



IMMIGRATION UPDATE - FEBRUARY 28, 2022

Posted on February 28, 2022 by Cyrus Mehta

Headlines:

[Biden Administration Considers TPS, Other Measures for Ukrainians; Advocacy Organizations Weigh In; Consular Services Suspended in Kyiv](#) – The Biden administration is considering implementing protections for Ukrainians in the United States, as Russia invades Ukraine in a rapidly developing situation expected to result in many refugees and displaced persons. Consular services are suspended in Kyiv; help is available at the border.

[USCIS No Longer Accepts Single Combined Payments on Certain Forms Filed With H-1B or H-1B1 Petitions](#) – For all H-1B and H-1B1 petitions received on or after April 1, 2022, USCIS will no longer accept a single, combined fee payment for certain forms.

[USCIS Releases Statistics on H-1B Cap Registrations](#), Cracks Down on Multiples – Registrations were submitted by more than 37,000 prospective petitioners. Roughly 48 percent of all registrations requested consideration under the advanced degree exemption.

[USCIS Releases Notice in Response to Class Action for Certain Cuban Nationals Denied Adjustment](#) – Certain Cuban nationals who were denied Cuban adjustment for lack of a parole document are eligible to file I-290B (Notice of Appeal or Motion) for up to one year, or a new I-485 (Application to Register Permanent Residence or Adjust Status).

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Biden Administration Considers TPS, Other Measures for Ukrainians; Advocacy Organizations Weigh In; Consular Services Suspended in Kyiv

According to reports, the Biden administration is considering implementing protections for Ukrainians in the United States, as Russia invades Ukraine in a rapidly developing situation expected to result in many refugees and displaced persons. Such relief in the United States could include a Temporary Protected Status (TPS) designation for Ukraine or a Deferred Enforced Departure (DED) presidential order.

Below are selected highlights of where things stand:

Advocacy Organizations Call for Relief

Immigration and refugee advocacy organizations are calling for the Biden administration to aid Ukrainian nationals in the United States. For example:

- The Presidents' Alliance on Higher Education and Immigration, a coalition of more than 500 college and university presidents, called on the Biden administration to designate Ukraine for TPS and special student relief (SSR) for Ukrainian international students residing or studying in the United States. Miriam Feldblum, Executive Director, noted that SSR would allow eligible students to remain in the United States by suspending or altering rules regarding status, full course of study, and work eligibility during the designation period. "International students from Ukraine will likely face significant obstacles and complexities in the coming weeks, months, and years; and uncertainty over their courses or ability to remain in the United States should not be one of those obstacles," she said.
- The 15,000-member American Immigration Lawyers Association (AILA) called for expeditious processing and humanitarian relief such as TPS for Ukrainians in the United States and a moratorium on removals.
- Kids in Need of Defense (KIND) also called for TPS and provided a sign-on letter to the Biden administration. KIND President Wendy Young said, "We encourage nations to receive those fleeing Ukraine at the border, grant them access to asylum procedures, and help these refugees reach and reunify with family that may have fled to other parts of Europe."

According to estimates, of the roughly 104,600 Ukrainian noncitizens in the United States, about 30,000 would be potential TPS or DED beneficiaries, as they do not have U.S. citizenship or permanent resident status.

Consular Services Suspended; Help at Borders

In related developments, consular services in Kyiv have been suspended. Applicants for U.S. nonimmigrant visas may apply in any country in which they are physically present and where there are appointments available, the Department of State said. Those who have an immigrant visa case currently pending with U.S. Embassy Kyiv and would like to transfer processing of an immigration case to another U.S. Embassy must contact the receiving U.S. Embassy in that country to authorize and initiate the transfer.

The Department of State announced that Poland is allowing U.S. citizens to enter Poland through the land border with Ukraine. No advance approval is required. The Department provided [additional information](#) for U.S. citizens in Ukraine and for those departing it, including advice on border crossings where consular officers are stationed to provide assistance in Poland, Romania, Hungary, Slovakia, and Moldova.

Donetsk/Luhansk Persons Denied Unrestricted Entry

An executive order issued February 21, 2022, suspends the unrestricted immigrant and nonimmigrant entry into the United States of certain persons operating in the Donetsk or Luhansk regions of Ukraine.

Details:

- "Biden Administration Considering Protecting Ukrainians in the U.S. from Deportation," CBS News, Feb. 24, 2022, <https://www.cbsnews.com/news/biden-administration-considering-protecting-ukrainians-in-the-u-s-from-deportation/>
- Presidents' Alliance on Higher Education and Immigration statement, <https://www.presidentsalliance.org/press/coalition-of-over-500-college-and-university-presidents-calls-on-secretaries-mayorkas-and-blinken-to-designate-ukraine-for-tps-and-special-student-relief/>
- AILA statement, <https://www.aila.org/advo-media/press-releases/2022/aila-calls-on-biden-administration-help-ukrainian>
- KIND statement, <https://supportkind.org/press-releases/kind-urges-eu-protection-for-ukrainians/>
- Executive Order, White House, Feb. 21, 2022, <https://bit.ly/3spuY9f>

- Status of Consular Services in Kyiv, Dept. of State, Feb. 22, 2022, <https://travel.state.gov/content/travel/en/News/visas-news/status-of-consular-services-in-kyiv.html>
- Information for U.S. Citizens in Ukraine, Feb. 22, 2022, <https://travel.state.gov/content/travel/en/traveladvisories/ea/information-for-us-citizens-in-Ukraine.html>

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USCIS No Longer Accepts Single Combined Payments on Certain Forms Filed With H-1B or H-1B1 Petitions

U.S. Citizenship and Immigration Services (USCIS) announced on February 25, 2022, that for all H-1B and H-1B1 petitions received on or after April 1, 2022, USCIS will no longer accept a single, combined fee payment when Form I-539, Application to Extend/Change Nonimmigrant Status; Form I-765, Application for Employment Authorization; or Form I-824, Application for Action on an Approved Application or Petition, is filed together with an H-1B or H-1B1 petition (Form I-129, Petition for a Nonimmigrant Worker). Each of these forms received by USCIS on or after April 1 must have its own fee payment instrument or USCIS will reject the entire package. Only the fee for Form I-907, Request for Premium Processing Service, may be combined with the fee for a concurrently filed Form I-129 requesting H-1B classification, USCIS said.

USCIS explained that it is transitioning to electronic processing of immigration benefit requests. As the agency completes this transition, it will be using multiple systems to receipt and process various types of immigration benefit requests. Because H-1B and H-1B1 petitions and related applications are not all processed in the same system, USCIS said it requires a separate payment instrument for each of these forms.

Details:

- USCIS alert, <https://twitter.com/uscis> (scroll down to February 25, 2022).

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USCIS Releases Statistics on H-1B Cap Registrations, Cracks Down on Multiples

U.S. Citizenship and Immigration Services (USCIS) recently released statistics on the H-1B cap registration process. Registrations were submitted by more

than 37,000 prospective petitioners. Roughly 48 percent of all registrations requested consideration under the advanced degree exemption.

The initial projected number of registrations required to meet the numerical limitations for FY 2022 was lower than the initial projected number of registrations required for FY 2021. A reason for this may be that USCIS is cracking down on multiple registrations on behalf of the same beneficiary. USCIS said that if it finds that a company worked with another entity to submit multiple registrations for the same beneficiary, which would violate the required employer attestation, USCIS will find that registration to be not properly submitted and may deny or revoke the petition.

USCIS also noted:

- For FY 2021, USCIS received 274,237 H-1B registrations and initially selected 106,100 registrations projected as needed to reach the FY 2021 numerical allocations. USCIS conducted a second selection in August 2020 of an additional 18,315 registrations due to low filing volume from the initial selection. This resulted in a total of 124,415 selected registrations.
- For FY 2022, USCIS received 308,613 H-1B registrations and initially selected 87,500 registrations projected as needed to reach the FY 2022 numerical allocations. On July 29, 2021, USCIS announced that it conducted a second selection of an additional 27,717 registrations. This resulted in a total of 115,217 selected registrations. The petition filing period based on registrations selected on July 28 began on August 2 and closed on November 3. On November 19, 2021, USCIS announced that it conducted a third selection of an additional 16,753 registrations. This resulted in a total of 131,970 selected registrations. The petition filing period based on registrations selected on November 19 began on November 22, 2021, and closed on February 23, 2022.

USCIS said that those with selected registrations will have their myUSCIS accounts updated to include a selection notice, which includes details about when and where to file.

Details:

- H-1B Electronic Registration Process, USCIS, updated Feb. 23, 2022, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h->

[1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process](#)

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USCIS Releases Notice in Response to Class Action for Certain Cuban Nationals Denied Adjustment

U.S. Citizenship and Immigration Services (USCIS) released a notice for certain Cuban nationals who were denied Cuban adjustment for lack of a parole document. The notice states that they are eligible to file I-290B (Notice of Appeal or Motion) for up to one year, or a new I-485 (Application to Register Permanent Residence or Adjust Status).

USCIS released the notice in response to a class action lawsuit, *Rabelo v. Mayorkas*.

Details:

- USCIS notice, Feb. 23, 2022,
https://www.uscis.gov/sites/default/files/document/notices/USCIS_CAA_A_A_485_Denied_NoParole_Process-Feb232022.pdf

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Firm in the News

Cyrus Mehta was an invited speaker at the AILA New England Chapter meeting on February 24, 2022 where he spoke on strategies in the face of visa retrogression in employment-based categories including multiple filings for the same employee in different categories.

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