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12 October 2017

HTI105996.FE

Haiti: Format of birth certificates issued following the Presidential Order (Arrêté présidentiel) of 16 January 2014, including the information therein; requirements and procedure to obtain these birth certificates (2014-September 2017)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

MODIFICATION

The translation of Articles 1 to 3 of the Presidential Order of 16 January 2014 included in Section 1, "Requirements and Procedure to Obtain Birth Certificates," has been corrected. The translation previously read:

Article 1. Any person without a birth certificate is granted five years from the date of publication of this Order to regularize his or her civil status in order to enjoy

a. the benefits granted in the Decree of 16 May 1995; and

b. the services of the officers of the public prosecutor's office in the circumstances set out in Article 4.
Article 2. Late declarations of birth shall be made by either of the living biological parents under this Order, without previous judgment. If the biological parents are deceased or unknown, the late declaration shall be made by a third party authorized to do so by the law.

Article 3. In the event of copies or extracts of birth certificates or certificates of acknowledgment of the persons named in the certificates being lost, destroyed or damaged, the concerned parties shall contact the National Archives or any other civil status registry that can issue certificates.


1. Requirements and Procedure to Obtain Birth Certificates

Articles 1 to 5 of the Presidential Order made in Port-au-Prince on 8 January 2014 and published on 16 January 2014 in *Le Moniteur*, the official newspaper of Haiti (Haiti 27 Oct. 2017), set out the following:

[translation]

**Article 1.** Any person without a birth certificate is granted five years from the date of publication of this Order to regularize his or her civil status.

To that end, they shall benefit from:

a. the benefits granted in the Decree of 16 May 1995;

b. the services of the officers of the public prosecutor’s office in the circumstances set out in Article 4.

**Article 2.** Late declarations of birth shall be made by either of the living biological parents under this Order, without previous judgment. If the biological parents are deceased or unknown, the late declaration shall be made by a third party authorized to do so by the law.
Article 3. In the event of copies or extracts of birth certificates or certificates of acknowledgment of the persons named in the certificates being lost, destroyed or damaged, the concerned parties shall contact the National Archives or any other civil status registry that can issue extracts.

Article 4. In the event of the register being lost, destroyed or damaged or not existing, as duly recorded in a certificate of the National Archives or any other civil status registry, the provisions of paragraphs 1 and 2 of Article 1 shall be complied with, following an investigation at the request of the Government commissioner.

Article 5. Government commissioners, justices of the peace, civil status officers, Haitian consuls abroad, ministers of various faiths, members of CASEC, and authorized persons at hospitals and shelters shall inform those concerned and provide any person without a birth certificate with the necessary help for obtaining such certificate. (Haiti 2014)

1.1 Late Declaration of Birth Following the Order of 2014

According to a guide on civil status in Haiti published in December 2009 by Migrants Overseas (Migrants outre-mer, Mom) and the Haiti Collective of France (Collectif Haïti de France, CHF) [1], late declaration begins 26 months after birth (Mom and CHF Dec. 2009, 9). According to the same source, [translation] “after the 25-month period, the National Archives must prepare a negative certificate (certificat négatif),” which “makes it possible to commence, with the chief justice of the Court of First Instance (Tribunal de la première instance, TPI) in the jurisdiction of the place of residence, a legal procedure for late declaration of birth” (Mom and CHF Dec. 2009, 9). In a telephone conversation with the Research Directorate, a representative from the Embassy of Haiti in Ottawa confirmed that the difference between late registrations of birth before and after the Presidential Order involves the required judgment of the TPI when 25 months have passed since the birth (Haiti 3 Oct. 2017). In correspondence sent to the Research Directorate, the representative explained that for [translation] “late registration” of births, “the provisions [before and after the Presidential Order] are the same, everything is within the prescribed time frame … no preliminary judgment is required from the Civil Court (Tribunal civil) where the child or any other adult was born” (Haiti 5 Oct. 2017).
1.2 Issuing Birth Certificates Abroad

A memorandum from the National Archives of Haiti dated 27 October 2014, and sent to the Research Directorate by the Embassy of Haiti in Ottawa, reports that, according to the Presidential Order, “Haitian consuls abroad will help these citizens [who do not have birth certificates] in their capacity as officers of civil status to issue a new birth certificate directly” (Haiti 27 Oct. 2014). A copy of the memorandum of 2014 is attached to this Response (Attachment 1).

According to the memorandum, Haitian consuls abroad must record any birth certificates issued in two registers in accordance with the legislation (Haiti 27 Oct. 2014). The same source explains that, at the end of the year, one of those registers must be sent to Haiti’s Ministry of Foreign Affairs, which, in turn, sends it to the National Archives of Haiti [translation] “for the required legal followup (the issuing of extracts[,] etc.)” (ibid.). The memorandum explains that, until 30 September 2014, the National Archives was responsible for issuing late birth certificates, but that, as of 1 October 2014, birth certificates that are not recorded in the registers of the National Archives [translation] “will be returned to the consulate concerned, accompanied by a negative certificate to justify the issuing of the late birth certificate at the consulate level directly, as prescribed by the Presidential Order of 16 January 2014” (ibid.). The same source adds that:

[translation]

The Directorate General of the National Archives of Haiti informs all embassies and consulates of Haiti that do not yet have civil status registers relating to the order that it has available for them two (2) registers with space for 400 certificates each and a lot of one thousand (1,000) birth certificate forms (Haiti 27 Oct. 2014).

Copies of Internet pages from the Embassy of Haiti in Ottawa containing information about the requirements and procedure to declare a birth and to obtain a birth certificate are attached to this Response (Attachments 2 and 3). The Internet site of the Embassy of Haiti in Ottawa reports that applications for extracts of certificates from the civil status register are addressed to the National Archives [translation] “through the Ministry of Foreign Affairs, which receives the bundle from the diplomatic mission and ensures followup directly with the National Archives)” (Haiti n.d). The representative of the Embassy of Haiti in Ottawa
confirmed that, with regard to applications for birth certificates, [translation] “the Embassy prefers to request a baptismal certificate that it will send to National Archives” to locate the birth certificate (Haiti 3 Oct. 2017).

1.3 Issuing Birth Certificates in Haiti

A report from a mission in Haiti, organized from 26 March to 7 April 2017, by the French Office for the Protection of Refugees and Stateless Individuals (Office français de protection des réfugiés et apatrides, OFPRA) with the participation of the National Court of Asylum (Cour nationale du droit d'asile, CNDA) of France, explains that birth certificates [translation] “are given to parents for free in principle” (France 15 Sep. 2017, 48). Similarly, according to the 2009 guide on civil status in Haiti, birth certificates are issued [translation] “using a form provided free of charge by the Ministry of Justice or the Taxation Branch ([D]irection générale des impôts, DGI) to the civil status officer” (Mom and CHF Dec. 2009, 7).

According to the OFPRA report, [translation] “if the birth is not registered civilly it…is possible to present a baptismal certificate” (France 15 Sep. 2017, 48). The same source reports that:

[translation]

One may present a baptismal certificate from a Christian church (or from a voodoo church) at the National Archives and register the baptismal certificate as a birth certificate, making it possible for the civil authority to issue a birth certificate \textit{a posteriori}. If there is no baptismal certificate, a birth certificate may be issued after the birth has been confirmed by two witnesses, who must also attest to the parental relationship (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The OFPRA report indicates that according the UNHCR Head of Mission, Haitians who wish to obtain an extract of their birth certificate must contact the National Archives (France 15 Sept. 2017, 48). The 2009 guide on civil status in Haiti explains that the civil status officer registers the certificates in two registries and, at the end of the year, one of those two registries is sent to the National Archives; the civil status officer [translation] “keeps the other register and is able to issue extracts
of the certificates he registered” for the duration of his time in that position (Mom and CHF Dec. 2009, 8). According to the same source, in a case where that civil status officer is no longer in that position, the individual would need to contact the National Archives directly (ibid.).

The 2009 guide on civil status in Haiti explains that the following information must be provided in order to obtain an extract of a birth certificate from the National Archives: [translation] “day, month, year, place of birth, family names, given names, addresses of parents and witnesses” (Mom and CHF Dec. 2009, 8). According to the same source, a baptismal certificate for Catholics or a certificate [translation] “of presentation in a place of worship” for Protestants could “potentially” help the National Archives reproduce the excerpt of the birth certificate (Mom and CHF Dec. 2009, 8).

The OFPRA report indicates that because civil status officers report to the Department of Justice and Public Safety (ministère de la Justice et de la Sécurité publique) whereas agents at the Haitian National Archives report to the Department of Culture, there are [translation] “information sharing issues at times” (France 15 Sept. 2017, 48). The same source indicates that according to an assistant responsible for programming at the National Network for the Defence of Human Rights (Réseau national de défense des droits humains, RNDDH) [2], [translation] “the National Archives often state that they do not keep anything, that is a major issue in Haiti” (ibid.). The OFPRA report states that according to Roland-François Weil, the Head of Mission for the United Nations High Commissioner for Refugees (UNHCR), [translation] “it is not unheard of for civil status officer to ask for money” in exchange for a birth certificate (ibid., 51). According to the same source, civil status registrations are [translation] “not rigorous,” which explains the numerous cases of “fraudulent names” (ibid.). The OFPRA report indicates that the assistant responsible for programming at the RNDDH was able to register her children’s births without any documentary evidence of the child’s birth, such as a hospital certificate, which is [translation] “illegal, but common” (ibid.). The same source also indicates that civil status officers [translation] “often make mistakes in issuing birth certificates that were incorrectly filled out” (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.
2. Format of Birth Certificates and the Information Included

The representative from the Embassy of Haiti in Ottawa stated that Haitian civil status certificates, including birth certificates, are “generally speaking” in US letter format, meaning 21.6 by 27.9 centimetres, whereas extracts from the civil status register obtained from the National Archives in Haiti are, as of 2013, in A4 format, meaning 21 by 29.7 centimetres (Haiti 21 Sept. 2017). According to the same source, the format for birth certificates issued outside of Haiti since the Order is “a result of the requirements of the individual diplomatic and consular missions” (Haiti 21 Sept. 2017). The representative explained that the format of birth certificates outside of Haiti also depends on the uses for the certificate in countries with missions, as well as the “academic” path or influences of the head of mission or officers who produce the documents (ibid.).

The representative from the Embassy of Haiti in Ottawa stated that the preparation and production of birth certificates “depends on the means available to the civil status officers” and that “the forms prepared by the Tax Branch often contain handwritten information from civil status officers” (ibid.). The OFPRA mission report refers to “a handwritten birth certificate” that is issued to the child’s parents (France 15 Sept. 2017, 48).

The representative from the Embassy of Haiti in Ottawa stated that “basic” information included in the birth certificate is as follows:

- year of preparation as well as date and time of appearance,
- civil status officer’s name and identification,
- name of the individual who appeared (father, mother or another party),
- profession (sometimes) and city of residence,
- statement concerning type of union,
- child’s gender and given name(s),
- name of the mother, if the declaration is being made by the father,
- names of witnesses, and
- signatures and seals. (Haiti 22 Sept. 2017)

According to the same source, the parish can “sometimes” add its seal and information to the birth certificate after the baptism (ibid.).
The 2009 guide on civil status in Haiti explains that birth certificates [translation] “include the location and time of birth, the child’s identity and that of the two parents or of just the mother” (Mom and CHF Dec. 2009, 9). According to the same source, three different forms can be used to declare a birth, [translation] “depending on the declarant’s role,” namely, whether the individual is the father, mother or another party (ibid.).

A sample birth certificate, dated 2016, issued by the Haitian Department of Justice, and a copy of a signature attestation for civil status officers, issued by the Haitian National Archives, which were sent to the Research Directorate by the Embassy of Haiti in Ottawa, are attached to this Response (Attachments 4 and 5).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Mom, an informal network created in 2006 that comprises 13 associations, is designed to help migrants, to collect and share information about their legal situation, and to create alerts about discrimination and human rights violations that they have experienced (Mom 9 Jan. 2006). The Haiti Collective of France, created in 1992, now includes 80 associations and 150 individual members, and it works to defend economic, social and cultural rights as well as establish civil and political rights in Haiti (CHF n.d.).

[2] RNDDH is an organization in Haiti that aims to [translation] “[h]elp establish rule of law in Haiti so that all Haitians know their rights and responsibilities and so that those rights and responsibilities are respected by each and every individual” (RNDDH n.d.).

References


Haiti. 5 October 2017. Embassy of Haiti in Ottawa. Correspondence from a representative to the Research Directorate.

Haiti. 3 October 2017. Embassy of Haiti in Ottawa. Telephone interview with a representative.

Haiti. 22 September 2017. Embassy of Haiti in Ottawa. Correspondence from a representative to the Research Directorate.

Haiti. 21 September 2017. Embassy of Haiti in Ottawa. Correspondence from a representative to the Research Directorate.


**Additional Sources Consulted**

**Oral sources:** Haiti – consulate in Orlando, Florida.

**Internet sites, including:** Amnesty International; ecoli.net; Factiva; Fédération internationale des ligues des droits de l’homme; Human Rights Watch; Keesing’s Documentchecker; United Nations – Refworld, High Commissioner for Human Rights; United States – Department of State.
Attachments


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