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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - JULY 08, 2024

Posted on July 8, 2024 by Cyrus Mehta

Headlines:

Liberian DED Extended Through June 2026 – President Biden has extended through June 30, 2026, deferred removal for Liberians with a grant of Deferred Enforced Departure (DED). President Biden also announced that eligible Liberian nationals will have continued work authorization through June 30, 2026.

DHS Releases Details on Haiti TPS Extension and Redesignation, Work Authorization for Haitian F-1 Students – The Department of Homeland Security released additional details about the extension and redesignation of Haiti for Temporary Protected Status (TPS) through February 3, 2026. Given the timeframes, U.S. Citizenship and Immigration Services automatically extended through August 3, 2025, the validity of certain employment authorization documents issued under the TPS designation for Haiti and having the expiration dates listed in the notice.

DHS Raises Civil Penalties for Certain Violations – The Department of Homeland Security has raised civil monetary penalties for certain violations based on inflation. The new penalty amounts are effective for penalties assessed after June 28, 2024, whose associated violations occurred after November 2, 2015.

Naturalization Applicants Can Request Replacement Social Security Cards When They Apply for Citizenship – Applicants for naturalization can now request a replacement Social Security card when they apply for citizenship through Form N-400 (edition date 04/01/24).

ABIL Global: Colombia – This article discusses visa options for retirees and "digital nomads" in Colombia.

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Liberian DED Extended Through June 2026

President Biden has extended through June 30, 2026, deferred removal for Liberians with a grant of Deferred Enforced Departure (DED) under a 2022 memorandum. President Biden also announced that eligible Liberian nationals will have continued work authorization through June 30, 2026.

The grant of DED and continued employment authorization applies to any person who was eligible for a grant of DED under the 2022 memorandum, to include any Liberian national, or person without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017, except for certain categories outlined in the new memorandum issued June 28, 2024.

Details:

- Memorandum on Extending Eligibility for Deferred Enforced Departure for Liberians, 89 Fed. Reg. 55017 (June 28, 2024).

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DHS Releases Details on Haiti TPS Extension and Redesignation, Work Authorization for Haitian F-1 Students

The Department of Homeland Security released additional details about the extension and redesignation of Haiti for Temporary Protected Status (TPS) through February 3, 2026. Given the timeframes for processing TPS re-registration and work authorization renewal applications, U.S. Citizenship and Immigration Services (USCIS) automatically extended through August 3, 2025, the validity of certain employment authorization documents (EADs) issued under the TPS designation for Haiti and having the expiration dates listed in the notice.

- To get an EAD valid after August 3, 2025, USCIS said, holders of those EADs must re-register for TPS and file Form I-765, Application for

Employment Authorization, following the instructions in the Federal Register notice extending and redesignating Haiti for TPS until February 3, 2026. If USCIS approves the newly filed Form I-765, it will issue an EAD valid through February 3, 2026.

- USCIS noted that "this may be the **final time** USCIS will automatically extend TPS Haiti-based EADs with a Category of A-12 or C-19 and a Card Expires date of Dec. 31, 2022; Oct. 4, 2021; Jan. 4, 2021; Jan. 2, 2020; July 22, 2019; Jan. 22, 2018; or July 22, 2017."
- The notice also gives instructions for employers completing Form I-9, Employment Eligibility Verification, for TPS Haitian beneficiaries. Employers must reverify certain Haitian employees before they start work on August 4, 2025.

On July 1, 2024, U.S. Immigration and Customs Enforcement also released a notice on work authorization for Haitian F-1 nonimmigrant students.

Details:

- TPS designation for Haiti page.
- I-9 Central TPS
- ICE notice on work authorization for Haitian F-1 nonimmigrant students (July 1, 2024).

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DHS Raises Civil Penalties for Certain Violations

The Department of Homeland Security (DHS) has raised civil monetary penalties for certain violations based on inflation. The new penalty amounts are effective for penalties assessed after June 28, 2024, whose associated violations occurred after November 2, 2015. For example:

- Civil penalties for knowingly hiring, recruiting, referral, or retention of unauthorized aliens—Penalty for first offense (per unauthorized alien): $698-$5,579.
- Civil penalties for I-9 paperwork violations: $281-$2,789.

Details:

- DHS Final Rule, 89 Fed. Reg. 53849 (June 28, 2024).

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Naturalization Applicants Can Request Replacement Social Security Cards When They Apply for Citizenship

U.S. Citizenship and Immigration Services (USCIS) announced that applicants for naturalization can now request a replacement Social Security card when they apply for citizenship through Form N-400 (edition date 04/01/24).

USCIS noted several reasons why an applicant for naturalization might request a Social Security card through their application for naturalization:

- Replacing a lost, stolen, or damaged Social Security card
- Replacing a "restricted" Social Security card with an "unrestricted" Social Security card that can be used to show permission to work in the Form I-9 process
- Receiving a card with an updated name if the person's legal name has changed
- Updating their citizenship information with the Social Security Administration
- Opening a My Social Security account without first visiting a local Social Security Administration office

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ABIL Global: Colombia

This article discusses visa options for retirees and "digital nomads" in Colombia.

Colombia: An Emerging Haven for Foreign Retirees

In recent years, Colombia has emerged as one of the most attractive destinations for foreign retirees, consistently ranking high in various international listings. The country's appeal lies in its diverse climate, rich biodiversity, affordable cost of living, excellent culinary offerings, and vibrant cultural scene. Foreign retirees often highlight the warm and welcoming attitude of Colombians, which greatly facilitates their integration into local communities. Cities like Medellín, Cartagena, Santa Marta, and those in the coffee-growing region are particularly popular among this demographic.

Visa Options for Retirees

Colombia offers a specific migrant visa category for retirees, outlined in its current immigration regulations. This visa is available to foreigners with a steady monthly income from a pension granted by a government or private pension fund. The visa is valid for up to three years and can be renewed indefinitely. Importantly, this visa allows multiple entries into the country. Retirees who have held this visa continuously for at least five years are eligible to apply for a permanent resident permit.

Requirements for the Retiree Visa

To obtain the retiree visa, applicants must provide:

1. **Pension Certification**: Proof of a monthly pension payment of no less than USD 1,000.
2. **Police Clearance**: A document confirming the applicant has no criminal record duly apostilled and sworn (translated).
3. **Medical Certificate**: This document can be issued from a doctor abroad and must come apostilled and sworn (translated if needed) or issued in Colombia.
4. **International Medical Insurance**: Confirmation of coverage within the national territory against all risks in case of accident, illness, maternity, disability, hospitalization, death, or repatriation, for the duration of stay in Colombia.

Colombia's unique blend of natural beauty, cultural richness, and welcoming atmosphere makes it an ideal retirement destination. The retiree visa facilitates a smooth transition for foreigners looking to make Colombia their new home, offering benefits such as long-term stay options and the potential for permanent residence.

Digital Nomads in Colombia

The Ministry of Foreign Affairs issued Resolution 5477 on July 22, 2022, which established new provisions on types of visas, application processes, and issuance, among others. One of the main changes to the Colombian immigration regime introduced by Resolution 5477 is the inclusion of the Visitor Visa for Digital Nomads. Since October 21, 2022, the date on which the new immigration regime entered into force, foreigners, whether independently or labor-related, who wish to enter to provide remote work or teleworking services from Colombia, through digital media and internet, exclusively for

foreign companies, or to start a digital content or information technology venture of interest to the country, may request and obtain a Visitor Visa for Digital Nomads at a Colombian consulate abroad or directly at the Ministry of Foreign Affairs.

Among other requirements, the applicant must demonstrate through bank statements a minimum income equivalent to minimum monthly wages (approximately USD 1,220) during the last three months, and health insurance with coverage in Colombia against all risks in case of accident, illness, maternity, disability, hospitalization, death, or repatriation, for the planned duration of stay in Colombia.

This multiple-entry visa is valid up to two years. The authorized period of stay is the same time for which it is granted. It allows beneficiary visas for the spouse, permanent partner, and children of the holder. The holder of this visa may not work or carry out any paid activity with a natural or legal person in Colombia. According to Resolution 5477, this visa is apparently only applicable to those foreigners who are exempt from short-stay visas to enter Colombia, such as those listed in Resolution 5488 of 2022.

Similarly, nationalities that do not require a short-stay visa may enter without a visa and remain in Colombia with an entry and stay permit granted by Migración Colombia. With this permit, Digital Nomads can stay in the territory for up to 90 days (continuous or discontinuous), extendable for another 90 days as long as the activities they carry out do not generate payments from Colombian companies. Despite the above, it is not certain whether this type of activity can be carried out with a tourist permit (PT), integration and development permit (PID), or permit for other activities (POA), since those currently do not specifically allow this type of activity. Thus, authorization by the competent authorities must be obtained before carrying out digital nomad activities with the aforementioned permits. Possibly a new permit will be created that explicitly authorizes the execution of this type of activity.

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Cyrus Mehta was quoted by *Law360* in Immigration Attys Cautiously Optimistic After *Chevron* Ruling . Among other things, Mr. Mehta said, "I think basically up for challenge" in the wake of the *Loper Bright* Supreme Court

decision, which upended the *Chevron* defense.

Mr. Mehta was quoted by *Bloomberg Law* in Immigration Proponents Get Boost From End to *Chevron* Doctrine. Having *Chevron* off the table could help pro-immigrant plaintiffs suing over a regulatory rescission of those programs because the executive wouldn't be entitled to deference without a reasoned analysis of those decisions, he said: "That would give a better legal basis to challenges to regulations that are restrictive."

Mr. Mehta was quoted by the *Times of India* in America's SC: Courts Need Not Defer to Federal Agency Decisions—It's a Mixed Bag for the Indian Diaspora. He said, "Without *Chevron*, federal courts will no longer pay deference to a government agency's interpretation of a provision in the Immigration and Nationality Act (INA). Hence, employers may be able to find a court willing to give a more favorable interpretation of a statute granting H-1B or L visa classification to a noncitizen worker." He added, "Similarly, the USCIS in recent years provided an interpretation to the 'extraordinary ability' or 'outstanding researcher' categories in employment-based first preference petitions that was difficult to meet. Removing deference to these interpretations will more likely result in successful challenges to these denials in federal court. The USCIS will be held to the strict language of the statute and its expansive interpretation of the statute may no longer be allowed to stand." He also noted, "Even if Chevron no longer helps, there is also a clear authorization in the INA for the USCIS to issue work authorization to noncitizens and to set time and other conditions for nonimmigrants under the INA without having to rely on an expansive interpretation of the statute to issue such benefits."

Mr. Mehta, Stephen Yale-Loehr, and several others co-authored a blog post, Think Immigration: Chevron Is Dead! Thoughts on the Immigration Impact of Loper Bright Enterprises, for the American Immigration Lawyers Association.

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