THE INTERNATIONAL BAR ASSOCIATION

GLOBAL EMPLOYMENT INSTITUTE

Sub-Sponsorship

A Draft Policy Document and Recommended Best Practices

By: The Working Group on the Global Corporate Relocation Treaty

Final Draft Proposal

Background

While many countries issue work permits to experts, they have different policies regarding the categories of sub-sponsorship for issuance of visas to spouses, children and other dependent family members.

These varied regulations create ambiguity and difficulty for foreign experts faced with the fact that a family member will not be able to join them in the country of destination.

Purpose of the Document

This draft document has been prepared by the Working Group of the International Bar Association Global Employment Institute (GEI) for matters regarding the Global Corporate Relocation Treaty as a white paper or draft policy document. The purpose of the document is to be used by any country or organization that would be interested, as well as for a basis for discussion.

This proposed policy provides countries with an overall view of the sub-sponsorship issues facing foreign experts today. It proposes a solution while maintaining the discretion of each country's immigration authority.

Description of the Problem

In many cases, individuals subject to sub-sponsorship cannot be clearly defined as there are several categories of family members. Countries have different definitions of individuals subject to sub-sponsorship and may be missing definitions for potential dependents. The absence of common regulations and definitions creates uncertainty for many foreign experts, and therefore, for the companies who need to relocate them.

The Proposed Solution

The proposed solution permits issuance of a visa to all categories requiring sub-sponsorship, defined below, and for any dependent family members requiring care, provided they present proof of medical insurance that covers any specific medical issues.

The proposed solution provides a set of definitions and recommended practices that will enable the immigration authorities in foreign countries to monitor and control the entry of foreigners, while at the same time allowing the employee to plan for his family accordingly.

Definitions and Recommended Practices

The categories of sub-sponsorship include the following individuals:

Spouse: civil marriage, religious marriage, same-sex partners, common law marriage.

Children: under the age of majority (18/21), adopted, legal guardianship, disabled children over age 18/21.

Other dependent family members: siblings, parents of the applicant or his/her spouse requiring care.

Recommended Practices: The applicant should provide a certified legal document (a copy is acceptable) proving the individuals legal status, such as a birth certificate, marriage certificate, guardianship or adoption papers, etc., along with any additional supporting documentation to prove his claim, including, but not limited to, medical documents, common life documents, affidavits, etc.

Fees

The process might be subject to fees. The suggested fees are as follows:

- Government fee for each sub-sponsor x 3 (spouses, children and other dependent family members).
- Regular government fee for an extension of the visa.

Recommended Time Frame

Approval of a sub-sponsorship application – 35 days from filing.
Approval of a request for extension – 21 days from filing.

Problems in the Absence of a Solution

In the absence of a solution to this issue, employers and employees will continue to experience difficulty in the relocation of spouses, children and dependent family members. This may lead companies to forego the relocation of the best candidates in favor of those that do not have familial responsibilities.

The current situation prevents immigration attorneys from providing a legal opinion on this issue where there is an absence of clear or published regulations.

Conclusion

This procedure attempts to recognize the legitimate interests of countries in addressing the balance between an individual's legal status in a foreign country and his personal and medical rights for both himself and his family members.

Computing and Information Privacy

Electronic submission of notifications should be encouraged through the use of temporary fraud defense systems and confidentiality and privacy of information protection.

Procedures and Transparency

As part of an effective public service free of corruption, transparency in management of procedures is encouraged.

Procedures and timetables will be published in print and on the internet to encourage transparency and will build reasonable expectations for the processing of applications.

This proposal will enable the business sector to plan its activities accordingly.

Disclaimer

This draft policy document does not constitute any legal relationship between the Working Group of the GEI on the Global Corporate Relocation Treaty, with any party that will decide to use any part of this draft protocol for their purposes. This draft protocol is free for use by anyone who would like to do so, provided they give the necessary credit to the sub-committee on the Global Corporate Relocation Treaty.

Contact

The procedure is published in order to encourage comments, suggestions and ideas of concerned subjects, including, HR, immigration officials, academics, lawyers, CPA's and other service providers in the field.

This document was prepared by a team of the Working Group of the GEI on the Global Corporate Relocation Treaty, co-chaired by Adv. Tsvi Kan-Tor and Graeme Kirk.

Comments, suggestions and ideas can be forwarded to Adv, Tsvi Kan-Tor at tsvi@ktalegal.com.

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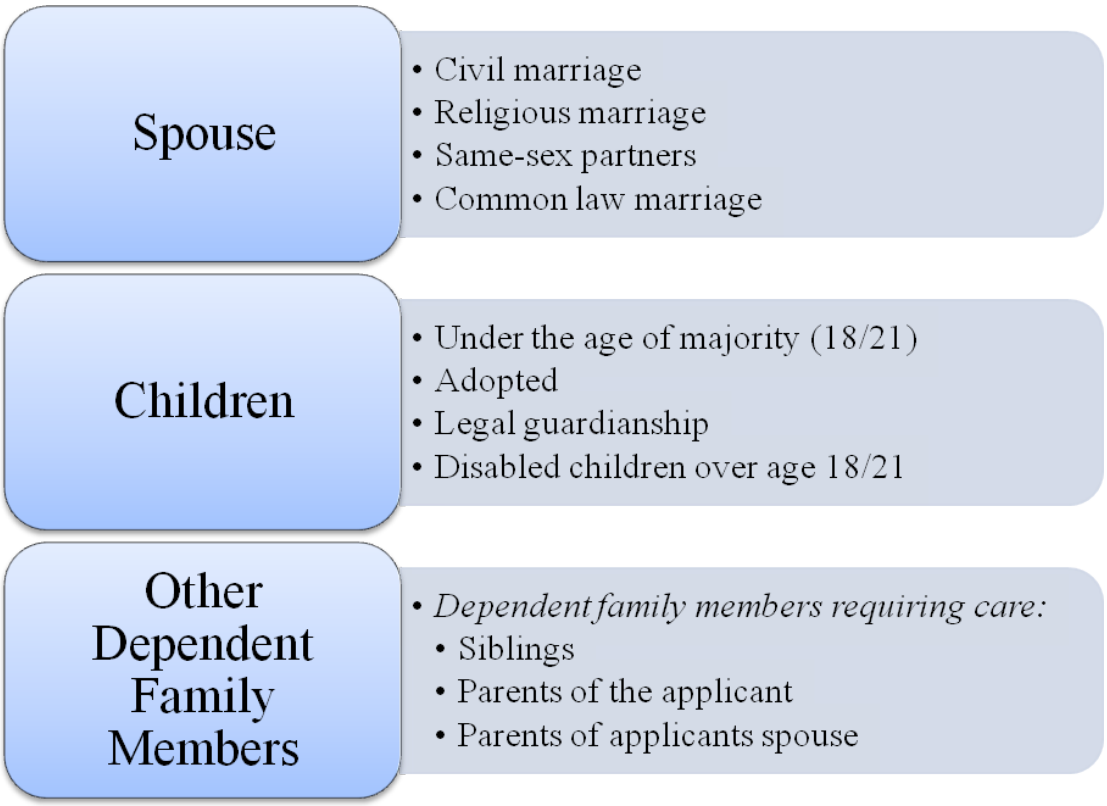
The Categories of the Proposed Solution



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