



IMMIGRATION UPDATE - JUNE 7, 2019

Posted on June 7, 2019 by Cyrus Mehta

Headlines:

State Dept. Notes Continued Heavy Demand, Retrogressions (Visa Unavailability) in Several Employment-Based Immigrant Visa Categories –

The Visa Bulletin for June 2019 notes heavy demand in several employment-based visa categories for India and Vietnam.

USCIS Requests Info on EB-5 Immigrant Investor Visa Experience – USCIS wants information from attorneys, accredited representatives, regional center owners, and petitioners about their experiences filing for regional center designations, annual certifications of regional centers, or petitions by alien entrepreneurs.

Online Visa, ESTA Applications Include New Social Media Question – The applicant is instructed to provide the names of each social media platform used within the last five years and the "username or handle you have used on that platform."

President Trump Considering Ban on Asylum Claims From Central Americans Traveling Through Mexico, Others – If the rule is implemented, it could block Central Americans traveling through Mexico, among others, from applying for asylum in the United States.

State Dept. Introduces New 'K' Risk Indicator for Travelers – DOS has announced a new "K" risk indicator added to its travel advisories for U.S. citizens, to communicate "the risks of kidnapping and hostage-taking by criminal and terrorist actors around the world."

Global: France – The French government has implemented an ordinance that specifies the conditions for issuing residence permits to British nationals to continue their stay in France after the Brexit date, in the event of no exit

agreement being reached between the UK and EU.

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Details:

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State Dept. Notes Continued Heavy Demand, Retrogressions (Visa Unavailability) in Several Employment-Based Immigrant Visa Categories

The Department of State's (DOS) Visa Bulletin for the month of June 2019 notes heavy demand in several employment-based visa categories:

- There continues to be an "extremely high rate of demand" for [India employment first preference \(EB-1\)](#) visa numbers, which has resulted in retrogression of the final action date for the month of June to October 1, 2017. This action will be temporary.
- Continued heavy applicant demand is expected to result in the [India employment fifth preference \(EB-5\)](#) category approaching the per-country annual limit during July. This is likely to result in the imposition of a July final action date in 2017. This action will be temporary, with the EB-5 date for India "most likely" advancing to the summer or fall of 2017 for October.
- High demand also is expected to result in the [Vietnam employment fifth preference \(EB-5\)](#) category reaching the per-country annual limit in July. This action will be temporary, with the Vietnam EB-5 date "most likely" advancing to the fall or early winter of 2016 for October.

U.S. Citizenship and Immigration Services (USCIS) has also announced that the agency will follow the "Final Action Dates" chart for the month for accepting I-485 Adjustment of Status applications.

Details: DOS Visa Bulletin for June 2019,

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-june-2019.html>; USCIS announcement,

<https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-file-your-adjustment-status-application-family-sponsored-or-employment-based-preference-visas-june-2019>

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USCIS Requests Info on EB-5 Immigrant Investor Visa Experience

U.S. Citizenship and Immigration Services (USCIS) aims “to understand challenges and pain points of the application or petition process” concerning the EB-5, and has invited attorneys, accredited representatives, regional center owners, and petitioners to provide information about their experiences filing for regional center designations under the Immigrant Investor Program (I-924), annual certifications of regional centers (I-924A), or petitions by alien entrepreneurs (I-526).

USCIS specifically wants feedback from:

- Representatives who have filed petitions or applications related to the EB-5 program in the last 12 months and work for a law firm with five or more employees;
- Regional center owners who have filed regional center applications or annual certifications in the last 12 months; and
- Petitioners who have filed a petition related to the EB-5 program in the last 12 months.

Details: Per USCIS, those with questions or who are interested should email myuscisfeedback@uscis.dhs.gov and include the emailer's experience with EB-5 filings and role in the submission process; case-specific information should not be included. Some may be asked to participate in a group discussion.

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Online Visa, ESTA Applications Include New Social Media Question

The Department of State's (DOS) online visa application (Form DS-160) now includes a new question about social media. The applicant is instructed to provide the names of each social media platform used within the last five years and the "username or handle you have used on that platform."

The Electronic System for Travel Authorization (ESTA) application also has a social media question, although providing this information is optional, reportedly.

The ESTA should not be confused with the DS-160 process. The ESTA is an electronic authorization required of citizens from “visa waiver” countries who are traveling to the U.S. for business and/or leisure. The DS-160 is for foreign

nationals who are required to apply for a visa at a U.S. Consulate/Embassy before traveling to the U.S.

Details: DOS online visa application,

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/forms/ds-160-online-nonimmigrant-visa-application.html>;

ESTA application, <https://www.esta-visaform.us/>; list of countries participating in the Visa Waiver Program,

<https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visa-waiver-program.html>

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President Trump Considering Ban on Asylum Claims From Central Americans Traveling Through Mexico, Others

According to reports, President Donald Trump is considering a draft rule to prohibit people who have resided in a third country from filing an asylum claim. If the rule is implemented, it could block Central Americans traveling through Mexico, among others, from applying for asylum in the United States.

Details: News reports,

<https://www.cnn.com/2019/05/30/politics/trump-rule-asylum-change/index.html>,

<https://www.politico.com/story/2019/05/30/asylum-restrictions-trump-central-america-1489012>

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State Dept. Introduces New 'K' Risk Indicator for Travelers

The Department of State (DOS) has announced a new "K" risk indicator added to its travel advisories for U.S. citizens, to communicate "the risks of kidnapping and hostage-taking by criminal and terrorist actors around the world."

Travel advisories for 35 countries have been updated to include the "K" indicator: Afghanistan, Algeria, Angola, Bangladesh, Burkina Faso, Cameroon, Central African Republic, Colombia, Democratic Republic of the Congo, Ethiopia, Haiti, Iran, Iraq, Kenya, Lebanon, Libya, Malaysia, Mali, Mexico, Niger, Nigeria, Pakistan, Papua New Guinea, Philippines, Russian Federation, Somalia, South Sudan, Sudan, Syria, Trinidad and Tobago, Turkey, Uganda, Ukraine (in Russian-

controlled eastern Ukraine), Venezuela, and Yemen.

Details: DOS announcement,

<https://travel.state.gov/content/travel/en/News/international-travel-news/k-indicator.html>; travel advisories,

<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html>

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Global: France

The French government has issued a decree to implement Ordinance No. 2019-76 of 6 February 2019, which specifies the conditions for issuing residence permits to British nationals to continue their stay in France after the Brexit date, in the event of no exit agreement being reached between the United Kingdom (UK) and the European Union.

Decree no. 2019-264 of 2 April 2019 was published in the *Journal Officiel* on 3 April 2019. The following are the principal conditions of issuance of the residence permits to British nationals and their family members.

Transition period of 12 months. UK nationals and family members continuing their stay and professional activities beyond the Brexit date may do so for a maximum period of 12 months after the Brexit date. During this transition period, they do not need to possess a residence permit.

Residence permit application to be requested within 6 months following the Brexit. UK nationals who wish to remain in France beyond this transition period will have 6 months after the Brexit date to apply for one of the appropriate residence permits.

How to apply for a residence permit. The decree details the documents that UK nationals and their family members will provide in support of their application according to the appropriate residence permit for which they are eligible.

Tax amount. The amount of the tax due for the issuance of a residence permit is reduced to 100 euros for British nationals and their family members instead of 269 euros applicable to third-country nationals.

Details: Client alert,

<https://www.karlwaheed.fr/wp-content/uploads/2019/02/Ordonnance-BREXIT-n°-2019-76-of-6-February-2019-Client-Alert-13-02-2019.pdf>

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Firm in the News

Mr. Mehta spoke on a panel entitled “Money Makes the World Go Around – a discussion of tax and benefit related immigration issues” at the AILA Latin American and Caribbean Chapter, Webinar, on June 5, 2019.

Cyrus Mehta was quoted by *the Observer* in an article entitled “The US Government Is Now Screening Visa Applicants’ Social Media Profiles”. The article is at <https://observer.com/2019/06/government-screening-visa-applicants-social-media/>.

Cyrus Mehta was quoted by *the Times of India* in an article entitled “Revised US visa forms to ask most applicants to furnish 5-year social media history”. The article is at <https://timesofindia.indiatimes.com/india/revised-us-visa-forms-to-ask-most-applicants-to-furnish-5-yr-social-media-history/articleshow/69615913.cms>.

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