

2012-11-07

## Fråga-svar

### **Garantsystem/Sponsorsystem/kefala, uppehållstillstånd, medborgarskap. Saudiarabien, Jemen och Etiopien**

#### **Fråga:**

- Kan man ha dubbelt medborgarskap Etiopien och Jemen?
- Kan man som etiopisk medborgare få Jemenitiskt medborgarskap?
- Om föräldrarna har dubbelt medborgarskap, ärvs det av barnen?
- Hur fungerar garantsystemet i Saudiarabien?
- Behöver personer över 20 år en egen garant i form av arbetsgivare t.ex. för att få förnyat uppehållstillstånd?
- Skiljer det sig mellan kvinnor och män?
- Finns möjlighet att kontrollera om giltiga uppehållstillstånd finns?
- Finns möjlighet till åter resa till Saudiarabien utan giltigt uppehållstillstånd?

#### **Svar:**

Sammanställning av information från olika källor:

#### **Frågor:**

*Kan man ha dubbelt medborgarskap Etiopien och Jemen?*

*Kan man som etiopisk medborgare få jemenitiskt medborgarskap?*

*Om föräldrarna har dubbelt medborgarskap, ärvs det av barnen?*

### **Immigration and Refugee Board (IRB) 2010:**

Anyone whose father is a Yemen national automatically receives Yemeni citizenship upon birth regardless of where he or she is born (Yemen 26 Mar. 2010; US n.d.; Yemen 26 Aug. 1990, Art. 3). Additionally, sources report that the nationality law was amended in 2009 to also allow Yemeni mothers to pass Yemeni citizenship on to their children (Human Rights Watch Jan. 2010; AI Nov. 2009; Yemen News Agency 31 Mar. 2009). As well, Yemeni citizens may hold dual citizenship (Yemen 26 Mar. 2010; Yemen News Agency 31 Mar. 2009; US n.d.).

In 30 March 2010 correspondence, an official from the Embassy of the Republic of Yemen in Ottawa stated that there are no special procedures to have Yemeni citizenship recognized in the case of someone born outside of Yemen (Yemen 30 Mar. 2010). The Official explained that those born outside Yemen must provide proof of their parents' citizenship, such as a Yemeni passport or Betaqa (identification card), when applying for citizenship (Yemen 30 Mar. 2010). Article 8 of the Republican Decree No. 3 of 1994 - Executive Regulation of Law No. 6 of 1990 AD Concerning the Yemeni Nationality of January 1994, which provides guidance into the interpretation of the 1990 law on Yemeni nationality.

### **Schweizerische Flüchtlingshilfe (2009):**

1.2.1 Neues Staatsbürgerschaftsgesetz, 2003  
Im Dezember 2003 trat eine seit langem erwartete Neufassung des bisher geltenden Staatsbürgerschaftsgesetzes aus dem Jahre 1930 in Kraft.<sup>9</sup> Demnach haben Personen gemischter Herkunft Anspruch auf die äthiopische Staatsbürgerschaft. Eine doppelte Staatsbürgerschaft ist nicht möglich.

### **Home Office (2008):**

#### **31. CITIZENSHIP AND NATIONALITY NATIONALITY**

31.01 According to Article 6 of the Constitution any person shall be an Ethiopian national where both or either parent is Ethiopian and foreign nationals may acquire Ethiopian nationality, although there is no provision for

dual nationality. It also affirms that the law shall determine particulars relating to nationality." (s. 165)

Landinfo (2009):

Paragraf 20 peker på at etiopiere som tilegner seg et annet statsborgerskap frivillig har gitt avkall på sitt etiopiske. En etiopier født av en forelder med utenlandsk opprinnelse, eller utenfor Etiopia, anses som frivillig å ha frasagt seg sitt etiopiske statsborgerskap hvis ikke han eller hun spesifikt ber myndighetene om å beholde det innen vedkommende fyller 19 år. (s. 8)

Yemen News Agency (SABA) (2009):

The parliament ratified in its session held on Tuesday item No. (3) of the law No. (6) issued in 1990 over Yemeni citizenship.

The amended law stipulates that any person born to a father or mother any of them carries the Yemeni citizenship has the right to hold the citizenship. Any person born in Yemen to a mother carries this citizenship and to unknown father has this right also.

According to the law, any person born in Yemen to a woman carries the citizenship and his relation to his father has not proved, has the right to hold the citizenship. Any one born in Yemen to unknown parents is considered Yemeni and has the right to acquire the citizenship.

The law gives the right to any emigrant holds the Yemeni citizenship upon his departure and still maintains the citizenship to gain the citizenship if he required this even he has a citizenship from the country he was living in.

Any one has the citizenship via his mother and reaches the maturity age is given the right to choose whether to maintain the Yemeni citizenship or to join his father's one.

The parliament's session, headed by Speaker Yahya Arra'i ratified this law project on the bases of the Constitutional and Law Committee's report. Concerned government officials attended the session.

**För vidare läsning om lagstiftningen:**

## **National Legislative Bodies**

*Law No. 6 of 1990 on Yemeni Nationality* [Yemen], 26 August 1990,  
available at: <http://www.unhcr.org/refworld/docid/3ae6b57b10.html>

*Republican Decree No. 3 of 1994, Executive Regulation of Law No. 6 of 1990 Concerning the Yemeni Nationality* [Yemen], 29 January 1994,  
available at: <http://www.unhcr.org/refworld/docid/4001766b4.html>

## **Frågor:**

*Hur fungerar garantsystemet i Saudiarabien?*

*Behöver personer över 20 år en egen garant i form av arbetsgivare t.ex. för att få förnyat uppehållstillstånd?*

*Skiljer det sig mellan kvinnor och män?*

UD (2012):

Sponsorsystemet, *kefala*, är för närvarande föremål för debatt. Detta system innebär att varje icke-saudier oavsett från vilket land han eller hon kommer måste ha en sponsor. Enligt tidigare gällande system kunde sponsorn beslagta gästarbetarens pass, vilket nu är under förändring. Arbetsmarknadsmästaren har kungjort att det numera inte är tillåtet att beslagta utländska arbetarens pass.(s. 6)

US Department of State (2012):

Travel of foreign workers remained under the complete control of their employers or sponsors, who were responsible for processing residence permits and exit visas on their behalf. Sponsors often held their employees' passports, despite a law specifically prohibiting this practice.

Gulfnews (2012):

Under the proposal, foreigners would be allowed to keep their passports and would be able to bring their relatives or perform Haj (pilgrimage) or Umrah or visit a relative in a different region in Saudi Arabia without the permission of the sponsor.

Arabnews (2012):

Expatriates born in the Kingdom are facing a number of problems. One of them is that they cannot transfer their fathers' sponsorship onto themselves. This is needed when their father becomes old and retires from work. Companies in the private sector cannot sponsor a retired man, so that man must return to his home country in case his son working in the Kingdom cannot sponsor him.

Returning to their native land is impossible because they have severed all ties with their native country. Instead, they choose to stay with their sons who work in the Kingdom.

The aged and retiring expatriates are the first generation of migrants to the Kingdom that participated in the Kingdom's development starting with the infrastructure.

But they are left with no option but to transfer their kafalah (sponsorship) after their retirement, as stipulated by Saudi regulations.

While the number of expatriates in the Kingdom are estimated at eight million, those who are born here account for three million.

"The Passports Department cannot transfer the sponsorship of those who belong to the private sector. The Labor Office is responsible for doing that. We only transfer kafalah at a personal level," Col. Badr Al-Malik spokesman of the Passports Department told Arab News.

Many aged expatriates have been working for more than 40 years in private companies in the Kingdom, but changes in labor regulations such as Saudization forced them to retire.

Ahmed Ibrahim, an Eritrean expatriate who has been working as an accountant in Jeddah over the past 40 years, has been striving to transfer his sponsorship to his youngest son who is a marketing expert in a the private sector.

However, the Passport Department refused to comply with his request. He retired from work in 2005 and his company did not want to continue his sponsorship.

"In the past, a son was permitted to take the sponsorship of his father, but not now. I have visited the Passports Department and the Labor Office to find a solution to my problem, but my problem was not solved," he said.

Expatriates who want to stay with their sons who are working in the Kingdom are now transferring their sponsorship to any private company which is willing to offer sponsorship for a fee of SR 2,500. This is what Abu Salah, a Syrian expatriate in Jeddah who worked for 38 years as an engineer and is now 70, did when he retired and could not get his sponsorship transferred to any of his five sons. "During my stay in the Kingdom for the past decades, relations with my country, which are passing through a difficult period currently, were severed.

At this age I cannot leave my children and grandchildren in the Kingdom and stay alone in Syria. I paid SR 2,000 to a private firm to be my sponsor and will have to pay the same amount at the time of my iqama (residency permit) renewal," he said.

Emirates247 (2012):

Saudi Arabia is planning to stop its citizens from sponsoring expatriate workers and restrict visa sponsorship to companies as part of an ongoing strategy to expand the private sector and tackle local unemployment.

The new system is expected to be presented to the cabinet for approval within the next few months, the Arabic language daily Alwatan said.

"A committee created by the Ministry of Labour has completed a study on the replacement of the individual sponsorship system by a corporate system...the plan also involves the creation of a new body to be called 'the Expatriate Labour Authority' to be affiliated to the Ministry of Labour," Alwatan said.

Under the new system, foreign workers will be allowed to keep their passports while direct sponsors will no longer be required to agree on the workers' request to bring their families to the Kingdom or go for pilgrimage.

Human Rights Watch (HRW) (2010):

While Saudi Arabia's neighbors, apart from the United Arab Emirates, have engaged in at least partial reform of the kafala system, Saudi Arabia has taken virtually no action to respond to the calls to scrap the system altogether, most recently in April 2010 by the UN's High

Commissioner for Human Rights, Navenathem Pillay.<sup>177</sup>

The kafala system, as it exists in Saudi Arabia, is a mixture of law and custom. Saudi law prohibits a migrant worker from changing sponsors and jobs without the consent of the original sponsor—either an individual or a company—that employs the worker. Sponsors, either individuals or companies, are the workers’ employers. Immigration regulations further deny a foreign migrant worker the right to leave the kingdom without an exit visa, which also requires the consent of the sponsor.<sup>175</sup> The relationship between a foreign worker and his or her Saudi sponsor is also one of custom, where the sponsor “guarantees” the good conduct of the worker, and could be held liable for any debts, damage, or even criminal activity by the worker. In practice, this guarantee has no legal significance, as the state does not seek to collect debts or imprison sponsors for acts committed by their workers. Yet this idea of imagined responsibility permeates Saudi society and presents a formidable obstacle to reform. It is an important reason behind the near universal practice of employers confiscating workers’ passports, and the routine practice of Saudi families denying their migrant domestic worker the freedom to leave the house on her own, both of which violate Saudi law.

Saudi Arabia has barely tinkered with the sponsorship system for the past decade. In October 2000, Council of Ministers decree 166 modified the sponsorship system, first by abolishing the term “sponsor,” but also by allowing migrant workers free movement lifting the limitations on movement to within the district of his workplace, and by affirming the right of foreign workers to retain their passports. “Sponsored” migrant workers were granted full legal capacity to enter into contracts, conduct government business, and own property independent of the “sponsor’s” consent. This aspect of the reform has not been fully implemented, and migrant workers still require sponsors to conduct their business in individual cases.<sup>182</sup> This reform of the sponsorship system in 2000 nevertheless continued to require the consent of the sponsor, that is, employer, consent for migrant workers to transfer employment or exit the kingdom—thus leaving the system’s pillars in place.<sup>183</sup> In another incomplete attempt at reform, the Saudi government drafted an annex to the 2005 Labor Law that year designed to extend labor rights to the country’s 1.5 million domestic workers. Although the Shura Council in July 2009 passed this annex—which would require employers to give domestic workers at least nine hours rest every day, suitable accommodation, and rest breaks—the cabinet so far has not enacted it. Its vague

provisions would still leave workers open to abuse by including a duty to obey employers' orders and a prohibition against leaving the place of employment without a "legitimate reason."<sup>184</sup> In June 2010, Saudi Arabia voted against creating a binding international treaty that would establish a global labor standards resolution on domestic worker rights at the International Labor Conference in Geneva.<sup>185</sup> (s. 42f)

**Frågor:**

*Finns möjlighet att kontrollera om giltiga uppehållstillstånd finns?*

*Finns möjlighet till åter resa till Saudiarabien utan giltigt  
uppehållstillstånd?*

UD (2012):

Genom det hittills gällande sponsorsystem som tillämpas i Saudiarabien knyts uppehållstillstånd till arbetsgivaren. Gästarbetare kan fråntas sina pass även om en lag nu förbjuder detta utan arbetstagarens medgivande. Den som förlorar sitt arbete förlorar ofta även sitt uppehållstillstånd.(s.12)

Migrationsverket (2012):

**Statslösa palestinier och andra utlänningsar:**

Statslösa palestinier och andra utlänningsar som är bosatta i Saudiarabien och ska återvända dit kan göra det på två sätt.

För att lämna Saudiarabien krävs alltid ett utresetillstånd (exit/re-entry-visa). Detta tillstånd ges normalt för sex månader. Återvänder man under denna tid ska det inte vara några problem att resa in i Saudiarabien igen.

Har giltighetstiden löpt ut måste följande förutsättningar vara uppfyllda:

Utlänningen måste ha en giltig passhandling, se till att erhålla nytt arbete eller återanställas samt därfter blivit beviljad nytt uppehållstillstånd av det saudiska inrikesministeriet.

Utlänningen kan medverka till att följdande förutsättningar uppfylls genom att:

1. Kontakta sin gamla arbetsgivare eller annan sponsor som kan vara villig att erbjuda anställning och be denne ordna arbete och uppehållstillstånd. Av begäran, som bör vara skriftlig, ska framgå att utlänningen ansökt om uppehållstillstånd i Sverige men fått avslag och att denne nu vill återvända till Saudiarabien samt en förfrågan om att sponsorn kan lämna in en ansökan om uppehållstillstånd till det saudiska inrikesministeriet.
2. Om passhandlingen gått förlorad eller gått ut ska utlänningen i förekommande fall kontakta det lands ambasad som är ansvarigt för utfärdande av passhandling och ansöka om ny passhandling. Egyptens ambasad ansvarar för att utfärda resehandlingar till vissa statslösa palestinier som ska utvisas till Saudiarabien.
3. Ansöka om re-entry visa vid Saudiarabiens ambasad i Stockholm när utlänningen har en giltig passhandling och kan visa att sponsor ordnat anställning och uppehållstillstånd i Saudiarabien.  
Det krävs en sponsor (garant) för alla utländska medborgare. Det är inte tillräckligt att man har familj i Saudiarabien. Det finns tre slag av sponsorer: prinsar, privatpersoner eller företag. Utländsk privatperson kan bara sponsra egen chaufför och hemhjälp.

Till alla utlänningar inklusive palestinier utfärdar saudiska myndigheter så kallade *iqama* (uppehållstillstånd/ID-kort). Har man en anställning får man även ett "labour ID-card" från företaget.

Royal Embassy of Saudi Arabia in Washington, DC, (2010):

The Directorate General of Passports will begin fully implementing the System of Fingerprinting for renewal of Iqama (residence permits), effective from 1 Jumada I, 1431 H. [April 15, 2010]. "No Iqama for residents will be renewed without fingerprinting," announced Director General of Passports Maj. Gen. Salim Al-Buleihid. Describing the gradual implementation of the system, he explained, "In the first stage, two years ago the fingerprinting system was implemented at the airport and international sea or air exit points. In the second stage, it was linked with the issuance of new Iqama, the transference of services and the amendment of Iqama and the issuance of Iqama for lost ones. The third stage of the fingerprinting system was linked with exit and entry visas and final departures. In its current, fourth stage, Passports

Administration will complete procedures pertaining to the implementation of the fingerprinting system in all services that are extended to residents who are legally residing in the country.”

UD (2009):

How do you have to renew the time limited residence permits?

Anyone entering the Kingdom must have a Saudi sponsor, which means an individual or a company to guarantee the individual's conduct while in the country. The visa extensions, renewing the residence permits and/or any other government documents can only be obtained by the sponsor.

Are there any registers for these kinds of residence permits? If so, is it possible, with help from the Saudi authorities, to find out on a person's present and previous status in Saudi Arabia?

Recently Saudi Arabia started having such registration; however the system is quite unreliable. Unless the person has been charged with a serious crime, it is highly unlikely to find his registration.

If a person is born and grew up in Saudi Arabia, and still has his parents and siblings in the country, what does it then take in order for him to return to Saudi Arabia once being abroad?

If a person still has his parents and/or a sons or a daughter in the Kingdom, he can get visitor's visas or residence visas. However, the fact that a person was born and grew up in Saudi Arabia does not mean anything.

According to Saudi laws, whether a person or a family lived in Saudi Arabia or not does not change their status or give them any legal rights. If a person was born and grew up in Saudi Arabia and stayed for fifty years, then left for over one year (thus his exit-re-entry visa expired) he would need a sponsor and a new visa just like anyone else. Saudi Arabia does not accept the return of anybody unless there is a Saudi sponsor who has a valid work visa to offer to the foreign worker/expatriate.

**Mer information finns att läsa på:**

Saudi e-Government National Portal

[http://www.saudi.gov.sa/wps/portal/!ut/p/c4/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os3iTMGGenYE8TIwMLt0BzA89gIyMfVw8TI39HE\\_3g1Dz9gmxHRQDseX\\_V/](http://www.saudi.gov.sa/wps/portal/!ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3iTMGGenYE8TIwMLt0BzA89gIyMfVw8TI39HE_3g1Dz9gmxHRQDseX_V/)

Services for Citizens And Residents

[http://www.saudi.gov.sa/wps/portal/!ut/p/c4/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os3iTMGGenYE8TIwN3X0cLA8\\_g4JDAwEB3Q3dTU\\_3g1Dz9gmxHRQDLSoR1/?taxonomy=ClientType&catid=CitizensAndResidents&srvtypesetx=ServiceType&srvtypescatid=Labor\\_and\\_Employment&onlineState=&atQuery=at\\_espp\\_ServiceItem,at\\_espp\\_eServiceItem](http://www.saudi.gov.sa/wps/portal/!ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3iTMGGenYE8TIwN3X0cLA8_g4JDAwEB3Q3dTU_3g1Dz9gmxHRQDLSoR1/?taxonomy=ClientType&catid=CitizensAndResidents&srvtypesetx=ServiceType&srvtypescatid=Labor_and_Employment&onlineState=&atQuery=at_espp_ServiceItem,at_espp_eServiceItem)

Iqama

[http://www.saudi.gov.sa/wps/portal/!ut/p/c5/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os3iTMGGenYE8TIwN3X0cLA8\\_g4JDAwEB3Q3cLE6B8JE55A0NzSnQbUaQ72IAY3QY4gCOqbgu3QHOgbMjH1cPEyN\\_U2M0uzHI8dsdDgpn\\_OGGT96lgDzI7yB5PL7z88jPTdUPTizSL8gNBYllg0xPXUcAgJqvCQ!!/dl3/d3/L0lHSkovd0RNQU5rQUVnQSEhL1lCZncvZW4!/?orgid=General+Department+of+Passport&rvid=Iqama&catid=Search](http://www.saudi.gov.sa/wps/portal/!ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3iTMGGenYE8TIwN3X0cLA8_g4JDAwEB3Q3cLE6B8JE55A0NzSnQbUaQ72IAY3QY4gCOqbgu3QHOgbMjH1cPEyN_U2M0uzHI8dsdDgpn_OGGT96lgDzI7yB5PL7z88jPTdUPTizSL8gNBYllg0xPXUcAgJqvCQ!!/dl3/d3/L0lHSkovd0RNQU5rQUVnQSEhL1lCZncvZW4!/?orgid=General+Department+of+Passport&rvid=Iqama&catid=Search)

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 uttömnande och bör inte tillämpas 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.

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Saudi e-Government National Portal, *Iqama*

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