



IMMIGRATION UPDATE - AUGUST 04, 2020

Posted on August 4, 2020 by Cyrus Mehta

Headlines:

[DHS to Raise Fees Significantly for Many Immigration Benefits](#) – DHS announced a final rule, to be published on August 3, 2020, and take effect 60 days later, that will increase significantly many immigration and naturalization fees charged by USCIS, and reduce some others. It also removes certain fee exemptions; changes fee waiver requirements; establishes multiple fees for nonimmigrant worker petitions; alters premium processing time limits; and makes changes related to setting, collecting, and administering fees, among other things.

[Judge Orders Inquiry Into DHS False Statements in Trusted Traveler Case](#) – A U.S. District Judge ordered a "limited inquiry" to address "deeply troubling revelations" about DHS's admittedly false and misleading statements made in court related to a lawsuit the New York Attorney General filed to prevent the Trump administration from excluding New York applicants from the Trusted Travelers Program.

[Justice Dept. Settles Claim Against Staffing Company for Favoring Temporary Visa Workers Over U.S. Workers](#) – The settlement resolves a claim that a staffing company discriminated against U.S. workers because of their citizenship status when it posted a job advertisement specifying a preference for non-U.S. citizens who held temporary work visas.

[OFLC Transitions Site to New Web Domain](#) – OFLC is transitioning to a new web domain as of August 3, 2020. As of that date, the OFLC website will become part of the main DOL website.

[ABIL Global: Germany](#) – The COVID-19 pandemic thwarts a new skilled immigration law.

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DHS to Raise Fees Significantly for Many Immigration Benefits

The Department of Homeland Security (DHS) announced a final rule, to be published on August 3, 2020, and take effect 60 days later, that will increase significantly many immigration and naturalization fees charged by U.S. Citizenship and Immigration Services (USCIS), and reduce some others. It also removes certain fee exemptions; changes fee waiver requirements; establishes multiple fees for nonimmigrant worker petitions; alters premium processing time limits; and makes changes related to setting, collecting, and administering fees, among other things. Overall, DHS said it is increasing USCIS fees by a "weighted average" of 20 percent.

The Form I-589, Application for Asylum and for Withholding of Removal, which formerly had no fee, will now have a fee of \$50. The Form I-765, Application for Employment Authorization (non-DACA) fee is increased 34 percent, to \$550. The Biometric Services (non-DACA) fee is reduced from \$85 to \$30. There are increases in some Form I-129 Petitions for a Nonimmigrant Worker, such as the I-129H1 (to \$555), the I-129H2A (to \$850), the I-129H2B (to \$715), the I-129L (to \$805), and the I-129O (\$705). The Form N-400, Application for Naturalization, has increased to \$1,160 (online filing) or \$1,170 (paper filing). The Form N-600, Application for Certificate of Citizenship (online and paper), has decreased by 15 percent, to \$990 and \$1,000, respectively.

Additional fees and changes are listed in the final rule. The Alliance of Business Immigration Lawyers (ABIL) recommends filing applications for which fees will increase before the effective date, when possible. Contact your ABIL attorney for help in specific situations.

Details:

- Final rule (pre-publication copy for public inspection), <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-16389.pdf>
- USCIS news release, <https://www.uscis.gov/news/news-releases/uscis-adjusts-fees-to-help-meet-operational-needs>

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Judge Orders Inquiry Into DHS False Statements in Trusted Traveler Case

U.S. District Judge Jesse Furman ordered a "limited inquiry" to address "deeply troubling revelations" about the Department of Homeland Security's (DHS) false statements in court related to a lawsuit New York Attorney General Letitia James filed to prevent the Trump administration from excluding New York applicants from the Trusted Travelers Program. DHS admitted that its statements were inaccurate, for example, a claim that New York's Green Light Law was the only such state law in the country that shielded information about driver's licenses from the federal government.

The Department of Justice reinstated New York to the program and apologized for the misleading statements, asking to have the case dismissed as moot, but Judge Furman ordered the additional inquiry for "the sake of ensuring an accurate record and to help the court in deciding how to proceed down the line." Judge Furman said that "it is necessary for defendants to make a comprehensive record of any and all 'inaccurate' or 'misleading' statements in their prior submissions, adding that even if the case is dismissed as moot, "the court would retain jurisdiction to pursue such an inquiry and take appropriate action." The judge therefore ordered DHS and the U.S. Attorney's Office in Manhattan to detail all such statements in a report to be filed by August 12, 2020.

Details:

- "Judge Probes 'Deeply Troubling' False Statements in NY Travel Case," Courthouse News Service, <https://www.courthousenews.com/judge-probes-deeply-troubling-false-statements-in-ny-travel-case/>
- "U.S. Judge Opens Probe Into False Statements in New York 'Trusted Traveler' Suit," Reuters, <https://www.reuters.com/article/us-usa-immigration-travel/u-s-judge-opens-probe-into-false-statements-in-new-york-trusted-traveler-suit-idUSKCN24U349>

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Justice Dept. Settles Claim Against Staffing Company for Favoring Temporary Visa Workers Over U.S. Workers

The Department of Justice (DOJ) reached a settlement agreement on July 27, 2020, with ASTA CRS Inc., a provider of IT staffing and consulting services with offices in Ashburn, Virginia, and Greenbelt, Maryland. This is the ninth settlement under the Civil Rights Division's Protecting U.S. Workers Initiative, which the DOJ said is "aimed at targeting, investigating, and taking enforcement actions against companies that discriminate against U.S. workers in favor of temporary visa workers."

The settlement resolves a claim that ASTA's Maryland office discriminated against U.S. workers because of their citizenship status when it posted a job advertisement specifying a preference for non-U.S. citizens who held temporary work visas. Under the terms of the settlement agreement, ASTA will train its employees on the antidiscrimination requirements, change its policies and procedures to comply with the law, and be subject to two years of monitoring requirements, including providing regular reports to the DOJ.

Details:

- Settlement agreement, <https://www.justice.gov/opa/press-release/file/1297841/download>
- DOJ press release, <https://www.justice.gov/opa/pr/justice-department-settles-claim-against-virginia-based-staffing-company-improperly-favoring>

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OFLC Site Transitions to New Web Domain

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) announced that it is transitioning to a new web domain as of August 3, 2020. As of that date, the OFLC website will become part of the main DOL website. The visual display will change, but the content will remain the same, OFLC said.

Users who try to access OFLC website pages at the current URL will be automatically redirected to the new location and should encounter no service disruptions, OFLC said. After the transition, the agency encourages users to update their bookmarks and documentation with the new URL,

<https://www.dol.gov/agencies/eta/foreign-labor-certification>.

Details:

- OFLC announcement (scroll down to July 29, 2020),
<https://www.foreignlaborcert.doleta.gov/>

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ABIL Global: Germany

The COVID-19 pandemic thwarts a new skilled immigration law.

When Germany agreed to change its skilled immigration laws in 2019 to facilitate the immigration of skilled employees from abroad, its economy was thriving and the labor market was robust and on the edge of turning into an employee market. IT professionals, engineers, and health care workers were difficult to find and in high demand. Plumbers, mechanics, and many other trades also reported skills shortages. Accordingly, Germany adjusted its immigration laws to allow the migration of professionals with vocational training to Germany and implementing a new fast-track option.

With the new law taking effect on March 1, 2020, all was set to enhance employment-related immigration to Germany. However, due to the COVID-19 pandemic, all immigration came to a sudden halt in mid-March. Schengen borders closed, visa application centers went into lockdown, and many government authorities began working from home offices. Travel was suspended across the globe.

An immigration lawyer's nightmare of ceasing travel turned quickly into an immigration lawyer's challenge when many clients needed support, with employees stranded abroad or foreign staff in Germany needing extensions when authorities were hardly accessible. The government issued new laws and regulations to address the COVID-19 crisis frequently, with lawyers slogging behind in the attempt to stay on top, interpret the hastily issued rules, and find reliable angles for their clients. The unpredictability of the situation added to the general disturbance.

But some of the most interesting and moving cases also occurred during the pandemic: With attorney support, the employer of a person who had terminal cancer managed to assist her Chinese parents with visiting their daughter in Germany—in the midst of the pandemic—with the support of the local health department, the airline, the German immigration authorities, and the hospital

all working together in an act of humanity.

Three months later, with infection numbers dropping in Germany and throughout Europe, the economy began a slow rebound, although things are far from normal. The new immigration law technically took effect, albeit in most parts of Germany it remained suspended until the end of the travel restrictions. When on July 1, 2020, the borders were cautiously opened for skilled professionals (those with either a recognized university degree or vocational certificate), they became eligible to travel to Germany for local employment or intracompany transfer if they were urgently required for economic development, needed to be present in Germany to perform their work, and could not do so remotely. All persons originating from a "risk country" must present extra documentation to enter the Schengen Area and are subject to quarantine regulations. (Currently only European Union/Schengen countries as well as Australia, Canada, Georgia, Montenegro, New Zealand, Thailand, Tunisia, and Uruguay are considered safe countries.) Certain regions renounced lengthy quarantines if regular COVID-19 testing was being done to ensure that assignees could start to work as soon as possible. Employees may be accompanied by their family members, and those who had a valid permit and returned to their country of origin may come back to Germany now.

While many open questions regarding travel options remain, the immigration system is becoming more predictable each day. Germany seems to be developing into an attractive destination country for Indian IT specialists especially, who suffer from the H-1B travel ban in the United States and the lockdown in India. And while the German missions in India resume their operations only slowly, the backlog of waiting applicants grows.

What does the future hold for immigration to Germany?

The country will still need skilled immigration because of its peculiar demographics and strong economy. Nevertheless, the German labor market took a COVID-19 blow and, for the first time in years, shows rising unemployment. It is thus to be expected that the new immigration-friendly law—while not a turncoat—will show some teeth when it comes to issues like comparable salary, labor market tests, and compliance. Already the labor authority has tightened the rules and increased scrutiny when dealing with applications. Thus, the future will again be challenging for immigration lawyers, and immigrants.

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