



Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

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15 June 2015

MEMORANDUM CIRCULAR NO. 036

SUBJECT: Inter-Agency Council Against Trafficking (IACAT) Revised Guidelines on Departure Formalities for International-Bound Passengers

Pursuant to the provisions of Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003), as amended by Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012), and its Implementing Rules and Regulations, Republic Act No. 8042, (Migrant Workers and Overseas Filipinos Act of 1995), as amended by Republic Act No. 10022 and other related laws, the following revised guidelines on departure formalities for international-bound passengers is hereby promulgated to further define the parameters of implementation:

I. TOURIST PASSENGERS

A passenger intending to travel abroad as tourist or with temporary visitor's visa shall undergo:

1. Primary Inspection

1.1. The following documents are required to be presented before the Immigration Officer:

- a) Valid passport;
- b) Visa whenever applicable or required; and
- c) Round-trip or return ticket.

1.2 A passenger identified by the Immigration Officer (IO) to have doubtful purpose of travel, fraudulent, falsified or tampered travel documents or identified as a potential trafficked person shall not be cleared for departure or recommended for deferred departure

and turned over to the Travel Control and Enforcement Unit (TCEU) for secondary inspection.

2. Secondary Inspection

2.1 When deemed necessary, the passenger shall be referred to the TCEU for secondary inspection, taking into consideration the totality of circumstances, such as, but not limited to:

- a) Age;
- b) Educational attainment;
- c) Financial capability to travel in accordance with purpose of travel as declared by the passenger;
- d) Travel history; and
- e) Country of destination.

If the passenger is travelling through a sponsor, the following additional documents shall be required:

1. Affidavit of Support and Undertaking duly authenticated by the Philippine Embassy or Consulate, showing:

- a. The relationship of the sponsor and the passenger within the fourth (4th) civil degree of consanguinity (e.g. *pinsang buo*) or affinity (e.g. *bayaw/hipag/biyenan*);
- b. Financial capacity with legal status of the sponsor; and
- c. Contact information of the sponsor; and/or

2. Affidavit of Support and Undertaking executed by a person or legal/juridical entity duly authenticated by the Philippine Embassy or Consulate showing:

- a. Contact information of the sponsor;
- b. Financial capacity with legal status of the sponsor; and
- c. Registration papers of the sponsor, if a legal or juridical entity.

3. In cases of a local sponsor travelling with the passenger, a duly notarized Affidavit of Support and Undertaking which shall contain the following:

- a. Financial capacity of the sponsor;
- b. Reason for sponsorship;

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- c. Undertaking by the sponsor that the travel is solely for tourism purposes and the passenger shall return upon completion of the tour;
- d. Complete address of the sponsor and other contact details; and
- e. Registration papers, if the local sponsor is a legal or juridical entity with its duly authorized representative travelling with the passenger/sponsee.

2.2 A passenger shall be automatically referred for secondary inspection, whenever it is shown that the passenger:

- a). Has no financial capacity to travel and is escorted/accompanied by a foreign national who is not a relative by consanguinity or affinity;
- b) Is a minor travelling alone or unaccompanied by either parent or legal guardian without the required travel clearance from the Department of Social Welfare and Development (DSWD);
- c) Is the spouse of a foreign national intending to depart for the first time to join the foreign spouse or a partner of a foreign national intending to depart to meet and/or marry his/her fiancé/fiancee without the Commission on Filipinos Overseas (CFO) Guidance and Counselling Certificate;
- d) Is travelling to countries with existing deployment bans, alert levels 3 and 4, and travel advisories and is in possession of visas to said countries; and/or
- e) Had previously stayed abroad for more than six (6) months as a tourist/temporary visitor, and is intending to depart for the second and/or subsequent time.

3. Clarificatory questions may be propounded by the IO in relation to the purpose of travel and travel documents presented.

4. A passenger whose departure is deferred during primary inspection or turned over to the TCEU for secondary inspection shall be required to fill-up the Border Control Questionnaire (BCQ). The primary IO shall indicate his/her initial assessment in the BCQ. The travel documents of the passenger shall be examined and an interview shall be conducted to determine facts and circumstances surrounding the passenger's travel.

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5. A passenger allowed by the primary IO may still be subjected to secondary inspection as may be necessary.
6. As much as practicable, secondary inspection shall not exceed ten (10) minutes unless extraordinary circumstances require a longer period of inspection.
7. A passenger found to be misrepresenting the purpose of his/her travel as tourist shall not be cleared for departure.
8. If a human trafficking incident has been initially determined, the IO shall not clear the passenger for departure and shall execute an Affidavit of Deferred Departure. The passenger, whose departure is deferred, and all his/her pertinent documents, including the passport, shall be turned over to the IACAT Task Force for investigation and case build-up.
9. In the event that the IACAT Task Force receives information that a departing passenger is a potential trafficked person, the Task Force shall coordinate with the TCEU for interception and further assessment.

II. OVERSEAS FILIPINO WORKERS

1. Departing Overseas Filipino Workers

- 1.1. A passenger under this classification shall present the following documents:
 - a) Valid passport;
 - b) Original/valid visa, in accordance with country-specific advisory from the Philippine Overseas Employment Administration (POEA);
 - c) Airline/sea craft travel tickets; and
 - d) E-receipt or Overseas Employment Certificate (OEC) duly issued by the Pre-Employment Services Office (PESO) of the POEA as appearing in the database.
- 1.2. Allowable Visa Usage under POEA Rules and Regulations
Should there be any discrepancy in the actual job position/job title in the visa and in the OEC, travel may be allowed provided the following additional documents are presented:

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- a) Duly notarized Undertaking on the Visa Usage executed by duly authorized representative of the agency and duly approved and cleared by POEA; and
- b) Duly notarized Declaration of Awareness and Consent by the Overseas Filipino Worker (OFW) on the visa usage.

1.3. Instance When Visa Usage is NOT Allowed

The use of the Visa Usage Undertaking (VUU), does not apply to Household Service Workers (HSW). The visa category should be strictly for household-based positions; otherwise, a passenger will not be cleared for departure and the aforementioned documents shall be confiscated for further investigation and endorsement to the concerned government agency.

For this purpose, HSW shall refer to all persons, male or female, who shall render domestic or household service under a contract of compensation. They shall include among others, domestic helpers, maids, houseboys, nannies, baby sitters, caregivers, caretakers, tutors, governesses, cooks, sewers, beauticians, masseurs, masseuses, drivers, and gardeners working in a household setting.

In addition to the requirement under 1.1, an HSW shall be required to present an individual and original verified employment contract.

2. Balik-Manggagawa/ Returning Workers

2.1. The following OFWs fall under the category of Balik-Manggagawa/Returning Workers:

- a) Worker-on-Leave – a worker who is on vacation or on leave from employment under a valid and existing employment contract and who is returning to the same employer, regardless of any change in jobsite, to finish the remaining unexpired portion of the contract.
- b) Rehire – a worker who was rehired by the same employer after finishing his/her contract and who is returning to the same employer, regardless of a change in jobsite.
- c) Philippine Overseas Labor Office (POLO) registered worker – a returning worker whose employment contract was not processed with the POEA but was subsequently verified and registered with the POLO in the jobsite and



who is returning to the same employer, either as a worker-on-leave or rehire, regardless of any change in jobsite. Same employer/principal refers to the current employer of the worker at the time he/she came home for vacation and to whom he/she is returning to resume employment upon return to jobsite.

2.2. Balik-Manggagawa OFWs shall be required to present the following:

- a) Valid passport;
- b) Valid visa;
- c) Airline/sea craft travel ticket; and
- d) OEC issued on-site by the POLO or by the POEA.

2.3. In case of incomplete or questionable documents, the OFW shall be referred to the POEA-Labor Assistance Center (LAC) for further validation and clearance.

3. Overseas Filipino Workers travelling to other countries during their vacation.

A Balik-Manggagawa OFW with a valid visa and an existing work contract with his/her current employer who intends to go to other countries while on vacation is considered a tourist. Hence, he/she need not secure an OEC for such travel but shall be allowed to travel in accordance with the guidelines for tourist passengers as shown above.

4. Special Travel Exit Clearance

Pursuant to a Memorandum of Agreement between POEA and the Bureau of Immigration (BI), the following are required to secure a Special Travel Exit Clearance from the POEA:

- a) Philippine Economic Zone Authority (PEZA) registered companies sending their employees to South Korea for training programs with worker trainee visas;
- b) Seafarers who are under the employment of a Philippine shipping company who are assigned to accompany or "conduct" a vessel that is being imported by the said shipping company from a foreign port to the Philippines, also referred to as "conduction crew" since they remain to be under the employ of their local companies;

- c) Filipino seafarers who are required to undergo special training abroad as prescribed by the prospective foreign employer. The foreign employer must be accredited to a licensed sea-based agency; and
- d) Filipino workers required to undergo final interview or qualifying examination abroad as prescribed by the prospective foreign employer. The foreign employer must be accredited to a licensed land-based agency.

III. PASSENGERS WITH IMMIGRANT OR PERMANENT RESIDENT VISA

1. Filipino emigrants/residence visa or permit holders / permanent resident card holders

Passengers falling under this visa category shall present the following documents for primary inspection:

- a) Valid passport;
- b) Permanent residence visa / immigrant visa / long term visa / permanent residence card;
- c) CFO emigrant registration sticker; and
- d) Airline/sea craft travel ticket.

2. Filipino fiancé(e)s, spouses and partners of foreign nationals

Passengers falling under this visa category shall present the following documents for primary inspection:

- a) Valid passport;
- b) Permanent residence permit or visa / immigrant visa / long term visa / permanent residence card;
- c) CFO Guidance and Counseling-Certificate;
- d) CFO emigrant registration sticker; and
- e) Airline/sea craft travel ticket.

IV. OTHER CATEGORIES OF TRAVEL PURPOSES

1. ON-THE-JOB TRAINEE/S

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Passengers intending to depart to another country for the purpose of on-the-job training shall present the following additional documents:

- a. School certification on the need for on-the-job training;
- b. Acceptance by the host company authenticated by the Philippine Embassy or Consulate; and
- c. Certificate of Overseas Training by the Commission on Higher Education (CHED).

2. TRAINEE/S REQUIRED TO UNDERGO SKILLS ENHANCEMENT BY PROSPECTIVE EMPLOYERS

Passengers travelling for purposes of training or skills enhancement by prospective employers abroad shall present to the IO a letter indicating the subject and duration of the training, and the name, address and contact details of the responsible officer of the training facility or entity, duly authenticated by the Philippine Embassy or Consulate where the training or skills enhancement will be conducted.

3. Relatives requesting for compassionate or humanitarian visit to an irregular worker abroad must secure and present a certification from Department of Foreign Affairs-Office of the Undersecretary for Migrant Workers' Affairs (DFA-OUMWA).

4. Immediate family members of Overseas Filipino Workers (OFWs) travelling with a tourist/temporary visitor's visa shall be allowed without need of secondary inspection; provided that they establish their relationship within the first (1st) civil degree of consanguinity or affinity (spouse, children and parents) with the OFW and provided further; that they present photocopies of the following documents of the OFW:

- a) Valid passport;
- b) Visa;
- c) E-receipt or OEC; and
- d) National Statistics Office (NSO) certified birth/marriage certificate, as the case may be.

5. Passengers who intend to depart for intra-company trainings abroad for less than three (3) months shall present an invitation from the host company reflecting the duration, entitlements, travel and

other incidental expenses; while those exceeding three (3) months shall present the corresponding Trainorship Agreement containing all the above data.

6. Filipino J1 Visa Holders or Exchange Visitor Program (EVP) Participants

Passengers falling under this visa category shall present the following documents for primary inspection:

- a) Valid passport;
- b) Valid J1 or EVP visa;
- c) Travel ticket; and
- d) CFO EVP/J1 registration sticker.

7. Filipinos Departing with Au Pair Visa

Au Pairs are young Filipino citizens, between 18 to 30 years of age, unmarried and without children, who are placed under a cultural exchange arrangement with a European host family for a maximum stay of two years, unless otherwise allowed by host countries.

Passengers falling under this visa category shall present the following documents for primary inspection:

- a) Valid passport with a valid Au Pair Visa or its equivalent to the destination country;
- b) Contract of Engagement or Letter of Undertaking to Engage, signed by the Au Pair and the Head of the host family, duly authenticated/notarized by the Philippine Embassy/Consulate in the European country of destination; and
- c) Country Familiarization Seminar (CFS) CFO registration sticker.

V. GENERAL GUIDELINES ON TURNOVER OF DEFERRED DEPARTURE PASSENGERS, TRAVEL DOCUMENTS, INVESTIGATION AND OTHER RELATED INCIDENTS.

1. The passengers whose departures were deferred and who were determined to be potentially trafficked persons shall be turned over by the BI to the IACAT Task Force for appropriate



intervention. The IACAT Task Force shall turn over potential trafficked persons requiring protective care and services to a DSWD shelter, or any licensed or accredited institution.

2. Questionable passports, visa; immigration stamp, and other travel documents shall be confiscated by the BI and forwarded to its Anti-Fraud Unit for laboratory examination. If there is a determination by the Anti-Fraud Unit that the passport was tampered with, a counterfeit or is fraudulent, the BI shall turn over the confiscated passport together with the corresponding examination report to the IACAT Task Force; otherwise, the BI shall turn over the confiscated passport to the Office of Consular Affairs (OCA)-DFA and furnish the IACAT Task Force the scanned copy of the same.
3. In cases of potential trafficking in persons (TIP) that do not involve questionable passports, only the scanned copy of the passport data page shall be turned over by the BI to the IACAT Task Force and all pertinent documents, including but not limited to the Affidavit of Deferred Departure and a copy of the BCQ. The original passport and all other documents shall remain with the BI for proper disposition as stated under paragraph 2.
4. In the event that there is a recruitment agency involved, the BI shall furnish POEA-LAC all relevant documents.
5. The DFA shall maintain a database of confiscated passports. The IACAT Secretariat or Law Enforcement Agency/Officer shall advise OCA-DFA and BI on the status of cases.
6. The IACAT Task Force shall conduct investigations to determine the presence of elements establishing an offense of TIP or related offenses, identify persons and entities involved and file the appropriate charges before the Office of the Prosecutor.
7. The BI shall maintain a sex-disaggregated database of deferred departures. As much as possible, such database shall be available in all international ports of entry and exit and should have connectivity features. The IACAT shall, as far as practicable, support the establishment and maintenance of such database.

8. The OCA-DFA shall furnish the BI a list of authenticated Affidavit of Support and Undertaking, duly acknowledged and authenticated by the Consular Office on a weekly basis.
9. The BI shall provide the DFA-OCA a weekly list of passengers whose passports were confiscated. Likewise, the BI shall submit a List of Deferred Departures to the IACAT Secretariat every first week of the month, and furnish the DFA-OCA a copy thereof.

9.1. The list shall contain the following information:

- a) Last name, first name, middle name as appearing on the passport;
 - b) Passport number;
 - c) Date and place of birth;
 - d) Sex;
 - e) Date of deferred departure; and
 - f) Reason for deferred departure.
10. IOs, in the performance of their functions and duties, shall adhere to the principles of Courtesy, Accountability, Responsibility, Efficiency and Service (BI – C.A.R.E.S.). The BI shall likewise institute a mechanism for immediate feedback and redress of grievances of passengers.
 11. All agencies and task forces designated for the purpose of preventing, addressing and eliminating trafficking in persons, illegal recruitment, and other related crimes are hereby directed to revise existing procedures and systems to adhere to the revised guidelines within one (1) month from the effectivity thereof, to be submitted to the IACAT and Philippine Task Force Against Illegal Recruitment (PTFAIR) for review and evaluation.

All department orders, circulars, and issuances inconsistent herewith are hereby revoked.

This Circular takes effect immediately and shall remain in force until further order.



For strict compliance.

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LEILA M. DE LIMA
Secretary

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REPUBLIC OF THE PHILIPPINES
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22 March 2017

UNDERSECRETARY JESUS I. YABES
Office of the Undersecretary for Migrant Workers' Affairs
2330 Roxas Boulevard
Pasay City 1300

Dear Undersecretary Yabes:

This is in response to your 28 December 2016 request for guidelines concerning Bangladesh-bound Overseas Filipinos, who are business visa holders and are subject to secondary inspection by Immigration Officers at our international airports and seaport.

In this regard, please find the attached Department of Justice's Memorandum Circular No. 036 dated 15 June 2015 or the Inter-Agency Council Against Trafficking (IACAT) Revised Guidelines on Departure Formalities for International-Bound Passengers. This Circular directs Immigration Officers, both at the primary and secondary inspection tiers, to establish each passenger's travel purpose on a case-to case basis, taking into consideration the totality of circumstances at hand, including the declarations made and documents being presented in relation thereto.

Thank you.

Very truly yours,


JAIMÉ H. MORENTE
Commissioner