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Feature Article

ELECTRONIC DEVICE SEARCHES UPON ENTRY INTO CANADA: AN OVERVIEW – This article provides an overview of electronic device searches upon entry in Canada.

Country Updates

BELGIUM – Belgium will implement new gross salary thresholds in January. Also, implementation of the single permit is expected soon.

COLOMBIA – Colombia's Ministry of Labor has implemented a Unique Registry of Foreign Workers in Colombia, or RUTEC, to better track foreign labor and foreign workers' employment status, and to monitor employer compliance with working conditions.

GERMANY – The German Federal Ministry of the Interior, Building and Community has introduced a draft law on corporate immigration that clearly defines the country as open for employee migration and welcomes qualified workers.

ITALY – The work holiday visa is a special type of visa, issued for 12 months, that allows the holder to travel to Italy and work there for up to six months. It is an opportunity for youth of each participating country to experience the language, lifestyle, culture, and job environment of the receiving country.

TURKEY – Turkey has announced several new developments, including updated employment agreements being requested for work permit renewals, the replacement of the visa-on-arrival (sticker visa) with the electronic visa, rejection of most in-person filings, the likely removal of the 5:1 exemption for Syrians in lawful work or residence status, and year-to-date totals for work permit approvals.

UNITED KINGDOM – This article discusses the implications for EU citizens living in the UK following the November acceptance by EU leaders of the terms of the UK withdrawal and the political declaration for a post-Brexit trade agreement between the EU and UK. Also, the Immigration Health Surcharge is being doubled.

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ELECTRONIC DEVICE SEARCHES UPON ENTRY INTO CANADA: AN OVERVIEW

This article provides an overview of recent developments in Canada with respect to device searches upon entry.

Canada Border Services Agency (CBSA) officers routinely search the electronic devices of individuals entering Canada, both randomly and in a targeted fashion.

The *Customs Act* grants the CBSA broad powers to search people and goods entering Canada. The definition of "goods" includes "any document in any form," which encompasses files stored on an electronic device. The *Immigration and Refugee Protection Act (IRPA)* allows the CBSA to conduct a warrantless search of the "luggage and personal effects" of a person seeking to enter Canada, if the officer has reasonable grounds to believe that the individual has hidden information relevant to his or her admissibility, or is involved with document fraud or human trafficking. CBSA is also known to conduct targeted searches based on undisclosed indicators. Single men traveling alone, those exhibiting nervousness or agitation, those in possession of multiple electronic devices, and those who have traveled to higher-risk destinations may be more likely to be subject to a random search.

While the *Charter of Rights and Freedoms* applies to border crossings, and the CBSA has policy guidelines dictating the scope of searches, not every search is conducted in compliance with these safeguards. Further complicating the issue is the fact that the courts have not taken a clear position on what border officers can and cannot do when searching or seizing an electronic device. Travelers who have refused to provide their passwords have been threatened with arrest and with hindering or obstructing a CBSA officer (a criminal offense carrying a sentence of up to \$50,000 in fines and five years' imprisonment), even though it is not clear whether travelers are legally required to do so.

What is clear, though, is that searches of electronic devices may result in anything from an inconvenient delay at the border to a huge intrusion on personal privacy. There are also concerns that these searches may result in breaches of confidentiality, if the device contains sensitive company data or privileged material. Therefore, it is important to keep some best practices in mind. The best safeguard against an electronic search is not to carry the data at all when entering Canada. Consider dedicating a device for travel purposes and do not store any sensitive data on it. Remember that deleted data on an electronic device, while not easily accessible by an officer, can likely be retrieved with the use of recovery software. Keep in mind that data stored in the cloud, once accessed by a device, may be stored on the device and may be accessible without an Internet connection. If you must bring in such material, separate privileged and confidential documents and label them accordingly, and inform the officer conducting the search that you are in possession of sensitive documents.

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BELGIUM

Belgium will implement new gross salary thresholds in January. Also, implementation of the single permit is expected soon.

New Gross Salary Thresholds as of January 1, 2019

One of the requirements for certain Belgian fast-track work permits B, as well as for the Blue Card, is a salary threshold. The annual gross remuneration must meet the threshold amount, which is adjusted/indexated on a yearly basis.

The new salary thresholds effective January 1, 2019 will be:

- For highly skilled work permits: 41,739 € (40,972 € for 2018);
- For executive level work permits: 69,637 € (68,356 € for 2018);
- For Blue Cards: 53,971 € (52,978 € for 2018).

The Ministries will only issue a fast-track work permit B or Blue Card if it is clear that the employee's salary will meet the threshold amount. The Ministries will only take into account amounts that will definitely be paid in consideration for the employee's work; a discretionary bonus cannot be taken into account when processing the work permit application. COLA (Cost of Living Allowances) as well as most other allowances are not taken into account either. Some benefits in kind can be taken into account, up to a certain extent and if clearly mentioned and assessed/quantified in the employment contract/assignment letter.

Furthermore, correct salary payment will be crucial for a work permit renewal.

Single Permit as of (Probably) January 1, 2019

The single permit will be implemented, probably on January 1, 2019. In the federal and regional areas (three regions: Brussels, Flanders, and Wallonia), authorities are finalizing the new rules and practical arrangements. The final rules are expected imminently.

The single permit will be a document authorizing work and residence for more than 90 days. It will be a residence permit with confirmation of the right to work. Paper work permits will no longer be issued for more than 90 days.

The single permit application file must contain not only the documents currently required for a work permit application but also those currently required for a visa/residence permit application (including proof of payment of levy (350 €); police clearance; medical certificate for visa/residence; possibly health insurance). This may require a longer preparation time. In some countries, it can take a long time to obtain a police clearance.

The maximum processing time for the single permit application would be four months after notification by the authorities that the application is complete.

If an application for more than 90 days will be filed before the effective date of the single permit (probably January 1, 2019), the current "dual permit" system will still apply. If it will be filed after the effective date of the single permit, the single permit system will apply.

To be clear, the single permit only relates to applications for a permit of more than 90 days. For short-term work (90 days or fewer), the current system will in principle (there may be minor

changes) continue to apply: the employer applies for employment authorization; a paper work permit is issued; the employee can enter with a visa or on a visa waiver.

The Flanders region has prepared work permit legislation to implement the ICT Directive. This legislation, which will probably also extend the maximum duration of some work permits from one year to three years, will probably also take effect on January 1, 2019.

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COLOMBIA

On October 9, 2018, Colombia's Ministry of Labor implemented a Unique Registry of Foreign Workers in Colombia, or RUTEC, to better track foreign labor and foreign workers' employment status, and to monitor employer compliance with working conditions. Labor authorities may use the information collected in the new registry as a basis for creating or changing the country's policies affecting immigrant labor.

To whom does the registration apply?

All foreign nationals working in Colombia in the public or private sector must be registered by their Colombian employers. Self-employed foreign workers must also register themselves. Dependent and independent foreign workers who are working in the country must be registered, including workers with a Special Permit of Permanence (PEP). Also, the personnel of the embassies and consulates in Colombia must be registered.

What are the deadlines and validity time?

Foreign national workers must be registered within 120 days of the commencement of the employment contract or assignment. Companies have 120 days from the issuance of Resolution 4388 to register their existing foreign workers. Registration is valid for the length of the employment contract, and any changes must be reported within 30 calendar days. Penalties for non-compliance are between one and five thousand times the Minimum Legal Monthly Wages (SMMLV). The SMMLV for 2018 is reportedly US \$252.

SIRE vs. RUTEC

Employees who are already registered in SIRE (Information System for the Report of Foreigners) must also register in the new RUTEC system, as they are separate databases and maintained by different government agencies. SIRE is administered by immigration authorities and RUTEC is administered by labor authorities.

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GERMANY

The German Federal Ministry of the Interior, Building and Community has introduced a draft law on corporate immigration that clearly defines the country as open for employee migration and welcomes qualified workers. The new draft law has been published for discussion of the civil associations and will be put forth into the regular lawmaking process in December.

The draft law does not change the existing rules on the immigration of highly qualified workers, acclaimed by the Organisation for Economic Co-operation and Development (OECD) as being a very good immigration law. It also keeps the notion that immigration in principle requires an employment contract before entering Germany and that all foreign workers must be employed with working conditions at least equal to those of German personnel. The draft law does introduce new categories for qualified workers without an academic education, reflecting the

shortage of employees currently experienced by German employers. Workers with limited vocational training may obtain required additional qualifications within a period of several years after arrival in Germany during employment.

The new law also introduces a fast track to expedite worker migration and streamlines processing. Finally, it enables workers with vocational training as well as those with academic qualifications to enter Germany for a limited period of six months to search for employment if they can sustain their living costs with sufficient funds. The draft also introduces an obligation to employers to notify the authorities if an employment relationship ends prematurely and clarifies that the work permit contained in the immigration visa/permits is to be automatically transferred to allow employment with a new employer when corporate restructuring affects the employment relationship.

As noted above, with the draft law, Germany clearly defines the country as open for employee migration and welcomes qualified workers. The draft provides some answers to the administrative problems and shortcomings that employee migrants currently experience in the process. Hopes are high that employee migration to Germany will improve in the coming years.

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ITALY

The work holiday visa is a special type of visa, issued for 12 months, that allows the holder to travel to Italy and work there for up to six months. It is an opportunity for youth of each participating country to experience the language, lifestyle, culture, and job environment of the receiving country.

Italy has bilateral agreements on work holiday visas with New Zealand, Australia, Canada, and South Korea. Each bilateral agreement sets the conditions for participation in the program and also the maximum number of visas that can be issued in a year.

The procedure consists of two steps:

- File the visa application at the Italian consulate having jurisdiction over the place of residency abroad
- Once in Italy, file the residence permit application within 8 days of arrival

If and when the applicant finds an employer willing to hire him or her, a work permit is not necessary. The work holiday residence permit allows the holder to work up to a total of 6 months, and up to 3 months with the same employer.

Below are details of the existing agreements with Italy:

New Zealand agreement

Who can apply: New Zealand citizens between the age of 18 and 30

Duration of allowed stay: 12 months, not renewable

Type of work activity allowed: No restrictions but no longer than 3 months with the same employer and 6 months in total

Number of visas per year: Up to 1,000

Australia agreement

Who can apply: Australian citizens between the age of 18 and 30

Duration of allowed stay: 12 months, not renewable

Type of work activity allowed: No restrictions but no longer than 3 months with the same employer and 6 months in total

Number of visas per year: Up to 1,500 for Australian citizens

Canada agreement

Who can apply: Canadian citizens between the age of 18 and 35

Duration of allowed stay: 12 months, not renewable

Type of work activity allowed: No restrictions but no longer than 3 months with the same employer and 6 months in total

Number of visas per year: Up to 1,000

South Korea agreement

Who can apply: South Korean citizens between the age of 18 and 30

Duration of allowed stay: 12 months, not renewable

Type of work activity allowed: No restrictions but no longer than 6 months (up to 6 months with the same employer allowed)

Number of visas per year: Up to 500

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TURKEY

Turkey has announced several new developments, including updated employment agreements being requested for work permit renewals, the replacement of the visa-on-arrival (sticker visa) with the electronic visa, rejection of most in-person filings, the likely removal of the 5:1 exemption for Syrians in lawful work or residence status, and year-to-date totals for work permit approvals.

Updated Employment Agreement Now Requested by MOL for Work Permit Renewals

The Ministry of Labor (MOL) has recently begun requesting a copy of a new or updated employment agreement (EA) signed by the sponsor and applicant for work permit renewals. Unfortunately, the MOL is currently not accepting previously executed agreements and requires the agreement to be updated in line with the details in the application for renewal. It is not clear why the MOL has made this document a necessity, as the work permit application itself has been held to create an employer-employee relationship. It is not clear whether a signed protocol update will suffice in lieu of a new EA. Employers should be prepared to execute an updated agreement for all renewals.

Full Elimination of Visa-on-Arrival

Although not yet officially announced on the Ministry of Foreign Affairs website, the Ministry has almost completed the elimination of the visa-on-arrival (sticker visa) with the intention of full replacement by the electronic visa (online "e-visa"). The e-visa system to obtain a visitor visa instantaneously online was formally initiated on April 17, 2013. However, until recently, eligible applicants who had not purchased an e-visa were still able to purchase a visa-on-arrival to Turkey. The Turkish airport counters that previously offered purchase of the visa-on-arrival have now been removed. All eligible visitors to Turkey should evaluate their needs for an e-visa in advance and plan to purchase their e-visas before departure to Turkey.

Rejection of Most Documents Filed In Person with MOL

The Work Permit Directorate recently announced that it will no longer accept most applications or petitions filed in person. Although work permit applications have not been accepted in person for some time, now commencement and cancellation petitions, work permit loss petitions, job

title change petitions, and others are no longer accepted in person either. Any acceptance of documents filed in person is discretionary (although Ratio Exemption applications are still accepted in person).

Likely Removal of 5:1 Exemption for Syrians in Lawful Work or Residence Status

Previously, Syrian nationals in Turkey in lawful residence or work status have benefited their prospective employers by a blanket exemption of the 5:1 ratio. However, officers of the Work Permit Directorate recently said that this exemption has been eliminated. This is not pursuant to an official announcement, so confirmation is awaited.

Year-to-Date Work Permit Approvals Announced

Local media have announced that the MOL released its year-to-date totals for work permit approvals. From January through October 2018, 97,991 work permits were granted. This number is out of a total of 122,115 submissions within the 10-month period. Syrian national applicants are the most common. This announcement makes clear that there is a steady rise in work permit grants, as 87,182 were granted in all of 2017 and 59,873 were granted in all of 2016.

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UNITED KINGDOM

This article discusses the implications for European Union (EU) citizens living in the United Kingdom (UK) following the November acceptance by EU leaders of the terms of the UK withdrawal and the political declaration for a post-Brexit trade agreement between the EU and UK. Also, the Immigration Health Surcharge is being doubled.

On November 25, 2018, EU leaders formally accepted the terms of the UK's withdrawal from the EU and the political declaration for a post-Brexit trade agreement between the EU and the UK. Prime Minister Theresa May will now need to persuade the British Parliament to accept the deal that has been negotiated. A vote was due to take place December 10, 2018, but Prime Minister May postponed it, acknowledging that it would have been "rejected by a significant margin." Meanwhile, the European Court of Justice ruled that the UK could cancel Brexit without the agreement of the other EU members, although Brexit Secretary Steve Barclay reportedly said there was "absolutely no intention" to do that.

The Prime Minister has conducted a countrywide publicity campaign to garner support for the agreement from the British public. Now is an appropriate moment to reflect on the implications for EU citizens living in the UK in the event of a worst-case scenario with the UK potentially crashing out of the EU on March 29, 2019, without a deal.

Under the terms of the Withdrawal Agreement, provision has been made for EU citizens living in the UK to obtain settled status in the UK or limited leave to remain under the EU Settlement Scheme, which now forms part of the Immigration Rules. EU citizens, including those arriving after Brexit Day, will have until June 30, 2021, to apply for this new status during a transition period, which will run from March 30, 2019, until December 31, 2020. Under the terms of the Withdrawal Agreement, EU citizens and their family members will be able to continue to come to the UK to live and work under the specified provisions throughout the transition period.

Although the Home Office press office has issued various assurances that the EU Settlement Scheme will remain in place in the event of a no-deal Brexit, there still has been no formal confirmation of this. While the ongoing rights of EU nationals currently living in the UK to continue to live in the UK post-Brexit is more certain (the Prime Minister has stated on

numerous occasions that they will not be forced to leave the UK following Brexit Day), it is still unclear what the position will be for new EU arrivals in the UK after Brexit in the event of a no-deal scenario. The government has remained completely silent on whether the EU Settlement Scheme will remain in its current format or will apply only to EU citizens living in the UK up to Brexit Day.

This all begs a number of questions for employers, who first need to know whether they can continue to recruit EU nationals arriving in the UK after Brexit Day and, if so, on what terms, and second, need to know how they will be able to differentiate between those who arrived before and those who arrived after Brexit when conducting right-to-work checks.

So what will happen to EU nationals living in the UK if the Withdrawal Agreement is rejected by Parliament?

Information on this issue was first gained during the questioning of Immigration Minister Caroline Nokes, when she was called to address the Home Affairs Select Committee on October 30, 2018, on this very point.

The Minister said nothing to appease employers' concerns since she would not confirm that employers would not need to differentiate between EU nationals arriving pre- and post-Brexit. She was particularly vague about whether there would still be a transition period and, if so, how long this would last. More specifically, the Minister stated that the Immigration Bill due to be published later this year would be brought forward and also suggested that a registration scheme for new arrivals could be introduced for those wishing to stay more than three months.

Unsurprisingly, this received a great deal of press coverage due in no small part to the uncertain position this would leave employers. An announcement by Hilary Bagshaw of the Home Office swiftly followed. She stated that following Brexit, citizens will continue to be able to evidence their right to work by showing a passport or national identity card. This provided some needed clarity for employers conducting right-to-work checks and was subsequently confirmed by Home Secretary Sajid Javid during an interview.

But what about free movement? Ms. Bagshaw said that free movement will end when the UK leaves the EU, but most observers believe that until the new immigration system is rolled out following the publication of the Immigration Bill, the most likely scenario is that free movement will effectively continue in all but name. Mr. Javid also vaguely referred to the need for a sensible transition period, but he would not specifically confirm that the status quo would be maintained until December 30, 2020.

Increase in the Immigration Health Surcharge

On November 21, 2018, the House of Commons approved an order to double the immigration health surcharge on every non-EU migrant from £200 to £400 per year. This is expected to come into force at some point in December.

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New Publications and Items of Interest

Alliance of Business Immigration Lawyers:

- The latest immigration news is at <http://www.abil.com/news.cfm>.
- The latest published media releases include:
 - ABIL Says Proposed Change to Public Charge Rule Would Exclude Immigrants from Government Programs:

- https://www.prweb.com/releases/abil_says_proposed_change_to_public_charge_rule_would_exclude_immigrants_from_government_programs/prweb15737932.htm
- New Data Show Increase in H-1B Denials and RFEs: https://www.prweb.com/releases/new_data_show_increase_in_h_1b_denials_and_rfes/prweb15673632.htm
- ABIL Urges Administration to Change "Buy American and Hire American" Executive Order: <http://www.prweb.com/releases/2018/05/prweb15485457.htm>
- ABIL Member Kuck Baxter Immigration Commercial Nominated for an Emmy: <http://www.prweb.com/releases/2018/05/prweb15485460.htm>
- ABIL Members Note Immigration Threats for Employers in 2018: <http://www.prweb.com/releases/2018/03/prweb15261255.htm>
- ABIL is available on Twitter: @ABILImmigration.
- Recent ABIL member blogs are at <http://www.abilblog.com/>.

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ABIL Member/Firm News

The following **Alliance of Business Immigration Lawyers** member firms were listed in U.S. News & World Report's Best Law Firms:

Chin & Curtis, LLP—National Tier 2; Boston Tier 1
Clark Lau LLC—National Tier 2; Boston Tier 1
Cyrus D. Mehta & Partners PLLC—National Tier 1; New York City Tier 1
Foster LLP—National Tier 2; Austin Tier 1; Houston Tier 1
Fredrikson & Byron P.A.—Des Moines Tier 2; Minneapolis Tier 3
Garfinkel Immigration Law Firm—Charlotte Tier 1
Goel & Anderson, LLC—Washington, DC Tier 3
Joseph Law Firm, P.C. —Colorado Tier 1
Klasko Immigration Law Partners, LLP—National Tier 2; Philadelphia Tier 1
Kuck Baxter Immigration LLC—Atlanta Tier 1
Maggio + Kattar—National Tier 1; San Diego Tier 1; Washington, DC Tier 1
Mark Ivener, A Law Corporation—National Tier 3; Los Angeles Tier 2
Pearl Law Group—San Francisco Tier 2
Seyfarth Shaw LLP—National Tier 1; Atlanta Tier 1; Boston Tier 1; Houston Tier 1; Los Angeles Tier 2; Washington, DC Tier 3
Siskind Susser PC—Memphis Tier 1; Nashville Tier 2
Wolfsdorf Rosenthal LLP—National Tier 1; Los Angeles Tier 1; New York City Tier 2

The national rankings are at <https://bestlawfirms.usnews.com/immigration-law>. The regional rankings are under each firm's profile.

Dagmar Butte (<http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) and **Vic Goel** (<http://www.abil.com/lawyers/lawyers-goel.cfm?c=US>) were quoted by *Forbes* in "New H-1B Lawsuit: USCIS Lacks Authority to Limit Visa Duration." The article notes that companies and attorneys have said they are now regularly getting H-1B approvals that last 6 months or less. "It happens all the time," Mr. Goel said, particularly with any company providing information technology services. Ms. Butte noted, "We are getting approvals of 6 months or less. We have to immediately turn around and file an extension, which means more legal fees and filing fees and less certainty for the beneficiary and the company." The article is at <https://www.forbes.com/sites/stuartanderson/2018/10/15/new-h-1b-lawsuit-uscis-lacks-authority-to-limit-visa-duration/amp/>.

Mr. Goel and **Lawrence Lorber (Seyfarth Shaw LLP)** were quoted by *Forbes* in "Trump Labor Department to Use New H-1B Form Against Tech Companies." Mr. Goel said, "This revision to the labor condition application is nothing more than an attempt to discourage contracting out for services by U.S. companies whose contractors employ H-1B professionals." The article notes

that the Department of Labor used the term "secondary employer" on the form to describe the worksite where an H-1B visa holder would perform services. "Calling someone a secondary employer is nonsense. It raises a lot of issues in the joint-employer context, which is a major policy issue," Mr. Lorber noted. The article is at <https://www.forbes.com/sites/stuartanderson/2018/11/26/trump-labor-dept-to-use-new-h-1b-form-against-tech-companies/#7684ec463ef3>.

Avi Gomberg (<http://www.abil.com/lawyers/lawyers-gomberg.cfm?c=CA>) spoke on "Investor Immigration to Québec, Canada" at the New York State Bar Association conference held in Montréal, Canada, on October 24, 2018.

Klasko Immigration Law Partners, LLP is expanding its business litigation practice with its experienced attorney team. **H. Ronald Klasko** (<http://www.abil.com/lawyers/lawyers-klasko.cfm>), managing partner, is also leading the new Administrative Litigation Task Force formed within the American Immigration Lawyers Association. Mr. Klasko's goals are to initiate impact litigation on key immigration issues and policies and to educate other immigration attorneys on how to litigate visa denials where they believe the law was misinterpreted. He is currently co-counsel for a lawsuit challenging the new USCIS policy on unlawful presence for foreign students and exchange visitors. **Daniel Lundy** is involved in significant litigation work, both in the EB-5 arena and with regard to employment-based immigration applications and petitions. He has frequently been involved in litigation on behalf of EB-5 investors, regional centers, and projects that are facing USCIS actions or delays, regional center terminations, or SEC litigation. For more information, see <https://www.klaskolaw.com/practice-areas/business-litigation/>.

Klasko Immigration Law Partners, LLP has issued a client alert and blog by **William A. Stock** and **Steven R. Miller**. "Lessons for Universities and Companies from Wright State University's Nonprosecution Agreement" is at <https://bit.ly/2KKqTFj>.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) has authored several new blog entries. "H-1B Visa Contest: US Master's Degree v. Foreign Degree" is at <http://blog.cyrusmehta.com/2018/12/h-1b-visa-contest-us-masters-degree-v-foreign-degree.html>. "New Mutant H-1B Gene: Undifferentiated Engineering Degrees" is at <http://blog.cyrusmehta.com/2018/11/new-mutant-h-1b-gene-undifferentiated-engineering-degrees.html>. "Labor Certification: Mustn't the U.S. Job Applicant Be Able to Perform the Job Even if Qualified on Paper?" is at <http://blog.cyrusmehta.com/2018/11/labor-certification-mustnt-the-us-job-applicant-be-able-to-perform-the-job-even-if-qualified-on-paper.html>.

Mr. Mehta and **Sophia Genovese**, of Mr. Mehta's office, co-authored a new blog entry. "Trump Is Not King. He Cannot Change the U.S. Asylum System Through Executive Orders" is at <http://blog.cyrusmehta.com/2018/11/trump-is-not-king-he-cannot-change-the-us-asylum-system-through-executive-orders.html>.

Rodrigo Tannus (bio: <http://www.abil.com/lawyers/lawyers-tannus.cfm?c=CO>) has authored several new articles in *Diario la República*. "Circulación laboral en la Alianza del Pacífico (III)" is at <https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/circulacion-laboral-en-la-alianza-del-pacifico-iii-2782496>. "Implementación del Registro Único de Trabajadores" is at <https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/implementacion-del-registro-unico-de-trabajadores-2793207>.

Mr. Tannus was included in Chambers Latin America and Legal 500 Latin America. **Tannus & Asociados** undertakes labor advice, audits, due diligence, trainings, and procedures before various entities. The team is helping Intertug grow its operations in Jamaica, Bolivia, Mexico, Brazil, and Venezuela by developing labor and immigration bases for managerial and operational staff.

Mr. Tannus was quoted by *Diario la República*: "[L]os nacionales venezolanos que no acaten los deberes y obligaciones descritos en la normatividad migratoria colombiana, pueden ser sujetos de sanciones económicas, que oscilan entre medio y 40 salarios mínimos legales

mensuales vigentes; o incluso ser objeto de deportación o expulsión del país. Además, argumentó que las medidas no tienen diferencias con otras nacionalidades, salvo un trato preferencial para nacionales ecuatorianos y países miembros del Mercado Común del Sur (Mercosur)." The article is at <https://www.asuntoslegales.com.co/actualidad/conozca-que-son-los-requisitos-legales-para-migrantes-en-territorio-nacional-2787067>.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by *Deutsche Welle* in "Can Donald Trump Use Force Against the 'Migrant Caravan'?" Mr. Yale-Loehr commented on President Trump's new proclamation mandating that individuals claiming asylum can do so only at official ports of entry. Those entering the country without authorization are barred from seeking asylum, but can apply for two alternative forms of relief known as "withholding of removal" and relief under the United Nations Convention Against Torture, he noted. "The Trump administration claims that allowing people to apply for those other forms of relief satisfies our international obligations not to return people to countries where they might face persecution", said Mr. Yale-Loehr, adding that to decide whether President Trump's argumentation is correct and the order legal, the courts will have to weigh competing considerations. "Courts have traditionally ruled that presidents have large discretion on immigration issues, since immigration touches on national sovereignty. However, the United States has signed the United Nations protocol on refugees, which bars countries from returning people to countries where they might be persecuted. And the U.S. asylum statute explicitly allows people to apply for asylum no matter how they enter the United States. The president cannot repeal the asylum statute; only Congress can do that." The article is at <https://www.dw.com/en/can-donald-trump-use-force-against-the-migrant-caravan/a-46300123>.

Mr. Yale-Loehr was quoted by the *New York Times* in "Federal Judge Blocks Trump's Proclamation Targeting Some Asylum-Seekers." Mr. Yale-Loehr said the court's ruling shows that Presidential discretion has limits. "The ruling is a significant blow to the administration's efforts to unilaterally change asylum law. Ultimately this may have to go to the Supreme Court for a final ruling," he said. The article is at <https://www.nytimes.com/2018/11/20/us/judge-denies-trump-asylum-policy.html>.

Mr. Yale-Loehr was quoted by the *Voice of America* in "EB-5 Program: American Citizenship Door for International Students." "I can say there are hundreds of EB-5 students a year. No one knows for sure," he said. "I compare [EB-5] to a Rubik's cube. The migration component must be in harmony with the investment component, harmonized with the employment component... Sometimes, if the students study business, they are very sophisticated." The article (in Vietnamese) is at <https://www.voatiengviet.com/a/chương-trình-eb-5-cánh-cửa-nhập-tịch-mỹ-cho-sinh-viên-quốc-tế/4665862.html>.

Mr. Yale-Loehr was quoted by *U.S. News & World Report* and other publications (via *Reuters*) in "Trump Demand That Asylum Seekers Wait in Mexico May Turn on Legal Clause." The Trump administration will likely argue that the U.S. Constitution's due process clause only applies in U.S. territory, Mr. Yale-Loehr noted. The article is at <https://www.usnews.com/news/top-news/articles/2018-11-30/trump-demand-that-asylum-seekers-wait-in-mexico-may-turn-on-legal-clause>.

Mr. Yale-Loehr was quoted by National Real Estate Investor in "As the EB-5 Program Comes Up for Another Extension, Recent Litigation Puts the Spotlight on the Program's Flaws." He explained that there are two types of litigation in the EB-5 world. One scenario is fraud from the outset: the project developer takes the money and runs. The other scenario is where the developer is trying to do everything correctly, but because of a change in the project, the developer is unable to finish it on time or needs to re-deploy the foreign investors' funds in another way. With a years-long process to get permanent residence coupled with the need to keep funds at risk and create permanent jobs, there are more windows for problems to crop up. "That's not necessarily fraud," he said. "I predict that Congress will extend EB-5 again without any changes ... maybe in the spring everybody can agree on a reform package that Congress can enact," Mr. Yale-Loehr said. The article is at <https://www.nreionline.com/finance->

[investment/eb-5-program-comes-another-extension-recent-litigation-puts-spotlight-program-s.](#)

Mr. Yale-Loehr moderated a panel on immigration court reform at "A Tribute to Juan Osuna: Access to Justice, Due Process, and the Rule of Law in the U.S. Immigration System: Present Realities and a Vision for the Future," on November 15, 2018, at Hogan Lovells in Washington, DC. More information on the event, sponsored by the Center for Migration Studies, is at https://docs.google.com/forms/d/e/1FAIpQLScoduOjv0dTVZFH4DgbkZHffDTq_D4VLmt4fvA_tY83dxOZBw/viewform.

Mr. Yale-Loehr was quoted through the *AFP Internacional* wire service in numerous articles around the world, many in Spanish, about the possibility of U.S. immigration reform in the coming year. Mr. Yale-Loehr sent the following quote to the AFP: "Immigration reform is theoretically possible. Indeed, the White House offered a four-point plan for immigration reform last January. However, that plan had too many poison pills, such as increased border enforcement and a reduction in family immigration, for the Democrats to accept. I doubt the two sides will be able to agree on immigration reform." One of the articles, "¿Una reforma migratoria saldrá del nuevo Congreso de EEUU? Poco probable," is at <https://www.swissinfo.ch/spa/afp-una-reforma-migratoria-saldrá-del-nuevo-congreso-de-eeuu--poco-probable/44530536>.

Mr. Yale-Loehr was quoted by *Reuters* in "Trump Signs Order Limiting Migrant Asylum at U.S.-Mexico Border," which was published in numerous media outlets. He said the administration may struggle to justify the national security concerns underpinning the order, as the flow of migrants across the southern border has fallen in recent years. "We also have an obligation under international law not to return people to a country where they fear persecution," he noted. The article is at <https://www.reuters.com/article/us-usa-immigration-asylum/trump-signs-order-limiting-migrant-asylum-at-u-s-mexico-border-idUSKCN1NE1PV>.

Mr. Yale-Loehr was quoted in several other recent publications:

- *Politifact*, in "Donald Trump Falsely Says Democrats Invite Migrant Caravans": The article noted that a 1982 U.S. Supreme Court case said that immigrants, regardless of immigration status, are allowed free elementary and secondary education. "But immigrant children can't access that right if they are detained waiting for their asylum hearings, except in a few family detention centers," Mr. Yale-Loehr noted. <https://www.politifact.com/truth-o-meter/statements/2018/nov/01/donald-trump/donald-trump-falsely-says-democrats-invite-migrant/>
- *Law360*, in "Midterms Won't Break Immigration Reform Gridlock, Attys Say." "Immigration is so controversial right now that it will be almost impossible to get any major immigration reform bill through Congress, no matter which party is in power. Even if the Democrats win control of both the House and Senate and manage to pass an immigration reform bill, President Trump would veto the measure. We won't see immigration reform until 2021 at the earliest." Available by registering at <https://www.law360.com/articles/1097734/midterms-won-t-break-immigration-reform-gridlock-attys-say>.
- Newspaper in Taiwan re possible proposal to eliminate duration of status for students (in Chinese): <https://news.sina.com.tw/article/20181102/28694812.html>
- Raw Story, "How Everyone Can Help Blunt Trump's Racist Lies Instead of Amplifying Them: <https://www.rawstory.com/2018/10/everyone-can-help-blunt-trumps-racist-lies-instead-amplifying/>
- Univision, re birthright citizenship (Spanish), "¿Puede Trump quitar la ciudadanía a hijos de indocumentados nacidos en EEUU? Respondemos tus preguntas": <https://www.univision.com/noticias/inmigracion/puede-trump-quitar-la-ciudadania-a-hijos-de-indocumentados-nacidos-en-eeuu-respondemos-tus-preguntas>
- Video interview with the NBC TV affiliate in Atlanta, about birthright citizenship, "Verify: Did the Authors of the 14th Amendment Not Intend to Offer Birthright Citizenship to

People Born of Foreign Parents?": <https://www.11alive.com/video/news/verify-did-the-authors-of-the-14th-amendment-not-intend-to-offer-birthright-citizenship-to-people-born-of-foreign-parents/85-8299105>

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