Canada to Begin Collecting Biometric Data From Certain Foreign Nationals

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On December 8, 2012, Citizenship and Immigration Canada ("CIC") published proposed regulations that will authorize the collection and use of biometric data from certain foreign nationals who make an application for a temporary resident visa ("TRV"), study permit, or work permit. Biometrics is the measurement of an individual's unique physical characteristics, such as fingerprints and facial image; an applicant's identity can be established through biometrics because of the uniqueness of these identifiers.

Starting in 2013, TRV, study permit, and work permit applicants from certain visa-required countries and territories who seek to enter Canada will be required to have their biometric information (fingerprints and photograph) collected overseas before arriving in Canada. Canadian citizens and permanent residents would not be subject to the proposed regulation.

The fingerprints collected abroad would be sent to the Royal Canadian Mounted Police for storage and would be checked against the fingerprint records of refugee claimants, previous deportees, persons with Canadian criminal records, and previous temporary resident applicants before a visa decision is made. The biometric identity established abroad would then be checked by a Canada Border Services Agency ("CBSA") officer at a Canadian port of entry, when the temporary resident applied for admission to Canada.

The CBSA officer will initially compare the digital photograph in the system with the individual who was seeking entry. Where a CBSA officer has concerns regarding the identity of that individual, he or she would also have the discretion to request an electronic scan of the individual's fingerprints at an equipped port of entry for comparison against those collected abroad.

Under the proposed regulations, persons from the following countries and territory who apply for a TRV, study permit or work permit will be required to provide their fingerprints and photograph at the time of application:

1. A citizen of Colombia, Haiti or Jamaica (as of September 2, 2013);
2. A citizen of Albania, Algeria, Democratic Republic of Congo, Eritrea, Libya, Nigeria, Saudi Arabia, Somalia, South Sudan, Sudan or Tunisia (as of October 15, 2013);
3. A citizen of Afghanistan, Bangladesh, Burma, Cambodia, Egypt, Iran, Iraq, Jordan, Laos, Lebanon, Pakistan, Sri Lanka, Syria, Vietnam or Yemen (as of December 7, 2013); and
4. A holder of a passport or travel document issued by the Palestinian Authority (as of December 7, 2013).

The proposed regulations would include exemptions from biometric enrolment for certain categories of applicants. Applicants who fall into the following categories would be exempted from the requirement to provide biometric information:

1. A person who is under the age of 14 or over the age of 79;
2. A properly accredited diplomat, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies or of any intergovernmental organization of which Canada is a member, or is a family member of one of them; and
3. A holder of a valid United States entry visa who is destined to or returning from that country, is seeking to enter Canada for a period of less than 48 hours and is travelling by transporter's vehicle to a destination other than Canada, or transiting through or stopping over in Canada for refueling or for the continuation of their journey in another transporter's vehicle.

The proposed regulations would also exempt the following individuals from the requirement to provide biometric information when applying for a study or work permit:

1. A person in Canada who has made a claim for refugee protection that has not been determined;
2. A person in Canada on whom refugee protection has been conferred; and
3. A person who is a member of the Convention refugees abroad class or a humanitarian-protected persons abroad class.

Applicants who are subject to the biometric requirement will be required to pay a biometrics fee of $85CAD. However, the following applicants would be exempted from the payment of the biometrics fee:

1. A member of the suite of a properly accredited diplomat, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies or of any intergovernmental organization of which Canada is a member;

2. A member of the armed forces of a country that is a designated state for the purposes of the *Visiting Forces Act*, including a person who has been designated as a civilian component of that visiting force under paragraph 4(c) of that Act, and that person's family members;

3. A person who is seeking to enter Canada for the purpose of attending a meeting hosted by the Government of Canada, an organization of the United Nations or the Organization of American States, as a participant, or for the purpose of attending a meeting as a representative of the Organization of American States or the Caribbean Development Bank, or for the purpose of attending a meeting hosted by the Government of Canada, an organization of the United Nations or the Organization of American States, at the invitation of the Government of Canada;

4. A person who is seeking to enter Canada as a competitor, coach, judge, team official, medical staff member or member of a national or international sports organizing body participating in the Pan-American Games, when held in Canada, or as a performer participating in a festival associated with any of those Games;

5. A person who is seeking to enter Canada for a period of less than 48 hours and is travelling by transporter's vehicle to a destination other than Canada, or transiting through or stopping over in Canada for refueling or for the continuation of their journey in another transporter's vehicle;

6. A person applying for a study permit or work permit who is

- A family member of a person in Canada who has made a refugee claim that has not yet been determined by the Refugee Protection Division;
- A family member of a person in Canada on whom refugee protection has been conferred; or
- A family member of a person who is a member of the Convention refugees abroad class or a humanitarian-protected persons abroad class;

7. A person whose work in Canada would create or maintain reciprocal employment for Canadian citizens or permanent residents of Canada in other countries and who is a family member of an officer of a foreign government sent, under an exchange agreement between Canada and one or more countries, to take up duties with a federal or provincial agency; and

8. A person with a diplomatic or official passport (i.e. a government official) who is applying for a TRV, a study permit or a work permit.

The proposed regulations would also provide for a maximum fee of $170CAD for family members who apply for a TRV at the same time and place, and of $255CAD for groups of three or more performing artists and their staff who apply for a work permit at the same time and place. These maximum fees are consistent with those currently offered to families and performing artists and their staff when applying for visas or work permits.