trying to start an independent union. [...]

René told us he had not been on the march and did not consider himself political. But shortly after his father's arrest, he came home to find 'Death to the worms of house 58,' his family's address, spray-painted on the nearby bus stop. A week later, he was fired from his longtime hospital job. Members of the local 'revolutionary defense committee' - the neighborhood association connected with the Communist Party - insulted him in the street and tried to pick fights. A man was assigned to watch him and his mother; he stood on their corner and followed them as they came and went.“ (HRW, 27. Februar 2010)

Information zu Ausreisegenehmigungen und Rückkehr nach Kuba

- HRW - Human Rights Watch: World Report 2013 - Cuba, 31. Jänner 2013 (verfügbar auf ecoi.net)
http://www.ecoi.net/local_link/237132/360006_de.html

„Travel Restrictions and Family Separation

In 2012 the Cuban government prevented the country's citizens from leaving or returning to Cuba without first obtaining official permission, which was often denied to those who had criticized the government. For example, acclaimed blogger Yoani Sánchez, who has been critical of the government, has been denied the right to leave the island at least 19 times since 2008, including in February 2012 after the Brazilian government granted her a visa to attend a documentary screening.

Reforms to travel regulations that went into effect in January 2013 eliminate the need for an exit visa to leave the island, which had previously been used to deny the right to travel to people critical of the government and their families. However, the reform establishes that the government may restrict the right to travel on the vague grounds of 'defense and national security' or 'other reasons of public interest,' which could allow authorities to continue to deny people who express dissent the ability to leave Cuba.

The government restricts the movement of citizens within Cuba by enforcing a 1997 law known as Decree 217. Designed to limit migration to Havana, the decree requires Cubans to obtain government permission before moving to the country's capital. It is often used to prevent dissidents traveling to Havana to attend meetings and to harass dissidents from other parts of Cuba who live in the capital.“ (HRW, 31. Jänner 2013)

- Lexington Institute: Migration Policy Reform: Cuba Gets Started, U.S. Should Follow, Dezember 2012
<http://www.lexingtoninstitute.org/library/resources/documents/Cuba/ResearchProducts/CubanMigration.pdf>

„The travel policy reform was contained in Decree-law No. 302, which amends and updates Cuba's 1976 law on migration. The reform takes effect January 14, 2013. [...]

The new law eliminates the requirement for Cuban citizens to obtain an exit permit, called the *tarjeta blanca*, for each and every departure from the country for any purpose and for any duration. It also does away with the requirement that Cubans traveling abroad present a letter of invitation from a person or institution that would be responsible for their visit.

In place of the old requirements, there is now only the requirement that a Cuban citizen obtain a passport. With a passport in hand – and a visa from destination countries that require them – a Cuban citizen may now travel abroad. Cubans now holding passports may update them free of charge so as to be able to take advantage of the new norms. Passports are valid for two years, and are renewable.

The new reform does not recognize an inherent right to travel, and it limits foreign travel privileges for some. A new Article 23 in the migration law lists categories of persons residing in Cuba who 'may not obtain passports' for reasons that include:

- being subject to a criminal justice proceeding or serving a sentence;
 - being subject to military service;
 - 'reasons of defense and national security; and
 - 'other public interest reasons;'
 - being deemed unfit for travel because of one's work in the 'economic, social, scientific, or technical development of the country, as well as for security and the protection of official information;'
 - having 'obligations with the Cuban state or civil responsibility;'
 - in the case of minors, lack of full legal authorization from both parents." (Lexington Institute, Dezember 2012, S. 1-2)
- BBC News: Cubans set for foreign travel as exit permits abolished, 14. Jänner 2013
<http://www.bbc.co.uk/news/world-latin-america-21008571>

„The queues outside Havana's immigration offices have grown longer than ever in recent weeks, as Cubans rush to apply for their first passport.

It is the only Cuban document they need to travel now, as the days of requesting an exit permit to leave the island are finally over. [...] Another woman added that the long queues were partly because the price of a passport was doubling on Monday to \$100 (£60). 'If they can't get the money off you for exit permits, they'll get it for passports,' she remarked, wryly.

Previously, the total cost of all the official permits ran to around \$300: at 15 times the average monthly state salary, that was a serious impediment to travel. [...] Cuba batted down the hatches soon after the 1959 revolution to halt a mass exodus of the island's most talented to the US. The restrictions were widely criticised outside the island, and much complained about within. President Raul Castro promised change long ago but it was delayed, its wisdom apparently disputed by some within the Communist Party. Now in effect, the move follows other previously unimaginable steps to loosen government control over private lives. Cubans can now buy and sell their houses and cars, for example, own mobile phones and enter hotels previously reserved for foreigners. [...]

The new Cuban migration laws do appear to recognise that reality. Travellers can now stay away for two years instead of 11 months and extend that time further; those who left illegally over eight years ago will no longer face difficulties to return. The government, which once denounced those who left Cuba as 'worms' and traitors, now talks of them simply as economic migrants. The authorities are gambling that by making it easier to travel, more Cubans will work and study abroad then bring their money and expertise back to the island.

Some restrictions do remain in place. The law refers to 'preserving the qualified workforce' and on state TV a senior immigration officer clarified that this meant athletes and 'vital' professionals as well as Communist Party leaders. 'They will know [...] why they are vital, which should prevent them going to get passports unless they have authorisation,' Lamberto Fraga stressed. It does appear, though, that most doctors will now be far freer to travel. The new law also specifies that anyone can be refused a passport for 'reasons of public interest', and dissidents suspect that will

mean them. Some, like dissident blogger Yoani Sanchez, have been blocked from travelling many times in the past. '1 day until the #Migration reform comes into effect and I wonder if the island's bolts will slide back for everyone? And for me?', she wrote on Twitter on Sunday." (BBC News, 14. Jänner 2013)

- Guardian: Cuba relaxes travel restrictions for citizens, 15. Jänner 2013
<http://www.guardian.co.uk/world/2013/jan/15/cuba-relaxes-travel-restrictions>

„Cubans formed long lines outside travel agencies and migration offices in Havana on Monday as a new law took effect easing the island's strict exit visa requirements. The measure means the end of both real and symbolic obstacles to travel by islanders, though it is not expected to result in a mass exodus. Most Cubans are now eligible to leave with just a current passport and national identity card, like residents of other countries.

Control over who can travel largely shifts to other governments, which will make their own decisions about granting entry visas. Cubans, like people in most other developing countries, will still find it difficult in many cases to get visas from wealthier nations, such as the US. Several European diplomats in Havana said their embassies had received a high volume of calls from would-be travellers unaware they would still need a visa, despite a campaign in official Cuban media to clarify the new requirements. [...]

There have been signs that even islanders in sensitive roles – or open opposition to the Communist government – will be included, a key litmus test of the reforms' scope. Two well-known Cuban dissidents said they were told they will be allowed to travel after being blocked in the past. [...]

One of the first people in line at the immigration office on Monday was dissident blogger Yoani Sanchez, who says she has been denied an exit visa 20 times in recent years. Sanchez reported that her application for a new passport went smoothly. She was told it would take 15 days and once she had the document she would be able to travel. 'I have hope, but I'll believe it when I'm sitting in an aeroplane,' she said. Fellow government opponent Guillermo Farinas, meanwhile, told of a surprise visit on Monday by a captain and lieutenant colonel of state security. 'They said I would be able to leave the country and return,' Farinas tweeted. Both he and Sanchez have said in the past that officials told them privately they would be granted permission to leave only if they agreed to forfeit their right of return. Cuba observers and foreign governments have been waiting to see how the government implements the law to gauge its effect. The measure contains language that lets the government deny travel in cases of 'national security' and one key test of the law will be whether authorities allow exits in sensitive cases, such as military officers, scientists and world-class athletes. [...]

In meetings throughout the country last week, doctors were told that most of them will be treated like any other citizen when it comes to travel, a surprise given Cuba's long-standing concerns about brain drain of healthcare workers. The Cuban law also increases the amount of time people can spend overseas without losing residency rights back home, from 11 months to two years. President Raul Castro's government apparently hopes that such extended stays for work or education will help the island in the long term, as people send money to relatives, and potentially return with saved earnings to invest in the local economy. The Cuban exit visa has been a key point of contention for many critics of the Communist government, who seized upon the travel restrictions to call the country an island prison." (Guardian, 15. Jänner 2013)

- BBC News: Cuba dissident Yoani Sanchez granted passport, 31. Jänner 2013
http://www.bbc.co.uk/news/world-latin-america-21271869#sa-ns_mchannel=rss&ns_source=PublicRSS20-sa

„Ms Sanchez, who has criticised the Cuban government in her prize-winning blog Generation Y, announced the development on her Twitter account. However, she said she was disappointed that her fellow activist, Angel Moya, was still denied a passport. The move comes after Cuba eased travel restrictions for its citizens. [...] 'Incredible! They called my house to tell me that my passport was ready. They just gave it to me,' Sanchez tweeted. 'Now the only thing left is to be able to board that plane.' She added: 'I am both happy and sad; on the one hand, I have my documents to be able to travel, but many of my friends like Angel Moya, are not going to be allowed.' Ms Sanchez has said she was denied the right to travel 20 times under Cuba's old travel law and doubted she would get a passport under the new ones. [...]

Correspondents say that by making it easier to travel, the authorities are gambling that more Cubans will work and study abroad then bring their money and expertise back to the island. Some restrictions, however, do remain in place. The new travel law refers to 'preserving the qualified

workforce' which officials say includes athletes and 'vital' professionals as well as Communist Party leaders." (BBC News, 31. Jänner 2013)

- Reuters: Leading Cuban dissident departs for world tour, 17. Februar 2013

<http://www.reuters.com/article/2013/02/17/us-cuba-dissident-idUSBRE91G0B420130217>

„Cuba's leaders consider dissidents traitorous mercenaries in the employ of the United States and other enemies. Official bloggers regularly charge that Sanchez's international renown has been stage-managed by Western intelligence services. But Sanchez is also a critic of U.S. policy toward her homeland. In a recent blog, she said the decades-old trade embargo had failed to stifle the Cuban government and was exploited by Havana as 'a big bad wolf to blame for everything.' 'The big news is not now, but in 80 days when she will return,' Bert Hoffmann, a Cuba expert at the German Institute of Global and Area Studies in Hamburg, said. 'Many regime opponents have left Cuba for exile, but this is the first time a prominent dissident sets out on a high-profile world tour to then come back to the island.' Sanchez's travels and eventual return to Cuba are being carefully monitored by governments and human rights advocates as a test of Cuban authorities' commitment to free travel. 'She is gone, now let's see if the government lets her back in or forces her into exile,' a European diplomat said.“ (Reuters, 17. Februar 2013)

- NYT - New York Times: Memo From Cuba: New Rules Allow Cubans to Keep Residency Amid Travel, 14. Jänner 2013

<http://www.nytimes.com/2013/01/14/world/americas/new-rules-allow-cubans-to-keep-residency-amid-travel.html?partner=rss&emc=rss> (Zugriff am 18. Februar 2013)

„Until now, that is. New Cuban migration rules that take effect on Monday will allow islanders to spend more time overseas before they forfeit their Cuban residency, a concession that reflects the government's desire for closer ties with millions of Cubans who live abroad. [...]

The new rules — among the most anticipated changes introduced by President [Raúl Castro](#) — eliminate expensive, time-consuming paperwork for most Cubans, who will need only a passport to travel. And in a surprising development, the government will also allow some medical professionals to go abroad, though it will continue to limit travel by people who work for strategic sectors, and, most likely, dissidents.

It will also be easier to return to the island: Cubans who leave will no longer automatically lose their property, and those who wish to return for good can reapply for residency. The government has extended the period Cubans may spend overseas without losing their right to return to two years from 11 months, giving them more time to find jobs overseas and creating a window for those in the United States to apply for residency there — a process they can begin after a year.“ (New York Times, 14. Jänner 2013)

- BBC News: Cuba dissident Gisela Delgado 'denied travel permission', 8. Februar 2013

http://www.bbc.co.uk/news/world-latin-america-21379596#sa-ns_mchannel=rss&ns_source=PublicRSS20-sa

„It is the first known refusal since exit permits were abolished last month. Ms Delgado, who wanted to visit family in the US, told the AFP news agency that she was turned down because of her 'counter-revolutionary activities'. However, some government critics have been allowed to obtain passports and travel, including blogger Yoani Sanchez. Ms Sanchez, who was repeatedly denied permission to go abroad, is planning a foreign trip later this month. For many decades, Cubans had to go through a lengthy and expensive process to obtain an exit permit. Under January's reforms, most Cubans now need only a passport and, where applicable, a visa for their intended destination. However there are still some travel restrictions on people considered "vital" for the country.“ (BBC News, 18 February 2013)

- Lexington Institute: Migration Policy Reform: Cuba Gets Started, U.S. Should Follow, Dezember 2012

<http://www.lexingtoninstitute.org/library/resources/documents/Cuba/ResearchProducts/CubanMigration.pdf>

„The new law also liberalizes the treatment of Cubans who wish to emigrate, who have emigrated and wish to return, or who wish to spend extended periods of time abroad.

- The status of Cubans with permission to reside abroad under current law is not affected by the new law.

- Citizens may depart Cuba for up to 24 months and can apply for a longer period or for an 'indefinite' stay abroad for reasons of marriage ('formal or not') to foreign citizens or for other 'family and humanitarian reasons' or for other 'justified reasons.'

- Cubans who have emigrated may return to Cuba for 90 days, and those with permission to reside abroad may return for 180 days; both limits may be extended with government permission.

- Cubans who have emigrated may apply to re-establish residency in Cuba. They must explain how they emigrated, why they wish to return, and who will be responsible for their lodging and support until they are self-sufficient. Applications may be submitted at immigration offices in Cuba or at Cuban consulates outside Cuba. Immigration authorities are required to respond within 90 days.

- The December 1961 law that allows the state 'to nationalize through confiscation' the real property and other assets of Cubans who emigrate, is repealed. This was a key feature of the salida definitiva ('definitive departure') designation for Cubans who departed Cuba and lost an ability to return without government permission.

Also, a further policy change was announced in an October 24 press conference by Homero Acosta, secretary of the Council of State. He explained that Cubans who emigrated illegally (e.g. those who left on boats to the United States or those who traveled with permission and did not return), and those athletes and medical personnel who went abroad for official reasons and did not return, will be permitted to return to Cuba if they wish after eight years have passed.

In the press conference, Acosta elaborated on the government's reasons for enacting the reform. One reason, he said, was 'to improve relations with Cuban emigrants, who with the passage of time have changed considerably from having eminently political motivations in the first years of the Revolution, to having economic motivations.'" (Lexington Institute, Dezember 2012, S. 3)

• El País: Cuba dejará de exigir el permiso para salir del país, (Autorin: Yoani Sanchez), 16. Oktober 2012

http://internacional.elpais.com/internacional/2012/10/16/actualidad/1350370182_474400.html

„En similares términos se destina el artículo 24.1 a los exiliados cubanos. Quienes no recibirán la autorización para entrar en el país, en caso de 'organizar, estimular, realizar o participar en acciones hostiles contra los fundamentos políticos, económicos y sociales del Estado cubano'. Las lecturas pueden ser muy amplias y el régimen de La Habana ha utilizado frecuentemente el tema migratorio como mecanismo para silenciar las críticas dentro y fuera de la isla.“ (El País, 16. Oktober 2012)

Artikel 24.1. des Gesetzes bezieht sich auf KubanerInnen, die sich im Exil befinden. Diese erhalten – so Artikel 24.1. - keine Genehmigung zur Einreise, wenn sie ‚feindliche Handlungen gegen die politischen, wirtschaftlichen und sozialen Grundsätze des kubanischen Staates organisiert, angeregt, durchgeführt oder an solchen teilgenommen‘ hätten. Der Spielraum für Auslegungen dieser Regelung ist sehr weit und das Regime in Havanna hat häufig das Migrationsthema als Mittel verwendet, um KritikerInnen innerhalb und außerhalb des Landes ruhig zu stellen. (Arbeitsübersetzung ACCORD von El País, 16. Oktober 2012)

- CSW - Christian Solidarity Worldwide: Cuba: Pastor Gude Perez issues open letter demanding freedom as wife raises family's plight in Washington DC, 30. Oktober 2012

<http://dynamic.csw.org.uk/article.asp?t=press&id=1442&search=>

„As Pastor Omar Gude Perez issues an open letter demanding that the Cuban government allow him to leave the country with his family, his wife Kenia is travelling to Washington DC this week to seek support for her family's plight.

Cuban authorities have refused to issue Omar Gude Perez, the leader of a large network of unregistered churches, permission to leave the island despite an offer of asylum for the family in the United States 15 months ago. In the meantime, the couple's two teenage children have been barred from attending school. Pastor Gude Perez is also prohibited from working as a pastor.

In his letter, Pastor Gude Perez explains the impact the government's actions have had on his family, "Today our family suffers – we are unable to build a future and to fulfil the purposes that bring familial happiness because of the high number of restrictions placed upon us, including the fact that I cannot work as a pastor because I am not someone the system wishes to authorize, because it's not in its interests to do so."

The government's continued failure to allow the family to leave comes despite an official announcement that the authorities will no longer force Cubans to obtain a "white card" in order to

leave the country from January 2013. However, the reform will not apply to certain professions and the government has reserved the right to prevent citizens from leaving for vague reasons of national security.“ (CSW, 30. Oktober 2012)

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