

2013-12-09

Fråga-svar

Förlust av jordanskt medborgarskap som statslös palestinier

Fråga

1. Hur ser lagstiftningen ut för återtagande av jordanskt medborgarskap (statslösa palestinier)?
Hur ser beslutsprocessen ut och vilka myndigheter är involverade?
2. Hur ser medborgarskapslagstiftningen ut på Västbanken?
3. Om t.ex. pappan är från Palestina och mamman från Jordanien, har barnen rätt att vistas i Palestina?

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Svar

Kommentar från landanalytiker

Information finns som bl.a. indikerar att jordanska inrikesministeriet emellanåt annullerar/återkallar medborgerskap för jordanska palestinier med ursprunglig hemvist på Västbanken OM de erhåller pass och/eller andra handlingar från den palestinska myndigheten (PA) som indikerar att de har rätt att bo på Västbanken. Detta med hänvisning till att det enligt (bl.a.) jordansk lagstiftning inte är tillåtet att uppbära dubbelt medborgarskap. Jordanien tar vid sådana fall därmed inte hänsyn till att det ännu inte finns någon internationellt erkänd palestinsk stat.

1. Återtagande av jordanskt medborgarskap (statslösa palestinier)

Consortium for Applied Research on International Migration (2012):

sid. 18

“Article Two of the disengagement regulations indeed states that “every person residing in the West Bank before July 31, 1988 will be considered Palestinian and not Jordanian”. Yet, it is important to note that the disengagement has not been inscribed in Jordan’s Constitution, therefore it is theoretically reversible.”

sid. 29

“...The citizenship of Jordanians of Palestinian-origin as downgraded to that of green card holders if they did not apply for “family reunification permits” for themselves and/or their children on the West Bank...”

Utrikesdepartementet (2011):

Sid. 32

”6.4. Fråtagande av jordanskt medborgarskap

Vid det jordanska inrikesministeriets har det inrättats en speciell enhet, ”Inspection and follow up Departement” som har i uppgift att utreda huruvida en persons medborgarskap ska återkallas eller inte. ... Om ett jordanskt medborgarskap återkallas utfärdas ett jordanskt pass av serie T; det vill säga ett tillfälligt pass utan nationellt identitetsnummer. Personer med ett jordanskt resedokument utan nationellt identitetsnummer är inte jordanska medborgare men har en viss rätt att vistas i Jordanien.⁹⁶

Norge. Landinfo (2010):

Sid. 3

”... Palestinerne på Vestbredden mistet sitt jordanske statsborgerskapet da Jordan frasa seg kravet på Vestbredden i 1988. Enkelte palestinere på Vestbredden benytter fremdeles jordanske pass. Enkelte palestinere i Jordan som opprinnelig er fra Vestbredden har blitt fratatt sitt jordanske statsborgerskap de siste årene.”

” TILBAKEKALL AV STATSBOGERSKAP

Ifølge ulike medieoppslag i Jordan og ellers i Midtøsten i 2009, har jordanske myndigheter begynt å tilbakekalle statsborgerskapet til enkelte personer av palestinsk herkomst... Bakgrunnen er angivelig utspill fra israelske politikere om at Jordan er et alternativt hjemland for palestinerne i stedet for det okkuperte Vestbredden. Jordanske myndigheter er derfor redde for at Israel vil forsøke å skyve ansvaret for palestinerne over på Jordan (Canadas ambassade i Amman 2009).”

Human Rights Watch (2010):

Sid. 2

” Officials base withdrawal of nationality on the 1988 severance of ties with the West Bank. They also claim that League of Arab States decisions prohibit dual Arab nationality and that Palestinians may thus not hold Jordanian nationality too. In 1988 the Arab League adopted a decision prohibiting dual Arab nationality, but Palestine has not been recognized as a state under international law, and the Arab League decision is not binding law in Jordan.

Withdrawal of nationality in fact has not been based on Jordanian law, but on vague interpretations of the 1988 severance decision and on new, unwritten conditions that lack a clear legal basis. Jordanian officials claim that Jordanians of Palestinian origin must renew their residency permit for the West Bank as issued by the Israeli military's Civil Administration in order to maintain their Jordanian nationality. This Israeli permit grants the right to reside in the West Bank, and, therefore (for those permit-holders residing elsewhere) the right to return to the West Bank should a Palestinian state come into being. Some Jordanians have been unable to renew this permit, and on this basis had their Jordanian nationality withdrawn. Others had never obtained that permit, having lived in Jordan all their lives, or have an open-ended residency permit from the Israelis that does not require renewal, but nevertheless had their nationality withdrawn. No official informs those whose nationality has been withdrawn of that decision: rather, they are told that they are no longer Jordanian nationals during routine interactions with the bureaucracy such as renewing passports, registering a child's birth, renewing a driver's license, or trying to sell shares. At best, officials explain that it is due to a failure to renew Israeli residency permits. There is no clear means of administrative redress. Some of those affected who have influence in high places have managed to have the decisions reversed, but judicial redress is difficult, if not impossible. The High Court of Justice, with jurisdiction over reviewing the legality of administrative decisions, has ruled that the

1988 disengagement was an act of sovereignty and thus not subject to its jurisdiction, but this precedent notwithstanding, it has taken cases against alleged arbitrary withdrawal of nationality. Lawyers described to Human Rights Watch, however, that toward the late 1990s the court rarely ruled in favor of those contesting their loss of nationality.”

Sid. 36

“The withdrawals of nationality also have other arbitrary features. In several cases, only certain individuals within a family had their nationality withdrawn, although all family members were resident in Jordan or abroad as of July 31, 1988. Other family members, such as a brother in the army or a sister who is a public school teacher, who were in the same position regarding their residency, retained their national numbers, and thus their nationality.”

Sid. 38

“Often, the person concerned had been living as a Jordanian in Jordan for years, sometimes decades, and there was no reason to doubt the validity of his or her Jordanian nationality. In some cases, they received passports with a national number, introduced in 1992, only to have the national number, and hence their nationality, withdrawn 10 or 15 years later.”

Sid.39

“Appealing Withdrawal

The Follow-up and Inspection Department or the Civil Affairs Department of the Ministry of Interior generally did not provide written confirmation of withdrawal of nationality or a legal basis for the decision. The most common explanation was failure to renew an Israeli-issued residency permit for the West Bank (see below). Such a condition for Jordanian nationality, and only for certain Jordanians of Palestinian origin, is not specified in law.”

National legislative bodies, *Disengagement Regulations for the Year 1988*:

“Article (7):

These regulations will not be valid for citizens who acquired family reunification status”

“Article (11):

The General Department of Civil Status and Passports will cease the issuance of Family Book for the Citizens of the Occupied West Bank.”

2. Medborgarskapslagstiftningen

Australia: Refugee Review Tribunal (2010):

Sid. 1

“Palestinians still residing in the West Bank after 1967 could no longer claim full citizenship but could obtain temporary passports without national identification numbers, provided they did not also have a Palestinian Authority travel document. Those who fled Gaza after 1967 were not entitled to citizenship and were given temporary passports without national numbers.”

“ In 1950, Jordan formally annexed the West Bank and in 1954, a new Jordanian citizenship law was passed confirming the citizenship of Palestinians who had become Jordanian citizens under the previous law. Under Article 3 of the law, any person with prior Palestinian nationality before 14 May 1948, except persons who were Jewish, residing in Jordan during the period from 20 December 1949 to 16 February 1954, was a Jordanian citizen. Those fulfilling this residence requirement received full citizenship, as did their children.³ With Jordan’s extension of sovereignty over the West Bank and East Jerusalem, it conferred its full citizenship and nationality on Palestinians who resided there, and those from the West Bank or areas that had become part of Israel, but who now lived in the East Bank.”

Sid. 2

“...In July 1988, Jordan severed all legal and administrative ties to the West Bank. This meant that West Bank residents “lost their Jordanian nationality and citizenship rights, becoming instead stateless Palestinians under Israeli occupation.”⁶ The legality of Jordan’s decision, which did not amount to a law, and the instructions to implement the decision have been questioned.⁷”

“...West Bank residents living in the occupied West Bank before 31 July 1988 did not have the right to Jordanian citizenship....”

“In relation to Palestinians in Jordan who are former residents of the Gaza Strip, Jordan’s government has reported that approximately 165,000 Palestinian refugees, mostly of Gazan origin, did not qualify for citizenship....”

“An RRT research response dated 27 October 2009 provides information on whether persons of West Bank Palestinian descent hold Jordanian citizenship, and the overall situation for Palestinian citizens of Jordan.¹³”

National Legislative Bodies, *Law No. 6 of 1954 on Nationality (last amended 1987)*, 1954-01-01

<http://www.refworld.org/docid/3ae6b4ea13.html>

3. Medborgarskap för barn

Utrikesdepartementet (2011):

Sid. 7

”Jordanska kvinnor gifta med utländska män har inte rätt att överföra sitt medborgarskap till sina barn, vilket innebär att det föds barn i Jordanien vars rättigheter är kraftigt beskurna. Som framgår av punkten 4 ovan medger den gällande jordanska lagstiftningen att ett barn endast ärver sin mors jordanska medborgarskap om fadern är okänd eller statslös. Detta innebär att ett föräldralöst barn som föds i Jordanien av okända föräldrar är att betrakta som jordansk medborgare. Jordanien har dock erkänt Palestina och palestinier är således, enligt gällande lagstiftning, inte att betrakta som statslösa.”

Sid. 32

”... Om en far fråntas sitt medborgarskap blir hans barn automatiskt fråntaget sina också. Ingen hänsyn tas till om de är minderåriga eller vuxna, om de överhuvudtaget levt på Västbanken, eller om de erhållit jordanskt medborgarskap vid födseln. ... ”

Human Rights Watch (2010):

Sid. 51

“The children of two persons whom Human Rights Watch interviewed were in private schools out of choice. Following the withdrawal of their father’s nationality, these children now required a security clearance from the General Intelligence Department. Fadi said that he sent his children to private school “because they are better. Now, however, they require GID permission to go to private school. To take their high school exams [tawjihi], my children need their ID card, but the younger ones don’t have one.”¹⁶⁷”

Migrationsverket (2001):

”1) Barn i äktenskap förvärvar jordanskt medborgarskap om fadern är jordansk medborgare.

2) Barn fött i Jordanien och vars moder är jordansk medborgare förvärvar jordanskt medborgarskap om fadern har okänt eller är statslös, eller om barnet är fött utanför äktenskapet

Barn under arton år förlorar inte automatiskt jordanskt medborgarskap när fadern förvärvar annat medborgarskap. Bestämmelser i övrigt saknas.”

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

(länkarna är hämtade 2013-12-09)

Australia: Refugee Review Tribunal, *Jordan: 1. What rights of residence do stateless Palestinians have in Jordan? 2. Would a Palestinian having a two year Travel Document, which has expired, be likely to still have a right of return to Jordan? 3. What is the situation of stateless Palestinians without a political profile in Jordan? 4. Is there any information to suggest that a stateless Palestinian Muslim who converts to Catholicism would face ill-treatment by Islamic groups? 5. What access to healthcare and/or hospitals do stateless Palestinians have in Jordan?*, 2010-11-17

<http://www.refworld.org/docid/4df9dfd12.html>

Consortium for Applied Research on International Migration. *CARIM, A political demography of the refugee question Palestinians in Jordan and Lebanon: between protection, forced return and resettlement*, 2012-01-01

<http://www.carim.org/Publications/RR2012%20EN%2002.pdf>

Migrationsverket, *Medborgarskap. Jordanien*, 2001-08-01 (Lifos 6754)

National legislative bodies, *Disengagement Regulations for the Year 1988*, 1988-07-28

<http://www.refworld.org/docid/43cd04b94.html>

National Legislative Bodies, *Law No. 6 of 1954 on Nationality (last amended 1987)*, 1954-01-01

<http://www.refworld.org/docid/3ae6b4ea13.html>

Norge. Landinfo, *Palestinerne i Jordan - Statsborgerskap og reisedokumenter*, 2010-09-23

http://www.landinfo.no/asset/1406/1/1406_1.pdf

Utrikesdepartementet, *Migrationsrelaterade frågor - Jordanien*, 2011-07-04 (Lifos 29344, Åtkomstbegränsning — Handlägningsstöd)