

2015-02-16

## Fråga-svar

### Libyen. Medborgarskap/uppehållstillstånd för syrier i Libyen

#### Fråga

Sökande är gift med libysk medborgare, men uppger att han på grund av att han är drus inte får sitt vigselbevis godkänt, eftersom Libyen enbart accepterar giftermål mellan sunnimuslimer. Härav får han inte ansöka om libyskt medborgarskap i anknytning till sin fru.

#### Svar

Sammanställning av information från olika källor:

UNHCR (Mars 2014):

The nationality laws of **Jordan, Libya, Saudi Arabia,** and the **United Arab Emirates** do not allow women nationals married to foreign nationals to pass their nationality to their children. However, they do permit women nationals to confer their nationality to their children in certain circumstances such as where fathers are unknown, stateless, of unknown nationality or do not establish filiation. (s. 3)

UNHCR (November 2014):

The situation for Syrian and Palestinian refugees, which previously was somewhat better in comparison to sub-Saharan Africans, has reportedly also deteriorated, with Syrians describing increasing harassment and threats of violence. (s. 4)

## Ministry of Foreign Affairs in the Netherlands (2014):

### 11.1.2 Background of Syrians in Libya

The Syrian population in Libya is estimated to 200,000 persons,<sup>135</sup> of which around 18 000 are registered by UNHCR.<sup>136</sup> Like many other foreigners, Syrians were hoping to find a better life in the oil rich nation. Libya restricted entry procedures for Syrians following the 12 September 2012 attack on the US consulate in Benghazi. This prompted many Syrians to choose illegal routes and smugglers to enter the country.<sup>137</sup> Despite the Ministry of Interior's decision to issue residence permits for Syrians registering with a passport, authorities and militias have not always endorsed the permits.<sup>138</sup> (s. 26)

The arrival of Palestinians and Syrians fleeing the conflict in Syria has put further strain on the country as the new arrivals compete over limited job opportunities and social services. This in turn has created negative sentiments towards both Syrians and Palestinians.<sup>147</sup> Local authorities in Misrata called upon Syrians and Palestinians to leave the city following the outbreak of conflict in May/June 2014. Discriminatory treatment has been reported in Benghazi since the conflict began in 2011.<sup>148</sup>

Authorities in Benghazi have – prior to the recent conflict – also expressed concern about the growing numbers of Syrians coming to the city.<sup>149</sup> The majority of Syrians who arrive in Libya try to remain within the Syrian community, but they still feel vulnerable.<sup>150</sup>

/---/

There are reports of abuse, violations, and abductions of Syrians in Libya. The general insecurity and the prevailing lawlessness have prompted many Syrians to leave the country.<sup>151</sup>

Palestinians and Syrians, like the rest of the population, do not feel safe, and many who remain in Libya want to leave the country. However, this is proving difficult as neighbouring countries have imposed restrictions at border crossings. Only passport holders and holders of airline tickets for onward destinations are allowed to cross the border into Tunisia. (s.27)

## Home Office (2012):

18.02 The USSD January – December IRF Report 2011 noted:

“The interim constitution protects religious freedom, although some laws and policies restrict religious freedom. Under the previous government there were no explicit legal protections for religious freedom, and the

government generally enforced laws and policies that restricted religious freedom.

The interim governing authority, the Transitional National Council (TNC), issued a temporary constitutional declaration in August [2011] that protects freedom of religion. Article 1 of this document states Islam is the state religion and Islamic law is the principal source of legislation, but that non-Muslims are accorded the freedom to practice their beliefs. Article 6 states —there shall be no discrimination among Libyans on the basis of religion or sect with regard to legal, political, and civil rights. (s. 102)

#### 28.01

By Naturalisation: Libyan citizenship may be acquired upon fulfilment of the following conditions:

Person has renounced previous nationality, is a legal adult, has good morality and mental health, and desires to remain in Libya. Residency requirements vary:

- Arab man married to a Libyan woman - four years.
- Person of Arab descent - five years. (s. 181)

#### 28.02

In 2010, Libya adopted a new nationality law (Law No. 24 of 2010) that brought in important reforms, in particular to remove ethno-religious discrimination in favour of the grant of nationality to Arabs and Muslims, and to limit the draconian powers of the state to take away Libyan nationality.

#### 29.01

Birth Certificates:

Available. To obtain a Libyan birth certificate, non-national applicants must send all pertinent information (including name, date and place of birth, and full names of parents) to their respective Embassy in Tripoli. That Embassy will then make a formal request to the Ministry of Foreign Affairs to obtain the certificate from the appropriate.

municipality. Libyan applicants, or a friend or relative of the applicant, must appear in person at the appropriate municipality office.

Marriage Certificates:

Available. Non-national applicants must follow the same procedures as for birth certificates.

(s. 183)

The Danish Refugee Council (2013):

*Migration systems*

Libya has limited mechanisms both for facilitating regular migration and for migrants to regularise their status in-country. Some of these problems stem from the complex rules and regulations governing nationality. A brief typology of known scenarios is as follows:

*Type*

Libyan resident

*Description*

- Residing in Libya for more than 10 years
- Arab background (eg, Tunisians, Syrians etc)

*Documents*

- Residence permit (issued by Nationality and Passport Office)

*Type*

Holder of work permit - Employee of a Libyan firm (hold invitation or work request)

*Description*

- Must have entered Libya legally
- Employer must apply for permission to Ministry of Labour
- Traditionally used for groups such as Bangladeshis, Filipinos

*Documents*

- Work permit acceptance issued by Ministry of Labour (attached to employer, cannot change employer)
- Nationality and Passport Office will issue permit (s.10)

Within Libya, migration is seen primarily as a security issue which influences Libyans' perceptions of migrants and, most importantly, the attitudes of bureaucrats responsible for migrants. Conversely security is a key concern in Libya that affects all residents, including migrants (FIDH, 2012). (s. 12)

Amnesty International (2013):

The border closure affected mainly Syrian refugees who had previously been able to enter Libya by land provided they had a valid passport. Access into Libya for Syrians had been gradually restricted since the September 2012 attack on the US Consulate in Benghazi, following which single Syrian men without a visa were barred from entering Libya. Local media speculated that the Ministry of Interior's January 2013 decision was motivated by fears that Syrian and Iranian nationals were spreading Shi'a political ideology in Libya, a fear widely held in the country. Libyan officials dismissed these allegations. UNHCR has to date registered some 8,100 Syrian

refugees in Libya, but estimates the overall Syrian population in the country at over 100,000. (s. 5)

However, the rights of foreign nationals, including refugees, asylum-seekers and migrant workers, have remained a low priority. In April 2013, the General National Congress enacted a law on Torture, Enforced Disappearances and Discrimination. Notably, the criminalization of discrimination is limited to Libyans only, as opposed to anyone on Libya's territory or under its jurisdiction regardless of their nationality.

Amnesty International is concerned that the EU has continued to tighten its co-operation with the Libyan government over "migration management" despite well-documented human rights abuses, including torture and other ill-treatment, exploitation in and outside of detention, deportation without procedural safeguards, and the continued lack of effective protection for refugees and asylum-seekers. Amnesty International urges the Libyan authorities to protect the rights of foreign nationals in Libya, be they refugees, asylum-seekers or migrants. (s. 26)

#### Al Arabiya (2013):

Libya's Grand Mufti, Sheikh Sadeq al-Ghariani, has called on the government to ban Libyan women from marrying foreigners, Egypt's state news agency MENA reported Wednesday.

He states that no Libyan women should be permitted to enter into marriage with a foreign man even if they are Muslims or Arabs.

Al-Ghariani says that he received several complaints that Shiite and Druze men from Iran and Syria are "taking advantage of the loose security grip in Libya and the chaotic situation in the public administration." He cites this as justification for his call.

Sunni Muslim states, like Libya, tend to be sensitive to the entrance of Shiism into their societies through various means such as marriage and tourism.

#### International Federation for Human Rights (2012):

Only Syrian nationals are allowed to enter Libya freely without visas through its eastern border; visa requirements were recently introduced for Egyptians

and nationals from other countries. The UNHCR delegation in Benghazi estimates that between 30,000 and 40,000 Syrians have entered Libya since the start of the conflict in Syria. No registration procedure exists and they generally do not approach the UNHCR, fearing reprisals by the Syrian authorities. The majority are skilled workers who find employment quickly with the support of the long established Syrian community in Libya and the Syrian Coordination Committee in Benghazi. (s. 28)

While the transitional authorities failed to take measures to address migration issues, Katiba militia brigades took control. As one leader of a Katiba called “Free Libya” said proudly: “After the war ended, we assumed our responsibilities by specialising in the control of migrants. The most important thing today is to ‘cleanse’ the country of foreigners without proper papers. (s. 30)

Since the beginning of 2012, militias have adopted the brutal and illegal police practices of the Gaddafi era against irregular migrants who do not have valid passports and visas or residence permits. (s. 31)

#### Open Society Institute (2010):

Assuring the right of women to pass citizenship to their husbands has proved to be even more of a struggle. More than two-dozen countries either do not allow women to pass their citizenship to their noncitizen spouses at all, or apply discriminatory residence qualifications to foreign men married to citizen women who wish to obtain citizenship. These countries include Benin, Burundi, Cameroon, Central African Republic, Comoros, Republic of Congo, Côte d’Ivoire, Egypt, Equatorial Guinea, Guinea, Lesotho, Libya, Madagascar, Malawi, Mauritania, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, and Tunisia. (s. 5)

#### The Libyan Nationality (2010):

##### **Section (9)**

It’s possible to give the Libyan nationality to the persons that interested in it based on a decision from the General Popular Committee after recommendation of the coordinator of the General Popular Committee for General Security if he/she meets the following conditions:

Reached the maturity age and legally responsible.

Entered to the Greatest Socialist Libyan Arab Jamahiriya legally and according to a valid travel document issued by the authorities of the country that he/she holds it nationality.

Resided in Libya legally for a period not less than 10 years since he entered the country, and has a regular source of income.

Has good conduct and never been convicted with an offence or a crime that affected the honour or the security unless the conviction was dismissed.

Free of all contaminated and transmitted diseases.

His/her age is not more than 50 years at the time of presenting the request.

Any other conditions deemed to be relevant to the public interest as per the Executive rules for this law.

In all cases it's not possible to grant the Libyan nationality to the Palestinian except the Palestinians' women married to Libyan nationals. (s. 3)

---

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

Al Arabiya, *Libyan women should be banned from marrying foreigners*, 2013-03-28

<http://english.alarabiya.net/en/News/middle-east/2013/03/28/Libyan-women-should-be-banned-from-marrying-foreigners-Grand-Mufti.html>  
(Hämtad 2015-02-16)

Amnesty International, *Scapegoats of fear, Rights of refugees, asylum-seekers and migrants abused in Libya*, June 2013

<https://www.amnesty.org/download/Documents/16000/mde190072013en.pdf>

Danish Refugee Council, *"We Risk Our Lives for Daily Bread" - Findings of the Danish Refugee Council Study of Mixed Migration in Libya*, December 2013, available at: <http://www.refworld.org/docid/53158b7d4.html>  
(Hämtad 2015-02-16)

United Kingdom: Home Office, *Country of Origin Information Report - Libya*, 19 December 2012, available at:  
<http://www.refworld.org/docid/50ebe7042.html>  
(Hämtad 2015-02-16)

International Federation for Human Rights (FIDH), *Libya: The hounding of migrants must*, October 2012  
<https://www.fidh.org/IMG/pdf/libyemigrantsuk-ld.pdf>  
(Hämtad 2015-02-16)

*Law Number (24) for 2010/1378 On The Libyan Nationality* [Libya], 28 May 2010, available at: <http://www.refworld.org/docid/4e2d8bf52.html>  
(Hämtad 2015-02-16)

Netherlands, The Ministry of Foreign Affairs, *Libya: Vulnerable Groups*, 19 December 2014, available at:  
<http://www.refworld.org/docid/54afd9224.html>  
(Hämtad 2015-02-16)

Open Society Institute (OSI), *Citizenship Law in Africa: A Comparative Study*, October 2010, ISBN: 978-1-936133-29-1, available at:  
<http://www.refworld.org/docid/4cf76b192.html>  
(Hämtad 2015-02-16)

UN High Commissioner for Refugees (UNHCR), *Background Note on Gender Equality, Nationality Laws and Statelessness 2014*, 8 March 2014, available at: <http://www.refworld.org/docid/532075964.html>  
(Hämtad 2015-02-16)

UN High Commissioner for Refugees (UNHCR), *Position on returns to Libya*, November 2014  
[http://www.ecoi.net/file\\_upload/90\\_1415964571\\_20141112-unhcr-libya-returns.pdf](http://www.ecoi.net/file_upload/90_1415964571_20141112-unhcr-libya-returns.pdf)  
(Hämtad 2015-02-16)