

MEMORANDUM

TO: Peter Harrell, Senior Director, National Security Council
FROM: AmChams in Europe (ACE)
DATE: 9 June 2021
RE: Impact of Visa Processing Delays

As you know, visa processing delays that constrain business and student mobility between Europe and the U.S. have been increasingly front of mind in the AmChams in Europe community. Indeed, most of the AmChams in Europe member AmChams have experienced slowdowns in the pace of visa applications to the United States.

AmChams across Europe have very constructive engagements with the consular teams in the U.S. Embassies in our respective countries. We are mindful and appreciative of the dedicated service of Department of State personnel in coordinating the evacuations of thousands of U.S. personnel and private citizens abroad and implementing measures intended to protect its personnel around the world. While we appreciate that the ongoing public health emergency has been a contributing factor in delayed visa processing, we worry that, if the issue is not addressed as a priority, it will jeopardize European investments and job creation in the U.S., and make it more difficult for U.S. universities to maintain their competitive position in the global market for student recruitment.

Background

Whether for training purposes, internships, intercorporate transfers for leadership positions, or a first expansion that requires hires that are familiar with company culture and products, the ability for business people, students or researchers to travel across the Atlantic is inherently linked to American investment, growth and innovation.

The COVID-19 pandemic has understandably affected the ability for people to travel across the Atlantic. As a community representing over 17,000 American and European businesses in 44 countries throughout Europe and Eurasia, we embraced the constraints that COVID-19 put on international travel, and we are appreciative of the efforts made by the U.S. Government and the U.S. Embassies and their staff in European countries, particularly colleagues in the Consular offices, in working with businesses and organizations across Europe to accommodate current constraints — including constraints mandated by local pandemic restrictions that limit staffing.

Last July, we applauded the introduction of National Interest Exceptions (NIE), which gave the Consular sections an important tool to facilitate travel for citizens in the Schengen Area, United Kingdom and Ireland. Unfortunately, on March 2nd, the U.S. Administration significantly tightened the criteria for visa approval and limited the use of NIEs. And on May 27th, we welcomed the news that the Secretary of State had broadened the eligibility criteria regarding categories of business travelers eligible for NIEs. As a result,

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travelers from the Schengen area, the United Kingdom, and Ireland, who seek to provide vital support or executive direction for critical infrastructure, and those traveling to provide vital support or executive direction for significant economic activity in the United States, may now qualify for NIEs.

We are aware that consular operations are usually funded through consular fees and surcharges, including passport and visa fees, and that these revenues have declined considerably amid global travel restrictions imposed during the COVID-19 pandemic. Therefore, we applaud the additional appropriations that have been made, as well as the authorization for the State Department to transfer funds appropriated elsewhere. We understand this is necessary to provide emergency funding for the State Department's consular operations, in order to offset losses of consular fee and surcharge revenues resulting from the COVID-19 pandemic, including the adjudication of visa applications, but that thus far, the extra funding has only been enough to minimize staff terminations, and is far from sufficient to help hire the resources actually needed to reduce the backlogs at Consular sections around the world.

However, many of our member companies across Europe have increasingly expressed the concern that the current limitations in the processing of visas for business and academic travel to the U.S. go beyond the COVID-19 related travel restrictions currently in place. Not surprisingly, there is mounting frustration among businesses with how long it is taking to get visas processed (typically B1/B2, E and L visas). Several AmChams report visa processing has slowed dramatically with delays of up to 10-12 months or that the adjudication of entire visa categories, including business visas, have been suspended with no information for when these visa adjudication processes will be returned to pre-pandemic levels.

Examples

- A group of engineers that are critical to the production of a new car model have been trying to apply for L-1 visas, but their appointments have been cancelled or postponed several times. They have made emergency appointment requests, but the Embassy has not been able to book appointments. These engineers are critical to the production planning and expansion necessary to produce this new model (including the plant's capacity to build fully electrified vehicles). Project delays will have a direct impact on the employment of hundreds of employees in the U.S. What is more, for every one direct auto industry job in the U.S. there is an estimated multiplier effect - one direct job creates 4 to 7 indirect jobs.
- An international chamber of commerce, which has been a J-1 visa sponsor since 2006 facilitating close to 100 Exchange Visitors to the U.S. per year. The chamber of commerce has weathered the financial hardships brought on by the pandemic, but unless the J-1 visa program can be restarted soon, this talent mobility program will not survive.

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- One H1-B visa holder with an approved I-140 that permits extensions of the H1-B visa until he secures his green card, moved to the EU for a one year temporary transfer through his current employer in August 2019. He was slated to move back to the U.S. in September 2020. Notably, he has a U.S. citizen child, which excludes him and his wife from travel bans and he is engaged in COVID vaccine related work in the U.S. He has been applying for an appointment for an L1 visa since October and the U.S. Embassy has been postponing appointments every month since that time and has now pushed it until September – with no guarantee they will be able to honor the appointment then.
- Top management of a large multinational company that is a significant investor in the U.S. needs to travel to establish new divisions and create jobs. However, it has not been possible to secure visas so the trip may not happen, and could delay jobs for many.
- An executive who has worked in the U.S. since 2015, during which time she has led a \$1.2 billion greenfield investment generating an estimated 4,000 jobs and at least \$4.8 billion in economic impact, and now leads her company's sustainability work. She is deeply engaged in her community as the incoming Chair of the local Red Cross Board, serves on the Clemson University President's Advisory Board, on the College of Charleston School of Business Board of Governors, and is an Honorary Commander at Joint Base Charleston. However, she has been unable to visit ailing family members abroad because of the lack of appointments at the U.S. Embassy. If she traveled home, in order to return to the U.S., she would need an appointment at the U.S. Embassy to obtain a visa sticker in her passport (her non-immigrant petition was extended in the U.S.). Over the past year, the U.S. Embassy has cancelled multiple visa appointments and has not replied to requests for emergency appointments.

Recommendations

- Rescind or amend the President's proclamation¹ limiting travel to the U.S. from the Schengen region and, therefore, the need for NIE's.
- Review the current status of visa processing at U.S. Embassies and Consulates across Europe and provide Consular offices with the necessary resources to process visa applications in a timely fashion, including filing any Consular Services funding gaps caused by the sharp downturn in applications due to the pandemic — a shortfall exacerbated by extending the validity periods for some visas that will lead to funding shortfalls in the years ahead.

¹ Proclamation on the Suspension of Entry as Immigrants and Non-Immigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease; January 25, 2021, <<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/25/proclamation-on-the-suspension-of-entry-as-immigrants-and-non-immigrants-of-certain-additional-persons-who-pose-a-risk-of-transmitting-coronavirus-disease/>>

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- Consider conducting low-risk visa interviews online and seeking alternative ways to securely collect fingerprints. We recognize that this might raise security concerns, but perhaps low risk visa interviews could be handled in this manner.