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Feature Article

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ENTERTAINERS AND SHORT-TERM ENTERTAINERS: AN OVERVIEW

This article provides an overview of provisions for entertainers and short-term entertainers in Canada and Italy.

Canada

Canada is known as a popular destination for filmmakers and performing artists. Canada's immigration law permits many entertainers and those working in the entertainment industry to work in Canada without a work permit or to obtain a work permit relatively easily by exempting them from obtaining a Labour Market Impact Assessment (LMIA).

Exemption from Work Permit

Section 186 of the *Immigration and Refugee Protection Regulations* outlines several situations in which a foreign national may work without a work permit. The ones relevant to the entertainment industry are:

- 186(a): Film producers employed by foreign companies for commercial shoots, and essential personnel (e.g., actors, directors, technicians) entering Canada for short durations (typically no longer than two weeks) for a foreign-financed commercial (i.e., advertising) shoot (for television, magazines, or other media).

- 186(g): A performing artist appearing alone or in a group in an artistic performance—other than a performance that is primarily for a film production or a television or radio broadcast—or as a member of the staff of such a performing artist or group who is integral to the artistic performance, if (i) they are part of a foreign production or group, or are a guest artist in a Canadian production or group, performing a time-limited engagement, and (ii) they are not in an employment relationship with the organization or business in Canada that is contracting for their services.

- 186(m): A judge, referee, or similar official at an international cultural or artistic event.

There is also a short-term work permit exemption based on the Global Skills Strategy public policy (15 calendar days once every 6 months or 30 calendar days once every 12 months) available to those working in highly skilled occupations (National Occupational Classification (NOC) Skill Type 0 or Skill Level A). Producers, directors, choreographers, and film editors are considered NOC A occupations.

Exemption from LMIA

There are several LMIA exemptions applicable to those in the entertainment industry:

- Exemption code C14 (Significant Benefit—Television and film production workers) targets foreign nationals in the television and film industry whose position or occupation is essential to a TV or film production. Two support letters are required: one from the production detailing the significant economic benefit to Canada of the TV or film production, and the other from the union or guild confirming that the proposed work is subject to a collective agreement and that it has no objection to the proposed work arrangement.

- Exemption code C10 (Significant Benefit—General Guidelines) applies to any foreign national whose employment in Canada would create significant social, cultural, or economic benefit (examples include national or international awards, membership in organizations requiring excellence of its members, and general renown). Applications also must demonstrate that the foreign national's employment will result in a neutral or positive impact on the Canadian labor market, and that the circumstances justify the issuance of a work permit in a timeframe shorter than that required to obtain an LMIA.

- Exemption code C23 (Reciprocal Employment—Performing Arts) targets key creative personnel and talent associated with Canadian nonprofit performing arts companies and organizations in the orchestral music, opera, live theater, and dance disciplines. The employer must be a current recipient of core or composite funding from the Canada Council for the Arts or of financial support via parliamentary appropriation, such as the National Arts Centre. The application must include evidence from the applicable Canadian performing arts representative or service organization that reciprocal international opportunities exist for Canadians in the discipline. Examples of organizations include the Canadian Actors' Equity Association, the Canadian Federation of Musicians, and the Canadian Actors' Equity Association.

- Exemption code C20 (Reciprocal Employment—General Guidelines) permits foreign nationals to obtain a work permit if similar reciprocal opportunities abroad exist for Canadians and if the foreign national's employment would result in a neutral labor market impact. A Canadian performing arts organization that has a cultural exchange program with a foreign performing arts organization may be able to use this exemption code if it can show that Canadian members are currently participating in the exchange program abroad. Exact reciprocity (one Canadian member abroad for one foreign member in Canada) is not required but the general order of magnitude of exchanges should be reasonably similar on an annual basis.

All LMIA-exempt work permits require the employer to submit an Offer of Employment through the Employer Portal and pay a $230 employer compliance fee. The foreign national must pay a $155 work permit processing fee and, if not a U.S. citizen, an $85 biometrics fee.

Lastly, individuals who do not fit into either of the above categories would require a work permit based on an LMIA. While this would typically require the employer to publicly post the position for at least four weeks, there are certain situations in which the employer would be exempt from the advertising requirement, such as if the position is for a specific occupation in the entertainment sector where a worker is often hired for a very limited number of days, in a specific location, and on very short notice.

There is a $1,000 processing fee for the LMIA, which must be paid by the employer. Once issued, the foreign national must pay a $155 work permit processing fee and, if not a U.S. citizen, an $85 biometrics fee.

Italy

The information below summarizes the process for foreign performing artists, entertainers, and entertainment industry personnel wishing to work in Italy.

Artistic Subordinate Employment

Entry into Italy for the purpose of artistic subordinate employment is not subject to the "immigration quota" (i.e., the number of authorized entries for work reserved to foreign

nationals set each year by the government) imposed each year by the Italian government and is regulated by Article 27, c.1 (l, m, n, o) of Italian immigration law. This means that subordinate work permit applications for entertainers can be applied for at any time of the year without being subject to limits. However, non-EU-national performing artists, entertainers, and entertainment industry personnel coming to Italy to perform their activities are not exempt from applying for work authorization and a related visa and permit. The following categories of artistic workers can apply for this type of work permit:

- Circus workers and other traveling performers
- Artistic and technical personnel for lyrical, theatrical, concert, or dance performances
- Dancers, artists, and musicians working in established entertainment venues
- Artistic and technical personnel for music, television, film, radio, and cultural production companies

The guidelines and requirements to apply for work permits for entertainment staff are outlined in Ministry of Labour and Social Policy circular letter n. 34 of December 13, 2006, http://www.anpal.gov.it/Normative/Circolare_MLPS_13_dicembre_2006_n.34.pdf.

The work permit application is filed with a specific office within the Ministry of Labour and Social Policy. The crew/artists/staff/entertainers must be sponsored by an Italian entity/co-producer, even if they remain employees of the foreign company. In this case, the Italian entity/co-producer must be previously appointed by the foreign employer by means of a notarized "contract of agency" (*Mandato di rappresentanza*). It is vital that the sponsor/host entity in Italy provide evidence of compliance with fiscal and social security obligations. Artists, even if remaining hired above, must comply with the relevant social security obligations in Italy, unless otherwise established by bilateral social security agreements.

The work authorization is issued for an initial period not exceeding 12 months. An extension is possible under specific conditions. Once the work permit is issued and no later than 120 days from the date of issuance, applicants must obtain the relevant visa from the Italian consulate having jurisdiction over their place of residence abroad, then travel to Italy and apply for the residence permit within 8 days of arrival. In the case of artists/staff to be employed for no longer than 3 months, the work permit application can be filed even if the worker is already in Italy.

Steps of the process:

1. Work permit application. This is filed by the Italian company sponsoring the application. The Work Permit must be applied for directly at the Ministry of Labor's relevant office in Rome.

2. Visa application. Once the work permit is issued, the visa application is filed by the applicant in person at the Italian consulate having jurisdiction over the applicant's place of residence.

3. Entry into Italy. Within 8 days of arrival visa holders must register with authorities and file the residence permit application. Residence permit (permesso di soggiorno) application is filed at the Post Office which issues (1) postal receipt – official document until the actual residence permit (permesso di soggiorno) card is issued and (2) an appointment for identification & fingerprints at Police office.

4. Residence permit card. After fingerprints, the residence permit (*permesso di soggiorno*) card is processed; personal attendance is mandatory to collect the residence permit (*permesso di soggiorno*) card once issued.

Self-Employment

In case of entry for self-employment, a visa can be issued only to internationally well-known and highest-repute artists, artists of recognized high professional qualification, or artists who are hired by well-known Italian theaters, important public institutions, public television or well-known national private television entities (requirements set in Visa Decree May 11, 2011, n.850). This type of visa is subject to the "quota" limits.

Short-term visas (maximum 90 days) for artistic self-employment are issued outside the quota limits.

To be eligible for obtaining a self-employment visa as an internationally well-known and highest-repute artist, the applicant must:

- Be an Internationally well-known and highest-repute artist *or* be an artist of recognized high professional qualification *or* be an artist hired by well-known Italian theaters, important public institutions, public television (RAI), or well-known national private television entities
- Have self-employment contract(s) in place with an Italian impresario, company, institution, etc., with a compensation well above the minimum set forth for workers employed in the same sector in Italy
- Not become an employee in Italy but work as a freelancer/self-employed
- Obtain a clearance from the Italian Immigration Police
- Have a suitable accommodation in Italy
- Be covered by private health insurance

Steps of the process:

1. Obtain relevant supporting documents (e.g., self-employment contract, labor authority declaration) and submit them to obtain a police clearance from the relevant police office in Italy
2. Within three months from the date of issuance of supporting documents and the police clearance, file the visa application at the Italian consulate of reference
3. With the work visa, the applicant travels to Italy. Within eight days he or she must apply for a residence permit (*permesso di soggiorno*)
4. The residence permit (*permesso di soggiorno*) application is filed at the Post Office, which issues: (1) a postal receipt—an official document until the actual residence permit (*permesso di soggiorno*) card is issued; and (2) an appointment for identification and fingerprints at the police office. After fingerprints, the residence permit (*permesso di soggiorno*) card is processed; personal attendance is mandatory to collect this card once issued.

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EUROPEAN UNION

This article provides a summary of highlights of "Brexit" and the outlook for the near future with respect to the free movement of affected workers.

It has now been over two and a half years since the United Kingdom (UK) resolved in a referendum held on June 23, 2016, by a slim majority (51.9% to 48.1%), to leave the European Union (EU). Following submission of the written Withdrawal Declaration to the European Council on March 29, 2017, effective after two years, negotiations on the terms and conditions of the withdrawal were initiated with some delay. An initial breakthrough in the negotiations was achieved about a year ago, and the first draft of the UK-EU Withdrawal Agreement was presented in the spring. The debate nevertheless continued to be highly controversial. Finally, in November 2018, despite all the adversity, a decisive breakthrough was achieved. On November 14, 2018, the EU and the UK reached an agreement on the revised version of the Withdrawal Agreement, which includes a transitional arrangement until December 31, 2020, which may be extended once by mutual agreement for a period that has not been specified.

However, this arrangement can only enter into force once it has been ratified by both the UK and the EU. Unless the Council agrees otherwise with the withdrawing Member State, Article 50, para. 3, TEU, states that European contracts will no longer apply after two years from the date of the formal application, i.e., after March 28, 2019, unless all Member States mutually agree on an extension. This is commonly referred to as "hard BREXIT" or "no deal" and would be accompanied by significant trade barriers between the UK and mainland Europe, with huge economic ramifications.

All of this is reason enough to take a closer look at the effects of the withdrawal from a residency law perspective and to appraise the (probable) future legal situation.

What is the law now and what will it be in the future? "The deal"

With regard to the freedom of movement (for workers), it is first necessary to bear in mind the regulations that will continue to apply until at least March 29, 2019, under the current legal situation and what would (probably) change in the future under the Withdrawal Agreement.

Legal Situation Before the Withdrawal

UK citizens continue to be (even after the Withdrawal Declaration on March 29, 2017) EU citizens or, more precisely, citizens of the Union. Article 17 of the Treaty on the Functioning of the European Union (TFEU) states that any person who is a citizen of a Member State is also a citizen of the Union. This is the situation until two years after the declaration of withdrawal, i.e., until March 28, 2019. At present, this means that the privileges granted to UK citizens with regard to the right to free movement and residence (for workers) continue to apply. This includes the right of workers:

- To apply for jobs offered on the market
- To move unrestrictedly within the territory of the Member States for that purpose
- To reside in a Member State in order to pursue employment there in accordance with the laws, regulations, and administrative provisions applicable to employees in that State
- To remain within the territory of a Member State after having been employed there under conditions laid down by the Commission by means of regulations

However, these privileges with regard to the right to free movement and residence of workers will continue to apply without restriction for a period of two years (subject to a mutually agreed extension of this period) after the UK submitted its declaration of withdrawal.

Anticipated Legal Situation After the Withdrawal

The Withdrawal Agreement includes transition provisions ("Implementation Period") until December 31, 2020, to mitigate the effects of the withdrawal on Union citizens and British citizens and contains the following detailed regulations:

Free Movement of Workers

EU citizens residing legally, temporarily, or permanently in the UK at the time of the EU withdrawal may continue to live, work (or become unemployed with no fault of their own, self-employed, study or seek employment within the meaning of Article 7(3) of the Free Movement Directive), or study in the UK. The same applies to British citizens who live in an EU member state.

Persons living temporarily or permanently in the United Kingdom at the time of the withdrawal or the date of the Withdrawal Agreement may also remain in the country. The same applies analogously to British citizens who are legally residing in an EU member state, including persons living with them in non-marital relationships. EU negotiators rejected a request by negotiators from the United Kingdom that a regulation be provided for with regard to British citizens who move to an EU member state after the date of record, stating that they had no mandate to provide for such regulation and that such matters would be provided for in a later agreement.

EU and UK citizens must be legal residents in the host Member State at the end of the transitional period in accordance with EU law on the free movement of persons. However, the Withdrawal Agreement does not require a personal presence in the host country at the end of the transitional period—temporary absences do not affect the right of residence, and longer absences that do not restrict the right of permanent residence are permitted.

According to the Withdrawal Agreement, the above rights will not expire after the transitional period. This means that Union citizens retain their right of residence essentially under the same substantive conditions as under the EU right of free movement, but must apply to the UK authorities for a new UK residence status. After five years of legal residence in the UK, the UK residence status will be upgraded to a permanent status with more rights and enhanced protection.

The same applies to British citizens who continue to legally reside in an EU Member State after a period of five years.

Family Members

EU citizens who are already legal residents in the UK either temporarily or permanently, at the time of the country's withdrawal from the EU, have a right to family unification, including with family members who do not live with them yet. In addition to spouses (or persons with equivalent status), this also concerns parents and children (including children born after the date of record). The applicable regulations under national law will apply to any other family members.

Social Security

EU citizens who are already living in the United Kingdom at the time of the country's withdrawal from the EU, as well as British citizens who live in an EU Member State, will retain their

entitlements from health and pension insurance plans, as well as other social security benefits, or these entitlements are mutually taken into account.

Administrative Procedures

The United Kingdom promises its resident EU citizens a special residential status that secures their rights and can be applied for easily and at a low cost. EU citizens living permanently or temporarily in the United Kingdom can have their status clarified by the responsible administrative authorities until two years after the date of record. Decisions are to be made exclusively on the basis of the Withdrawal Agreement, without any further discretionary powers. The procedure is proposed to be quick, simple, convenient, and free of charge.

Case Law

Under the Withdrawal Agreement, the European Court of Justice (ECJ) retains jurisdiction for pending cases and questions referred by British courts until the end of the transitional period. EU citizens can only litigate their rights before British courts; these courts, however, will give consideration to the case law of the ECJ for a transitional period of eight years after the expiration of the transitional period, and may also continue to submit questions to the ECJ.

Right to Permanent Residency

The right of EU citizens to permanent residency after they have been in the UK for five years will be retained, with regulations under European law continuing to be authoritative for the eligibility requirements. Time spent in the country before the withdrawal will be taken into account, and periods of temporary absence (of up to six months within a period of 12 months) from the United Kingdom for important reasons will not count toward this period. EU citizens living outside of the UK will only lose their right of permanent residency after a period of five years. Existing permanent residency permits are proposed to be converted free of charge, subject to an identity check, a criminal background and security check, and the assurance and confirmation of ongoing residency.

The State of Play

The road to the possible conclusion and entry into force of the Withdrawal Agreement remained rocky as of January. To make things worse, all of this played out in a political minefield. Once the EU adopted the Withdrawal Agreement, it was the UK's turn. The Parliament's decision on the adoption of the Withdrawal Agreement was initially scheduled for December 11, 2018. In the meantime, however, British Prime Minister Theresa May held a crisis meeting and announced that she was postponing the vote until an unspecified later point in time. This was probably because recent surveys indicated that the Withdrawal Agreement would fail to attract a majority. The British Parliament ultimately rejected Prime Minister May's Brexit deal on January 15, 2019.

The EU reiterated that the bloc would not be available for renegotiations on the Withdrawal Agreement. In the meantime, Ms. May held talks with German Chancellor Angela Merkel in Berlin and with leaders of other EU member states in Amsterdam, Holland, and Brussels, Belgium. So far, these talks were without success. It was more than symbolic that Ms. May was unable to disembark upon arrival in Berlin due to a technical defect that prevented her car's door from being opened. The times in which a "handbag" moment (this refers to former UK Prime Minister Margaret Thatcher, who "forced" a decision in a brash appearance in Brussels) is enough to persuade the EU to give in seem to be over. There was unanimous consent on the EU side that renegotiations were categorically excluded. The political pressure on Ms. May's shoulders remains as heavy as it could possibly be despite having survived the vote of no confidence on December 12, 2018.

A further possible way out of this dilemma that has been suggested by the ECJ did not come as a surprise, given the opinion of the Advocate General published recently. In its judgment handed down on December 10, 2018, the ECJ, on the basis of a referral made at the request of Scotland's highest civil court in the matter of *Wightman et al. vs. Secretary of State for Exiting the European Union* (C-621/18), ruled that it is possible under certain conditions for the UK to unilaterally revoke the Withdrawal Declaration issued to the EU on March 29, 2017. It would be possible for as long as there is no binding withdrawal agreement and the period of two years stipulated in Article 50(3) TFEU has not expired, for as long as the revocation is made by a unilateral, unequivocal, and unconditional written declaration to the European Council after the concerned Member State has enacted the revocation decision in accordance with its constitutional requirements. Irrespective of this fundamental possibility established in this judgment, it is questionable whether this would happen before March 29, 2019, as the decision to issue such a revocation would also be subject to a majority in the British Parliament and, in all likelihood, could not ever be validly declared without the consent of the majority of Parliament.

Given all of these circumstances, both sides (but more on the UK side than on the EU side) continue to find themselves under massive pressure. Any extension of the two-year negotiation window, which would only be possible by mutual agreement, seems highly unlikely and would always entail the risk of a Member State "throwing a wrench into things" or demanding significant concessions in other areas before agreeing to such an extension. In this context, the possibility of a unilateral revocation of the Withdrawal Declaration could gain significance.

Assessment—"The Complete Mess"

The current situation seems hopeless from the point of view of the UK. The negotiating partners at the EU are not willing to make any further concessions. The alternative of withdrawing from the EU without a transitional arrangement appears to entail unpredictable economic disadvantages for the UK. On the other hand, the outcome of a second referendum, once again conceivable after the ECJ ruling on the possibility of unilaterally revoking the Withdrawal Declaration, is not as clear-cut as may be suggested in some newspapers. Calling all of this a "complete mess" would probably be a fair assessment.

The history of the EU tells us that the negotiations likely will eventually come to an end with a compromise that is bearable for both sides, even though we cannot predict the details. There might even be a chance that the United Kingdom will in the end remain in the EU. Stay tuned.

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ITALY

Italy has passed a decree on security and immigration. This article also briefly summarizes the plans for British citizens residing in Italy in the event of a Brexit no-deal.

Security and Immigration Decree Passed

The Security and Immigration decree ("Salvini decree") has been converted into law, confirming the amendments to Immigration and Citizenship law already in force since the publication of Law decree October 4, 2018, n. 113. With the conversion into law, the Parliament has also introduced further amendments to the initial version of the Law Decree.

In particular, the main changes to Law no. 91/1992, citizenship law, are as follows:

- A new requirement for citizenship by marriage and naturalization applicants. It will be necessary to prove "adequate" knowledge of Italian language (at least level B1 of Common European Framework of Reference for Languages [CEFRL]). Those who have

an EU long-term residence permit and those who comply with the Integration Agreement provisions are exempted from this requirement.

- An increase in processing time for citizenship by marriage and naturalization applications (from 24 to 48 months). This also applies to applications already in process.
- Citizenship applications by marriage can now be rejected even after 48 months (maximum processing time) from submission. Previously, it was not possible to reject a citizenship application by marriage after the maximum processing time.
- An increase in the application fee for marriage, naturalization, and reacquisition from €200 to €250.
- Citizenship acquired by marriage and naturalization can now be revoked in case of a final conviction for terrorism-related offenses and offenses related to public security.
- Processing time for issuing civil status certificates (e.g., birth, marriage) requested for the purpose of filing a citizenship application is 6 months.

Regarding the changes to the Immigration Act, one of the most important amendments is the abolishment of permits for humanitarian reasons (previously granted to those who were not eligible to obtain refugee or subsidiary protection status). Instead, certain categories of applicants (e.g., victims of exploitation and domestic violence, people from countries hit by natural disasters, people in need of medical care) will be issued "special reasons" permits.

Plans for British Citizens Residing in Italy in the Event of a Brexit No-Deal

The Italian government is working on legislation that will be in place by March 29, 2019—the official Brexit date—in the event that no deal is reached. British citizens regularly residing in Italy will remain legal residents of the country also in this circumstance.

The legislative measures that will enter into force in case of a no-deal Brexit will ensure that British citizens residing in Italy as of March 29, 2019—that is to say, registered as a resident with their local registry office (*anagrafe*) at their town hall (*comune*) —will be granted enough time to apply for long-term resident status under EU Directive 2003/109/EC. In this way, British nationals will continue to enjoy rights such as access to healthcare, social benefits, employment, education, and family reunification.

British citizens living and working in Italy are advised to register with their town hall before March 29, 2019.

For more on Italy's plans with respect to British citizens, see "Italy" below in the article under "United Kingdom."

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TURKEY

This article discusses the process for citizenship in Turkey by real estate investment.

Immigration investment programs have become very popular as a source of foreign investment in real estate in countries such as Canada, Greece, Grenada, and Moldova. Some programs focus on investment for residency purposes (e.g., Portugal, Greece) and others for citizenship (e.g., several Caribbean nations, Cyprus). Turkey's investment immigration program focuses on citizenship and may particularly attract those citizens from emerging economies looking for a

passport that allows them to travel more easily than their current passport. As of 2018, Turkish nationals enjoy visa-free or visa-on-arrival status in more than 100 countries or territories, including Singapore, Japan, Ukraine, Brazil, Korea, Mexico, and many countries in Africa, the Caribbean, and Latin America. Turkey's program may also be popular with Arab nationals who were already investing significantly in Turkish real estate over the last several years.

Turkey's citizenship regulations as of January 2017 allow investors to pursue Turkish citizenship through several categories, including capital investments, government debt instruments, investing in a business that employs 50 Turkish nationals, and venture capital investments. In September 2018, the threshold amounts were significantly lowered. With regard to real estate, investments of US $250,000 now qualify. Clearly, investment in real estate in Turkey has sparked interest internationally as the threshold amount is lower than that of many other investment citizenship programs.

For a real estate investment of US $250,000 to qualify, several restrictions apply. First, the purchase must have occurred after the change in the regulations (see specifics below). Additionally the property must not be sold by the applicant for at least three years. Note the following additional restrictions for real estate investments:

- If the real estate is subject to a mortgage, the remaining part shall be taken into consideration by deducting the mortgage fee in determining the value.
- The value in the official deed cannot be lower than the amount listed in the valuation report.
- The applicant must show official receipts (by bank) showing the transfer of sales fee.
- The real estate must be registered in the name of the applicant (foreign real person, may include spouse or minor children).
- The real estate must not have been purchased by the applicant before December 1, 2017. If before September 18, 2018, the old regulations and thresholds apply.

The process of citizenship-by-investment is governed by the Foreign Investor Citizenship Application Special Joint Office (FICO). FICO is a new government agency under the Ministry of Interior that joins representatives from the Populations Registry Directorate, Migration Directorate, and Land Registry/Cadastre Directorate. FICO is currently set up in Istanbul and Ankara and will be rolled out in other locations across Turkey soon. FICO offices are set up to have desks with representatives of each of the Directorates to facilitate processing of cases from start to finish.

Citizenship by investment is a five-step process: (1) obtaining a Valuation Report; (2) issuance of a Certificate of Compliance; (3) filing a Residence Permit application; (4) filing an address registration; and (5) filing a citizenship application. Note that those foreigners who already lawfully reside in Turkey may have already completed steps 3 and 4.

Step 1: Valuation Report

Applicants must first have the real property intended to meet the citizenship application threshold be officially assessed for fair market value. This can only be done by a valuation firm authorized by the Capital Markets Board. For a list of authorized firms, see http://www.spk.gov.tr/SiteApps/SirketIletisim/List/gds.

The valuation report can be issued before or after the acquisition of the real estate. It is sufficient to request a report with a copy of the deed, as the original or notarized deed is not

needed. The valuation firm will need the consent of the property owner in order to study the property (site review) for a valuation report.

Step 2: Certificate of Compliance

Once the valuation report is complete, assuming it meets the regulatory financial thresholds, the applicant must then seek a Certificate of Compliance (CoC) from the Foreign Services Department of Land Registry and Cadastre Directorate (Foreign Cadastre). The Valuation Report, Title Deed, and proof of fund transfer to the seller are presented by the applicant to the Land Registry office that has jurisdiction over the location of the property purchased. The Land Registry office scans the documents in the packet and transfers them to the TAKBİS (Land Registry and Cadastre Information System) via EBYS (Electronic Document Management System). The Foreign Cadastre then issues a CoC to the applicant if all criteria are met. Processing time is approximately one week to receive approval electronically.

Step 3: Application for Residence Permit

Once the applicant is issued a CoC from the Foreign Registry, they may apply for a special Residence Permit for themselves and their legal dependents. Normally the Migration Directorate (MD) requires several steps to book appointments for filing residence permits. However, FICO's Migration Directorate desk will allow qualified applicants and their dependents to streamline this process. The MD requires most of the documents typical for a tourist residence permit, but for this special investor residence permit, the MD additionally requires a copy of the CoC.

Qualified applicants are issued special category residence permits valid for one year. Note that this category of residence card does not permit the applicant to work in Turkey.

Step 4: Address Registration

Upon delivery of the residence card, the applicant must also complete an address registration at the Populations Registry desk at FICO. This is a procedure in which applicants officially register their place of residence in Turkey. The original title deed must be provided to complete the address registration process of the applicant and his or her dependents. Applicants will then be issued written confirmation of the registration of their residential address.

Step 5: Application for Turkish Citizenship

Once the applicant and his or her dependents have been issued residence permits and obtained their address registration documents, they may move on to the final step: filing citizenship applications. Aside from the standard citizenship application documents, investment applicants must additionally present the CoC and title deed to the property.

The Populations Registry desk at FICO sends the citizenship application file to the General Directorate of Population and Citizenship Affairs. The Directorate then conducts a background check and research (particularly related to national security and public order considerations). An interview is not necessarily required if applicants were interviewed previously for their residence permit applications.

A commission has been established within the Ministry of the Interior to monitor the progress of investment citizenship applications. In the event that an applicant clears background checks, the Ministry of Interior forwards the application to the Office of the Presidency. The citizenship application is then granted upon the decision of the President. Following a grant, the Ministry of Interior returns the approved application to the General Directorate of Population and Citizenship Affairs for final processing. Applicants are then invited to the Population Directorate to be issued their Turkish ID cards and apply for passports.

This article is not intended as specific legal advice and each investment application should be reviewed by an attorney. Contact your Alliance of Business Immigration Lawyers (ABIL) attorney for advice in specific situations.

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UNITED KINGDOM

This article discusses how the British government intends to treat European Union (EU) citizens, other European Economic Area (EEA) nationals, and Swiss nationals arriving in the United Kingdom (UK) after March 29, 2019, if the UK leaves the EU without a deal; the EU settlement scheme's opening for a public test phase; plans for British citizens living in the EU in the event of a no-deal Brexit; the UK government's plans for a single, skills-based immigration system that marks the end of free movement; and a new online system for right-to-work checks.

How New Arrivals Will Be Treated If UK Leaves EU With No Deal

The British government has outlined how it intends to treat EU citizens, other EEA nationals, and Swiss nationals arriving in the UK after March 29, 2019, if the UK leaves the EU without a deal.

According to an announcement and a policy paper published on January 28, 2019, if that happens, the following arrangements will be put in place:

- Free movement will end immediately.
- The UK will operate a transition period for EEA nationals arriving in the UK between March 30, 2019, and December 31, 2020.
- During the transition period, EEA nationals will be able to enter the UK upon production of a valid EEA passport or identity card. If they have a biometric passport, they will be able to use e-gates as they do now. On arrival, they will automatically be granted leave to enter for three months with permission to work and study.
- EEA nationals who want to stay for longer than three months will need to apply for a new status called European Temporary Leave to Remain. There will be a fee for this. Subject to criminality and security checks, they will be granted leave to remain for 36 months with permission to work and study. This status cannot be extended. EEA nationals who want to stay beyond 36 months will need to apply under whatever immigration system will be introduced as of January 1, 2021. Some of these people may not qualify under the future immigration system, in which case they will need to leave the UK at the end of the 36 months.
- EEA nationals arriving on or after March 30, 2019, will be able to bring non-EEA nationals who are their "close family members," meaning a spouse or partner and dependent children under 18. Those family members will need to apply in advance for a "family permit."
- During the transition period, employers carrying out right-to-work checks will not have to distinguish between EEA nationals who arrived on or before March 29, 2019, and those who arrived afterwards. A valid EEA passport or identity card will be enough to satisfy a right-to-work check.

These proposed arrangements will not apply to Irish citizens. They will continue to be free to live and work in the UK without restriction.

The arrangements will also not apply to EEA nationals who arrive in the UK by March 29, 2019. They will be eligible to apply for permission to stay under the EU Settlement Scheme (more about this below). Any EEA national planning to move to the UK in the next few months would be wise to arrive on or before March 29, 2019, if possible so they can be sure of qualifying for the EU Settlement Scheme. They should keep their travel ticket as evidence of when they arrived.

The UK announcement is at https://bit.ly/2HPEoFQ. The UK policy paper is at https://bit.ly/2RAzpIP.

EU Settlement Scheme Open for Public Test Phase

The EU Settlement Scheme opened for a public test phase on January 21, 2019. EU citizens living in the UK will need to apply under the EU Settlement Scheme if they want to stay in the UK after the planned Brexit transition period ends on December 31, 2020. The scheme is intended to implement the rules on citizens' rights set out in the draft UK-EU withdrawal agreement—and in some ways it is more generous than those rules. The British government has said in a policy paper published in December 2018 that it will still go ahead with the scheme if the UK leaves the EU on March 29, 2019. with no deal.

The following are questions and answers on the EU Settlement Scheme:

What is the deadline for applying for the EU Settlement Scheme?

The deadline for applying is June 30, 2021, if the UK leaves under a version of the current draft withdrawal agreement, or December 31, 2020, if the UK leaves with no deal.

Until December 31, 2020, EU citizens will be able to rely on an EU passport or identity card as evidence of their right to live and work in the UK. After that, they will need to have either pre-settled or settled status granted under the EU Settlement Scheme.

Who can apply for the EU Settlement Scheme?

The following people can apply during the public test phase:

- Resident EU citizens with a valid EU passport
- Their non-EU citizen family members with a biometric residence card

Other European Economic Area (EEA) nationals (nationals of Norway, Iceland, Liechtenstein, and Switzerland) cannot apply during the public test phase. They must wait for the EU Settlement Scheme to become fully open in March 2019.

How do you apply for the EU Settlement Scheme?

To take part in the test phase, you need access to an Android phone (not iPhone) with NFC (Near-Field Communication) contactless technology.

Download the *EU Exit: ID Document Check* app and use it to scan your passport and your face. After using the app, complete an online application. You will need to enter your National Insurance number, answer some basic questions, and pay the application fee by credit card.

How much does it cost to apply to the EU Settlement Scheme?

The application costs £65 for an adult and £32.50 for a child. It is free for people who already have a permanent residence document. UK Prime Minister Theresa May has announced that

these fees will be scrapped when the scheme is fully open on March 30, 2019, and that anyone who applies during the test phase will have their fees reimbursed.

What happens after you apply to the EU Settlement Scheme?

The Home Office will carry out automated checks with HMRC (Revenue & Customs) and DWP (Department for Work and Pensions) on your tax and benefits records, and a criminal record check.

If the automated checks indicate that you have been living in the UK for a continuous five-year period and you do not have a serious criminal record, you will be granted settled status. Settled status is a type of indefinite leave to remain and will allow you to live in the UK permanently.

If the checks indicate that you have been living in the UK for less than five years, you will be offered pre-settled status. Pre-settled status is a five-year temporary status. You will be able to convert pre-settled status into settled status after completing five years' continuous residence in the UK.

If you are offered pre-settled status but in fact you have lived in the UK for a continuous five-year period, you can upload copies of documents showing this. The Home Office has published a list of the documents it accepts as evidence of residence. You do not have to rely on the last five years. You can rely on any five-year period as long as you have not been absent from the UK for more than five years since the end of the five-year period.

You will not receive a document confirming your status. Instead you will be able to use an online service to view your status and to share the details with other people, such as employers and landlords.

Do you have to apply now for the EU Settlement Scheme?

You do not have to apply now. Assuming the UK does actually leave the EU, you will need to apply by June 30, 2021 (or December 31, 2020, if there is no deal). But in the current climate, many people will want to apply sooner rather than later.

Plans for British Citizens Living in the European Union in the Event of a No-Deal Brexit

A number of EU countries have started to publish their plans for the treatment of British citizens in the event of a no-deal scenario after the United Kingdom (UK) leaves the European Union (EU) on March 29, 2019.

British citizens will immediately lose their free movement rights across the EU if there is no deal, but these plans mean that British citizens already living in an EU Member State will at least be allowed to continue living and working in that country.

In summary, the proposals are as follows:

Czech Republic. On January 7, 2019, the Czech government adopted a draft law protecting the position of British citizens in the Czech Republic in the event of no deal. They will be given until December 31, 2020, to apply for a certificate of temporary stay in the Czech Republic, provided the UK takes a similar approach toward Czech citizens living in the UK. The British government has already indicated in a policy paper published on December 6, 2018, that it will take such an approach toward all EU citizens living in the UK.

For more information on the Czech draft law, see https://www.radio.cz/en/section/curraffrs/government-agrees-lex-brexit-extending-eu-rights-to-uk-nationals-until-end-of-2020. The UK government's policy paper is at

https://www.gov.uk/government/publications/policy-paper-on-citizens-rights-in-the-event-of-a-no-deal-brexit.

France. France is due to enact a *project de loi* (enabling legislation) that will allow the government to pass regulations allowing British citizens who are legally resident in France on or before March 29, 2019, to continue living and working in France. In the meantime, British citizens living in France are strongly advised to apply for a *carte de séjour* as soon as possible, by March 29, 2019, at the latest.

France's *project de loi* is at http://www.senat.fr/leg/pjl18-009.html.

Germany. According to the Berlin local government website, if there is a no-deal Brexit, British citizens will be given a three-month grace period to apply for a German residence permit. Their application must be submitted at their local Foreigners Registration Office by June 30, 2019. In the meantime, and while the application is being processed, they can continue to live and work in Germany.

The main concern will be for those who wish to naturalize as German citizens. British citizens who acquire German citizenship on or before March 29, 2019, will be able to keep their British citizenship. However, if they become German after that date, they must renounce their British citizenship because Germany does not allow dual citizenship with a non-EU country.

The Berlin local government's website is at https://www.berlin.de/labo/willkommen-in-berlin/freizuegigkeit-eu-ewr-schweiz/artikel.770947.en.php. More information on these issues is at https://www.kingsleynapley.co.uk/insights/blogs/immigration-law-blog/deal-or-no-deal-what-brexit-could-mean-for-my-german-mother.

Italy. Italy was the first EU27 country to announce its plans, with the Italian government confirming on December 21, 2018, that it would introduce legislation allowing British citizens resident in Italy on March 29, 2019, to remain and maintain their existing rights to work in the event of no deal being reached. The intention is to create a path for all British citizens living in Italy to request long-term resident status under EU Directive 2003/109.

British citizens living in Italy are strongly advised to register with their town halls before March 29, 2019, to ensure they are legally resident.

More information on Italy's plans is at https://www.esteri.it/mae/it/sala_stampa/archivionotizie/eventi/brexit_0.html. See also the article under "Italy" in this issue, above.

Netherlands. The Dutch government announced on January 7, 2019, that British citizens legally residing in the Netherlands on March 29, 2019, can continue doing so after Brexit in a no-deal scenario.

There will be a national transition period from March 29, 2019, to July 1, 2020, during which British citizens will retain their right to reside, work, and study in the Netherlands. This also applies to non-EU family members of British citizens.

The Dutch Immigration and Naturalisation Service has sent letters to British citizens who are registered with their municipality inviting them to apply for temporary residence permits before March 29, 2019. They will then receive a further letter inviting them to apply for a new national residence permit after the transitional period. This can be obtained if the British citizen meets the same residence conditions that apply to EU citizens, and will allow British citizens the right to work and study in the Netherlands.

The Dutch government's announcement is at https://ind.nl/en/pages/brexit.aspx.

Poland. The Polish government has announced that if there is a no-deal Brexit, it will introduce a 12-month grace period starting on March 30, 2019, for British citizens living in Poland on or before March 29, 2019. British citizens who have lived in Poland for five years will be able to apply for a permanent residence permit. Those who have lived in Poland for less than five years will be able to apply for a temporary permit.

The Polish government's announcement is at https://legislacja.rcl.gov.pl/projekt/12319905.

Sweden. According to reports, the Swedish government is proposing a 12-month grace period for British citizens to give them time to apply for permission to stay in the country if the UK leaves the EU without a deal.

For one such report, see https://www.reuters.com/article/uk-britain-eu-sweden/britons-in-sweden-may-get-years-respite-in-case-of-hard-brexit-dn-newspaper-idUSKCN1P90NW.

Switzerland. Switzerland is not in the EU, but Swiss nationals have free movement rights in the EU, including in the UK, and British citizens have similar rights in Switzerland. The UK and Switzerland have reached an agreement that protects the rights of Swiss nationals living in the UK and British citizens living in Switzerland. In a no-deal scenario, British citizens lawfully residing in Switzerland on March 29, 2019, will be able to continue exercising the same rights as they currently have, including rights of residence, access to healthcare, education, pensions, and social security coordination.

The agreement between the UK and Switzerland is at https://www.gov.uk/government/publications/swiss-citizens-rights-agreement-and-explainer.

Other Member States. We do not know yet how other EU Member States intend to treat British citizens living in their territory if there is a no-deal Brexit. More British citizens live in Spain than anywhere else in the EU. Many have applied for Spanish citizenship, but there is a big backlog, and so far there is no sign of a no-deal Brexit plan for them.

What should employers and their UK staff working in the EU be doing to prepare for a no-deal Brexit? Employers should ensure that any British citizens living and working in the EU are aware of the relevant local immigration provisions and deadlines or grace periods so they can prepare the necessary documents for them and their families in the event that an application for residence or other paperwork needs to be filed.

British citizens who have lived in other EU countries for five years or more should consider applying for confirmation of their acquisition of permanent residence, which they are entitled to do under the Citizens Directive.

While many EU countries already require British citizens to register their residence, where this is not a legal requirement, it is advisable that this be done before March 29, 2019.

UK Government's Plans for a New Single, Skills-Based Immigration System

On December 19, 2018, the UK Home Secretary, Sajid Javid, published a White Paper setting out the government's plans for a new single, skills-based immigration system that marks the end of free movement.

This is the culmination of over two years of Brexit planning, starting with the Brexit vote in June 2016 to leave the EU. Promises to release this White Paper have come and gone throughout this period, but at long last we have the blueprint for what will be the new UK immigration system once the transition period comes to an end in December 2020. This will represent the

biggest shake-up in immigration since the introduction of the Points-Based System (PBS) in 2008. The change is precipitated by the need to bring EU nationals within the UK immigration rules. Of course 2020 is some way off, and until then, there are likely to be changes, particularly with regard to the controversial proposed £30,000 salary cap.

The main provisions largely follow the recommendations of the Migration Advisory Committee published in September 2018.

Main Provisions

The new immigration system will introduce a new route for skilled workers that will apply to all nationalities equally, will not favor one nationality over another, and purports to treat all nationalities equally. Is this possible?

At present, the proposed salary cap for skilled workers is £30,000, but due to the likely impact of this new system on a number of sectors employing EU nationals earning significantly less, it will be subject to a public consultation. Skilled workers under the current Tier 2 Scheme need to be skilled to RQF 6 (degree level); however, it is proposed that this will now include those skilled to at least RQF 3 (A level standard).

It is also proposed that the annual cap on the number of Tier 2 General Restricted work visas issued will be removed. The cap has remained at 20,700 for the last few years. The Tier 2 cap has been particularly controversial because it caused significant recruitment issues for UK businesses when the cap was reached between December 2017 and July 2018, thus preventing employers from sponsoring the migrants they needed. Due to the problems with the cap being hit, the Home Secretary removed doctors and nurses from the quota.

One of the changes is that the Resident Labour Market Test (RLMT), the requirement for employers to test the market, will be removed, which many practitioners have campaigned for. This along with the removal of the Tier 2 cap will be very welcome by businesses as the requirements were very time-consuming and made the recruitment process stressful and often contrived.

There will also be a new route for workers at any skill level for a temporary period. The 12-month visa will provide access to the labor market but no access to benefits. This is an odd statement as migrant workers were never entitled to access benefits, so it is clearly aimed at European nationals. People arriving via this route will not be able to bring family members with them, will not accrue rights to settle in the UK, and will have a 12-month cooling-off period once their visa expires. These proposals will be subject to a consultation with businesses and other stakeholders as part of a planned extensive engagement program.

The Youth Mobility Scheme (YMS) allowing people aged 18 to 30 to come to the UK for two years for work or study will be expanded to encompass a UK-EU YMS scheme. This may go some way toward addressing the concerns surrounding a salary cap of £30,000, if significant numbers of EU nationals are able to come to the UK to take up lower-skilled work under this Scheme.

The White Paper proposals will also ensure that there is no limit on the number of bona fide international students who can come to the UK to study. Proposals extend the time they can stay post-study to find employment to six months for those who have completed a bachelor’s or master’s degree and 12 months for those who have completed a PhD.

The White Paper also proposes:

- Creating a single, consistent approach to criminality by aligning EU and non-EU criminality thresholds

- Ending the use of national ID cards as a form of travel documentation for EU citizens as soon as is practicable

- Introducing an Electronic Travel Authorisation (ETA) scheme to allow vital information to be collected at an earlier stage before visitors who do not require a visa travel

- Allowing citizens from Australia, Canada, Japan, New Zealand, the United States, Singapore, and South Korea to use e-gates to pass through the border on arrival, alongside EU and UK citizens

The Immigration and Social Security Coordination (EU Withdrawal) Bill published in December 2018 ends free movement and creates the legal framework for the future borders and immigration system. It also creates the legal framework for a future, single benefits system that will apply to both EU and non-EU nationals and maintains the Common Travel Area between the UK and Ireland.

The new immigration and borders system will be implemented in a phased approach beginning in 2021, following an extensive 12-month program of engagement with businesses, stakeholders, and the public by the Home Office.

For Sponsors of Tier 2 migrants, the White Paper is a mixed blessing. Certainly the removal of the notorious Tier 2 cap and the time-consuming RLMT will be welcome. However, for those employers who have hitherto hired a high percentage of EU nationals in the past and perhaps do not currently have a Tier 2 Sponsor Licence, the changes will be significant. At present it is relatively straightforward to hire EU nationals as no work visa requirements apply. With the proposed changes, the administrative burden and costs of having to apply for a Sponsor Licence and then comply with Tier 2 Sponsor obligations will be onerous. The changes are likely to have a particularly significant negative impact on smaller and medium-sized businesses, due to the increased costs and administrative burdens associated with having to apply for work visas.

The proposed consultation and stakeholder engagement with respect to some items within the White Paper is welcome.

The White Paper is at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf.

New Online System for Right-to-Work Checks

Immigration Minister Caroline Nokes announced that starting on January 28, 2019, employers can rely on an online Right to Work Checking Service to demonstrate compliance with work authorization requirements. Although the information at this link currently states that employers will also be required to conduct a right-to-work check in person, this will not be necessary effective January 28, 2019, when the new online Right to Work Checking service goes live.

The checking service is at https://www.gov.uk/view-right-to-work.

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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

Robert Aronson and **Debra Schneider**, of **Fredrikson & Byron, P.A.**, have co-authored "A Bridge Over Troubled Waters: The High-Skilled Worker Rule and Its Impact on Employment-Based Immigration," published in 44 Mitchell Hamline L. Rev. 935-969 (2018) and available at https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1136&context=mhlr.

A *Forbes* article quotes **Dagmar Butte** (http://www.abil.com/lawyers/lawyers-butte.cfm?c=US), **Vic Goel** (http://www.abil.com/lawyers/lawyers-goel.cfm?c=US), and **William Stock** (http://www.abil.com/lawyers/lawyers-stock.cfm?c=US). The article discusses how the combination of denials, long wait times, and suspension of premium processing is making it more difficult for H-1B professionals to change jobs. It concludes that the administration's policies have made employers, H-1B professionals, and U.S. workers all worse off. The article, "U.S. Policies Harming Labor Mobility of H-1B Professionals," is at https://www.forbes.com/sites/stuartanderson/2018/12/17/uscis-policies-harming-labor-mobility-of-h-1b-professionals/#534145cf61f7.

Charles Foster and **John Meyer**, chairman and partner, respectively, at **Foster LLP**, attended the EB-5 & Uglobal Immigration Expo hosted by EB-5 Investors Magazine on February 11, 2019, in Dubai, United Arab Emirates. Mr. Foster presented an overview of the EB-5 Immigrant Investor Program and its latest developments to representatives of leading EB-5 regional centers, migration agencies, and potential investors. More information is at https://www.eb5investors.com/conferences/2019-eb-5-expo-dubai.

Mr. Foster delivered the keynote address at the immigration seminar, “Struggling With Your Immigration Status: Is Canada a Solution?,” hosted by The Aga Khan Economic Planning Board and Indo-American Chamber of Commerce of Greater Houston on December 15, 2018, in Houston, Texas. Mr. Foster spoke about the EB-5 Investment Program as a possible alternative to the H-1B visa backlog. More information on this event is at http://voiceofasia.news/seminar-on-growth-opportunities-in-canada-and-requirements-for-permanent-resident/.

Mr. Meyer was a guest speaker for "Investing and Doing Business in Texas," an event hosted by Invierta en USA on January 30, 2019, in Mexico City, Mexico. Mr. Meyer spoke about the EB-5 Immigration Investor Program concerning how to obtain business and investment visas to

immigrate to the United States. The audience included Mexican entrepreneurs who want to invest in, establish, and expand businesses in Texas. More information is at https://inviertaenusa.com.mx/.

Anu Nair, of **Klasko Immigration Law Partners, LLP,** served as a panelist for "U.S. Immigration and IRS Update," a Business After Hours event sponsored by Gray Robinson Attorneys at Law and hosted by the Indian American Chamber of Commerce on January 15, 2019, in Orlando, Florida. She provided an overview of the EB-5 Immigrant Investor Program and spoke on the latest developments. She included an update on the impending visa backlog for Indian foreign nationals. More information is at https://asiatrend.org/event/indian-american-chamber-of-commerce-business-after-hours-in-january-2019/.

Charles Kuck (bio: http://www.abil.com/lawyers/lawyers-kuck.cfm) is the attorney for Grammy-nominated rapper 21 Savage, whose real name is She'yaa Bin Abraham-Joseph. Mr. Abraham-Joseph, who was born in England in 1992 and has been living in the United States since the age of seven, was detained recently on immigration charges by U.S. Immigration and Customs Enforcement (ICE) in Atlanta, Georgia. Mr. Kuck was quoted by *Reuters* in "Rapper 21 Savage Being Held Unfairly, Attorneys Claim." Mr. Kuck noted that "ICE has not charged Mr. Abraham-Joseph with any crime. As a minor, his family overstayed their work visas, and he, like almost two million other children, was left without legal status through no fault of his own." He said, "This is a civil law violation, and the continued detention of Mr. Abraham-Joseph serves no other purpose than to unnecessarily punish him and try to intimidate him into giving up his right to fight to remain in the United States." Mr. Kuck also said that ICE was refusing to release his client on bond based on "incorrect information about prior criminal charges." The article is at https://www.reuters.com/article/us-people-21-savage/rapper-21-savage-being-held-unfairly-attorneys-claim-idUSKCN1PU07M. Additional details of Mr. Abraham-Joseph's case are at http://tmz.vo.llnwd.net/o28/newsdesk/tmz_documents/0205_21_Savage%20Statement.pdf, https://www.nytimes.com/2019/02/06/arts/music/21-savage-ice-atlanta-rapper.html, https://www.newyorker.com/culture/cultural-comment/the-shameful-arrest-of-21-savage, http://time.com/5524539/21-savage-immigration-case-facts/, and https://www.rollingstone.com/music/music-news/21-savage-released-on-bond-793921/.

Mr. Kuck was quoted by Talking Points Memo in "Trump's Companies Boosted Foreign Worker Visa Use to 10-Year High." He said that the Trump Organization's heavy reliance on visa programs flies in the face of the President's political rhetoric and actions otherwise. "If in fact he wanted to 'buy American, hire American,' he'd say 'we're not going to use the immigration system, we're going to go out and bring our workers down from West Virginia or from Kentucky or Maine and set them up and give them jobs. Why aren't they recruiting in West Virginia? It's hypocrisy." The article is at https://talkingpointsmemo.com/muckraker/donald-trump-companies-foreign-worker-visas.

Mr. Kuck recently spoke about President Trump's border wall efforts and the politics of immigration, on "Political Rewind." Video, audio, and a related article are available at http://www.gpbnews.org/post/political-rewind-women-legislators-voicing-frustration-state-capitol.

Robert Loughran (bio: http://www.abil.com/lawyers/lawyers-loughran.cfm) and **Matthew Myers**, both of **Foster LLP**, provided an overview on December 4, 2018, of employment-based immigration strategies in the United States for small businesses and entrepreneurs from Latin America at the offices of Velocity Texas' Global Accelerator Program, an initiative to incubate and accelerate competitively selected international companies in San Antonio, Texas.

Cyrus Mehta (bio: http://www.abil.com/lawyers/lawyers-mehta.cfm) has authored several new blog entries. "Trump Can Provide a Potential Path to Citizenship for H-1B Visa Holders" is at http://blog.cyrusmehta.com/2019/01/trump-can-provide-a-potential-path-to-citizenship-for-h-1b-visa-holders.html. "Top 10 Most Viewed Posts Published on the Insightful Immigration Blog in 2018" is at http://blog.cyrusmehta.com/2018/12/top-10-most-viewed-posts-published-on-the-insightful-immigration-blog-in-2018.html. "The Curse of *Kazarian v. USCIS* in Extraordinary Ability Adjudications Under the Employment-Based First Preference" is at https://bit.ly/2Ahy6IK.

Sophia Genovese, of **Mr. Mehta**'s office, has authored a new blog entry. "The Trump Administration's Lawlessness at the Border: Stories from Tijuana" is at http://blog.cyrusmehta.com/2019/02/the-trump-administrations-lawlessness-at-the-border-stories-from-tijuana.html.

David Isaacson, of **Cyrus Mehta**'s office, has authored a new blog entry. "Not Sure Whether to Laugh or Cry: How the Border Patrol's Harassment of a Comedian Shows Why It Should Not Be Checking Documents in the United States" is at https://bit.ly/2N6Z8aS.

Stephen Yale-Loehr (bio: http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US) was quoted by the *Cornell Daily Sun* in "Tompkins County Deputy Called ICE to Report Mexican Man in U.S. Illegally, Drawing Sheriff's Ire." Mr. Yale-Loehr said, "I agree that it is a close call, but the county resolution explicitly states that nothing in the resolution bars a sheriff's officer from sending a statement of a person's immigration status to federal immigration authorities." The article is at https://cornellsun.com/2019/02/07/tompkins-county-sheriffs-deputy-called-ice-to-report-mexican-man-in-country-illegally/.

Mr. Yale-Loehr was quoted by *Knowledge@Wharton*, University of Pennsylvania, in "Exploring Immigration: Will the U.S. See Reform in 2019?" He said, "Congress came close in 2013 with a comprehensive immigration reform package that was passed bi-partisanly through the Senate and was 1,200 pages, but it failed to clear the House of Representatives. It has been historically hard to get immigration through any Congress and it has become only harder in this more politicized environment." He also commented, "People in Congress are saying if we could combine funding for border security, plus some relief for DACA recipients and some protection for people who have temporary protected status, we could see some movement on immigration. I hope that would be the case, but politically we may be unlikely to achieve that." Mr. Yale-Loehr concluded, "We need comprehensive immigration reform. There are many broken parts to the immigration system. Just trying to fix one of them, whether it's asylum or illegal immigration, isn't going to work. We need to have an overall approach. The Senate tried to do this in 2013. We need to have a national conversation about what is the role of immigration and when immigration can help the United States so that we can come up with a new overall comprehensive framework. Then we can untangle some of the mess that we've gotten ourselves into." The article is at http://kwhs.wharton.upenn.edu/2019/01/exploring-immigration-will-u-s-see-reform-in-2019/.

Mr. Yale-Loehr was quoted by *Voice of America* regarding a Forbes.com H-1B column (in Vietnamese). The article is at https://www.voatiengviet.com/a/đề-xuất-quốc-tịch-cho-h1b-bánh-vẽ-của-ông-trump-/4744902.html.

Mr. Yale-Loehr was quoted by the *Houston Chronicle* in "With Inaction, Supreme Court Gives Longer Life to DACA as Shutdown Drags On." Commenting on the U.S. Supreme Court's declining to take up the Trump administration's appeal in a "Dreamers" case, Mr. Yale-Loehr said, "I think it is very unlikely to be considered this term, which means DACA lives another 10 months." The article is at https://www.houstonchronicle.com/news/houston-texas/houston/article/With-inaction-Supreme-Court-gives-longer-life-to-13553563.php.

Mr. Yale-Loehr was quoted by several media outlets on possible upcoming Supreme Court cases:

- "Will The Supreme Court Fast-Track Cases Involving Trump?," published by *538.com*. Commenting on the ongoing litigation over Deferred Action for Childhood Arrivals (DACA), Mr. Yale-Loehr said it would be somewhat unusual for the high court to intervene at this stage. He added that the DACA case lacks the "immediacy" of the travel ban case, where thousands of people were being prevented from entering the country, so there's not the same sense of urgency for the Supreme Court to act. The article is at https://fivethirtyeight.com/features/will-the-supreme-court-fast-track-cases-involving-trump/.

- "Major Immigration Cases Ahead In 2019," published by *Law360*. Mr. Yale-Loehr said that the U.S. Supreme Court's decision earlier this year in *Trump v. Hawaii* upholding the president's travel ban could have an impact on litigation over the recent asylum policy as it circulates through the appellate courts. "If this case goes to the Supreme Court, the court will have to decide the scope and possible limits of its travel ban decision," he said. The article is at https://www.law360.com/immigration/articles/1108583/major-immigration-cases-ahead-in-2019 (available by registration).

Mr. Yale-Loehr was quoted in "Sanctuary Policies Criticized Again After Officer's Slaying. Here's a Look at the Issues," published by the *San Francisco Chronicle*. Commenting on whether police and sheriffs' deputies ask about immigration status when making an arrest, Mr. Yale-Loehr said that varies among police departments and individual officers in California and elsewhere. If a suspected drunken driver lacked a license, for example, "or the driver's license looked fishy, or the individual looked or sounded foreign," some officers might contact U.S. Immigration and Customs Enforcement to ask about the individual's legal status, he said. The article is at https://www.sfchronicle.com/news/article/Sanctuary-policies-criticized-again-after-13500936.php.

Mr. Yale-Loehr was quoted in "What Did Donald Trump's Tweet About H-1B Visas Mean?," published by *Forbes*. He said that sometimes people can read too much into President Trump's tweets and statements. He advised people to focus instead on concrete policy actions. "This tweet runs counter to what the administration has actually done against H-1B workers. Ever since the President issued his 'Buy American and Hire American' executive order in April 2017, U.S. Citizenship and Immigration Services (USCIS) has made it harder for employers to hire H-1B workers and to keep them." He noted a National Foundation for American Policy report that showed a 41% increase in denials of H-1B petitions in the 4th quarter of FY 2017. "Just last week, a company sued USCIS in federal court after the agency denied a company's extension request for an H-1B employee, even though the agency had approved four H-1B petitions before for the same person in the same job. In effect, the President has built an invisible wall against H-1B workers. Given all that, why should we believe this apparent about-face? Even if President Trump is serious about making it easier for H-1B workers to stay permanently in the United States, his administration cannot do that unilaterally. Congress would have to pass a law." He pointed out that Congress is divided on immigration issues, making this type of reform, particularly in isolation, difficult to picture in the current environment. The article is at https://www.forbes.com/sites/stuartanderson/2019/01/14/what-did-donald-trumps-tweet-about-h-1b-visas-mean/#61fcfcd96ffc.

Mr. Yale-Loehr was quoted in the *South China Morning Post* in "U.S. Investor Visa Programme Backlog Puts Chinese Capital at Risk" regarding the EB-5 immigrant investor green card program. Mr. Yale-Loehr said, "It's a guessing game. Everybody is trying to figure out what to do and it's a huge problem." He noted that "the industry and investors need clarity, but nobody is holding their breath. They desperately need Congress to act on increasing the quota to alleviate the backlog, but that's not anywhere on the horizon either. Unfortunately, I don't see the light at the end of the tunnel." The article is at https://www.scmp.com/news/china/money-wealth/article/2179745/us-investor-visa-programme-backlog-puts-chinese-capital-risk.

Mr. Yale-Loehr was quoted in two articles about a new federal court ruling blocking the Trump administration's efforts to restrict asylum for people fleeing domestic violence and gangs. Both contain the same quote: "Although the government will almost certainly appeal, in the meantime … the federal court ruling ensures that people fleeing domestic violence or gang violence will have a fair shot."

- Los Angeles Times: https://www.latimes.com/politics/la-na-pol-trump-asylum-gang-violence-ruling-20181219-story.html
- Voice of America: https://www.voanews.com/a/us-court-halts-asylum-ruling-barring-abuse-gang-victims-/4708080.html

Mr. Yale-Loehr was quoted by *Law360* in "The Top Immigration Cases of 2018." Commenting on *Jennings v. Rodriguez*, a Supreme Court decision that certain immigrants held in mandatory detention during removal proceedings are not entitled to bond hearings after six months in custody, Mr. Yale-Loehr said the case pits two contrasting high court decisions against each other. In 2001, in *Zadvydas v. Davis*, the Court interpreted an immigration statute to require periodic bond hearings for immigrants detained after a removal order because allowing indefinite detention of a noncitizen could cause a serious constitutional problem. Just two years later, however, in *Demore v. Kim*, the court upheld a provision requiring detention of immigrants awaiting their removal hearings. "If Jennings goes back to the Supreme Court, the court will have to determine which decision controls. The issue is now more important than ever, with the growing number of immigrants in detention and the long backlogs in immigration courts," he said. The article is available with registration at https://www.law360.com/immigration/articles/1106386/the-top-immigration-cases-of-2018.

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