CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

FEBRUARY 2020 GLOBAL IMMIGRATION UPDATE

Posted on February 6, 2020 by Cyrus Mehta

Feature Article

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Feature Article

SHORT-TERM HIGH-SKILLED WORKER PROGRAMS: AN OVERVIEW

This article provides an overview of policies and procedures on short-term high-skilled workers in several countries.

India

The Indian employment visa allows for short-term employment for an organization registered in India for a duration of generally one year. Foreign technicians are eligible for a five-year employment visa. Highly skilled foreign personnel being employed in the IT software and IT-enabled sectors are eligible for an employment visa for a validity of up to three years.

The applicant should be a highly skilled or qualified professional being employed at a senior level or as a technical expert. There also should not be a qualified Indian available for the same job that the visa holder will perform. The employment visa cannot be granted for routine, ordinary, or secretarial/clerical jobs.

Although the employment must be in an organization registered in India, it may also be granted for a person who is employed by a foreign company or organization engaged for the execution of some project in India.

The employee's salary must be in excess of INR 16.25 lakhs (approximately $25,000) per year. However, this condition does not apply to: (a) ethnic cooks, (b) language teachers (other than English language teachers)/translators and (c) staff working for a foreign embassy or high commission in India. The salary requirement is also not applicable to an employment visa applicant who intends to do volunteer work with charities or nonprofit organizations in India.

Foreigner registration is a mandatory requirement by the government of India under which all foreign nationals (excluding overseas citizens of India) visiting India on a long-term visa (more than 180 days) must register themselves with a Foreigner Regional Registration Officer/Foreigner Registration Officer within 14 days of arriving in India. This registration can be done online. Further details are available at https://indianfrro.gov.in/eservices/home.jsp. Additional extensions of employment visas can be facilitated through the FRRO for up to five years subject to the applicant's good conduct, production of necessary documents in support of continued employment, filing of income tax returns,

and no adverse security inputs.

Further details are available in the Business and Employment Visa FAQ issued by the Ministry of Home Affairs at https://mha.gov.in/sites/default/files/work_visa_faq.pdf.

Details regarding the requirements and documentation for the employment visa are available at https://www.in.ckgs.us/visa/employment-visa.

Italy

Italian Immigration law provides for different kinds of work permits for highly skilled workers assigned to work temporarily in Italy. Under these options, workers do not become local employees but maintain an employment relationship with the home country employer. The issuance of these work permits is not subject to the yearly immigration quotas set by the government.

Intra-company work permit for highly specialized staff/managers on assignment. This procedure allows the foreign employee in a senior managerial or specialized knowledge role to be temporarily assigned (up to five years) to a subsidiary, branch, or an affiliate in Italy (sending and host companies should be part of the same business group or a joint-venture group).

ICT work permits. Intra-corporate transfer work permit for managers, specialists, trainees temporary seconded from a company established outside the European Union where the worker is employed since at least three months before transfer to a host entity established in Italy as part of the same group. Maximum duration is three years for managers and specialists, one year for trainees.

Details: "Italy Work Permits for Temporary Assignments," https://www.mazzeschi.it/2018/11/21/temporary-assignments-work-permits-for-highly-skilled-workers/

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Country Updates

BELGIUM

Belgium has announced 2020 gross salary thresholds.

The gross salary thresholds for work and single permits are updated every

year.

The salary thresholds vary by region (Brussels, Flanders, or Wallonia) and by category of employee (e.g., highly skilled employees, executives). In general, the region with jurisdiction is determined on the basis of the primary workplace of the foreign national in Belgium, or the location of the registered office of the company, if the primary workplace of the foreign national cannot be defined.

From January 1, 2020, onward, the following gross salary thresholds apply:

Category	Flanders	Brussels	Wallonia
Highly Skilled	42,696 € (exception: 34,156.80 € for locally employed < 30 years or nurses)	42,869 €	42,869 €
Executives	68,314 €	71,521 €	71,521 €
Blue Cards	51,235 €	55,431 €	55,431 €

The gross salary includes all payments to the employee in consideration for work: the amounts must be known with certainty to the employer, the employee, and the Belgian authorities before the start of the employment in Belgium. The fact that the amount must be certain excludes discretionary bonuses. In Wallonia, contributions paid for professional supplementary pension schemes are not taken into account either.

In the event of assignment, allowances, directly linked/specific to the assignment, are considered part of the salary, provided they are not paid in reimbursement of expenditures actually incurred on account of the assignment, such as expenditures on travel, lodging, and board. Travel, lodging, and board allowances are thus not considered salary. Moreover, employers must guarantee the salary in euros regardless of payroll location and/or exchange rate fluctuations.

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CANADA

Québec attestations are now required for permanent immigrant applicants. Also, there is an update on the parent/grandparent sponsorship program.

Québec Attestations

Effective January 1, 2020, all permanent immigrant applicants under an economic program to the province of Québec (except children under 18) must provide the Québec immigration department with an "attestation of learning about democratic values and the Québec values expressed by the Charter of Human Rights and Freedoms."

The Québec government says knowledge of the values it reflects is essential to an immigrant's integration into the province.

There are two ways to obtain the attestation:

1. Complete a 24-hour integration course; or
2. Pass an online test of 20 questions (the pass rate is 75%).

The Québec government summarizes the five key principals underlying the attestation:

1. Québec is a French-speaking society
2. Québec is a democratic society
3. Equality between women and men
4. Rights and responsibilities of all Québecers
5. Québec is a secular society

Details:

- https://www.immigration-quebec.gouv.qc.ca/en/immigrate-settle/attestation-values/obtaining-attestation.html
- http://www.mifi.gouv.qc.ca/publications/fr/gpi-npi/npi_2020/NPI_2020-001.pdf
- Québec government's 35-page guide: https://www.immigration-quebec.gouv.qc.ca/publications/fr/valeurs/GUI_Pratique_Valeurs_FR.pdf

Parent/Grandparent Sponsorship Program

The number of overall planned permanent admissions to Canada for 2020 is 340,000 people (just under one percent of the population of Canada). Of the 340,000 Canada is planning to admit, 21,000 are in the parent and grandparent sponsorship category.

On December 30, 2019, Immigration, Refugees and Citizenship Canada (IRCC) announced that the parent/grandparent sponsorship program would not be

opening in January 2020: "To ensure that has sufficient time to complete the development of a new intake process for the 2020 Parents and Grandparents Program, the reopening of the program will be postponed until Ministerial Instructions are issued." It was also announced that the expression of interest to sponsor a parent/grandparent that will be launched in 2020 will give a fair chance to all interested sponsors.

In 2019, IRCC was criticized as the expression of interest to sponsor filled up within seven minutes of its January 28, 2019, opening. It is anticipated that the 2020 expression of interest to sponsor a parent/grandparent will be on a lottery basis (with possible weight/advantage given to those who have previously attempted to sponsor a parent/grandparent).

Until the new intake management process is implemented, IRCC will not accept any new applications. This will ensure that all interested sponsors have the same opportunity to submit an interest to sponsor form, and a fair chance to be invited to apply.

Details:

- https://www.canada.ca/en/immigration-refugees-citizenship/news/notices/parents-grandparents-2020-update.html
- http://www.gazette.gc.ca/rp-pr/p1/2020/2020-01-11/html/notice-avis-eng.html

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COLOMBIA

This article provides information about several aspects of Colombian immigration.

Digital Nomads

In recent years, technology has revolutionized the lifestyles of many people. The labor field is no stranger to these changes. Every day it is common to see how workers and employers join forces to find the desired balance between personal and work lives. Nowadays, thanks to digital tools such as cloud applications, laptops, smart phones, and the internet, among others, it is feasible to develop different activities without having to physically stay in the office.

Details: http://www.tannus.co/en/digital-nomads-in-colombia/

Colombian Nationality for Venezuelan Minors

In accordance with the provisions of article 96 of the Colombian Constitution, nationals by birth are nationals of Colombia when the father or mother was a Colombian citizen or national or, being the child of foreign nationals, one of their parents was domiciled in Colombia at the time of birth. Likewise, children of Colombian parents who were born abroad and then live in Colombia or are registered at a consulate are nationals of Colombia.

Details:
https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/nacionalidad-para-menores-venezolanos-2900998

Notifications of Foreigners in RUTEC and SIRE

SIRE and RUTEC gather certain information to control the foreign population. However, there are certain differences between them, among others, such as: (1) the entities in charge of each of the registration systems; and (2) RUTEC going beyond the notification of hiring or contract termination of foreign workers, since labor migration policy will be constructed at least in part based on the information collected. SIRE and RUTEC are not exclusive, which is why the registration of information in both systems must be complied with, under penalty of sanctions.

Details:
https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/notificaciones-de-extranjeros-en-rutec-y-sire-2911964

Orange Economy and Migration

The "orange economy" is a term that has become popular in Colombia in recent years. The idea is to develop, through the creation, production, and distribution of goods and services, technological, artistic, cultural, and creative content to generate wealth by progressively participating in the GDP. Although the government's drive is from a national perspective, there is significant leverage for the development of this economy by various foreign agents. It is for this reason that the migratory field becomes relevant in this aspect, since musicians, actors, producers, and sportspeople, among others, will have to take into account the existing Colombian permits or visas with a view to entering and staying in Colombia legally.

Details: http://www.tannus.co/en/orange-economy-and-migration/

Degree Validation Process Update

To increase the speed and efficiency of the process of legalization of degrees for use abroad, validation of foreign degrees, and qualified registration, the Ministry of National Education issued on October 9, 2019, Resolution 010687, which establishes and/or modifies the requirements and processing times, taking into account the increasing migration of foreign professionals as well as the return of Colombians who have studied abroad.

Reform of Entry and Residence Permits

Resolution 3167 of 2019, issued by Migración Colombia, establishes new guidelines for the entry, stay, and departure of Colombian nationals and foreigners from the national territory. This new resolution reorganizes the entry and stay permits (PIP) in three categories, which allows foreigners of unrestricted nationalities to enter the country for short periods without the intention of establishing a domicile or profiting. The length of stay of PIPs varies according to each category.

Details: http://www.tannus.co/en/reform-of-entry-and-residence-permits/

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INDIA

There has been confusion about renewals of the Overseas Citizenship of India (OCI) card. The Indian government has announced a temporary relaxation of OCI renewal guidelines.

In recent times, there has been much confusion with respect to the renewal of OCI cards. Airlines have on many occasions not allowed passengers to board flights to India if their OCI cards were not renewed when their passports were renewed. The OCI, which is given to persons of Indian origin who have the citizenship of another country (other than Pakistan and Bangladesh), allows the card holder to live and work in India indefinitely. The OCI also exempts from reporting to police authorities for any length of stay in India. The OCI also provides parity with Non-Resident Indians in financial, economic, and educational fields, except in the acquisition of agricultural or plantation properties. A person registered as an OCI is eligible to apply for grant of Indian citizenship under section 5(1)(g) of the Citizenship Act, 1955, if he or she is

registered as OCI for five years and has been residing in India for one year out of the five years before making the application.

According to the Ministry of External Affairs (MEA), the following guidelines have been in force since 2005 with respect to OCI renewals:

- The OCI card must be reissued each time a new passport is acquired by the cardholder up to the age of 20 years.
- The OCI card must be reissued once upon acquiring a new passport after completing 50 years of age.
- Reissuance of the OCI card is not required each time a passport is issued to a cardholder between the ages of 21 and 50.

However, these guidelines were relaxed in recent years. Even if the OCI was not renewed in the event of obtaining of a new passport, the OCI was accepted as a valid lifelong document with no expiration date especially after the Indian government stopped issuing the U visa sticker in the person's passport. It seems that the Indian government began to enforce its 2005 guidelines more strictly in late 2019, resulting in many instances of people having difficulty boarding flights if the OCI was not renewed in accordance with these guidelines.

The MEA, as a result, has issued the following relaxation of its guidelines until June 30, 2020, in the following cases:

- In case an OCI card holder below the age of 20 years has not gotten the OCI card re-issued on change of passport, he or she may travel on the strength of his or her existing OCI card bearing the old passport number, subject to the condition that along with the new passport, the OCI cardholder carries the old passport mentioned in the OCI card.
- In case an OCI card holder who has attained the age of 50 years and has gotten his or her passport renewed subsequently but has not gotten his or her OCI card reissued on renewal of his or her passport, he or she may travel on the strength of the existing OCI card along with the old and new passports.

Notwithstanding the relaxation in guidelines, the MEA advises OCI cardholders to renew their cards per the 2005 guidelines. Anecdotal evidence suggests that airlines are following the relaxed guidelines unevenly.

The Ministry of External Affairs press release relaxing the 2005 OCI guidelines is available at https://mea.gov.in/press-releases.htm?dtl/32222/Press+release+on+Relaxation+in+OCI+Guidelines+till+30th+June+2020.

The Ministry of External Affairs 2005 OCI guidelines are available at https://mha.gov.in/PDF_Other/GuidelinesOCIMiscservices_15112019.pdf.

The Ministry of External Affairs document on the OCI scheme is available at https://www.mea.gov.in/overseas-citizenship-of-india-scheme.htm.

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TURKEY

The Republic of Turkey has released updated minimum salary amounts. Also, there has been an update regarding limitations on renewals of Touristic Residence Permits.

2020 Salary Requirements

As of January 1, 2020, the amounts are:

Gross minimum monthly wage: 2.943,00 Turkish Lira
Net minimum monthly wage: 2.324,70 Turkish Lira

* 1 TL = 0.17 $USD (approx. January 2020)

Aside from this minimum salary requirement, immigration law requires that the salary paid must be commensurate with the position considered. Specifically:

- High-level managers and pilots cannot be paid less than 6.5 times the minimum wage (or 19.129,50 TRY gross/mo);
- Department managers and engineers/architects cannot be paid less than 4 times the minimum wage (or 11,772,00 TRY gross/mo);
- Positions requiring expertise (*note: undefined*) and teachers cannot be paid less than 3 times the minimum wage (or 8.829,00 TRY gross/mo);
- Tourism Industry employees such as acrobats/similar and masseurs/spa therapists cannot be paid less than 2 times the minimum wage (or 5.886,00 TRY gross/mo);
- All others (e.g., sales officer, low-level marketing officer) cannot be paid less than 1.5 times the minimum wage (or 4.414,50 TRY gross/mo); and

- Household workers cannot be paid less than the minimum wage.

Update re Limitations on Renewals of Touristic Residence Permits

The Migration Directorate (MD) had announced on its website that as of January 1, 2020, it would not consider renewals of Touristic Residence Permits (RP) that had been issued for one year. According to reports, there may be possible discretionary actions to limit applicability of this significant restriction. Multiple MD sources said they anticipate an internal communique to lift the ban on renewals for nationals of the Organisation for Economic Co-operation and Development (OECD), but this has not yet been confirmed officially.

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RUSSIA

This article provides an update on immigration-related developments in Russia.

Quota for engaging foreign labour in 2020 is approved. The Russian government has approved the quota for engaging foreign labor in 2020, set at 104,993 foreign nationals, a decrease from 2019, when the quota was 144,583.

Croatia—simplification of visa formalities. The Russian government has signed an agreement with the government of the Republic of Croatia regarding an amendment of the agreement between the two countries on mutual travel of citizens of the Russian Federation and Republic of Croatia. According to the new text of the agreement, citizens of each of these countries will be able to stay in the other country without visas for 90 calendar days out of each 180 days.

The agreement will come into force within 30 days from the date when the last notification is received confirming the completion of in-country ratification procedures.

Qatar—mutual cancellation of visa requirements. The government of the Russian Federation has signed an order in support of an agreement with the government of the State of Qatar on mutual cancellation of visa requirements for their citizens. According to the draft agreement, citizens of the State of Qatar will be able to enter Russia without visas for the period of 90 days out of each 180 days, provided they do not engage in work activities, study, or permanently reside in Russia. Similar privileges will be enjoyed by Russian citizens upon entry to Qatar.

The agreement remains under discussion and is not yet in force.

Agreement with the Republic of Tajikistan regarding organized recruitment of Tajik citizens for temporary work in Russia has been ratified. Federal law has ratified an agreement between the governments of the Russian Federation and the Republic of Tajikistan regarding organized recruitment of Tajik citizens for temporary work in the territory of the Russian Federation.

The agreement emphasizes the priority of collective employment of Tajik citizens in Russia, although the agreement does not prohibit Tajik citizens from searching for employment individually.

Practically, this means that a Tajik citizen who would like to work in Russia will file an application with the responsible government agency in Tajikistan. This agency will:

- Review the application;
- Inform about open vacancies in Russia;
- Discuss candidates for employment with the employer in Russia;
- Help with preparation for exams: Russian language, history, basics of legal knowledge;
- Conduct medical tests;
- Review candidates' criminal history;
- Discuss the text of the labor agreement with the employer; and
- Organize transport to Russia and back.

Additionally, the responsible agency in Tajikistan will sign agreements with employers in Russia for the collective supply of candidates for open vacancies.

The Russian Labour Ministry will be responsible for maintaining a computer database with all information on open vacancies, and for vetting prospective employers.

The international agreement in question confirms the need for Tajik citizens to apply for work permits to work in Russia. It also confirms that such a work permit can be extended for its term without the need for the foreign national to leave Russia. It also does not state any limits on extensions.

Currently Tajik citizens work in Russia on the basis of either (1) patents for which they apply individually and which can be extended only once or (2) highly qualified specialist (HQS) work permits (application is filed by the employer). If a

Tajik citizen is the holder of an extended patent, he or she must leave Russia and re-enter again in order to apply for the patent anew.

UEFA 2020—exit rules for football fans approved. The Russian government has signed an order on the approval of exit rules for foreign citizens and stateless persons who entered the Russian Federation as football spectators for events of the Union of European Football Associations (UEFA) 2020. This includes foreign citizens who entered Russia as spectators of UEFA 2020 events without visas using valid personal ID documents and personalized spectator cards (fan IDs issued by the ministry of digital development, communications and mass communications) from May 30, 2020, to July 13, 2020. All foreign fans must leave the country by July 13, 2020. Staying after this date without a legally valid reason will result in administrative punishment according to Russian law.

Foreign fans must exit using valid ID documents, after border control officers establish the fact that the person entered Russia on the basis of the personalized spectator card (fan ID).

Similar rules of entry and exit applied during Fédération Internationale de Football Association (FIFA) World Cup 2018.

UEFA 2020—work permit procedure simplified. The Russian government has approved rules for simplified and speedy work permit procedures for UEFA 2020 workers. Procedures for the following were simplified:

- Corporate work permits (permits for engagement of foreign citizens);
- Work permits;
- Patents;
- Invitation letters

Simplified procedures will be applicable to foreign citizens and stateless persons who work on the basis of labor agreements or civil agreements, and who perform work activities for the following organizations:

- UEFA;
- UEFA subsidiaries;
- UEFA media organizations;
- UEFA suppliers;
- UEFA commercial partners;
- Local organizational structure;

- Russian Football Association;

Applications can be submitted without allocated quotas for 2020. The Ministry of Sport will submit to the Federal Security Service by the fifth of every month a list of companies and persons (employers) for approval. The approved list then will be sent to the Ministry of Internal Affairs, which will use it to issue work permits, corporate work permits, and invitation letters using the simplified procedure. The Ministry of Sport will submit to the Federal Security Service and the Internal Affairs Ministry a list of foreign citizens by the 20th of each month. Applications will be reviewed within 7 to 15 days.

Corporate and personal work permits will be issued within 15 days from the date of application filing. Applications for patents will be issued within seven days. Applications for issuance of work permit duplicates will be issued within five days and patent duplicates within two days. Applications for invitation letters will be reviewed within 15 days. Refusal confirmations will be issued within two days.

These rules are effective as of January 12, 2020.

Quota 2020 has been divided among the Russian regions. The Ministry of Labour has issued an order on the division of the quota for the engagement of foreign labor established by the Russian government for year 2020 among the Russian regions.

Total number of work permits: 104,993
For Moscow: 3,821
For Moscow Region: 4,256
For Saint-Petersburg: 3,273
For Leningradskaya Region: 446

The order divides approved quota numbers among all Russian regions as well as professional groups.

"Work in Russia" job vacancies database—approved information requirements and rules for verification. The Russian database of job vacancies, "Work in Russia," is an information-analytical system created by the Ministry of Labour and Social Development. The Ministry of Justice approved an order issued by the Ministry of Labour and Social Development.

The database contains:

- Information about employers (according to the rules, such information should match the Unified State register of legal persons);
- Information on vacancies (according to the rules, such information should not contain any discrimination based on sex, age, nationality, etc.); and
- Information regarding citizens who look for work.

Information is verified by employees of the territorial labor office. Services for citizens who are looking for work are free of charge.

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UNITED KINGDOM

It's happened: The United Kingdom (UK) officially left the European Union (EU) on January 31, 2020. Now what?

What does this mean for people moving to and from the UK?

Nothing for now. We are in a transition period until at least December 31, 2020.

During the transition period, EU law continues to apply to the UK, which means that EU citizens can live and work in the UK in exactly the same way as before. The same applies to other European Economic Area (EEA) nationals (nationals of Norway, Iceland, and Liechtenstein) and Swiss nationals. British citizens also keep their free movement rights in EEA states and Switzerland during the transition period.

The British government insists that the transition period will not be extended. If there is to be an extension, this must be agreed upon before July 1, 2020.

What will happen to EU citizens already living in the UK?

EU citizens who move to the UK before the end of the transition period will be able to stay as long as they apply for the EU Settlement Scheme. The deadline for applying is June 30, 2021.

Irish citizens do not have to apply for the EU Settlement Scheme. They will still be free to live and work in the UK after the transition period. The same goes for British citizens in Ireland.

What will happen to British citizens already living in the EU?

British citizens who start exercising a right of residence in another EU Member

State before the end of the transition period will be able to stay, but they need to register with the authorities. The process varies from country to country.

What will the UK's immigration system look like after the transition period?

The British government says that after the transition period, the same rules for work visas will apply to EU citizens as to everyone else. We do not yet know what those rules will be.

The British government's Migration Advisory Committee (MAC) published a report on January 28, 2020, that warned against replacing the current system of sponsored visas for highly skilled workers (Tier 2) with an Australian-style points-based system. The MAC recommended keeping the Tier 2 model but with significant changes, including lowering the skills threshold to include medium-skilled jobs and lowering the main salary threshold from £30,000 to £25,600.

If the British government follows these recommendations, it will be far easier for employers to sponsor people for work visas, but it will be expensive. Fees for Tier 2 visas are already high and there are no plans to lower them. If anything, they will increase. Employers who rely on EU citizens to fill medium- and high-skilled roles will be spending a lot of money on visas.

There will need to be new immigration routes for low-skilled workers, at least in the short term. We do not yet know what those will be.

Details:

- Kingsley Napley alert, https://www.kingsleynapley.co.uk/insights/news/the-uk-leaves-the-eu-today-at-11pm-gmt
- EU Settlement Scheme and how to apply, https://www.gov.uk/settled-status-eu-citizens-families/applying-for-settled-status
- Guide to what EU citizens living in the UK need to know, https://www.kingsleynapley.co.uk/services/specialist-group/brexit/brexit-what-eu-citizens-living-in-the-uk-need-to-know
- MAC report, "A Points-Based System and Salary Thresholds for Immigration," https://www.gov.uk/government/publications/migration-advisory-committ

ee-mac-report-points-based-system-and-salary-thresholds

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