

# Global Directions

## Mobility Trends in May 2019

### Americas

#### United States

##### **Department of State Permits Discontinuance of Visa Issuance to Certain Foreign Nationals**

On April 22, 2019, the US Department of State published a final rule setting out streamlined procedures that allow consular officers to discontinue the issuance of immigrant and nonimmigrant visas to nationals of certain countries. The countries are those that have denied or unreasonably delayed accepting someone who is a citizen, subject, national, or resident of that country and who is subject to a final order of removal from the United States—countries that have not cooperated with the US government's immigration enforcement priorities. The secretary of state imposes this type of visa sanction by issuing an order to consular officers that describes the category or categories of visas and applicants subject to discontinuation of visa grants.

The rule represents a flexing by the current administration to force other countries to comply with its immigration policy.

Presently, visa sanctions have been levied on a number of countries, including Burma, Cambodia, Eritrea, Ghana, Laos, and Sierra Leone. Countries identified as either "Recalcitrant/Uncooperative" or "At Risk of Non-Compliance" include Algeria, Bhutan, Brazil, Burkina Faso, Burundi, China, Cote d'Ivoire, Cuba, Dominica, Egypt, Ethiopia, Iran, Iraq, Israel, Kenya, Lebanon, Namibia, Nigeria, Pakistan, Senegal, Sudan, Thailand, Togo, Uganda, Venezuela, and Vietnam.

##### **USCIS Clarifies How Federal Controlled Substances Law Applies to Naturalization Determinations**

US Citizenship and Immigration Services ("USCIS") recently issued policy guidance to clarify that violations of federal controlled substance law are generally a bar to establishing good moral character for naturalization, even where that conduct would not be an offense under state law. The policy guidance also clarifies that this applies to certain marijuana-related activities, including possession in small amounts, may lack good moral character if found to have violated federal law, even if this activity has been decriminalized under applicable state laws.

Since 1996, some states and the District of Columbia have enacted laws to decriminalize the manufacture, possession, distribution, and use of both medical and non-medical (recreational) marijuana in their jurisdictions. However, federal law classifies marijuana as a "Schedule I" controlled substance whose manufacture, distribution, dispensing, or possession may lead to immigration consequences.

### Europe

#### European Union

##### **EU Proposes Changes to the Issuance and Processing of Schengen Visas for Business Travelers and Tourists**

EU officials have proposed adopting new visa rules and processes for visa-subject nationals traveling to the Schengen Area for business or tourism. The plan would offer a simplified application procedure, faster processing times, a wider application window, and longer visa validity. Schengen Area countries with external borders would be able to issue single-visit tourist visas at the border. The proposed changes include:

- **Simplified application procedures:** In most cases, travelers would be able to apply from their country of residence. In some instances, applications could be filed electronically, if the option is available.
- **A wider application window:** Applicants would be able to apply within 6 months before travel rather than the current 3 months.
- **Faster processing times:** Schengen visas would be processed in 10 days rather than the current 15 days.
- **Longer validity:** Frequent travelers would be eligible for multiple-entry visas with validity that would increase from 1 year to a maximum of 5 years.
- **Increased fees:** Application fees would increase from the current €60 to €80.
- **Single-entry visas at external borders:** Schengen countries would be permitted, under strict regulation, to issue single-entry visas at external EU borders for stays of up to 7 days. The visas would be valid in the issuing country and for tourism purposes only.

A vote by the EU Parliament on the proposed changes is expected soon.

## France

### Government Announces Plans for No-Deal Brexit for UK Nationals

On April 2, 2019, the French government published a decree with guidance for UK nationals and their family members seeking to continue to reside in France after Brexit day. The decree states that UK nationals and their family members who have resided in France for less than five years will be eligible for an employee or temporary worker residence card, student card, student mobility program card, contractor/self-employed professional card, job search/business creation card, private and family life card, or visitor residence card. To obtain an employee (*salarie*) or temporary worker (*travailleur temporaire*) residence card, applicants must submit:

- Their passport and passport-style photograph;
- Their current residence permit (if applicable) or other proof of residence in France;
- An employment contract; and
- A pay statement issued in the last three months.

Family members of UK nationals may be able to obtain a family and private life (*vie privée et familiale*) card by submitting evidence of the familial relationship (e.g., birth or marriage certificate); proof of material and financial support by the UK national; and a copy of the UK national's passport. Non-EU spouses also must currently hold a "family member of an EU national" residence card to qualify for this application route.

UK nationals and their family members seeking to remain in France for more than one year after Brexit would have six months after Brexit day to apply for a French residence permit at the local Préfecture.

Individuals who have resided in France for more than five years will be eligible to apply for a Long Term Residence EU card, which will be valid for 10 years. If they:

- Already have a permanent residence card: They only need to submit a valid passport along with their current residence.
- Do not already have a permanent residence card: They must submit their passport; a passport-style photograph; proof of sufficient funds and/or home ownership; their current residence permit (if applicable) or alternatively, proof of residence for five years; and proof of health insurance.

UK nationals who are not seeking to remain in France after Brexit will be provided a one-year grace period during which they can continue to benefit from the residence permit waiver for EU nationals.

Additional details are expected in the near future.

## Ireland

### Re-Entry Visa Requirement Eliminated for Certain Visa-Subject Foreign Nationals

Effective May 13, 2019, visa-subject foreign nationals who hold a valid Irish Residence Permit ("IRP") (and a passport) can re-enter Ireland after traveling outside the country without first obtaining a re-entry visa. They will no longer be subject to the re-entry visa application process, which involves submitting a passport to the Irish Naturalisation and Immigration Service and paying an application fee ranging from €60 to €160.

This change will benefit up 40,000 people annually.

Visa-subject foreign nationals who do not hold a valid IRP card, including foreign nationals who are in the process of obtaining an IRP, will still be required to have a valid re-entry visa in order to enter Ireland following

international travel.

Minors, individuals under the age of 16, are unaffected by the change, as IRP cards are not issued to anyone that young. Should they need to travel internationally, a re-entry visa must be obtained prior to leaving the country.

Diplomats and foreign embassy staff must continue to obtain re-entry visas and do not benefit from this change.