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MEX106358.E

Mexico: Update of MEX106345 of 26 July 2019 on the circumstances under which a person would lose their refugee status in Mexico, including whether leaving the country and applying for refugee status abroad results in automatic loss; circumstances under which they would be barred from re-entry to Mexico (2017-August 2019)

Research Directorate, Immigration and Refugee Board of Canada

This Response to Information Request is an update to MEX106345 of 26 July 2019 in order to incorporate new information provided by Mexican Commission for Assistance to Refugees (Comisión Mexicana de Ayuda a Refugiados, COMAR).
1. Circumstances Under Which a Person Would Lose Their Refugee Status

In a submission provided after the Research Directorate filed an access to information request, COMAR, the government agency under the Ministry of the Interior (Secretaría de Gobernación, SEGOB) responsible for processing refugee applications in Mexico, indicated that the circumstances under which refugee status may be cancelled or revoked in Mexico are outlined in articles 33 and 34 of the Law on Refugees, Complementary Protection and Political Asylum (Ley sobre Refugiados, Protección Complementaria y Asilo Político, LSRPCAP) (Mexico 9 May 2019). Articles 33 and 34 of the LSRPCAP provide the following:

[translation]

Article 33. The Ministry [of the Interior] shall cease to recognize the refugee status of a person when:

I. He/she has voluntarily availed him/herself of the protection of the country of his/her nationality;
II. Having lost his/her nationality, he/she voluntarily recovers it;
III. He/she has acquired a new nationality and enjoys the protection of the country of his/her new nationality;
IV. He/she has voluntarily settled in the country which he/she had left or outside which he/she had remained in accordance with Article 13 [1] of this Law;
V. The circumstances under which he/she was recognized as a refugee are no longer in effect and he/she cannot continue to refuse to avail him/herself of the protection of the country of his/her nationality, or
VI. He/she has no nationality and, due to the circumstances under which he/she had been recognized as a refugee being no longer in effect, he/she is able to return to his/her country of usual residence.

Recognition of refugee status shall not cease in the cases covered by sections V and VI where the refugee is able to put forth serious reasons arising from the persecution that originally caused him/her to leave his/her country of origin, or where he/she maintains a well-founded fear of persecution for one of the reasons referred to in Article 13 of this Act.

Article 34. The Ministry [of the Interior] shall revoke recognition of refugee status when, subsequent thereto, a refugee engages in conduct covered by paragraphs I and III of Article 27 of this Law. (Mexico 2011a)
Article 27 of the LSRPCAP provides the following:

[translation]

**Article 27.** Where, following analysis of his/her application, there is good reason to believe that a foreigner falls under one of the following situations, he/she shall not be recognized as a refugee:

I. He/she has committed a crime against peace, the crime of genocide, crimes against humanity or war crimes, as defined in the international instruments ratified by the Mexican State;

II. He/she has committed a crime classified as a serious crime outside the national territory, prior to entering the same, or

III. He/she has committed acts contrary to the purposes and principles of the United Nations. In the case of section II, the nature of the crime must be taken into account, and it must be punishable under Mexican legislation and under that of the country of origin or of the country in which it was committed. (Mexico 2011a)

Regarding the question of whether a person would lose their refugee status in Mexico if he or she leaves the country and applies for refugee status in another country, the submission prepared by COMAR indicated that this is regulated by the second paragraph of Article 35 Bis of the LSRPCAP (Mexico 9 May 2019), which provides the following:

[translation]

**Article 35 Bis.** …

In the event that a refugee or foreigner who receives complementary protection leaves the country and requests recognition of refugee status, granting of a similar status or permanent residence in another country, the Ministry [of the Interior] will proceed to suspend the refugee status itself, which could then be reactivated pursuant to an application and evaluation in the event of a return.

In the cases referred to in this article, the Ministry [of the Interior] shall take the necessary actions to terminate the effects of such individuals' residential status in the national territory under the terms provided by the regulations. (Mexico 2011a)

In correspondence with the Research Directorate, the Director of Legal Services of COMAR indicated that [translation] "COMAR is only aware of those cases in which it is informed directly by authorities of other States or contacted through the Mexican Ministry of Foreign Affairs [Secretaría de Relaciones Exteriores]. As a result, only
these cases can be subjected to the suspension [of the status]" (Mexico 5 Aug. 2019). The same source indicated that the suspension only leads to a pause in the protection granted by the Mexican government and the legal status that the person enjoyed before leaving Mexico remains unchanged (Mexico 5 Aug. 2019). The person needs to submit a request for the resumption of the refugee status and not a new refugee application (Mexico 5 Aug. 2019).

In a telephone interview with the Research Directorate, a representative of the UNHCR's Mexico office indicated that COMAR does not have an administrative procedure to deal with cases addressed by Article 35 Bis as there have been no cases to which this article has been applied (UN 10 July 2019). The Director of Legal Services of COMAR also indicated that since COMAR does not have a regulation in this regard, COMAR would make an evaluation of each case in light of the LSRPCAP (Mexico 5 Aug. 2019).

2. Circumstances Under Which a Person Would Be Denied Re-Entry into Mexico

Regarding circumstances under which immigration authorities would deny entry into Mexico to a person whose refugee status in Mexico has been revoked or when the person, having refugee status in Mexico, leaves the country and applies for refugee status in another country, the Ministry of the Interior's National Migration Institute (Instituto Nacional de Migración, INM), the government agency responsible for managing migration, in a submission provided in response to an access to information request filed by the Research Directorate, cited Article 43 of the Law on Migration (Ley de Migración) (Mexico 17 May 2019). Article 43 of the Law on Migration provides the following:

[translation]

Article 43. … [I]mmigration authorities may deny the issuance of a visa, regular admission to the national territory or a stay by foreigners who fall under any of the following cases:

I. They are the subjects of criminal prosecution or have been convicted of a serious crime in accordance with national laws on criminal matters or the provisions contained in international treaties and conventions to which the Mexican State is a party; or, because of
their background in Mexico or abroad, they could compromise national security or public safety;

II. They do not comply with the requirements established in this Law, its Regulations and other applicable legal provisions;

III. When there is doubt about the authenticity of their documents or the truthfulness of the information provided;

IV. They are subject to express prohibitions by a competent authority, or

V. It is thus determined in other legal provisions.

The migratory authorities, within the scope of their authorities, will have the necessary means to verify the above circumstances, and for this purpose they may request such information or data as they require from the foreigner.

The fact that the foreigner has failed to comply with the provisions of section II of this article shall not prevent the immigration authority from re-examining his/her visa application, provided that it complies with the provisions of this Law, its Regulations and other applicable legal provisions.

In cases in which a foreigner has been convicted of a serious crime under national laws, the Institute will assess his/her immigration status in accordance with the principles of social readaptation, as well as those relating to family reunification. (Mexico 2011b)

The Director of Legal Services of COMAR indicated that persons who have been granted refugee status in Mexico are considered "permanent residents" according to both the LSRPCAP and the Law of Migration, and can leave and enter the country without restrictions, as long as there is no cessation of the refugee status in the terms of Article 33 of the LSRPCAP (Mexico 5 Aug. 2019). Similarly, the UNHCR representative indicated that [translation] "[a] person who has obtained refugee status in Mexico can leave and enter the country without restrictions, and there are no time limits for that person to remain outside of Mexico [without losing his or her refugee status]" (UN 10 July 2019). The Director of Legal Services of COMAR indicated that, if a person whose refugee status has been suspended seeks entry into Mexico, he or she must advise Mexican authorities at the port of entry on the legal status enjoyed in Mexico in order to guarantee the principle of non refoulement (Mexico 5 Aug. 2019).
2.1 Refugee claimants

The UNHCR representative indicated that if a person who has requested refugee status leaves Mexico before obtaining such recognition, his or her application will be considered abandoned (UN 10 July 2019). In addition, the Director of Legal Services of COMAR indicated that if a person who has requested refugee status, moves to another Mexican state before obtaining such recognition and without the authorization of COMAR, his or her application will be considered abandoned (Mexico 5 Aug. 2019). The UNHCR representative indicated that "[i]f the person [leaves and] returns to Mexico, he or she can be detained by the [INM] and taken to an immigration station (estación migratoria) where he or she will have to make a new refugee claim if he or she seeks such recognition" (UN 10 July 2019). The Director of Legal Services of COMAR similarly indicated that the person will have to make a new refugee claim upon re-entry, without necessarily constituting an entry authorization (Mexico 5 Aug. 2019).

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.

Note

[1] Article 13 of the LSRPCAP provides the following:

[translation]

Article 13. Refugee status shall be granted to any foreigner who is in the national territory and who meets any of the following conditions:

I. Owing to well-founded fear of being persecuted for reasons of race, religion, nationality, gender, membership to a particular social group or political opinion, he/she is outside the country of his/her nationality and is unable or, owing to such fear, unwilling to avail him/herself of the protection of that country; or, due to lacking a nationality and being outside the country in which he/she formally habitually resided as a result of such events, he/she is unable or, owing to such fear, unwilling to return to that country;

II. He/she has fled his/her country of origin because his/her life, safety or freedom has been threatened by generalized violence, foreign
aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order, or

III. Due to circumstances that have arisen in his/her country of origin or as a result of activities carried out during his/her stay in the national territory, he/she has a well-founded fear of being persecuted for reasons of race, religion, nationality, gender, membership to a particular social group or political opinion, or his/her life, safety or freedom could be threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order. (Mexico 2011a)

References

Mexico. 5 August 2019. Secretaría de Gobernación (SEGOB), Comisión Mexicana de Ayuda a Refugiados (COMAR). Correspondence from the Director of Legal Services to the Research Directorate.


Mexico. 9 May 2019. Secretaría de Gobernación (SEGOB), Comisión Mexicana de Ayuda a Refugiados (COMAR). Submission in response to an access to information request filed by the Research Directorate.


Additional Sources Consulted

Internet sites, including: Mexico – Comisión Mexicana de Ayuda a Refugiados, Instituto Nacional de Migración; UN – Refworld, UNHCR; US – Department of State.
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