

# GLOBAL IMMIGRATION UPDATE

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## Feature Article

**TRUSTED TRAVELER PROGRAMS: AN OVERVIEW** – This article provides an overview of trusted traveler programs in several countries.

## Country Updates

**FRANCE** – There is a new draft immigration bill under review. The remuneration thresholds have been updated after an increase in the minimum wage. ETIAS is provisionally targeted to deploy in November 2023. Management of the employer tax has been transferred.

**ITALY** – The Italian government has set new quotas for non-European Union workers. Italy has introduced a new work visa for seafarers. The United Kingdom and Italy have signed an agreement on the exchange of driver's licenses. Italy has set new entry measures for inbound passengers arriving from China.

**MEXICO** – New governmental fees for several immigration procedures are in place for 2023.

**RUSSIA** – Permanent residence permit criteria for foreign investors has been established. Fingerprinting capabilities are expanded to all territorial divisions of the Ministry of Internal Affairs. IT specialists and foreign investors are no longer required to obtain temporary residence permits before applying for permanent residence. New regulations are in force for foreign residents extending their visas. Medical insurance details are no longer required to be included in most labor agreements with foreign workers. Russia announces mutual recognition of visas Between the Russian Federation and the Republic of Belarus

**UNITED KINGDOM** – Negative pre-departure COVID tests are required for travelers to the UK from mainland China. The Immigration Skills Charge exemption for certain Senior or Specialist Worker applications has come into force. The High Court has ruled in an important case for pre-settled status holders. Phased priority service has returned for pending family status applications. Certificate of Sponsor allocation requests are causing headaches. Potential new immigration policies have been leaked to the press.

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## TRUSTED TRAVELER PROGRAMS: AN OVERVIEW

*This article provides an overview of trusted traveler programs in several countries.*

### Canada and the United States

After finally arriving in Canada or the United States, have you ever waited hours in line at the port of entry just to cross the border? If you are tired of this, the solution may be the Nexus card—designed for the low-risk, frequent traveler seeking expedited border crossing.

Membership in the NEXUS program can significantly reduce wait times by granting privileges for five years that regular travelers do not have: dedicated processing lanes at land border crossings including designated preclearance security check lanes, access to NEXUS kiosks when entering Canada, access to the U.S Global Entry kiosk, and the ability to call a marine telephone reporting center to report a marine entry in Canada or the U.S.

For almost all travel between Canada and the United States, citizens of the two countries may travel without a passport and just a Nexus card. However, for travel by air from Canada to the United States, traveling with just the Nexus card is only accepted at the eight major Canadian airports (YYZ, YVR, YYC, YUL, YEG, YWG, YOW, YHZ) with a U.S. preclearance area.

Who is eligible to apply for this Trusted Travel Document? What are the prerequisites?

- **Canadian and American citizens**, and **Mexican citizens** who are members of the ***Viajero Confiable*** (Trusted Traveler) program
- **Permanent residents** of Canada and the United States after residing in their respective country for at least **three years**
- Those admissible to Canada or the United States under immigration laws
- Those who can pass **risk assessments** by both countries—those convicted of a serious criminal offense in any country without pardon may be disqualified

Permanent residents exempt from the three-year rule include individuals in the Canadian or American armed forces serving in a foreign country and their family members, or individuals serving at a Canadian or American diplomatic mission or consular post in a foreign country and their family members.

Applicants need proof of birth, identification, citizenship or residency documents, and a \$50 USD processing fee. There is no charge for children under 18.

Upon conditional approval, individuals will be contacted to schedule an interview at a NEXUS Enrollment Center, where they will be interviewed by a Canadian Border Services Agent and/or a U.S. Customs and Border Protection officer. The official will verify the accuracy of the information on the application, check identity and review original documents, and take fingerprints.

Anyone who has been arrested, charged, or convicted of an offense in the past should seek legal advice before attempting to enroll in NEXUS. Similarly, those who have had a Customs violation may be disqualified. There are also immigration implications to enrollment; individuals

who travel on business or for work should consult an immigration professional before proceeding.

If accepted into NEXUS, the official will take photos of the new member's irises for identification with the Canadian self-serve kiosks and a headshot for the NEXUS card, and will explain the terms and conditions.

Canadian NEXUS enrollment centers were closed due to the pandemic. However, interviews at Canadian NEXUS enrollment centers (Lansdowne, Ontario, and Fort Erie, Ontario) and U.S. NEXUS enrollment centers have recently resumed, so there is hope that others will soon be able to enroll and take advantage of this program. All Canadian applicants are advised to schedule their appointments at the nearest U.S enrollment center.

<https://www.cbp.gov/travel/trusted-traveler-programs/nexus/enrollment-centers/canada>

## Schengen Area

The European Travel Information and Authorization System (ETIAS) is an automated IT system proposed by the European Commission to strengthen security and control irregular migratory risks posed by persons who travel visa-free to the European Union (EU). In addition, ETIAS is expected to ease the process of crossing borders for the vast majority of travelers who do not pose such risks. Therefore, every non-EU national who wants to travel to the Schengen area will be required to apply through the ETIAS system before taking a trip.

The ETIAS process starts with completing an online application form. After the form is submitted, the system will conduct checks and, if there are no complications, issue a travel authorization within minutes. This is expected to ease border checks, avoid bureaucracy and delays for travelers at the EU borders, reduce the risk of irregular migration from third-country nationals, and reduce the number of refusals at border crossing points.

### Details:

- "ETIAS: Your European Travel Authorisation," Mazzeschi S.r.l.  
<https://www.mazzeschi.it/etias-your-european-travel-authorisation/>

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## Country Updates

### FRANCE

*There is a new draft immigration bill under review. The remuneration thresholds have been updated after an increase in the minimum wage. ETIAS is provisionally targeted to deploy in November 2023. Management of the employer tax has been transferred.*

### Immigration Bill

A draft immigration bill was submitted to the French Council of State on December 20, 2022, and is under review. It will be presented to the Council of Ministers before being examined by the Senate and then by the National Assembly, in first reading. This will be the thirtieth immigration law since 1980.

Among the measures that directly concern professional immigration are:

- The creation of an "occupations in shortage" residence permit for sectors lacking sufficient numbers of workers. This permit would be available to any foreigner in illegal status "who has carried out a salaried professional activity appearing in the list of occupations in shortage for at least eight months out of the last twenty-four months and who has lived in France for at least three years."
- The creation of a "Talent—medical and pharmacy professions" status, which would apply to doctors, midwives, dental surgeons, and pharmacists.
- The merger of the Talent Passport—Business Creation, innovative economic project, and economic investment permits into a single status, "Talent project bearer."

### **Update of Salary Thresholds for Certain Statuses After Increase in Minimum Wage**

Following the increase in the minimum wage on January 1, 2023, the minimum salary threshold to be eligible for "qualified employee Talent Passport" status is now 3,418.56 euros gross per month, and that of the "Employee on assignment Talent Passport" increases to 3,076.71 euros. The threshold of the European Blue Card Talent Passport is unchanged, at 4,486.37 euros gross per month.

### **ETIAS (European Travel Information and Authorization System)**

The European Commission announced the deployment of ETIAS for November 2023, but this is only a provisional date.

Travelers not subject to a Schengen visa requirement must request prior authorization online before traveling to countries in the Schengen area. This system is comparable to the Electronic System for Travel Authorization in the United States.

### **Transfer of Employer Tax Management from OFII to DGFIP**

An employer tax is due when a third-country national worker enters the French labor market, whether it is an initial entry or a change of status. For contracts or secondments of more than 12 months, it is 55% of the amount of the gross monthly salary of the employee, within the limit of 2.5 times SMIC, i.e., 2,350 euros at most.

As of January 1, 2023, the General Directorate of Public Finances (DGFIP) is responsible for managing and collecting the tax payable by employers of foreign labor provided for in Article L. 436-10 of the CESEDA and managed by the French Office for Immigration and Integration (OFII) until that date.

This tax will now be declared and paid annually and in arrears. Thus, the tax will be due for hires made during a year, and will be declared and paid in support of the Value-Added Tax (VAT) return the following year. The first steps for the tax due for 2023 will take place in February 2024.

To help companies calculate the amount of employer tax due to report on the VAT form, a calculation aid sheet will be available on the [DGFIP website](#).

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## ITALY

*The Italian government has set new quotas for non-European Union workers. Italy has introduced a new work visa for seafarers. The United Kingdom and Italy have signed an agreement on the exchange of driver's licenses. Italy has set new entry measures for inbound passengers arriving from China.*

### **New Quotas for Non-EU Workers**

The Italian government has set 82,705 quotas to be allocated for 2023 to different categories of non-European Union (EU) citizens who intend to work in the country:

- 44,000 are reserved for entries for seasonal work.
- 31,205 quotas are for subordinate work, but only for specific sectors of activity and for certain nationalities.
- 7,000 are reserved to permit conversion for foreign citizens already in possession of a residence permit in Italy or the EU (study, seasonal work, permanent) intending to change status, i.e., to convert the existing permit into a permit for employment/self-employment.
- 500 quotas are for self-employment work, namely for entrepreneurs; startupper; professionals; well known artists; Chairman, CEO, Member of board of directors, Auditor in an Italian company active since at least 3 years).

### **New Work Visa for Seafarers Launched**

A new work visa for seafarers does not require the applicant to apply for a work permit beforehand, unlike many other kinds of work visas. The visa allows multiple entries for 365 days. It can be applied for even in the case of non-European Union (EU)-flagged vessels provided that they are docked in Italy. Seafarers working for either an Italian or a non-EU company can apply for this type of visa. A permit of stay is not required while working on the ship, but if disembarking in Italy, the worker must apply for a permit of stay within eight days. Seafarers can apply at any Italian consulate regardless of the country of residence. Documents must include:

- A formal request from the shipping company
- A job contract
- A service agreement if the seafarer is not an employee of the shipping company
- A ship registry certificate
- An official letter signed by the Italian Port Captain (Capitaneria di Porto)

### **United Kingdom and Italy Sign Agreement on Exchange of Driver's Licenses**

On December 23, 2022, the governments of the United Kingdom (UK) and Italy signed an agreement for exchanging driver's licenses. Once it enters into force, a citizen of the UK, Crown Dependencies, or Gibraltar, residing in Italy will be able to exchange a UK license for an Italian license without the need to take a test. The agreement also provides for the exchange of expired licenses for up to five years after their date of expiration as well as lost and stolen licenses, subject to domestic procedures.

According to a statement from the British Embassy in Rome, the two governments are "working hard" to bring the agreement into effect as quickly as possible after ratification on both sides. In the meantime, the right to drive in Italy for those residents before December 31, 2022, with a valid UK license has been extended to December 31, 2023.

### **New Entry Measures Set for Inbound Passengers From China**

To limit the spread of COVID-19, Italy has set new entry measures for inbound passengers arriving from China, including the special administrative regions of Hong Kong and Macau. The new requirements include submitting a certificate to the carrier before embarking as evidence of having taken a molecular test in the preceding 72 hours or an antigen test in the preceding 48 hours, with a negative result.

Travelers from China also must take an antigen swab test at the airport upon arrival or, if this is impossible, at the competent local health authority within 48 hours from entry. Additional requirements apply if the test is positive.

For more information, see <https://www.esteri.it/en/ministero/normativaonline/focus-cittadini-italiani-in-rientro-dall-estero-e-cittadini-stranieri-in-italia/>.

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## **MEXICO**

*New governmental fees for several immigration procedures are in place for 2023.*

On November 14, 2022, a decree enacting the Federal Income Law for Fiscal Year 2023 was published in the Official Gazette of the Federation. The decree specifies new governmental fees for immigration procedures.

As of January 1, 2023, the National Immigration Institute will charge a governmental fee for some immigration processes in Mexico that formerly were conducted at no charge, including:

- Employer's license (*Constancia de Inscripción de Empleador [CIE]*) granted to Mexican companies to hire foreigners in Mexican National Territory
- Update of the employer's license
- Pre-approval process for a work visa
- Pre-approval process for a family reunion visa

Details:

- New fees, Government of Mexico. <https://www.gob.mx/inm/articulos/conoce-las-nuevas-tarifas-de-pagos-de-derechos-2023?idiom=es> (in Spanish, with English translation available)

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## **RUSSIA**

*Permanent residence permit criteria for foreign investors has been established. Fingerprinting capabilities are expanded to all territorial divisions of the Ministry of Internal Affairs. IT specialists and foreign investors are no longer required to obtain temporary residence permits before applying for permanent residence. New regulations are in force for foreign residents extending their visas. Medical insurance details are no longer required to be included in most labor agreements with foreign workers. Russia announces mutual recognition of visas Between the Russian Federation and the Republic of Belarus.*

### **Permanent Residence Permit: Criteria for Foreign Investors Established**

On January 11, 2023, an Order of the Government of the Russian Federation came into force that establishes criteria for foreign investors. Foreign investors can now apply for permanent residence using a simplified procedure:

- Shortened processing time (3 months)
- No requirement to apply for a temporary residence permit first

Along with foreign citizens considered to be foreign investors according to the established criteria, residence permits can be received by their family members also using the simplified procedure.

### **Fingerprinting Capabilities Expanded**

As of January 1, 2023, fingerprinting can be done in all territorial divisions of the Ministry of Internal Affairs of the Russian Federation regardless of the address registration (place of stay or residence of a foreign national). Practitioners recommend that all foreign citizens complete fingerprinting, photographing, and medical examination procedures in the Russia region where they perform work activities to avoid any technical difficulties.

### **IT Specialists, Foreign Investors Not Required to Obtain Temporary Resident Permits Before Applying for Permanent Residence**

Foreign citizens who are IT specialists or foreign investors can apply for a permanent residence permit without obtaining a temporary residence permit first. Requirements include:

- IT Specialists: Documentation confirming formal education in IT, employed by companies accredited as IT companies, in a position requiring skills and knowledge in IT.
- Foreign investors: This category awaits criteria to be set by the government. A foreign national will be required to present a document confirming status as a foreign investor.

The processing time for these types of applications was shortened and is up to three months from the filing date.

### **New Regulations in Force for 2023 for Foreign Citizens Extending Visas**

Foreign citizens who filed documents for a temporary residence permit (TRP) or permanent residence permit (PRP) can extend their visas when they file the residence permit application. Visas will be extended for the duration of the review of the application for TRP or PRP.



## **Medical Insurance No Longer Required in Labor Agreements With Most Foreign Workers**

As of January 1, 2023, foreign workers are no longer required to have voluntary medical insurance, and their employers no longer need to include medical insurance details in labor agreements with the workers, except for highly qualified specialists who temporarily reside in the territory of the Russian Federation. Family members of the latter also must have valid voluntary medical insurance certificates for the entire period of their stay in Russia.

Some practitioners believe that highly qualified specialists who acquired residence permits on the basis of their HQS work permits will also be exempt from the voluntary medical insurance requirement because when they receive the residence permits, they “transfer” from the category of those who “temporarily reside” to the category of “permanent resident.”

## **Russia Announces Mutual Recognition of Visas Between the Russian Federation and the Republic of Belarus**

On February 1, 2023, a federal law ratifying an agreement between the Russian Federation and the Republic of Belarus introducing mutual recognition of visas entered into force. Once the agreement becomes effective, foreign citizens who have received a visa of any type to enter the Russian Federation will also be able to enter and stay on the basis of that visa, during the validity period, in the Russian Federation and in the territory of the Republic of Belarus.

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## **UNITED KINGDOM**

*Negative pre-departure COVID tests are required for travelers to the UK from mainland China. The Immigration Skills Charge exemption for certain Senior or Specialist Worker applications has come into force. The High Court has ruled in an important case for pre-settled status holders. Phased priority service has returned for pending family status applications. Certificate of Sponsor allocation requests are causing headaches. Potential new immigration policies have been leaked to the press.*

### **Negative Pre-Departure Tests for Travelers to the UK From Mainland China**

As of January 5, 2023, airlines need to check that travelers from mainland China have negative COVID-19 tests taken no more than two days before departure. Children ages 11 and under do not need to be tested. The [advice confirms](#) that testing applies to all direct and indirect flights from mainland China to the United Kingdom (UK).

### **No Immigration Skills Charge for Some Senior or Specialist Worker Applications**

The Immigration Skills Charge exemption for certain Senior or Specialist Worker (previously known as Intra-Company Transfer [ICT]) applications came into force on January 1, 2023, as anticipated. The Immigration Skills Charge is normally £1,000 per year of the visa. The exemption is for international transfers within the same corporate group for up to three years, where the sponsored worker is a European Union (EU) or Latvian noncitizen (not a citizen of Iceland, Norway, Liechtenstein, or Switzerland) and is transferring from a business established in the EU.

Unlike the Skilled Worker visa, Senior or Specialist Worker visas do not lead to settlement (indefinite leave to remain). But with the potential for the Immigration Skills Charge exemption



and no English-language requirement, some sponsors may consider using it for transfers up to three years.

### **High Court Rules in Important Case for Pre-Settled Status Holders (Home Office to Appeal)**

The High Court ruled in a [potentially very significant case](#) that the UK's EU Settlement Scheme is incompatible with the Withdrawal Agreement upon which the UK left the EU. In particular, the court ruled that the almost three million EU citizens granted pre-settled status should not have to apply for settled status (a type of indefinite leave to remain) after five years in the UK. This could be a positive development for employers of EU citizens with pre-settled status, but the Home Office is expected to appeal the decision.

### **Phased Priority Service Returns for Pending Family Visa Applications**

After being suspended last summer, most priority services for visa applications submitted outside the UK have long returned, including for work visas. However, priority services for family visa applications have been left until last. In a positive development, since January 9, 2023, UK Visas and Immigration (UKVI) has been contacting family visa applicants in date order to offer them use of the priority service. Less positive is the extra £573 UKVI fee. For those who purchase the priority service, their application should be completed within 15 working days. Standard processing times have been around 24 weeks, so applicants will need to decide whether the faster processing time is worth it for them. The priority service is expected to be reintroduced to new family visa applicants in early 2023.

### **Certificate of Sponsor Allocation Requests Cause Headaches**

Many sponsors will be familiar with the current tedious delays and bureaucracy of obtaining an extra Certificate of Sponsor (CoS) to sponsor someone. The [issues](#) can be particularly troubling where a sponsored worker's visa is about to expire and a CoS is urgently needed to submit their application. UKVI has publicized its "sponsorship transformation project," and it is hoped that automation of CoS allocations for most sponsors will happen soon.

### **Potential New Immigration Policies Leaked to Press**

As ever, immigration policy has been hitting the news headlines in the last month. While nothing has been formally announced or confirmed, leaks to the media in December and January include talk of increasing the minimum income required for spouse/partner applications, increasing minimum salary levels for jobs on the shortage occupation list, and restrictions to the Graduate visa route, such as reducing the visa from two years to six months.

Talk of restricting immigration is at odds with staffing shortages many employers are experiencing. There has been some [interesting research](#) on this issue post-Brexit.

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## **New Publications and Items of Interest**

[Alliance of Business Immigration Lawyers](#): <https://www.abil.com/>

- ABIL is also available on Twitter: <https://twitter.com/abilimmigration>

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## ABIL Member/Firm News

Many ABIL members were recognized by EB-5 Investors Magazine's Top 25 awards:

**Top 25 Immigration Attorneys** (<https://www.eb5investors.com/magazine/article/eb5-top25-winners-immigration-attorneys>):

**Joseph Barnett** – WR Immigration

**Nicolai Hinrichsen** – Miller Mayer

**John Meyer** – Foster LLP

**Anusree Nair** – Klasko Immigration Law Partners

**Kristal Ozmun** – Miller Mayer

**Top 10 Attorneys in Specialized Fields** (<https://www.eb5investors.com/magazine/article/eb5-top25-winners-specialized-fields>):

**Charles Foster** – Foster LLP

**Ronald Klasko** – Klasko Immigration Law Partners

**Bernard Wolfsdorf** – WR Immigration

**Stephen Yale-Loehr** – Miller Mayer

**Top 5 Litigation Attorneys** (<https://www.eb5investors.com/magazine/article/eb5-top25-winners-litigation-attorneys>):

**Ira Kurzban** – Kurzban Kurzban Tetzeli & Pratt

**Daniel Lundy** – Klasko Immigration Law Partners

**IMPACT Litigation** (which includes ABIL firms **Joseph & Hall PC**, **Kuck Baxter Immigration LLC**, and **Siskind Susser PC**, along with Bless Litigation), along with several other entities, filed a federal class action lawsuit against U.S. Citizenship and Immigration Services challenging delays in processing unlawful presence waivers. Plaintiffs are spouses of U.S. citizens and permanent residents who cannot work in the United States lawfully and remain subject to removal due to the delays. <https://www.aila.org/advo-media/press-releases/2023/class-action-filed-against-uscis-for-extreme>

**Kingsley Napley** immigration partner **Kim Vowden** was [quoted in The Times](#) this month: "UK doctors call for simplification of visa rules to stem GP shortage." She said that "[g]etting a sponsor licence is usually straightforward but operating it properly and complying with the duties which come with it can be hard for businesses which are trying to do it by themselves."

**Klasko Immigration Law Partners, LLP**, has published "Client Alert: New Settlement Agreement Favorably Impacts H-4 and L-2 Dependent Spouses." <https://rb.gy/rjsjms>

**Charles Kuck** (bio: <https://www.abil.com/abil-lawyers/charles-kuck/>) spoke about the Title 42 case pending at the U.S. Supreme Court on Georgia Public Broadcasting News's "Political Rewind" on January 5, 2023. <https://www.gpb.org/news/2023/01/05/political-rewind-kemp-wont-support-early-democratic-primary-mccarthy-fight-be>

**Mr. Kuck** released a video, "Immigration Wants Your Money!!," concerning new proposed fee increases. <https://www.linkedin.com/video/live/urn:li:ugcPost:7016465693705465856/>

**Mr. Kuck** was quoted by *Law360* in "Ukrainians Seek To Claw Back \$80M in Work Permit Fees." Mr. Kuck said, "America should be disappointed in the way that USCIS has failed to hold itself accountable for the clear error of law it made when it charged vulnerable and desperate Ukrainian parolees for a work permit they did not need. Belatedly recognizing its mistake does not repair the damage done and the USCIS' refusal to pay back its ill-gotten gains should appall

all Americans." <https://www.law360.com/articles/1564727/ukrainians-seek-to-claw-back-80m-in-work-permit-fees> (registration required)

**Cyrus Mehta** (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) and **Kaitlyn Box** co-authored a new blog post: "The Tension Between State Wage Transparency Laws and Labor Certification Recruitment." <http://blog.cyrusmehta.com/2023/01/the-tension-between-state-wage-transparency-laws-and-labor-certification-recruitment.html>

**Mr. Mehta** served as the Chair of the Practising Law Institute's Basic Immigration Law 2023 program on February 2, 2023. This program covered business, family, naturalization, and related areas and featured prominent immigration practitioners and government officials. <https://www.pli.edu/programs/B/basic-immigration-law>

**Mr. Mehta** served as the Chair of the Practising Law Institute's program, "Asylum, Special Immigrant Juvenile Status, Crime Victim, and Other Immigration Relief," on February 3, 2023. <https://www.pli.edu/programs/A/asylum-special-immigrant-juvenile-status-crime-victim-and-other-immigration-relief>

**Mr. Mehta** was quoted by the *Times of India* in "In U.S. Layoffs, More Poignant Stories and Helplines Emerge," on layoffs of H-1B workers in the United States. <https://timesofindia.indiatimes.com/business/india-business/in-us-layoffs-more-poignant-stories-and-helplines-emerge/articleshow/97429374.cms>

**Mr. Mehta** and **Manjeeta Chowdhary** co-authored a new blog post: "How the Humanitarian Parole Program at the Border Can Serve as a Template for Further Relief Under the Broken Immigration System." <https://bit.ly/3ZQrGul>

**Mr. Mehta** and **Jessica Paszko** co-authored a new blog post: "2022 in Perspective From The Insightful Immigration Blog." <http://blog.cyrusmehta.com/2022/12/2022-in-perspective-from-the-insightful-immigration-blog.html>

**Mr. Mehta** and **Kaitlyn Box** co-authored several new blog posts: "United States v. Hansen: Supreme Court Once Again Agrees to Hear Constitutionality of a Smuggling Statute That Could Impact Immigration Lawyers," <http://blog.cyrusmehta.com/2022/12/united-states-v-hansen-supreme-court-once-again-agrees-to-hear-constitutionality-of-a-smuggling-statute-that-could-impact-immigration-lawyers.html>; and "Immigration Enforcement and Prosecutorial Discretion Go Hand in Hand: Will the Supreme Court Upset the Balance?" <http://blog.cyrusmehta.com/2022/12/immigration-enforcement-and-prosecutorial-discretion-go-hand-in-hand-will-the-supreme-court-upset-this-balance.html>

**Nick Rollason** (bio: <https://www.abil.com/abil-lawyers/nicolas-rollason/>), **Kingsley Napley's** Head of Immigration, and **Louise Hodges**, Head of Criminal Litigation, were named Corporate Immigration Lawyer of the Year and Investigations Lawyer of the Year, respectively, by the Who's Who Legal Awards in November 2022. Kingsley Napley was named Independent Law Firm of the Year.

**Seyfarth Shaw** has published "New Year, New Fees? Proposed USCIS Fee Increases." <https://www.seyfarth.com/news-insights/new-year-new-fees-proposed-uscis-fee-increases.html>

**Sidley Austin LLP** served as pro bono counsel in *Cook County, Illinois v. Mayorkas*, which the Supreme Court recently declined to review. The Court denied a certiorari petition filed by Texas and 13 other states that sought to revive a Trump-era public charge rule that was vacated nationwide.

**WR Immigration** has published several new blog posts: "Green Card Processing Slow Down Ahead: What Companies Can Expect and How to Prepare," by **Laura Bloniarz**, Senior Associate, <https://wolfsdorf.com/green-card-processing-slow-down-ahead-what-companies-can-expect-and-how-to-prepare/>; and "Visa Bulletin for January 2023 Reports on Availability in the Employment First Category for China and India, Unavailability of Religious Workers Category," <https://wolfsdorf.com/visa-bulletin-for-january-2023-reports-on-availability-in-the-employment-first-category-for-china-and-india-unavailability-of-religious-workers-category/>

**WR Immigration** has published "End of the Year Recap." This article looks back at all that happened in 2022, including some of the biggest webinars, awards, and news from WR Immigration. <https://wolfsdorf.com/wr-immigration-end-of-the-year-recap/>

**WR Immigration** has launched a new video series: Overview of the H-1B Cap Process. <https://wolfsdorf.com/video-series-overview-of-the-h-1b-cap-process2/>

**WR Immigration** has published "5 Takeaways From the 2022 State Department Annual Report." <https://wolfsdorf.com/5-takeaways-from-the-2022-state-department-annual-report/>

**Charlie Oppenheim**, formerly the Department of State's Chief of Immigrant Visa Control and Reporting, has joined **WR Immigration** as Director of Visa Consulting Services and will lead WR's Government Relations Group. For more than two decades, Mr. Oppenheim was responsible for the monthly and annual use of visa number allocations. In that capacity, he regularly provided analysis and assessment of the impact of proposed legislation on visa availability and workload impact for overseas posts. The WR Immigration announcement is at <https://wolfsdorf.com/former-dos-chief-of-immigrant-visa-control-charlie-oppenheim-joins-wr-immigration-as-director-of-visa-consulting/> The first "Chatting with Charlie" webinar, "Demystifying the Immigrant Visa Backlogs and Looking at the Crystal Ball," will be held Thursday, December 15, 2022, at 11 a.m. PT. For more information, see "New Publications and Items of Interest," above.

**Stephen Yale-Loehr** (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by *South China Morning Post* in "U.S. Extends Special 'Safe Haven' Status for Hongkongers Seeking Refuge." Mr. Yale-Loehr said that even if the temporary "safe haven" extension had not been granted in time, that would not have meant Hongkongers in the United States would have been deported immediately. "You cannot just pick someone up and kick them out. There's due process for everyone in the United States," he said. First, the Department of Homeland Security would have to issue a subpoena for individuals to appear before an immigration judge, and then those individuals could apply for asylum, a first step to a green card, he said. <https://www.scmp.com/news/china/article/3208136/us-extends-special-safe-haven-status-hongkongers-seeking-refuge>

**Mr. Yale-Loehr** was quoted by *CBS News* in "U.S. Proposes Hiking Fees for Work-Related Immigration Applications to Fund Asylum Program." Mr. Yale-Loehr said, "The USCIS needs more money to help dig itself out of a massive backlog and to modernize its technology. But it might not legally be able to force employers to pay for asylum-related costs. Employers might sue to block some of the new fee increases if they don't seem justified."

**Mr. Yale-Loehr** was quoted by *Law360* in "Top Immigration Cases to Watch in 2023." Mr. Yale-Loehr said, "The immigration courts are certainly overwhelmed. They have 1.9 million cases pending and many of these cases involve important issues, like whether someone will be persecuted or killed if they go back home. It's like trying to decide death penalty cases in a traffic court setting." Regarding the growing number of mandamus cases in federal court challenging delayed applications, visas, and work permits, he noted, "I think we're going to see

some tension there between people saying, 'I've got to sue because I've been waiting for two years,' and whether federal courts will go along with that or not."

<https://www.law360.com/immigration/articles/1553281/top-immigration-cases-to-watch-in-2023>  
(registration required)

**Mr. Yale-Loehr** was quoted by *Voice of America* in "Courts Set to Shape U.S. Immigration Policy in 2023." Mr. Yale-Loehr said, "Courts are not a good way to manage immigration." Also, commenting on *United States v. Texas*, Mr. Yale-Loehr said that based on the oral arguments in 2022, it is not clear how the Supreme Court will rule. <https://www.voanews.com/a/courts-set-to-shape-us-immigration-policy-in-2023/6915829.html>

**Mr. Yale-Loehr** was quoted by *Morningstar* in "'We Need More People,' Says Fed's Powell. What Does That Mean for Immigration Reform?" Powell's remarks could be seen as part of a slow process that eventually results in long-awaited fixes to the U.S. immigration system, Mr. Yale-Loehr said. "To me, it's like water dripping on a rock. A single drop of water, whether it's from Fed Chairman Powell or somebody else, won't make a difference by itself. But if enough drips of water from other people and other studies consistently show that immigration can help our labor shortages and improve our economy, then I hope that will move the needle so that Congress will seriously take up immigration reform in 2023." Issues on Mr. Yale-Loehr's wish list for 2023 include "helping the Dreamers to be able to achieve some kind of permanent status and reforming our border-security measures so that we can admit those people who really do need or will qualify for asylum, but otherwise deport people after a hearing if they don't qualify under immigration laws," "modernization in our agriculture industry," and passage of the Afghan Adjustment Act "to allow people who came from Afghanistan a permanent path to citizenship." That would be "an awful lot to accomplish in one year" and a "hard battle" in an increasingly polarized Congress, he added. Mr. Yale-Loehr noted that the Biden administration can act on its own on some immigration issues, and that grassroots efforts eventually might end up spurring U.S. lawmakers to do more. <https://www.morningstar.com/news/marketwatch/20230111426/we-need-more-people-says-feds-powell-what-does-that-mean-for-immigration-reform>

**Mr. Yale-Loehr** was quoted by *USA Today* in "As Biden Hunts for Answers to Migrant Crisis, His Policies Are Increasingly Tied Up in Court." Commenting on a Biden administration effort to create a new rule to expedite the removal of migrants who travel through Mexico but do not claim asylum there, Mr. Yale-Loehr said, "The devil will be in the details: How will the administration define a credible fear? How much time will people have to prepare for their hearing? If only a few days or weeks, few people will be able to gather their evidence or find an attorney." Regarding the Biden administration's development of immigration-related policies, he said, "Organizations have sued to stop administrative changes on both substantive and procedural grounds. Groups can usually find sympathetic judges to [halt] an administration's immigration policy change." <https://www.usatoday.com/story/news/politics/2023/01/09/biden-immigration-mexico-amlo-supreme-court/10989696002/>

**Mr. Yale-Loehr** was quoted in several media outlets on Title 42 issues:

- "Title 42 to Remain in Place for Now as Chief Justice John Roberts Temporarily Freezes Order Meant to End It," CNN, Dec. 19, 2022. Mr. Yale-Loehr said, "This is a longstanding problem. More people are fleeing persecution, gang violence, failed states and climate change than ever before. Even without Title 42, we would have more people than ever before trying to enter the United States. Title 42 is not an effective way to manage our borders. Instead, we need to both enact immigration reform in the United States and work with other countries so that people don't feel so desperate to leave in the first place."



- "Chief Justice Roberts Pauses Lifting of Title 42, Keeping Migrant Policy in Place for Now," USA Today, Dec. 19, 2022. Mr. Yale-Loehr said, "People worry that terminating Title 42...will mean more people will try to enter the United States from Mexico. But those pressures existed before the Trump administration implemented Title 42. Climate change, poverty, gang violence, and failed states all contribute to people's desperation to move."

**Mr. Yale-Loehr** and **Jacob Hamburger** co-authored an op-ed, "On Immigration, Do Feds or States Rule?," published by *New York Daily News*. <https://www.nydailynews.com/opinion/ny-oped-immigration-federalism-20221219-haoe6hs6ajedbo2joe5nz6itxq-story.html>

**Mr. Yale-Loehr** co-led a research project reported in "Multi-Stakeholder Perspectives on Digital Tools for U.S. Asylum Applicants Seeking Healthcare and Legal Information," published by the Association for Computing Machinery's Digital Library. Through semi-structured interviews with 24 asylum applicants currently in the United States and 13 healthcare and legal professionals working with asylum applicants and other immigrants, the study identified four key challenges and barriers to using currently available digital tools: information uncertainty, accessibility, emotional barriers, and contextual sensitivity. The findings highlight the importance of considering multiple stakeholders' perspectives when designing tools for immigrants. The report provides targeted design recommendations to create digital tools for asylum seekers and the stakeholders who support them. Research funding came from the Cornell Migrations initiative supported by The Andrew W. Mellon Foundation; Cornell's Office of Academic Integration; and the Cornell Immigration Law and Policy Program, which is partly funded by the Charles Koch Foundation. The report is at <https://dl.acm.org/doi/10.1145/3555642>

A related article, "Better Digital Tools Could Help Immigrants Access Benefits," published by the *Cornell Chronicle*, notes that fear of tracking hinders immigrants in accessing online resources and benefits. The article discusses the study's recommendation to mitigate those concerns: websites, apps, social media, and other digital tools disseminating information to immigrants should collect the minimum personal data necessary and clearly state privacy policies. The research that **Mr. Yale-Loehr** co-led resulted in development of a website to help immigrants understand their eligibility for certain public benefits, [Rights 4 Health](https://rights4health.org). The article is at <https://news.cornell.edu/stories/2022/12/better-digital-tools-could-help-immigrants-access-benefits>

**Mr. Yale-Loehr** was quoted by the *New York Times* in "Government Appeals Border Ruling, But Says It's Ready to End Expulsions." The article discusses the Biden administration's appeal of a court order directing it to repeal a pandemic-era policy known as Title 42 that has allowed the rapid expulsion of migrants at the U.S. border with Mexico, even though an administration official said the government still planned to end the expulsion policy soon. The article notes that some legal scholars said the appeal suggested that the government was not abandoning Title 42 altogether or conceding that the policy was illegal. Mr. Yale-Loehr said, "They want to be able to use Title 42 if they choose to do so in the future." <https://www.nytimes.com/2022/12/07/us/biden-title-42-appeal.html> (subscription required)

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## About ABIL

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