China: Requirements and procedures to reacquire Chinese citizenship; length of process and information on other forms of status or temporary status while reacquiring citizenship; whether the children of Chinese nationals, who are born abroad, can obtain citizenship (January 2015-January 2016)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Reacquisition of Chinese Citizenship in Mainland China

1.1 Eligibility

Article 13 of the Nationality Law of the People's Republic of China of 1980 describes the requirements for reacquiring Chinese citizenship as follows:

Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality. (China 1980, Art. 13)

Sources note that China does not recognize dual nationality (US 30 July 2015; Lawyer 6 Jan. 2016; Global Times 5 May 2015), and those applying for Chinese citizenship must renounce their foreign citizenship and surrender their foreign passport (ibid.). According to a report entitled Citizenship Pathways and Border Protection: China by the US Library of Congress, the Chinese Nationality Law remains unchanged since its adoption in 1980 (US 30 July 2015). A copy of the Nationality Law of the People's Republic of China is attached to this Response (Attachment 1).

Further details on the grounds and eligibility for reacquiring Chinese citizenship could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.2 Government Agencies Responsible for Citizenship Applications

Article 15 of the Nationality Law states the following:

Article 15. Nationality applications at home shall be handled by the public security bureaus of the municipalities or counties where the applicants reside; nationality applications abroad shall be handled by China’s diplomatic representative agencies and consular offices. (China 1980)

In correspondence with the Research Directorate, a lawyer based in China, whose law firm handles cases involving foreigners, including marriage dispute issues, said that a person applying to reacquire Chinese citizenship submits the application to the police bureau in China or to the embassy or consulate if applying from abroad (Lawyer 6 Jan. 2016). According to the website of the Ministry of Public Security (MPS),
In China, the authority to process an application for restoration of nationality is the local municipal or county public security bureau; the processing authorities in overseas countries and regions are the diplomatic representative agencies and consular offices. The application for restoration of Chinese nationality is reviewed by [the] Ministry of Public Security of the People's Republic of China; the Ministry of Public Security authorizes embassies and consulates in overseas countries and regions to review applications for restoration of Chinese nationality submitted by overseas Chinese. (China n.d.)

1.3 Requirements and Procedures

Without providing further details, the MPS describes the "application requirements" for restoration of Chinese nationality as follows: "foreign nationals who once held Chinese nationality may apply to restore their Chinese nationality with reasonable grounds" (China n.d.).

The same source states that the "processing procedures" are the following:

[translation]

I. Fill in the Application for Restoration of Chinese Nationality.
II. Submit the written application for Restoration of Chinese Nationality.
III. Submit relevant documents. (ibid.)

In addition, the MPS lists the required application documents as follows:
1. Photocopy of the foreign passport;
2. Photocopy of the foreign national's Permanent Resident Card;
3. Relevant documents to prove previous Chinese nationality;
4. Other materials deemed relevant to the application for nationality restoration by the processing authority. (ibid.)

The lawyer indicated that, to the best of his knowledge, an interview and background check on the applicant are required, as well as other screening measures (Lawyer 6 Jan. 2016). The lawyer said that there are situations in which a person cannot reacquire Chinese citizenship, such as if the person is unwilling to give up their current passport (ibid.). Further and corroborating information on the implementation of citizenship reacquisition procedures could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The MPS website states that an application fee of 50 Chinese Yuan (CNY) [approximately C$10.72] is required (China n.d.). The same source adds that the fee for a "Certificate of Nationality Restoration" is 200 CNY (approximately C$43) (ibid.).

1.4 Length of Processing

According to the lawyer, there is not a regulated number of days given for processing applications to reacquire citizenship (6 Jan. 2016). While not specific to applications for reacquiring citizenship, the China-based English media website Global Times states that "it will take months for the bureau to decide" on the approval of applications for citizenship in general (5 May 2015). Further information on the length of processing applications could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.5 Citizenship Eligibility of Children of Chinese Nationals Born Abroad

Article 5 of the Nationality Law of the People's Republic of China stipulates the following:

Any person born abroad whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality. But a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth shall not have Chinese nationality. (China 1980)

The lawyer said that once the foreign-born child's parents have re-acquired citizenship, they can apply for citizenship for the child as well (Lawyer 6 Jan. 2016). Further information on the implementation of this provision could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Temporary and Other Forms of Status
The lawyer explained that a person applying to reacquire Chinese citizenship can use their current passport to obtain a visa to stay in China while awaiting the processing of the application (6 Jan. 2016). The Library of Congress report states that "every foreigner needs a visa to enter China unless otherwise provided by the law" (US 30 July 2015). According to an article by the British Embassy Beijing and the British Consulate General Hong Kong, new immigration rules that came into force in China in July 2013 state that "anyone wishing to stay in China more than 180 days will need a resident permit" and that visitor (or tourist) visas can be extended once for a maximum of 30 days (UK 27 May 2013).

An article published by the Jamestown Foundation about Chinese migration states that "foreigners can establish long-term residence in China through a permanent residency permit, otherwise known as the 'Chinese green card,' which is not a step toward citizenship" (Jamestown Foundation 22 Nov 2013). Similarly, the Global Times states that the Chinese visa called the "Green Card" is issued to those who intend to reside in China permanently, does not confer citizenship rights, and permits the person to retain a foreign passport (Global Times 26 June 2014). Sources report that permanent resident permits are difficult to obtain and that since 2004, when China began granting permanent resident permits to foreigners, only approximately 5,000 people have been able to obtain them (Jamestown Foundation 22 Nov. 2013; Global Times 26 June 2014). The Library of Congress report provides a brief overview of the visa system and citizenship pathways, and is attached to this Response (Attachment 2).

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.

References


Lawyer, China. 6 January 2016. Correspondence with the Research Directorate.


Additional Sources Consulted

Oral sources: Center for China & Globalization; China – Embassy in Ottawa, China Visa Application Service Centre; Hong Kong Unison; legal researcher based in China; nine law firms based in China; lecturer, King's College London; professor of political science, San Francisco State University; professor of politics, the Open University; Yale China Law Center.

Internet sites, including: China – Embassy in Ottawa, China Visa Application Service Centre; China Daily; eci.org; Factiva; People's Daily; South China Morning Post; United Nations – Refworld; United States – Congressional Executive Commission on China, Department of State; Xinhua News Agency.


Tips on how to use this search engine.