

2012-12-03

## Fråga-svar

### Comorerna. Angående statslösa från Förenade Arabemiraten med comoriska pass.

#### Fråga

1. Kan statslösa i Förenade Arabemiraten erhålla passhandlingar från Comorerna? Vilken status har dessa personer i Comorerna?
2. Kan de bosätta sig i Comorerna?
3. Om en person har comoriskt pass - kan dennes hustru (med medborgarskap i annat land) bosätta sig med mannen i Comorerna?

#### Svar

Sammanställning av information från olika källor:

US Department of State rapporterar om naturaliseringsprocessen och statslösa i Förenade Arabemiraten (2012):

The government has a naturalization process, and individuals can apply for citizenship; however, there were no reports of stateless persons receiving citizenship during the year. There were reports of stateless persons being forced to accept third-country citizenship as a means to gain a passport.

UN Human Rights Council i en rapport från 2010 om statslösa, "Bidoons":

49. Some "Bidoons" have tried to obtain citizenship for many years, if not decades. In spite of the fact that they were born on the territory of the United Arab Emirates and that they have never lived in any other country, they still have not been granted citizenship.

Instead, the authorities have allegedly suggested that they go to the Comoros, obtain the Comorian nationality and then return to live legally in the United Arab Emirates with their newly acquired Comorian nationality. (s. 14)

Om villkoren för naturalisation i Comorererna enligt medborgarskapslagen, *Code de la Nationalité Comorienne*. Se hela dokumentet för information om förlust och förverkande av medborgarskap. För lagen på originalspråk se *Code de la Nationalité Comorienne*, <http://www.unhcr.org/refworld/pdfid/4c581c792.pdf>. Observera att utdraget nedan är en inofficiell översättning<sup>1</sup>:

Paragraph 1 – Naturalization

Art. 28. Comorian naturalization is granted by decree after an enquiry. No person can be naturalized if he/she does not have his usual residence in the Comoros at the time of the signing of the decree of naturalization.

Art. 29. Subject to the exceptions provided for in Articles 30 and 31, naturalization can not be granted except to the foreigner who proves his or her usual residence in the Comoros during the ten years preceding the filing of his application.

Art. 30. The conditional period referred to in Article 29 is reduced by five years:

1. - for a foreigner born in the Comoros or married to a Comorian;
2. - for a person who has rendered important services to the Comoros such as the contribution of artistic or scientific talent or literary distinction.

Art. 31. May be naturalized without a qualifying period:

1. - A foreign minor child born outside of the Comoros, if one of the parents acquires Comorian nationality during the lifetime of the other;
2. - A minor child of a foreigner who acquires Comorian nationality, in the event that, in accordance with Article 49 below, this child has not himself or herself acquired Comorian nationality by right;

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<sup>1</sup> Se även villkor för medborgarskap i Immigration and Refugee Board of Canada, *Comoros: Whether the spouse of a Comoran citizen can acquire Comoran nationality; if so, the procedures and documents required to obtain Comoran nationality; whether children who were born abroad to Comoran parents can obtain the nationality of their parents; if so, the procedures and documents required; whether religion affects the possibility of obtaining nationality*, 2010-11-29, <http://www.unhcr.org/refworld/docid/50b756862.html> (Hämtad 2012-12-03).

3. - The wife of a foreigner who acquires Comorian nationality;
4. - An adult foreigner adopted before his/her age of majority by a person of Comorian nationality;
5. - A foreigner who has rendered outstanding services to the Comoros or a person whose naturalization is of exceptional interest to the Comoros. (s. 7-8)

[...]

Art. 34. No person may be naturalized if he/she is not of good character and comportment.

Art. 35. No person may be naturalized:

1. - if he/she is not recognized to not be of sound mind;
  2. - if he/she is not recognized, due to his or her state of physical health, to be either a burden or a danger to the community;
  3. - if he or she cannot demonstrate his or her assimilation into the Comorian community.
- However, this condition is not required for a foreigner liable to benefit from the provisions of the last paragraph of Article 31. (s. 8)

*Code de la Nationalité Comorienne* angående rättigheter och begränsningar för personer som förvärvat medborgarskap:

## CHAPTER II: THE EFFECTS OF THE ACQUISITION OF COMORIAN NATIONALITY

Art. 45. The individual who has acquired Comorian nationality enjoys the benefits, from the date of acquisition, of all the rights pertaining to Comorian status, subject to the restrictions provided for in Article 46 of this Code or in the special laws.

Art. 46. A naturalized foreigner is subject to the following restrictions:

1. - during a period of ten years from the date of the decree of naturalization, he or she may not be vested with functions or elective office for the exercise of which the status of Comorian is required;
2. - during a period of five years from the date of the decree of naturalization, he or she may not be a voter where the status of Comorian is necessary to permit voter registration;
3. - during a period

of five years from the date of the decree of naturalization, he or she may not be appointed to public office paid for by the State, be registered with the Comorian bar or be appointed as the holder of a ministerial office. (s. 9-10)

*Code de la Nationalité Comorienne* angående förvärv av medborgarskap för make/maka till en comorisk medborgare:

Art. 15. Subject to the provisions of Articles 16, 17, 43, a foreign woman who marries a Comorian acquires Comorian nationality at the time of the celebration of the marriage before the Civil Affairs Official having jurisdiction in the area.

Art. 16. In the case where national laws allow the woman to retain her nationality, the woman has the right to declare, prior to the celebration of the marriage, that she declines the status of Comorian. She can, even if she is a minor, exercise this right without any authorization.

Art. 17. During the six month period following the celebration of the marriage, the Government may oppose, by decree issued pursuant to a joint report from the Ministries in charge, the Ministries of Justice, the Interior, and Health and Social Affairs, the acquisition of Comorian nationality. To this end, a summary of the marriage certificate is sent by the Civil Affairs Official having jurisdiction, within eight days of celebration, to the Ministry of Justice for registration. In case of opposition by the Government, the person concerned is deemed to have never acquired Comorian nationality. However, when the validity of acts entered into prior to the decree of opposition was subordinated to the acquisition by the wife of Comorian nationality, this validity can not be challenged on the grounds that the woman was unable to acquire this status.

Art. 18. When the marriage was celebrated abroad, the period provided for in the preceding article shall run from the date of the transcribing of the Certificate into the civil status records of the Comorian diplomatic or consular agents.

Art. 19. The woman does not acquire Comorian nationality if her marriage to a Comorian is declared invalid by a decision issued by a Comorian court or rendered enforceable in the Comoros, even if the marriage was contracted in good faith. However, when the validity of acts entered into before the court decision finding the nullity of the marriage was subordinated to the acquisition of Comorian nationality by the wife, this validity can not be challenged on the grounds that the woman could not acquire this status. (s. 6)

UN Committee on the Elimination of Discrimination Against Women (2011) angående förvärv av medborgarskap i Comorerna:

(a) Equal rights to acquire, change or retain their nationality

221. Legislation on nationality is gender-neutral. Likewise, and in the interest of preserving national unity, article 9 of the Constitution states that nationality falls exclusively within the competency of the Union of the Comoros. In this regard, article 5 specifies that nationality may be acquired, retained or lost in accordance with the law and that no Comorian citizen by birth may be deprived of his or her nationality. Nationality is governed by the Act establishing the Nationality Code of 12 December 1979. The Act thus establishes conditions pertaining to the acquisition, conferral, loss or forfeiture of nationality, as well as disputes relating to nationality, irrespective of gender. It is in this light that article 10 of the Act confers Comorian nationality “on every individual born in the Comoros to Comorian parents”.

222. Similarly, the Nationality Code prohibits any gender-based restriction of rights in respect of the acquisition of Comorian nationality in a mixed marriage. That is to say, a mixed marriage does not constitute grounds for loss or forfeiture of Comorian nationality. Under article 54 of the Act, “a Comorian woman married to a foreigner retains Comorian nationality”.

223. Consequently, a Comorian citizen of any sex may have a second nationality of his or her choice.

224. Moreover, unless she chooses to forgo her right, a foreign woman who marries a

Comorian citizen may acquire Comorian nationality while retaining her original nationality. (s. 32-33)

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Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

## Källförteckning

*Code de la Nationalité Comorienne* [Comoros], Loi N° 79-12, 12 December 1979, <http://www.unhcr.org/refworld/docid/4c581c792.html> (Hämtad 2012-12-03)

UN Committee on the Elimination of Discrimination Against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: combined initial, 2nd, 3rd and 4th periodic reports of States parties: Comoros*, 2011-09-21, <http://www.unhcr.org/refworld/docid/50605ba82.html> (Hämtad 2012-12-03)

UN Human Rights Council, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Addendum: Mission to the United Arab Emirates*, 2010-03-31, <http://www.unhcr.org/refworld/docid/4c060e242.html> (Hämtad 2012-12-03)

US Department of State, *Country Report on Human Rights Practices for 2011: United Arab Emirates*, 2012-05-24, [http://www.ecoi.net/local\\_link/217815/324445\\_en.html](http://www.ecoi.net/local_link/217815/324445_en.html) (Hämtad 2012-12-03)