

2014-12-17

Fråga-svar

Vietnam. Straff för brott begånget utomlands

Fråga

Kan vietnamesiska myndigheter bestraffa en person för brott begångna utomlands?

Svar

Nedan följer en sammanställning av information/länkar kring straff i Vietnam för brott begånget utomlands. Sammanställningen gör inte anspråk på att vara uttömmande. Refererade dokument bör alltid läsas i sitt sammanhang. Tänk på att informationen/länkarna är aktuell vid söktillfället men kan ändras över tid. Observera att lagtexten är i urval och att annan relevant information kan finnas i andra paragrafer.

Viet Nam Penal Code:

Article 6.- The effect of the Penal Code on criminal acts committed outside the territory of the Socialist Republic of Vietnam

1. Vietnamese citizens who commit offenses outside the territory of the Socialist Republic of Vietnam may be examined for penal liability in Vietnam according to this Code.

This provision also applies to stateless persons who permanently reside in the Socialist Republic of Vietnam.

2. Foreigners who commit offenses outside the territory of the Socialist Republic of Vietnam may be examined for penal liability according to the Penal Code of Vietnam in circumstances provided for in the international treaties which the Socialist Republic of Vietnam has signed or acceded to.

Refugee Review Tribunal (2012):

78. The Tribunal noted earlier advice from DFAT which found that “it is unlikely that a person who departed illegally [from Vietnam] would suffer punitive action” from the authorities if they were deported back to Vietnam. DFAT commented that Vietnamese government agencies, including the Ministry of Public Security, indicated to them that the Vietnamese policy on returnees “is that they have a right to return to Vietnam and that they will not face further punishment for offences committed outside Vietnam” DFAT advised that the policy was applied in practice.¹⁰ Similar information was provided again in September 2011 with regards to Vietnamese citizens who were repatriated after having committed a crime overseas.¹¹

(s. 14)

Landinfo (2010):

I henhold til vietnamesisk straffelov kan en borger av Vietnam som har begått straffbare handlinger utenfor Vietnam, bli stilt til ansvar for dette i Vietnam

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Det fremgår ikke av dette hvorvidt en også kan bli stilt til straffeansvar i Vietnam for lovovertridelser begått i utlandet, hvis en allerede har ferdigsonet en dom for forholdet utenfor Vietnam. Landinfo er imidlertid ikke kjent med informasjon om at vietnamesere som har begått straffbare handlinger i utlandet, og som har sonet ferdig straff for dette i utlandet, har blitt straffedømt for det samme forholdet etter retur til Vietnam.

(s. 2)

Refugee Review Tribunal (2009):

Narcotics-related crimes are specifically referred to in Chapter XVIII of the Penal Code, Article 194 of which indicates a range of applicable penalties for transporting narcotics. Article 194 includes the provision that ‘offenders shall be sentenced to twenty years of imprisonment, life imprisonment or capital punishment’ in cases involving ‘heroin or cocaine weighing one hundred grams or more’

(s. 1)

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Notwithstanding such application of the death penalty in certain drug-related cases, no reference was found amongst the sources consulted to the death penalty having been applied in cases where the person had been arrested outside of Vietnam.

DFAT has on a number of occasions provided advice to the Refugee Review Tribunal (RRT) in response to requests for information regarding the treatment of returnees to Vietnam who have

Australian criminal records. In a report dated 23 November 2004, DFAT confirmed its previous advice, issued in 1999, that:

‘We would regard it to be highly unlikely that a Vietnamese citizen who had served a gaol sentence in Australia for a drug-related offence would be retried or subject to other punitive action on return.’⁷

In a report dated 8 October 2007, DFAT responded to an information request from the RRT regarding whether there had been any recent reports of people with Australian criminal records being ‘harmed, arrested or imprisoned on their return to Vietnam’ by advising, ‘Not to our knowledge’.⁸

Information in a media release dated 16 December 2004 by the Department of Immigration and Citizenship indicated that, at that date, 59 Vietnamese nationals had been removed under a Memorandum of Understanding (MoU) between the Australian and Vietnamese governments signed on June 2001.

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Information provided by DFAT in February 2005 regarding the MoU indicated that ‘established practice for returns’ included providing to the returnee’s home country a notice of cancellation form which lists the individual’s criminal history in Australia. (s. 2-3)

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In *Research Response VNM32278* of 25 September 2007, it was recorded that the RRT had sought further information from DFAT regarding the provisions of the MoU, particularly in relation to safeguards against and monitoring of possible mistreatment of returnees, but had been advised by DFAT that information on these issues could not be made available because of the classified nature of the memorandum. (s. 4)

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 kontrollerade 2015-05-27.

Landinfo, *Vietnam: Retur og dobbeltstraff*, 26.02.2010,
http://www.landinfo.no/asset/1155/1/1155_1.pdf [hämtad 2014-12-17]

Refugee Review Tribunal, *RRT Case No. 1211848*, [2012] RRTA 933,
Australia., 16 October 2012, <http://www.refworld.org/docid/50f6d7cf2.html>
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Refugee Review Tribunal – RRT (Australia), *Vietnam – Penalties for narcotics-related offences – Death penalty – Treatment on return of those convicted outside Vietnam* (VNM35888), 23 December 2009,
http://www.ecoi.net/file_upload/2016_1300025037_vnm35888.pdf [hämtad 2014-12-17]

Viet Nam: Penal Code [Viet Nam], No. 15/1999/QH10, 21 December 1999,
<http://www.refworld.org/docid/50f92bb92.html> [hämtad 2014-12-17]