



AD HOC QUERY ON 2019.51 Return of Cuban nationals

Requested by Gabor Veto on 11 April 2019

Compilation produced on 5 July 2019

Responses from EMN NCP Austria, EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Croatia, EMN NCP Cyprus, EMN NCP Estonia, EMN NCP Finland, EMN NCP Greece, EMN NCP Ireland, EMN NCP Italy, EMN NCP Latvia , EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Malta, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Portugal, EMN NCP Slovakia, EMN NCP Sweden, EMN NCP United Kingdom plus EMN NCP Czech Republic, EMN NCP Norway (22 in Total)

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1. Background information

2. Questions

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1. Has your Member State experienced similar cases regarding the return of Cuban nationals?

We would very much appreciate your responses by **9 May 2019**.

3. Responses

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		Wider Dissemination ²	
	EMN NCP Austria	No	1. No information was provided by the Federal Ministry of the Interior.
	EMN NCP Belgium	Yes	1. Cuba will not take back any person who has left the country for a period which is longer than 9 months, unless they had authorisation to go abroad for a longer period. It is possible that this delay has been changed now in 2 years (but we had no recent cases to be presented). There are some exceptions made for voluntary return, but the concerned Cuban national will have to take contact himself with his embassy and probably he will need to make some additional administrative steps before this voluntary return will be possible. There have been indications that

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² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."




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			Cuba would be prepared to change their legislation, but this has as for now not been done. The Netherlands is negotiating on behalf of the Benelux a readmission agreement with Cuba, but this is still in an early stage.
	EMN NCP Bulgaria	Yes	1. Republic of Bulgaria has never faced any problems regarding the identification of Cuban nationals. The last 3 years Migration Directorate didn't carry out return operations to Cuba.
	EMN NCP Croatia	Yes	1. We didn't have such cases.
	EMN NCP Cyprus	Yes	1. No.
	EMN NCP Estonia	Yes	1. We have no experiences in this regard.
	EMN NCP Finland	Yes	1. Finland has similar experiences when it comes to forced (and in some cases voluntary) returns of Cuban citizens. If the returnee has resided outside of Cuba for more than 24 months and has not applied for prolonging of the 'immigrant' status, Finland presents a readmission request with Note Verbale from our Ministry of Foreign Affairs. If the returnee has family and/or sponsor, who'll guarantee to provide for the returnee back in Cuba, there's a slight chance that the request is






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			granted.Finland doesn't have any recent cases, but there has been few, who have had their readmission allowed. These returned voluntarily.
	EMN NCP Greece	Yes	1. Until today, there has been no instance of expulsion of Cuban citizen as there has been only a small number of voluntary return.
	EMN NCP Ireland	No	1. Ireland has no relevant experience with Cuban nationals.
	EMN NCP Italy	Yes	<p>1. Due to the peculiarity of the case, Italian law does not provide specific rules to be applied in this situation. However, when similar cases occurred, Italian Courts recognized the stateless status to the Cuban nationals who left their territory for more than 2 years. (Court Judgement n. 15397/2016 released on July, 29 2016).Basis for the Court decision:according to the Cuban legislation, the citizen who leaves the national territory for more than two years loses her right to legally reside in the Republic of Cuba. In particular, the Cuban citizens who do not re-enter their country are subjected to the following consequences:i. The confiscation of all their properties;ii. The loss of the possibility to exercise their civil and political rights;iii. The loss of the possibility to acquire property in the hereditary way;iv. Loss of their parental responsibility;v. Possibility to re-enter their country only if a visitor entry visa is released.According to these implications, Cuban citizens who leave their country for more than 2 years loses their rights of citizens, becoming de facto stateless individuals.</p>


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	EMN NCP Latvia	No	1. In the field of return Latvia has not faced similar issues till now. Last citizens of Cuba arrived on March 2019 and apply for asylum. In case a decision not granting refugee status or subsidiary protection status will be taken, we could face with similar problem.
	EMN NCP Lithuania	Yes	1. During the last 3 years, there was only one case of problematic return of a Cuban citizen from Lithuania. The Cuban Embassy refused to issue travel documents for this person, because (according to the Cuban Embassy) a person has lost his status of permanent resident and will not be re-admitted to Cuba. Lithuanian Migration Department then sent an inquiry about the procedure for this person to be re-admitted to Cuba. Migration Department is currently waiting for response from Cuban authorities.
	EMN NCP Luxembourg	Yes	1. Luxembourg is not confronted at the moment with this issue. In 2017, Luxembourg did not carry out any kind of returns to Cuba and in 2018 it carried out one non-assisted voluntary return.
	EMN NCP Malta	Yes	1. We have no experience with the forced return of Cuban nationals.
	EMN NCP Netherlands	Yes	1. Yes, we have experienced similar cases. However, since January 2018 the return policy of the Cuban authorities has been amended resulting in the return of in principle every Cuban national. Every Cuban can renew his or her Proroga (decision) and therefore return to Cuba. Also repatriation is a possibility, depending on the consent of the Cuban authorities. The Netherlands has a specific policy for third country nationals who cannot get access to their (third) country of




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			<p>origin (or elsewhere), despite having tried everything within their power to return. The Dutch authorities can grant the third country national a temporary residence permit based on the fact that he cannot return for practical reasons beyond his control. There are strict conditions to assume that the third country national has done everything within his power, such as contacting every possible authority to claim documents that validate identity and nationality. Also, the nationality of the person involved has to be established beyond a reasonable doubt. In the case of Cuba, the fact that there is still an option to be readmitted to Cuba proves that the third country nationals haven't done everything within their power to return to Cuba.</p>
	<p>EMN NCP Poland</p>	<p>Yes</p>	<p>1. In 2016 Poland carried out activities aimed at transferring a Cuban citizen to the country of origin. Representatives of the Embassy of the Republic of Cuba in Warsaw informed the Polish Border Guard that every Cuban citizen who did not return to his country of origin within two years is prohibited from entering Cuba. Cuban authorities do not accept forced returns of their citizens to their country of origin. Return to Cuba is possible as part of the Cuban repatriation process or outside this repatriation. If one wishes to return within the framework of Cuban repatriation, it is necessary to fill in and deliver to the diplomatic mission the appropriate application of the so-called "Solicitud de regreso definitivo o repatriación". The waiting time for a Cuban response is about a month. If one wants to return outside the scheme of repatriation, every citizen of Cuba must obligatorily hold in the passport the authorization of the so-called "Habilitación" (it is also required by the airlines), which can be obtained at a diplomatic mission. It allows a Cuban citizen to enter the territory of Cuba for a period of 90 to 180 days. The waiting time for obtaining the authorization is from 7 to 10 days. Due to the fact that above mentioned Cuban citizen did not want to return to his country of origin, Polish side failed to transfer the foreigner to the territory of Cuba. Until now no similar cases have been reported. In addition, it is worth to mention that on 12/12/2016 in Brussels, the Agreement on Political Dialogue and Cooperation between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part, was signed. The agreement contains a readmission clause in art. 34, which falls within the scope of provisional application from November 1, 2017.</p>




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	<p>EMN NCP Portugal</p>	<p>Yes</p>	<p>1. SEF - Foreigners and Borders Service of PT verified the same situation, related to the judicial removal of a Cuban citizen, which occurred some years ago. The citizen expressed interest in returning to Cuba and he had a passport. This document and the whole situation was presented at the Embassy of Cuba in Lisbon, and we were informed that the citizen could proceed to Cuba. Once the expulsion was carried out, the citizen would be prevented from entering Cuban territory and refused entry and returned to Portugal. According to the Cuban consular authorities, the citizen was allowed to return to Cuba but not to settle there. It was not possible to execute such judicial decision of removal.</p>
	<p>EMN NCP Slovakia</p>	<p>Yes</p>	<p>1. No.</p>
	<p>EMN NCP Sweden</p>	<p>Yes</p>	<p>1. Yes A valid passport or temporary travel document is required for a Cuban citizen to be able to return to Cuba. Cuban Citizens that has been out of the country for more than two years does also need a permit to enter the country. The Emabssy of Cuba has been clear that eveyone that wants to go back and needs travel documents/passport/entry permit must come to the Embassy in person. For this reasson the Swedish Migration Agency cannot assist with application for travel document or entry permit. This can lead to problem in the case of return since the Agency is dependent on the individual contacting the Embassy to apply for a permit. If he/she rejects return, the Migration Agency cannot get any documents. Entry permit must be applied for through a personal visit to the Embassy in Stockholm. The most important information in the application is about a guarantee and Contact details for this person. The guarantee will declare that the person in question can live with him/her. If there is no guarantee the application will be denied. For the application for passport the handling times is approximately 2 months, if entry permit is required the handling times is approximately 6-12 months.</p>

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	EMN NCP United Kingdom	Yes	1. The UK has not yet experienced this particular issue.
	EMN NCP Czech Republic	Yes	1. The Czech Republic did not have any case of forced return to Cuba for several years. The last three cases when we had to ask Cuba to issue new travel documents for its citizens were in 2015. In one case the travel document was delivered from Hungary, in the other cases new travel documents were issued in few days after the Czech Republic payed fee requested by the Embassy. Therefore, the Czech Republic does not have similar experiences.
	EMN NCP Norway	Yes	1. Yes, Norway has similar experience to Hungary in this matter and refer to Sweden's response as an explanation: according to Cuba's regulations, a national must reapply for repatriation in order to gain status as a citizen again. Norway completed one forced return in 2017 (asylum application) and one in 2018 and thus far in 2019 (both deportation). Unless Cubans who have been outside Cuba for more than 2 years actually want to return, it is very hard to return them. In effect, only voluntary return is possible after 2 years. Because asylum cases take so long to process, asylum seekers often have been abroad for more than 2 years when their cases are finally handled. If a Cuban national actually has a valid passport, the Immigration Police will deport them though there is some uncertainty involved in these returns.
