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

IMMIGRATION UPDATE - JANUARY 04, 2021

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Headlines:

Trump Extends Through March Bans on Foreign Workers Previously Set to Expire December 31, 2020; Extends Memo on Visa Sanctions – President Trump signed a proclamation extending earlier proclamations suspending the entry of certain immigrant and nonimmigrant visa applicants through March 31, 2021. He also extended a separate memo on visa sanctions for certain countries related to the coronavirus pandemic.

State Dept. Extends Interview Waiver Eligibility Criteria Through March 31, 2021 – The Department of State, in consultation with the Department of Homeland Security, has temporarily expanded the ability of consular officers to waive the in-person interview requirement for individuals applying for a nonimmigrant visa in the same classification.

Filing Period for Certain Liberians Applying for Adjustment Extended to Two Years – The filing period for certain Liberian nationals and family members to apply for adjustment of status under the Liberian Refugee Immigration Fairness provision has been extended until December 20, 2021.

USCIS Extends Parole, and Employment Authorization, for Certain CNMI Long-Term Resident Applicants – USCIS is automatically extending through June 30, 2021, parole, and employment authorization, if applicable, for certain parolees who timely applied for Commonwealth of the Northern Mariana Islands long-term resident status.

ABIL Global: France – This article provides updates on what Brexit means for British nationals residing in France.

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Trump Extends Through March Bans on Foreign Workers Previously Set to Expire December 31, 2020; Extends Memo on Visa Sanctions

On December 31, 2020, President Trump signed a proclamation extending earlier proclamations suspending the entry of certain immigrant and nonimmigrant visa applicants through March 31, 2021, and stating that the proclamation "may be continued as necessary." The nonimmigrant suspension applies to applicants for H-1B, H-2B, and L-1 visas; J-1 visa applicants participating in the intern, trainee, teacher, camp counselor, au pair, and summer work travel programs; and any spouses or children of covered applicants applying for H-4, L-2, or J-2 visas.

The President also extended a memorandum on visa sanctions, to "continue in force until terminated by the President." The memo states that "countries that deny or unreasonably delay the acceptance of their citizens, subjects, nationals, or residents from the United States during the ongoing pandemic caused by SARS-CoV-2 create unacceptable public health risks for Americans." The earlier memo on which it is based states that "visa sanctions" will be imposed on such countries.

Details:

- Presidential Proclamation, Dec. 31, 2020, https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-continue-present-risk-united-states-labor-market/
- "Extension of Presidential Proclamations 10014 and 10052," Department of State, Jan. 1, 2021, https://travel.state.gov/content/travel/en/News/visas-news/extension-of-presidential-proclamations-10014-and-10052.html
- Presidential Proclamation 10052, June 22, 2020, https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-aliens-present-risk-u-s-labor-market-following-coronavirus-outbreak/
- Presidential Proclamation 10014, April 22, 2020, https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-immigrants-present-risk-u-s-labor-market-economic-recovery-

following-covid-19-outbreak/

- "Memorandum on Extension of Memorandum on Visa Sanctions," Dec. 30, 2020, White House, https://www.whitehouse.gov/presidential-actions/memorandum-extension-memorandum-visa-sanctions/
- "Memorandum on Visa Sanctions," April 10, 2020, https://www.whitehouse.gov/presidential-actions/memorandum-visa-sanctions/

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State Dept. Extends Interview Waiver Eligibility Criteria Through March 31, 2021

The Department of State, in consultation with the Department of Homeland Security, has temporarily expanded the ability of consular officers to waive the in-person interview requirement for individuals applying for a nonimmigrant visa in the same classification. Previously, only those applicants whose nonimmigrant visas expired within 12 months were eligible for an interview waiver. The expiration period is temporarily extended to 24 months. The policy, which was set to expire December 31, 2021, is now effective through March 31, 2021.

Travelers are encouraged to review the website of the nearest U.S. embassy or consulate for details on available services and eligibility information and instructions on applying for a visa without an interview.

Details:

- DOS notice, https://travel.state.gov/content/travel/en/News/visas-news/expansion-of-interview-waiver-eligibility.html

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Filing Period for Certain Liberians Applying for Adjustment Extended to Two Years

U.S. Citizenship and Immigration Services (USCIS) announced that the filing period for certain Liberian nationals and family members to apply for adjustment of status under the Liberian Refugee Immigration Fairness provision has been extended until December 20, 2021.

The provision provides an opportunity for certain Liberian nationals and family members to obtain lawful permanent resident status in the United States.

Details:

- USCIS notice, https://www.uscis.gov/green-card/green-card-eligibility/liberian-refugee-immigration-fairness

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USCIS Extends Parole, and Employment Authorization, for Certain CNMI Long-Term Resident Applicants

U.S. Citizenship and Immigration Services (USCIS) announced on December 30, 2020, that it is automatically extending through June 30, 2021, parole, and employment authorization, if applicable, for certain parolees who timely applied for Commonwealth of the Northern Mariana Islands (CNMI) long-term resident status.

This extension applies only to those whose applications remained pending on December 31, 2020. Parole (and employment authorization) for such parolees will be extended without interruption through June 30, 2021, or the date on which USCIS makes a final decision on the parolee's Form I-955 (Application for CNMI Long-Term Resident Status) and Form I-765 (Application for Employment Authorization), whichever is earlier.

Details:

- USCIS alert, https://www.uscis.gov/news/alerts/uscis-extends-transitional-parole-for-cnmi-long-term-resident-status-applicants-0

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ABIL Global: France

This article provides updates on what Brexit means for British nationals residing in France.

On December 31, 2020, at midnight, the Brexit transition period ended. The United Kingdom is no longer part of the European Union (EU).

British nationals already residing in France can submit "Withdrawal Agreement" residence permit applications. The request can be made on the internet. All British nationals already residing in France before December 31, 2020, are eligible to apply for a residence permit, in accordance with the provisions of the Brexit agreement signed between the UK and the EU. By June 30, 2021, all British nationals wishing to benefit from the provisions of the Brexit agreement to retain their rights to stay and work in France must have a French residence permit.

Applicants must upload documentation, including passport identity pages; proof establishing the date the applicant moved to France, such as a property certificate issued by a notary, a home insurance contract, a home insurance certificate or an employment contract; and documents relating to the specific situation of each applicant. For example, an employee must provide a copy of their most recent pay slip, while a student must provide proof of enrollment in a school or university. After completing these steps, the applicant will receive an application confirmation by email, with a reference number confirming the filing.

Once the file has been processed, an email will be sent to the candidate to make an appointment at the prefecture to finalize the file (fingerprinting, photo, and proof of payment of fees).

It is not yet clear how the applicant will receive the residence permit when it becomes available, whether by post to his or her home in France or by going to the Prefecture a second time.

Permit Types

Presence of less than five years

British nationals who resided in France for less than five years as of December 31, 2020, can also apply for a residence permit, depending on their status (e.g., student, employee, temporary worker, posted worker, self-employed professional, unemployed person, family member, long-term visitor). They will be issued a residence permit in accordance with the agreement bearing the specific category, such as "Withdrawal agreement—employee."

Applicants are advised to prepare certain documents, such as:

- Passport or identity card

- Proof of address in France
- Identity photographs
- Proof of resources: employment contract, pay slips, bank statements
- Proof of professional activity: work certificate signed by the employer confirming the date of the start of employment in France
- Proof of the purpose of the stay in France over the past five years (e.g., employment contract)

British nationals who have resided in France for less than five years as of December 31, 2020, can also apply for a resident card when they can prove that they have lived in France for five years. For example, a British national residing in France as of December 31, 2017, can apply for a resident card as of December 31, 2022.

Presence of five years or more

British nationals who have resided for five years or more in France as of December 31, 2020, are eligible to obtain a resident card valid for 10 years.

Applicants are advised to prepare certain documents, such as:

- Passport or identity card
- Proof of address in France
- Three identity photographs
- Proof of presence in France over the past five years: one document per half-year (e.g., rent receipts, energy bills)
- Proof of resources: employment contract, pay slips, bank statements

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Firm in the News

Cyrus Mehta was quoted by the Times of India in "U.S. Extends Ban on H-1B, L-1 Till March." Mr. Mehta said the visa ban extension contradicts its rationale to protect U.S. jobs after President Trump's recent claim that the unemployment rate is below 6.7%. "It is Trump's last gasp to hurt immigration that benefits the U.S. as the skilled workers impacted promote economic recovery. Although the ban was enjoined by the court in NAM (National Association of Manufacturers) v Trump, that ruling was limited to the plaintiff organizations that brought the suit. Therefore, the extension will still be effective on others."

https://timesofindia.indiatimes.com/business/international-business/us-extends-ban-on-h-1b-l-1-till-march/articleshow/80068643.cms

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