



UPDATE: Council Of The European Union Announced Its List Of “Safe Countries”

Insights

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On Tuesday, June 30, 2020, the Council of the European Union announced its list of “safe countries” from which the EU will allow entry by business and tourism travelers. The countries that made the list are: Algeria, Australia, Canada, Georgia, Japan, Montenegro, Morocco, New Zealand, Rwanda, Serbia, South Korea, Thailand, Tunisia and Uruguay. China will be included on the list if it allows entry to E.U. travelers in return. As predicted, the United States, Russia and Brazil did not make the list. The list will be reviewed every two weeks and may be updated if the coronavirus situation in other countries improves or worsens, the E.U. statement said. We will keep an eye on this developing situation.

As some European Union countries begin to open up to visitors from other EU countries and the border-free Schengen zone, the EU is now developing plans for opening up to business and pleasure travelers from around the world – but with a few notable exceptions. According to widespread media reports, the EU is strongly considering continuing its ban for travelers from the United States, Brazil, and Russia.

The stated reason for the likely continued exclusion of travelers from these (and potentially other) countries is their handling (or mishandling) of the pandemic. The United States, Russia, and Brazil are at the top of COVID-19 infection rates, with the U.S. alone accountable for about 25% of the world’s cases. Meanwhile, EU countries have, for the most part, curbed their outbreaks.

EU officials are saying that the decision to include the U.S. on the no-admission list is purely scientific, and has nothing to do with President Trump’s decision in March to ban travelers from the EU from coming to the U.S., nor his recent proclamation shutting down travel to the U.S. for holders of H, L, J and other visas.

According to the European Council, the EU’s travel ban is subject to bi-weekly review, so if the U.S. or other banned countries improve their numbers, the EU may lift its travel ban. However, if the infection numbers continue to rise, the EU travel restrictions may last well into the fall. The U.S. may then, in turn, extend its current ban on travelers from the EU.

In addition to the release of the “Safe Countries” list on June 30, 2020, the European Council has also released a list of essential workers who will be allowed into the EU from countries that are not on the released list.

- Specific categories of travelers with an essential function or need:
 - Healthcare professionals, health researchers, and elder-care professionals;
 - Frontier workers;
 - Seasonal workers in agriculture;
 - Transport personnel;
 - Diplomats, staff of international organizations and people invited by international organizations whose physical presence is required for the functioning of these organizations, military personnel, and humanitarian aid workers and civil protection personnel in the exercise of their functions;
 - Passengers in transit;
 - Passengers travelling for imperative family reasons;
 - Seafarers;
 - Personnel in need of international protection or for other humanitarian reasons;
 - Third country nationals traveling for the purpose of studying;
 - Highly qualified third-country workers if their employment is necessary from an economic perspective and the work cannot be postponed or performed abroad.

As we enter the summer holiday season and fall business conference season, companies should stay on the top of their employees' international travel plans and ensure that no one is caught in the middle of rapidly changing border restrictions imposed by different countries. For example, a foreign national employee of a company employed in the United States on certain visas affected by President Trump's travel ban could find themselves stuck in their home country, or even in a third country, and unable to return home. It is important to note, however, that the anticipated ban would not affect citizens of EU countries seeking to repatriate from the United States, Brazil or Russia.

As a consequence of such restrictions, an increasing number of international employees are requesting their employers to allow them to work remotely from their home countries or another country where their family members reside. Before granting such a request, well-meaning employers need to understand the legal implications of such an arrangement. Depending on the nature of the employee's work and the duration of the arrangement, local employment and tax laws may become applicable, which could add significant compliance costs. Also, employment regulations outside of the U.S. tend to be more protective of employees, and an American employer may suddenly find its employment relationships with certain employees to no longer be at will. Instead, employers could find themselves subject to extensive social benefits and severance restrictions and liabilities.

Employers should proactively implement international travel and global remote working policies in anticipation of a myriad of fast-changing border restrictions.

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