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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - AUGUST 08, 2022

Posted on August 8, 2022 by Cyrus Mehta

Headlines:

Certain Afghan Parolees to Receive Notices of EAD Extension – Certain Afghan parolees will receive notices indicating that the Department of Homeland Security is extending the validity of their employment authorization documents to align with the parole period shown on their Arrival/Departure Records.

USCIS Will No Longer Accept Combined Fee Payments for EB-5 Applications/Petitions – Beginning September 1, 2022, U.S. Citizenship and Immigration Services will no longer accept a single, combined fee payment when an applicant or petitioner files EB-5 applications or petitions with related forms.

ICE Plans Pilot of Photo IDs for Migrants Awaiting Deportation Proceedings – According to reports, U.S. Immigration and Customs Enforcement is developing a pilot program to issue photo ID cards to migrants awaiting deportation proceedings. The cards would not serve as a federal ID for other purposes.

EOIR Announces 19 New Immigration Judges – The Executive Office for Immigration Review appointed 19 new immigration judges to courts in California, Florida, Georgia, Illinois, Maryland, New Jersey, Tennessee, Texas, and Virginia.

ABIL Global: Schengen Area – What's next in the Schengen Area? This article provides highlights on the new automated Entry/Exit System and the European Travel Information and Authorization System.

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Certain Afghan Parolees to Receive Notices of EAD Extension

U.S. Citizenship and Immigration Services (USCIS) announced that certain Afghan parolees will receive a Form I-797C, Notice of Action, indicating that the Department of Homeland Security (DHS) is extending the validity of their Form I-766, Employment Authorization Document (EAD), to align with the parole period shown on their Form I-94, Arrival/Departure Record.

USCIS explained that during Operation Allies Welcome, many Afghans who arrived as part of the evacuation efforts were paroled into the United States. Many applied for and received EADs. Certain EADs with a validity period of less than two years are now being automatically extended to align with the parole period shown on the beneficiary's I-94. Affected beneficiaries will receive an I-797C indicating that DHS is extending that individual's EAD to align with the parole period shown on their Form I-94.

Details:

- "USCIS Issuing Updated I-797C for Certain Operation Allies Welcome Parolees," USCIS, Aug. 2, 2022, https://www.uscis.gov/i-9-central/form-i-9-related-news/uscis-issuing-updated-i-797c-for-certain-operation-allies-welcome-parolees-0

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USCIS Will No Longer Accept Combined Fee Payments for EB-5 Applications/Petitions

U.S. Citizenship and Immigration Services (USCIS) announced that beginning September 1, 2022, it will no longer accept a single, combined fee payment when an applicant or petitioner files EB-5 immigrant investor applications or petitions with related forms. If a petitioner or applicant submits a single, combined fee payment for the forms listed below, USCIS will reject the forms for improper fee payment and return the fee.

Specifically, USCIS will no longer accept combined payments when an immigrant investor files Form I-526, Immigrant Petition by Standalone Investor, or Form I-526E, Immigrant Petition by Regional Center Investor, together with Form I-485, Application to Register Permanent Residence or Adjust Status; Form

I-131, Application for Travel Document; or Form I-765, Application for Employment Authorization.

Details:

- EB-5 Immigrant Investor Program alert, USCIS, Aug. 2, 2022, https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program

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ICE Plans Pilot of Photo IDs for Migrants Awaiting Deportation Proceedings

According to reports, U.S. Immigration and Customs Enforcement (ICE) is developing a pilot program to issue photo ID cards to migrants awaiting deportation proceedings. The cards would not serve as a federal ID for other purposes.

The program is pursuant to the Biden administration's request for $10 million for the "ICE Secure Docket Card" program in next fiscal year's budget. An ICE spokesperson said, "Moving to a secure card will save the agency millions, free up resources, and ensure information is quickly accessible to DHS officials while reducing the agency's backlog."

Some House Republicans are "probing" the "reckless" plan, citing worries that the ID cards would be used to "improperly access benefits such as housing, healthcare, and transportation," among other concerns. In a letter to ICE Acting Director Tae Johnson, the Republican lawmakers have requested a briefing and all documents related to the ICE Secure Docket Card program.

Details:

- U.S. to Issue ID to Migrants Awaiting Deportation Proceedings," Durango Herald, Aug. 4, 2022, https://bit.ly/3zzxImR
- "Comer, Grothman Probe ICE's Identification Cards Pilot Program for Illegal Immigrants," July 29, 2022, https://republicans-oversight.house.gov/release/comer-grothman-probe-ices-identification-cards-pilot-program-for-illegal-immigrants/
- Letter from House Republicans to Tae Johnson, ICE Acting Director, July 29, 2022, https://republicans-oversight.house.gov/wp-content/uploads/2022/07/ICE

-ID-Cards-Letter-07292022.pdf

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EOIR Announces 19 New Immigration Judges

The Department of Justice's Executive Office for Immigration Review (EOIR) appointed 19 new immigration judges (IJs) to courts in California, Florida, Georgia, Illinois, Maryland, New Jersey, Tennessee, Texas, and Virginia.

EOIR said it continues to work to expand its IJ corps and "welcomes qualified candidates from all backgrounds to join the agency."

Details:

- EOIR notice, Aug. 5, 2022 (includes biographies of each of the 19 new IJs), https://www.justice.gov/eoir/page/file/1524336/download

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ABIL Global: Schengen Area

What's next in the Schengen Area? This article provides highlights on the new automated Entry/Exit System and the European Travel Information and Authorization System.

The new automated Entry/Exit System (EES)

The Entry/Exit System (EES) is an automated IT system for registering travelers from third countries, both short-stay visa holders and visa-exempt travelers, each time they cross an EU external border. The EES will replace the current system of manual stamping of passports, which does not allow for the systematic detection of overstayers (travelers who have exceeded the maximum duration of their authorized stay).

It is expected to be operational in 2022 (starting date to be confirmed). **The system will register** the person's name, type of travel document, biometric data (fingerprints and captured facial images), **and date and place of entry and exit.**

The EES is intended to contribute to preventing irregular migration and to **identifying overstayers more efficiently (and automatically)** as well as cases of document and identity fraud.

European Travel Information and Authorization System

Starting in May 2023, non-European Union (EU) nationals who do not need a visa to travel to the Schengen Area will need to apply for travel authorization through the European Travel Information and Authorization System (ETIAS) before their trip. The system aims to carry out pre-travel screening for security and migration risks of visa-exempt visitors and will be a mandatory pre-condition for entry to the Schengen States.

Applicants will file an online application form, and the system will issue travel authorization in most cases within minutes or, where further checks on the traveler are needed, within 30 days. Applicants will need to submit information to answer questions about the Member State of their first intended stay, the purpose of their trip, background relating to previous criminal records, presence in conflict zones, and orders to leave the territory of a Member State or third countries. The applicant must report any criminal offense listed over the previous 10 years and, in the case of terrorist offenses, over the previous 20 years, including when and in which country.

Details:

- How to Count Your Schengen 90 Days, Marco Mazzeschi, https://medium.com/studiomazzeschi/how-to-count-your-schengen-90-days-ee96f5d25326
- "Can You Enter the Schengen Area If You Have Past Criminal Convictions?," Marco Mazzeschi, https://mm-63015.medium.com/can-you-enter-the-schengen-area-if-you-have-past-criminal-convictions-e2280bcc2ccb

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Cyrus Mehta was a speaker at the Practising Law Institute's "Defending Immigration Removal Proceedings 2022" program where he spoke on Ethical Issues and Immigration Law on July 21, 2022 in New York City.

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