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US IMMIGRATION & NATIONALITY LAW

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Feature Article

DOCUMENT PROCUREMENT AND THE LEGALIZATION PROCESS: AN OVERVIEW – This article provides an overview of policies and procedures on document procurement and legalization in several countries.

Country Updates

CANADA – Canada has issued several updates in response to the COVID-19 pandemic.

ITALY – Italy has lifted some travel restrictions. A new law extends residence permit validity and suspension of administrative procedures. Also, Italy has published a "Phase 2" decree related to COVID-19 rules. The government is drafting a decree to boost investments. Foreigners with serious health conditions can apply for a medical treatment temporary permit. Applications are open for migrant worker regularization.

RUSSIA – Russia has announced extensions of patents for certain foreign citizens, a new e-visa, and COVID-19 procedures updates.

SCHENGEN AREA – Schengen Member States and Schengen Associated States have been invited to extend restrictions on nonessential travel to the European Union until June 15, 2020.

UNITED KINGDOM – The Home Office has clarified what those stuck outside the United Kingdom (UK) with expired 30-day entry visas must do to be able to enter the UK. Also, the Home Secretary has announced a 14-day quarantine regime for international passengers arriving in the UK.

Details:

Back to Top

Feature Article

DOCUMENT PROCUREMENT AND THE LEGALIZATION PROCESS: AN OVERVIEW

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Canada

Police clearance certificates are issued in Canada by the Royal Canadian Mounted Police (RCMP), the federal police service, and are commonly referred to as "RCMP criminal record checks." Applications for RCMP checks for immigration purposes require fingerprints to be taken by a local police station in Canada, or by an accredited fingerprinting company inside or outside Canada. A list of accredited companies can be requested at CCRTIS-SCICTR@rcmp-grc.gc.ca. The fingerprints are then submitted to the RCMP's Canadian Criminal Real Time Identification Services (CCRTIS) for searches of the National Repository of Criminal Records, and the RCMP issues a one-page criminal record check displaying the fingerprints, the person's picture, the content of the repository, and the official RCMP dry seal.

The RCMP criminal record check may be submitted to Canada's Ministry of Foreign Affairs, referred to as "Global Affairs Canada," for authentication. Authentication is the certification of the genuineness of the RCMP's seal so that the issued document may be recognized in another jurisdiction. Documents brought in person to Global Affairs Canada's Authentication Office in Ottawa are processed on the spot, but may also be mailed in, or mailed to one of the Canadian consulates or embassies abroad that offer authentication services. In Canada this service is free of charge, but Canadian representations abroad may charge a fee. Because the government of Canada is not party to the Hague Apostille Convention, authentication by Global Affairs Canada is usually required before a foreign or Canadian document can be legalized by a foreign consulate or embassy.

A detailed process outline tailored to the type of document that requires authentication is on Global Affairs Canada's website at https://bit.ly/2Qg5doc. As of this writing, the website includes a notice stating, "Due to the evolving

situation regarding COVID-19, authentication services will be closed to the public until further notice. Our mail-in service will continue. Usual mail-in service standards may not apply."

Italy

Italian police clearance certificates are also known as criminal records or police records, and are official certificates from the Judicial Records Register of the Italian Court.

In Italy there are two kinds of police records:

1. The *Certificato Generale del Casellario Giudiziale* (General Certificate of Good Conduct), which certifies all irrevocable judgments of the court regarding criminal, civil, and administrative matters.
2. The *Certificato dei Carichi Pendenti* (Certificate of Pending Charges), which shows a person's pending criminal proceedings.

How can a police record be obtained? There are two ways:

1. The individual concerned or a delegate can request it by visiting the Italian court in person. In such a case, the certificate will be released by simply providing the officer with the following:

- In case of a delegate, proxy duly signed by the applicant
- Applicant's ID document – scan copy
- Revenue stamps for the certificate request (1 revenue stamp of €16 + 1 revenue stamp of €3.87)

2. The individual concerned or a delegate can request it online by following these steps:

- Fill out and submit the online application form.
- After 3 to 5 working days, visit the Italian court in person for the certificate collection and bring the supporting documents:
- In case of a delegate, proxy duly signed by the applicant
- Applicant's ID document – scan copy
- Revenue stamps for the certificate request (1 revenue stamp of €16 + 1 revenue stamp of €3.87)

Also, Italian police records usually must be duly legalized to be officially recognized abroad. The legalization process is done by affixing a stamp or a

sticker on the document itself or on a separate certifying paper.

If the country that issued the document has signed the Hague Convention of 5th October 1961, then the legalization is by means of a procedure called *apostille*, to be completed at the local prefecture having jurisdiction over the town hall that issued the police record; otherwise, the document must be legalized by the embassy/consulate of the country of issuance located in Italy.

The exact requirements to obtain the legalization/apostille must be determined on a case-by-case basis with the issuing authority.

For more information, see
https://www.italycertificates.com/italian-criminal-record/

Turkey

In Turkey, police clearances (criminal background checks/records, *Adli Sicil Kaydi*) are issued by the Public Prosecutor's Office within the Ministry of Justice. This may be requested by the individual in person at the Prosecutor's Office and is produced on demand immediately and affixed with a red seal for veracity.

A police clearance is also available via an individual's electronic government account, called an *E-devlet* account. The individual logs into the account with a personal passcode and can print this and other personal government documents such as birth certificates and address registration documents. Veracity of the online document is confirmed by a unique bar code at the bottom of the document. This bar code can then be confirmed online for legitimacy. The document can be generated in English as well.

As Turkey is a signatory of the Apostille Convention, it will issue an apostille for this police clearance as long as it is destined for another apostille country. In January 2019, Turkey initiated an online apostille process for a few specific personal civil documents. Currently the process is applicable only to Turkish citizens and only for police clearances and court orders. The plan is to expand this to other documents, such as birth, death, and marriage records; diplomas; transcripts; and corporate establishment documents.

Back to Top

Country Updates

CANADA

Canada has issued several updates in response to the COVID-19 pandemic.

Canada has extended the travel ban between the United States and Canada to June 21, 2020. Most travel from overseas remains suspended until June 30, 2020. Issuance of electronic travel authorizations and visitor visas are currently suspended and require additional argumentation to prove the purpose of travel.

Unitl August 31, 2020, international students already in Canada are allowed to work full-time, provided they work in an essential service or function as defined by Public Safety Canada, in the following sectors: Energy and Utilities, Information and Communication Technologies, Finance, Health, Food, Water, Transportation, Safety, Government, and Manufacturing. Note that this is not a blanket permission per industry, but the job in question must be covered by the specific essential functions identified by Public Safety Canada in every industry covered under this initiative.

In addition, to facilitate and expedite new hires (or renewals) for certain occupations now considered a priority due to COVID-19, Service Canada has announced a list of priority occupations that will be expedited and, exceptionally, not be subject to the advertising requirement. This streamlines the Labour Market Impact Assessment process for the following occupations and their NOCs:

6331 - Butchers, meat cutters, and fishmongers (retail and wholesale)

7511 - Transport truck drivers

8252 - Agricultural service contractors, farm supervisors, and specialized livestock workers

8431 - General farm workers

8432 - Nursery and greenhouse workers

8611 - Harvesting labourers

9463 - Fish and seafood plant workers

9617 - Labourers in food, beverage, and associated products processing

9618 - Labourers in fish and seafood processing

9462 - Industrial butchers and meat cutters, poultry preparers, and related workers

An additional work permit application at the consular post is required, as this is the prerequisite to be allowed to travel to Canada. This may be complicated by the fact that biometrics are still required for work permits to be approved, yet most biometric collection points worldwide are closed. However, a number of accredited Panel Physicians are still performing Canadian immigration medical examinations.

Back to Top

ITALY

Italy has lifted some travel restrictions. A new law extends residence permit validity and suspension of administrative procedures. Also, Italy has published a "Phase 2" decree related to COVID-19 rules. The government is drafting a decree to boost investments. Foreigners with serious health conditions can apply for a medical treatment temporary permit.

Travel restrictions lifted. As of June 3, 2020, the Italian government announced that it is possible to move freely throughout the country without the need for a justified reason, and travel restrictions have been lifted for travelers coming from the European Union (EU) and United Kingdom (UK) (including all EU Member States, Schengen Area Countries, UK, and Andorra, Monaco, San Marino, and Vatican State), who will no longer be required to quarantine upon arrival. Exceptions apply for those who have been outside the countries listed above within 14 days of traveling to Italy.

Visitors from outside the EU are expected to be allowed again in the country after June 15, 2020.

New law. A new law, effective April 30, 2020, extended the validity of residence permits to **August 31, 2020.** The law also extended the validity of *nulla Osta* (entry clearances for family reasons, work permits) for the same period and the terms for conversion of study permits into work permits.

The validity of Italian identification documents (e.g., identity cards, passports) expiring on or after March 17, 2020, also was extended until August 31, 2020.

In addition, all applications pending as of February 23, 2020, or filed after that date were suspended during the period between February 23, 2020, and April 15, 2020. This meant that any applications filed during that period were not processed in the same timeframe. This period was extended to May 15, 2020.

COVID-19 Phase 2. Also, the Italian government published a "Phase 2" decree in late April with a set of rules that applied in the first several weeks of May 2020. The new provisions were not significantly different from the ones previously in force: the government extended the "lockdown," although the rules were somewhat relaxed and the list of businesses authorized to reopen was significantly extended (the list can be found in attachment 3 of the decree; businesses are identified by the specific industry code called *Codice Ateco*).

Reduction of thresholds for investor visa. On May 19, 2020, the Italian government published the *Decreto rilancio,* a decree intended to boost investments and to mitigate the negative effects of the pandemic on the Italian economy. The government aims to attract more investments, especially in companies and innovative start-ups. The decree reduces the amount required to qualify for an investor visa to 500,000 EUR (for investment in an Italian company, instead of 1 million EUR) and to 250,000 EUR (for investment in an innovative startup, instead of 500,000 EUR). The decree will need to be converted into law by the Italian Parliament within 60 days following publication. During the conversion process, it can be subject to further amendments.

Medical treatment temporary permit. Foreigners who have a serious medical condition and for whom returning to the country of origin or provenance would constitute a serious health risk cannot be expelled from Italy, according to a decree. Those in such circumstances can apply for a residence permit for medical treatment (*permesso di soggiorno per cure mediche*). The application must be filed at the police office and requires submission of a medical certificate issued by a public hospital or private hospital accredited by the national health system. The permit is issued for a maximum of one year and is renewable if the health condition persists.

Applications open for migrant worker regularization. From June 1 until July 15, 2020, applications to regularize an employment relationship with a foreign (or

Italian) worker or apply for a 6-month residence permit are being accepted. This is possible only for specific sectors of work activities and under certain conditions.

There are two possible options: (1) the employer (company or individual) can apply for a work permit (or declare an irregular work relationship with a foreigner or Italian national) for a foreign national in Italy; or (2) the foreign national with a permit expired since October 31, 2019, can apply for a 6-month residence permit.

Sectors include agriculture, livestock, fishing, and related activities; caregivers; and domestic work.

Details:

- Travel restrictions lifted, https://www.mazzeschi.it/news/italy-reopen-its-gates/
- Law decree April 8, 2020, n. 23, https://www.gazzettaufficiale.it/eli/id/2020/04/08/20G00043/sg
- Phase 2 decree, https://www.gazzettaufficiale.it/eli/id/2020/04/27/20A02352/sg
- Residence Permit Validity Extended to August 31st, 2020, https://www.mazzeschi.it/news/validity-of-residence-permits-permessi-di-soggiorno-extended-until-june-15-2020/
- COVID-19: Italy Moves to Phase 2, https://www.mazzeschi.it/news/italy-new-decree-introduces-covid-19-related-measure/
- Proposal to Reduce Thresholds for the Investor Visa, https://www.mazzeschi.it/news/italy-proposal-to-reduce-thresholds-for-the-investor-visa/
- Stuck in Italy Due to Health Problems? Apply for a Medical Treatment Temporary Permit, https://www.mazzeschi.it/news/stuck-in-italy-due-to-health-problems-apply-for-a-medical-treatment-temporary-permit/
- Italian government information regarding June 1-July 15 applications, https://www.interno.gov.it/it/notizie/emersione-dei-rapporti-lavoro-e-rilascio-permessi-soggiorno-temporaneo
- "Applications Open for Migrant Workers Regularization," Mazzeschi S.r.l., https://www.mazzeschi.it/news/applications-open-for-migrant-workers-re

gularization/

Back to Top

RUSSIA

Russia has announced extensions of patents for certain foreign citizens, a new e-visa, and COVID-19 procedures updates.

Patents can be extended multiple times. A federal law effective April 24, 2020, changes the procedure of reissuance of patents for work in Russia by foreign citizens who entered using a non-visa regime. Now it is possible to apply for a patent extension an unlimited number of times (previously patents were extended only once). Documents supporting the extension must be filed not less than 10 business days before the expiration of the patent.

New e-visa. Federal Law bill under review: A new bill introduced to the State Duma on April 20, 2020, proposes amendments to the federal law of August 15, 1996, № 114-FL, "On entering and exiting Russian Federation." The bill introduces, beginning January 1, 2021, a new visa category: the "unified e-visa" (UEV). The new visa will be single-entry, issued for a term of 60 calendar days with an allowed stay of 16 calendar days, and processed within 4 calendar days from the date the application is filed.

This visa category will replace the e-visa that exists now (standard one-entry business visa, tourist, humanitarian), on the basis of which foreign citizens from certain countries are able to visit a number of specified Russia regions with short-term trips.

Foreign citizens who will receive UEV will be able to visit all Russian regions with the following purposes:

- Guest visit;
- Business visit;
- Tourist;
- Participant in scientific, cultural and political, economical and sporting events;
- other reasons.

The UEV will be issued only to the citizens of designated countries, soon to be determined by the government. Entry with this type of visa will be possible only

through certain border control points (also soon to be determined by the government).

To receive the UEV, a foreign citizen will not need an inviting party (organization/company or Russian citizen).

The UEV will be issued by the Ministry of Foreign Affairs on a foreign citizen's application, which must be submitted in electronic form through a special Internet portal.

E-visas in the old format will be issued until December 31, 2020, with validity until February 3, 2021.

COVID-19 procedures update. Russia also announced that visas will be extended for 90 days when departure from Russia is not possible due to a quarantine in the home country or country of permanent residence. In such cases, the visa can be extended for a period up to 90 days, with the possibility of extension.

On April 29, 2020, the Russian government issued an order temporarily closing the Russian borders for an indefinite period of time for entry of foreign nationals and stateless persons to the territory of the Russian Federation, with some exceptions, such as diplomatic and military personnel and others.

Back to Top

SCHENGEN AREA

Schengen Member States and Schengen Associated States have been invited to extend restrictions on nonessential travel to the European Union until June 15, 2020.

On May 8, 2020, the European Commission invited Schengen Member States and Schengen Associated States to extend temporary restrictions on nonessential travel to the European Union (EU) until June 15, 2020. The temporary travel restrictions apply to all nonessential travel from third countries to the EU+ area. Based on epidemiological considerations, the Commission will assess if a further prolongation of travel restrictions beyond June 15 will be needed.

Details:

- EU notice, https://bit.ly/2z5OJd6
- Coronavirus: Member States to Extend Restriction on Nonessential Travel

to the EU Until 15 June, https://bit.ly/2z5l0B3

Back to Top

UNITED KINGDOM

The Home Office has clarified what those stuck outside the United Kingdom (UK) with expired 30-day entry visas must do to be able to enter the UK. Also, the Home Secretary has announced a 14-day quarantine regime for international passengers arriving in the UK.

New Home Office guidance confirms that those with expired 30-day entry visas must apply for a replacement visa before traveling. Before the end of 2020, the person must email the Coronavirus Immigration Help Centre to obtain a replacement visa free of charge once the visa application centers reopen.

Also, Home Secretary Priti Patel announced on May 22, 2020, that a 14-day quarantine regime for international passengers arriving in the UK would begin on June 8, 2020.

Details:

- UK Immigration FAQs for UK Visa Holders and Businesses, https://www.kingsleynapley.co.uk/services/department/immigration/coronavirus-covid-19-uk-immigration-faqs
- Home Secretary Announces 14-Day Quarantine for International Passengers Arriving in the UK, https://www.kingsleynapley.co.uk/insights/news/immigration-update-home-secretary-announces-14-day-quarantine-for-international-passengers-arriving-in-the-uk

Back to Top

Firm in the News

Cyrus Mehta spoke on "Ethics and Immigration: Spotlight on Select Rules and Client Representation During COVID-19" on May 18, 2020. He presented a briefing on fundamental ethical rules, how they pertain to immigration practice, and considerations when ethical issues arise in the context of the COVID-19 pandemic. Mr. Mehta addressed the four C's of professional conduct rules: competence, communications, confidentiality, and conflicts, as well as other key

rules requiring attention by lawyers during the pandemic. For more information or to order, see https://www.pli.edu/programs/ethics-and-immigration-spotlight-on-select-rules-and-client-representation-during-covid-19.

Mr. Mehta published an article on LinkedIn shortly after President Trump issued a proclamation banning permanent immigration to the United States for 60 days with possible extensions, with some exceptions. The article, "Trump Cannot Be Allowed to Rewrite Immigration Laws Based on Whim and Caprice," is at https://www.linkedin.com/pulse/trump-cannot-allowed-rewrite-immigration-laws-based-whim-cyrus-mehta/.

Mr. Mehta was quoted in the following publications on President Trump's order:

- Law360, "Can Trump End Immigration? Wording Matters, Scholars Say," https://www.law360.com/articles/1265963/can-trump-end-immigration-wording-matters-scholars-say
- Economic Times, "Trump's Plan to Suspend Immigration Would Affect Indians Waiting to Migrate to U.S.," https://economictimes.indiatimes.com/nri/nris-in-news/trumps-plan-to-suspend-immigration-would-affect-indians-waiting-to-migrate-to-us/articleshow/75272497.cms
- Times of India, "If U.S. Immigration is Temporarily Suspended, Legal Experts Foresee a Plethora of Lawsuit," https://timesofindia.indiatimes.com/world/us/if-us-immigration-is-temporarily-suspended-legal-experts-foresee-a-plethora-of-lawsuit/articleshow/75266086.cms
- India Times, "Trump Stops Green Cards for 60 Days Overseas. H-1B Visa Could Be Next," https://www.newsindiatimes.com/trump-stops-green-cards-for-60-days-overseas-h-1b-visa-could-be-next/
- Business Insider, "Trump's Executive Order Suspending Entry of Immigrants is 'Drastic and Damaging,' Says U.S. Immigration Attorney," https://www.businessinsider.in/international/news/trumps-executive-order-suspending-entry-of-immigrants-is-drastic-and-damaging-says-us-immigration-attorney/articleshow/75310925.cms

- South Asian Times, "Trump's Immigration Ban Not Affecting H-1B Visa," https://thesouthasiantimes.info/vol-12-issue-51/ (see the next page of the e newspaper)

Mr. Mehta's posting was quoted by *Breitbart* in "Report: India's H-1B Companies Ask Labor Department to Let Foreign Workers Stay Amid Crash." He said, "If an employee works from a home which is within commuting distance of the workplace, then there is no need to file an amendment." But, he added, "if an employee works from a home which is NOT within commuting distance from the workplace, the employer should obtain a new LCA for that location and file an H-1B amendment." The article is at https://www.breitbart.com/politics/2020/04/03/indias-h-1b-companies-ask-labor-department-to-let-foreign-workers-stay-amid-crash/.

Mr. Mehta was quoted by the *Times of India* in "Medical Insurance a Burden for Laid-Off H-1B Workers." Among other things, Mr. Mehta said, "Employer plans are generally of a higher quality, and employers are able to purchase these higher quality plans at a discounted group rate from the insurance company. In most cases, the employer pays most of the premium and the employee pays a smaller percentage. When the employee is terminated, the employee pays the whole cost of the insurance and the employer generally does not pay." The article is at https://bit.ly/2XhFQFe. Back to Top