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The Immigration Vanguard

A Brief Review of Current Events and Regional Trends in Immigration

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The challenges of global immigration can force even the most agile of multinational companies to face costly delays. A key strategy to help mitigate this unpleasant reality is to stay abreast of recent policy developments in countries of interest to better understand global and regional immigration trends. In this article, we provide a year-in-review look at the various immigration policy changes observed throughout 2014, including several trends in the evolution of global immigration policies across the world's major geographical regions.

EUROPE

Several European Union (EU) member states made strides towards complying with EU legislative provisions that were left unaddressed for many years. In particular, Slovakia, Netherlands, Czech Republic, and Poland all announced programs for the implementation of a so-called "combined work and residence permit." These changes reflect the growing emphasis for EU member states to fully comply with EU directives, namely Directive 2011/98/EU¹ on the issuance of a single permit for work and residence for third country nationals residing in the EU.

These announcements were welcomed by non-EU citizens and employers throughout Europe who have often faced challenges when attempting to complete the multi-stage work and residence permit application process within a reasonable timeframe. While there will no doubt be growing pains as these countries, and others, fine tune the process, the shift towards a single, combined work and residence permit will greatly simplify application processes throughout Europe.

Ireland also opted for broad immigration reform measures.² The provisions do not appear to be overly restrictive or burdensome for employers and foreign applicants, but do signal a modernization of the country's immigration policies. Wider implementation of the country's "50:50 rule" and the establishment of an online "e-payment system"³ are but two examples of Ireland's efforts to adapt to the growing rate of immigration by non-EU migrants.

In contrast, Switzerland sent a clear message earlier this year by voting to pass a constitutional amendment that will require quotas for all residence permits issued to non-Swiss nationals, including cross-border commuter work permits and asylum seekers. The amendment, intended to curb the rising rate of immigration into Switzerland, will require companies seeking to fill vacant positions to first look to resources within the Swiss labor market. This is a consistent theme in immigration around the world, but was particularly noteworthy in Switzerland as the provision directly conflicts with the free movement of persons in the EU. More developments are likely to come in the months ahead.



¹ The full text of Directive 2011/98/EU may be found at: <http://bit.ly/1tkqJmz>

² EOW announcement may be found at: <http://bit.ly/ZvVmOE>

³ DJEI Employment Permits Bill 2014 may be found at: <http://bit.ly/1mVkJuZ>

AMERICAS

There is a clear correlation between the countries where companies deploy their global expatriate assignees and the current or expected economic performance of those locations. In their 2012 survey on global relocation trends, Brookfield Global Relocation Services noted that the increase in global expatriate assignments “is grounded in the steady re-strengthening of the world’s core economies [and is] also a clear indicator of the critical importance of emerging market growth for companies.”

Given this correlation between economic strength and immigration, it is unsurprising that the United States consistently ranks as the top destination for global expatriate assignments each year. U.S. agencies’ emphasis on employer compliance with immigration laws, specifically in the form of increased USCIS L-1 employer site visits, coupled with a dearth of annual H-1B quotas, have companies operating in the U.S. understandably concerned about the slightest hint of U.S. immigration reform.

While numerous U.S. immigration reform measures have stalled in the past, Canadian efforts to revise the laws governing their Temporary Foreign Worker Program (TFWP) have passed largely unopposed. During the past year, Canada has redefined the qualifying criteria for applicants under this program, limited the use of Labor Market Impact Assessments by employers (formerly known as a Labor Market Opinion), and generally revised the program to ensure that Canadian citizens and permanent residents are the priority talent pool for any employment opportunities in the country.

Elsewhere in the Americas, we saw the effect that a country’s civil events can have on immigration services. Strikes in Chile and Argentina disrupted public services for several days, with foreign nationals in some instances left in a state of limbo awaiting approval of pending applications. Demonstrations, protests, and open conflict in Venezuela left many in the country without access to any public services or legal support for weeks; a concerning prospect for any employee or employer. Strikes and civil upheaval are an unfortunate trend in Latin America, with often negative consequences for employers and expatriate employees.

MIDDLE EAST AND AFRICA



Among the primary destinations in Africa and the Middle East, South Africa captured the headlines this past year for its sweeping immigration policy changes. Government officials in South Africa spent considerable time evaluating their immigration policies and procedures to ensure they align with the country’s social and economic needs. In May this year, the Department of Home Affairs (DHA) confirmed that a series of policy revisions were to take immediate effect. Included among the changes were strict limitations on the renewal of work visas, harsher penalties for immigration non-compliance, and the deployment of new Visa Facilitation Service (VFS) offices.

South Africa and countries elsewhere within the Middle East and Africa have shown renewed focus on immigration compliance enforcement and the development of new, contemporary means of delivering immigration services. Countries in the region have demonstrated a shift

towards greater facilitation of business travel, as in the case of the UAE’s waiver of pre-arrival visa requirements for EU citizens.⁴

As companies continue to deploy resources to emerging markets in the Middle East and Africa, we will likely see continued changes in immigration policies as the governments of these countries adapt to the influx of foreign talent and investment.

ASIA PACIFIC

It is clear that countries all over the world are continuing to explore new and inventive ways of delivering immigration services while at the same time shoring up gaps in compliance enforcement. This is further demonstrated by the development of an online application system in Malaysia. In March this year, Malaysian authorities announced the implementation of a new online application system for applications submitted to the Expatriate Services Division of Immigration Department (ID) Putrajaya.⁵



As with any policy change of this type, most employers encountered processing difficulties during the rush to register with the new system. The application process has become considerably smoother since the change was first announced, but companies are still likely to encounter challenges in the short term.

The implementation of Singapore’s Fair Consideration Framework (FCF)⁶ was possibly the region’s most notable immigration news over the past year. The FCF came into effect on August 1st. Employer concerns about the impact of the announced changes precipitated an onslaught of Employment Pass applications in the days leading up to August 1st. The FCF sets out new labor market testing and advertising requirements, immigration category quotas, and increased salary thresholds, among other changes. It is understandable, then, that companies would be somewhat panicked by the drastic change in policy. Thankfully, the Ministry of Manpower issued a list of exemptions⁷ to certain provisions within the FCF, the majority of which will benefit sponsors of employees on expatriate assignment.

Finally, Indian authorities continue to “tweak” application requirements to ensure the compliance of employers and employees with immigration and civil obligations in the country. In September this year, Indian authorities announced

⁴ UAE Ministry of Foreign Affairs announcement may be found at: <http://bit.ly/1vxVuqO>

⁵ ID Putrajaya announcement may be found at: <http://bit.ly/1mVkw3m>

⁶ A circular issued by the Ministry of Manpower regarding the Fair Consideration Framework may be found at: <http://bit.ly/1uEgTBn>

⁷ EOW’s announcement covering the FCF and possible exemptions may be viewed at: <http://bit.ly/1rNn83J>

that employers sponsoring foreign nationals for work visas must now supply their Employee's Provident Fund Organization (EPFO) ID as part of the employee's consular application. The EPFO is similar to Social Security requirements in other countries, though Indian authorities have renewed focus on ensuring that companies are appropriately registering their employees, including foreign workers.

WHAT'S AHEAD?

As we barrel towards the end of another year, it is important to consider what lies ahead for the global mobility and immigration services industries in 2015. It is clear that countries around the world are focused on improving compliance enforcement mechanisms, developing new ways of efficiently managing public services, and protecting local labor markets from surges in foreign worker populations. Over the course of the coming year, global mobility and immigration professionals can expect to see even further changes to the immigration processes for the world's most popular assignment destinations focused on addressing these areas. The world and people in it are ever-changing, and so immigration must be as well.

WHO ARE EMIGRA AND EMIGRA OGLETREE WORLDWIDE?

Emigra Group, LLC, a privately held firm based in Vienna, Virginia, inclusive of its subsidiaries in 14 countries (collectively "Emigra"), is a specialist in immigration program management for multinational companies. Emigra Group, LLC provides immigration assistance into the U.S. through Emigra Ogletree Worldwide. Emigra Ogletree Worldwide (EOW) is a partnership between Ogletree Deakins, one of the nation's largest labor, employment, and immigration law firms, and Emigra, the largest stand-alone global visa provider in the world. Managing corporate immigration programs and cases is our only business, and we are a clear market leader with experience handling tens of thousands of immigration cases in a total of more than 130 countries worldwide. Emigra and Emigra Ogletree Worldwide do not provide consultation on tax, employment law, customs and excise, or other matters that may be of interest or concern with regard to international travel. We are pleased to refer interested parties to qualified counsel for advice on these matters.

ABOUT THE AUTHOR



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Benjamin has extensive experience in the corporate immigration industry, including roles in operations, management, and consulting. Responsible for Emigra's Consulting and Compliance Services Department, Benjamin provides resources for complex immigration research projects and immigration news. Benjamin holds a Bachelor's degree from Stephen F. Austin State University.