



GLOBAL DIRECTIONS

A Mayer Brown Global People Solution™ Publication

Mobility Trends in May 2018

Mayer Brown's Global Directions is a summary of recent immigration and mobility trends arising in key jurisdictions around the globe. This high-level overview alerts recipients to select changes in law and practice that may affect their global mobility programs.

Americas

United States

Federal Judge Orders the Resumption of DACA Applications

On April 24, 2018, Judge John D. Bates of the Federal District Court for the District of Columbia ruled against the Trump Administration's "unlawful" rescission of the Deferred Action for Childhood Arrivals ("DACA") program. Arguing that the decision to end DACA was "arbitrary and capricious because the department failed adequately to explain its conclusion that the program was unlawful," Judge Bates stayed his decision for 90 days to offer the Department of Homeland Security ("DHS") the opportunity to provide sound justification for terminating the program.

Should DHS fail to adequately address its reasoning for canceling the DACA program within the timeframe, the government will be ordered to once again accept and process new and renewal DACA applications for eligible applicants.

US Supreme Court Considers Legality of Trump's Third Travel Ban

On April 25, 2018, the US Supreme Court heard arguments in *Trump v. Hawaii*, the challenge by the State of Hawaii to the September 24, 2017, *Presidential Proclamation Enhancing Vetting Capabilities And Processes For Detecting Attempted Entry Into The United States By Terrorists Or Other Public Safety Threats* (the "Proclamation"). The Proclamation is the third in a series of travel bans issued by President Trump dating back to January 27, 2017. The case will be the final oral argument of the current term. The Proclamation, initially enjoined by lower courts in Hawaii and Maryland, was allowed to take full effect pending lower court litigation by order of the Supreme Court dated December 4, 2017.

The Proclamation imposes a travel ban on certain nationals of Chad, Iran, Libya, North Korea, Somalia, Syria, Yemen and certain employees of the Venezuelan government.

A federal judge for the US District Court for the District of Hawaii issued a nationwide order on October 17, 2017, blocking implementation of the Proclamation.

By order dated January 19, 2018, the Supreme Court agreed to hear oral argument on questions raised in the government's petition and by the US District Court in for the District of Maryland and in the Fourth Circuit Court of Appeals. In a 9-4 decision on February 15, 2018, the Fourth Circuit Court of Appeals upheld the ruling by the District Court in Maryland and concluded that "the Proclamation is unconstitutionally tainted with animus toward Islam." The questions raised before the Court are as follows:

1. Do the courts have jurisdiction to review a challenge to the Proclamation?
2. Does the Proclamation fall within the president's authority over immigration?
3. Does the Proclamation violate the Establishment Clause of the Constitution—i.e., does it favor one religion over another?
4. Is the temporary injunction issued by the District Court in Hawaii overly broad?

While last Wednesday's argument may give us a view into the inclination of the Court, we will likely have to wait until late June for definitive answers.

Europe

European Union

European Council Approves Revisions to Posted Worker Directive

The Council of Ministers of the European Union approved revisions to the Posted Worker Directive. The revisions are aimed to ensure the rights and fair treatment of posted workers while offering fair competition. Specifically, the directive aims to ensure fair wage and equal opportunities between local and posting companies in the host country while upholding the principle of free movement.

In particular, the new directive provides for the following:

- Compensation must be paid starting on the first day of posting and at salaries similar to those of local workers.
- Any worker posted for more than 12 months will be considered a long-term posted worker. The worker may be eligible for a six-month extension if the employer can justify the request. After this period, the posted worker will be subject to the applicable labor laws of the host country.
- Temporary employment agencies must offer posted workers the same terms and conditions of employment as temporary workers hired in the member state where the work is carried out.
- Efforts to curtail fraud and abuse will be enhanced.

The revisions are pending approval by the European Parliament. Once the rules are approved, EU member states would have two years to adopt the rules as national legislation.

France

New Immigration Bill Being Considered in France

French President Emmanuel Macron recently introduced an immigration bill targeting the processing of asylum applications. Key changes include:

- Shortening the deadline by which an asylum seeker must file his or her application from 120 days to 90 days
- For an asylum seeker whose application is denied, providing a two-week period to file an appeal
- For an asylum seeker whose application is denied, detaining the applicant (even if a child) for up to 90 days prior to deportation
- Implementing harsher punishment for a foreign national who enters France unlawfully, including imprisoning up to one year

In defense of the bill, President Macron argued that it seeks to make the process of granting asylum to refugees more efficient.

The bill was passed by the National Assembly on April 22. It will now need to be voted on by France's upper house. The vote will likely take place in June.

Ukraine

Ukraine Introduces E-Visas for Citizens of Numerous Countries

In an effort to facilitate the ease of movement of individuals into the Ukraine, the Ukrainian government has approved nationals of numerous countries for e-visas for business and tourist purposes. Applicants must apply online and pay a \$65 government processing fee. The e-visa will be delivered to the applicant via email. The applicant is required to print the e-visa and present it at the airport upon arrival.

E-visas are available to nationals of the following countries: Antigua and Barbuda, Australia, Bahamas, Bahrain, Barbados, Bhutan, Bolivia, Cambodia, Costa Rica, Dominica, Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Haiti, Honduras, Indonesia, Jamaica, Kuwait, Laos, Malaysia, Maldives, Mexico, Micronesia, Myanmar, Nepal, New Zealand, Nicaragua, Oman, Palau, Peru, Qatar, Samoa, Saudi Arabia, Seychelles, Singapore, St. Vincent and the Grenadines, St. Lucia, Suriname, Thailand, Timor-Leste, Trinidad and Tobago, Tuvalu, and Vanuatu.

Middle East

Iraq

New Procedures in Place for Foreign Nationals Visiting Iraq on Multi-Entry Visas

Iraq's Ministry of the Interior recently announced that if a multi-entry visa ("MEV") holder fails to activate his or her visa within 15 days of arrival in Iraq or fails to obtain an exit visa prior to departure, the MEV will be canceled by passport control at Baghdad International Airport when the holder leaves the country.

To avoid this restriction, foreign nationals traveling frequently to Iraq are advised to complete the process of obtaining a multi-entry/exit visa ("MEEV"), which provides for multiple trips to Iraq.

At this time, it is unclear whether the same policy applies to foreign nationals departing from other airports in Iraq.

Jordan

Jordan Expands List of Foreign Nationals Eligible for Visas Upon Arrival

In an effort to ease travel requirements, the Kingdom of Jordan has added foreign nationals and residence permit holders of several countries to its list for foreign nationals eligible to obtain a visa upon arrival in Jordan, including:

- Non-Arab restricted nationals who possess a residence permit in Australia, Canada, Japan, South Korea, Switzerland, the United Kingdom, the United States, or any Gulf Cooperation Council ("GCC") country. However, this does not apply to nationals of Afghanistan, Bangladesh, Iran, Nigeria and the Philippines
- Arab nationals who possess a residence permit in a non-restricted country (except Turkey)

Foreign nationals who are not included on this list must apply for and obtain a visa stamp prior to traveling to Jordan.

For more information about the matters raised, please contact [Elizabeth Espín Stern](#), [Paul Virtue](#), [Grace Shie](#), [Paul Sarauskas](#) or [Lisa J. Pino](#).

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