

**Law Library Of Congress Global Legal Monitor: Immigration And  
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The *Global Legal Monitor*, an electronic publication of the Law Library of Congress, is intended for those who have an interest in legal developments from around the world. Globalization is a fact with far-reaching implications including an increasing number of international transactions. The Immigration and Nationality law section has been excerpted for this Feature Article.



# Immigration and Nationality

## EUROPEAN UNION – Proposal for a “Blue Card” for Skilled Immigrants

According to the European Commission’s estimates, the European Union will experience labor shortages that will reach their peak by 2050. Around that time, 25 million Europeans will reach retirement age and approximately one-third of the population will be over 65 years of age. As the EU Home Affairs Commissioner Franco Frattini indicated, the EU has not been as successful as other immigration destinations in its quest to attract highly skilled foreign workers. Such workers account only for 1.7 % of the employed population in the EU, compared to seven per cent in Canada, ten per cent in Australia, and three per cent in the United States. For this reason, on October 23, 2007, the European Commission proposed a Directive on the Conditions for Entry and Residence of Third-Country Nationals for Highly Qualified Employment. It is intended to facilitate the conditions for entry and recruitment of qualified foreign workers by European companies. It provides for an EU work permit, the so-called Blue Card. This card, modeled on the U.S. green card, will offer employment to third-country nationals to work in any EU Member State. Such workers will be offered employment under expedited procedures. The criteria for admission include the following: a) a contract of employment; b) professional qualifications; and c) a minimum salary that must be at the minimum three times the level of the existing minimum wage offered at the national level.

The proposal also attempts to avoid the so called “brain drain” result in developing countries by including a requirement to follow ethical standards and to limit active recruitment in those countries. (Press Release, RAPID, Attractive Conditions for the Admission and Residence of Highly Qualified Immigrants, MEMO/07/423 (Oct. 23, 2007), available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/423&format=HTML&aged=0&language=EN&guiLanguage=en>.)

The proposal has not been immune from criticism. In particular, on October 26, 2007, 79 health ministers from African, Caribbean, and Pacific countries (ACP), in a conference in Belgium, voiced their concerns about the EU’s luring the most qualified workers from around the world. They also urged the EU to respect ethical standards and to avoid causing a brain drain in the developing world, especially in the area of health workers. Other experts have called the new immigration measure “a new form of colonization.” (*African States Fear Brain Drain Through EU Blue Card*, EUOBSERVER.COM, Oct. 29, 2007.)  
(Theresa Papademetriou)

## FRANCE – Immigration Reform Pending

Following a campaign promise made by presidential candidate Nicolas Sarkozy, in the last few weeks the French Parliament has debated a new immigration law that would further tighten the requirements for family reunification. Law 2006-911 of July 24, 2006, on Immigration and Integration, had already made the conditions for family reunification more stringent. These conditions include respect for the fundamental principles of the French



Republic, in particular, secularism and equality between men and women; the applicant having sufficient means to support his family through work and not through social benefits; and the obligation to sign an integration contract.

After Sarkozy's successful election, the government sent a proposed immigration reform bill to Parliament. A parliamentary committee has just worked out the differences in the two versions passed separately by the National Assembly and the Senate. Under the terms of this combined version, applicants older than 16 years of age who seek to join family members are required to take a test in their country of origin to demonstrate a good knowledge of the French language and the values of the French Republic. If needed, the applicant may be asked to attend language courses before obtaining a long-term visa. Applicants also have to prove that their family could support them and that the family income providers earn at least the minimum wage. Parents have to sign an integration contract for the family with the state. The contract requires them to attend training on the rights and duties of parents in France and to agree to send their children to school.

The most controversial provision of the draft law is the recourse to DNA testing to fight fraud in family reunion cases. When the applicant does not have a birth certificate or has been notified by the French consular officer that there is serious doubt regarding the authenticity of the document presented, he or she may ask for DNA testing. The DNA test is limited to showing the relationship with the mother, to avoid potentially embarrassing revelations about paternity. The consular officer transfers the DNA request to the competent court to rule on its necessity. The French government is to pay for the test. Recourse to DNA testing is subject to a trial period until December 31, 2009. Parliament then will reexamine the provision.

Both chambers of Parliament will debate the new version of the draft law in the very near future. If it is adopted in its current form, opponents of the DNA testing have vowed to challenge the constitutionality of the measure before the Constitutional Council. (*Sénat, Projet de loi relative à la maîtrise de l'immigration, à l'intégration et à l'asile: Texte élaboré par la commission mixte paritaire.*)  
(Nicole Atwill)

## **GERMANY – Transposition of EU Directives on Immigration and Asylum**

On August 19, 2007, the German Parliament enacted the Act to Transpose European Union Directives on Immigration and Asylum (BUNDESGESETZBLATT I at 1970). The Act transposes 11 European Union directives into domestic law, among them the Council Directive 2003/109/EC of April 29, 2004, Concerning the Status of Third-Country Nationals Who Are Long-Term Residents (2004 OFFICIAL JOURNAL OF THE EUROPEAN UNION (L16) 44) and Council Directive [2003/86/EC](#) of 22 September 2003 on the Right to Family Reunification (2003 O.J. (L251) 12).

In addition, the Act strengthens German immigration policies that tailor immigration to the needs of the labor market, promote the integration of the immigrant population, and resolve



the status of refugees. Among the newly enacted measures are the requirement of German labor certification for long-term third-country residents of other EU countries and the restriction of family unifications from certain countries to spouses who are 18 years or older and who have acquired a rudimentary knowledge of German before coming to Germany.

(Edith Palmer)

### **JAPAN – Children of Japanese Who Emigrated to Philippines before WWII**

All Japanese people have records in the Family Register. Therefore, it is easy to prove that a person is Japanese by submitting an official copy of the Family Register. A few hundred Filipinos whose fathers were Japanese had a hard time to prove that because they could not find their fathers' records in the Family Register. Some lost relevant records while they hid information about their Japanese fathers, because anti-Japanese feeling was strong in the Philippines for a while after World War II.

On September 28 and October 4, 2007, the Tokyo Family Court, for the first time, admitted the Japanese nationality of two children of Japanese fathers whose Family Register records were not found. The Court found enough indirect evidence that proved the fathers' Japanese nationality: descriptions of marriage certificates in the Philippines, prisoner of war records of the United States, and a Japanese magazine article that introduced one of them as a pioneer of Japanese immigration to the Philippines. (*Hi Nikkei 2sei hutari ni "nihon seki" ["Entries in Family Register" for Filipino/Second-Generation Japanese]*, YOMIURI ONLINE, Oct. 9, 2007, on file with the author.)

(Sayuri Umeda)

