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Feature Article

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SELF-EMPLOYMENT AND IMMIGRATION IN ITALY: AN OVERVIEW

This article provides an overview of self-employment issues related to immigration in Italy.

Italy

The type and number of self-employment (*Lavoro Autonomo*) authorizations available to non-European Union (EU) nationals in Italy are set by a quota decree (*decreto-flussi*). Not all self-employment categories are available each year.

To qualify, the self-employed person must:

- Have suitable accommodation in Italy;
- Have financial resources exceeding the minimum level set by the law for exemption from the healthcare contribution (8,500 euros);
- Obtain a police clearance (*Nulla Osta*) in Italy;
- Have certificates, documents, or attestations as required for the type of self-employment activity to be performed. Applicants must meet the legal requirements for performance of the activity, including, when required, prerequisites for entering into professional registers.

Some categories of self-employment visas are issued outside the quota decree (e.g., translators and interpreters, university professors, lecturers, managers in an intra-company framework).

Details:

- "Italy Self-Employment Visa," Mazzeschi, <https://www.mazzeschi.it/italy-self-employment-visa/>
- "Self-Employment Visa for Entrepreneurs Intending to Implement an Investment Plan in Italy," Mazzeschi, <https://www.mazzeschi.it/self-employment-visa-for-entrepreneurs-intending-to-implement-an-investment-plan-in-italy/>

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Country Updates

BELGIUM

A change in legislation is consequential for European Union (EU)/Schengen travel to Belgium.

A change in legislation, published in the Belgian Official Journal on January 26, 2020, and effective January 27, 2021, will have substantial consequences for EU/Schengen travel to Belgium.

Between January 27, 2021, and March 1, 2021, all non-essential travel is forbidden for all those whose main place of residence is located abroad. This does not change the situation for travel from most third countries, which was already limited to non-essential travel. However, the

EU/Schengen travel restriction is new. Third countries are defined as non-EU/non-Schengen countries.

The definition of essential travel and the required formalities depend on the country of origin and/or citizenship:

- Travel from a third country, other than "safe" third countries (currently Australia, South Korea, Japan, New Zealand, Rwanda, Singapore, and Thailand), by a third country national with main residence in the third country (e.g., United States, Canada, India): An overview of essential travels is available at the website of the Belgian federal immigration office (point 2.2., <https://dofi.ibz.be/sites/dvzoe/EN/Pages/International%20travels.aspx>). An essential travel certificate, issued by the Belgian embassy/consulate with jurisdiction, will in principle be required. Before the traveler boards, the transporter must check whether an essential travel certificate is available. If not, boarding must be refused.
- All other travels by non-residents (e.g., travel from an EU/Schengen country; travel from a "safe" third country (see list above); travel by an EU/Schengen country national): A sworn statement must be completed by the traveler (see https://d34j62pglrm3rr.cloudfront.net/downloads/20210126_BU_Verklaring_op_eer_Final_EN_Goedgekeurd_Blanco.pdf). The sworn statement lists all essential travels; the relevant travel purpose must be selected (see also the website of the Belgian federal immigration office—point 2.1., <https://dofi.ibz.be/sites/dvzoe/EN/Pages/International%20travels.aspx>). Before the traveler boards, the transporter must check whether a sworn statement was completed. If not, boarding must be refused. Failure to make a sworn statement or making a false, misleading, or incomplete statement may result in denial of entry.

These travel restrictions have been added to other current measures, such as the requirements to complete a Public Health Passenger Locator Form (PLF), a prior negative Covid-19 test, and quarantine/isolation/testing in Belgium.

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ITALY

Residence permit validity has been extended to April 30, 2021. Also, there is a new residence permit requirement for British citizens living in Italy, and travel to Italy from the United Kingdom is banned, with exceptions, until March 5, 2021.

Residence Permit Validity Extended

By Law Decree no. 2 of December 14, 2020, the validity of residence permits has been extended to April 30, 2021. The decree also extends the validity of *Nulla Osta* (police entry clearances for family reasons, work permits) for the same period and the terms for conversion of study permits into work permits.

New Residence Permit Requirement for British Citizens in Italy

As of January 1, 2021, British citizens and their family members residing in Italy must apply for a residence permit in electronic format at the police headquarters (*Questura*) having jurisdiction over their place of residence in Italy.

The new document will indicate that it is issued on the basis of the Withdrawal Agreement (under Brexit) and will allow the holder to exercise the rights recognized by the Agreement. The document will be valid for 5 years (or 10 years if the applicant has acquired the right of permanent residence after 5 years of legal and continuous stay). To apply for the document, applicants should book an appointment with the relevant police office and submit the *Attestazione di iscrizione Anagrafica* previously obtained from the City Council of the place of residence.

Travel Restrictions on UK Citizens Entering Italy

Meanwhile, as of press time, Italy has banned travel from the United Kingdom (UK) in response to the spread of a new mutant strain of COVID-19. Until March 5, 2021, entry into Italy from the UK is permitted only for those with official residence or those with absolute necessity, which must be declared in writing. Also, those wishing to fly must present the airline with a negative COVID-19 rapid antigenic or molecular swab test taken within 72 hours before entry into Italy. Another such test is required within 48 hours of entering Italy. Those arriving by air will take this test at the airport. Those arriving in Italy from the UK must also report to their local health authorities on arrival and self-isolate for 14 days.

For more information or help in specific cases, email info@mazzeschi.it.

Details:

- Information on the new residence permit requirement for British citizens in Italy, <https://www.interno.gov.it/it/vademecum-i-cittadini-britannici-e-i-loro-familiari-residenti-italia> (Italian, with the option to translate to English)
- Living in Italy (official information for United Kingdom nationals living in or moving to Italy, including guidance on residence requirements, healthcare, and passports), <https://www.gov.uk/guidance/living-in-italy>
- Information on travel to Italy for UK citizens, <https://www.gov.uk/foreign-travel-advice/italy>

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RUSSIA

Air traffic has resumed with several countries. Also, family members of highly qualified specialists are being admitted to Russia, subject to certain conditions. Russia extended COVID-19 measures until June 15, 2021.

Air Travel Resumes

As of January 27, 2021, air traffic has resumed with Finland, Vietnam, India, and Qatar. At the moment, in addition, air traffic is open between Russia and Abkhazia, Belarus, Cuba, Egypt, Ethiopia, Greece, Japan, Kazakhstan, Kyrgyzstan, Maldives, Republic of Korea, Republic of South Ossetia, Serbia, Seychelles, Singapore, Switzerland, Tanzania, Turkey, United Arab Emirates, and the United Kingdom. As of February 15, 2021, air traffic will resume with Azerbaijan and Armenia.

Details on flights include:

- Greece (Moscow-Athens, two flights a week)

- Finland (Moscow-Helsinki, twice a week; St. Petersburg-Helsinki, twice a week)
- India (Moscow-Delhi, twice a week)
- Qatar (Moscow-Doha, three times a week)
- Singapore (Moscow-Singapore, three flights a week)
- Vietnam (Moscow-Hanoi, twice a week)

The United Kingdom is suspended until February 16, 2021, due to identification of a new strain of the COVID-19 coronavirus in Britain.

The situation could change at any time, so travelers should monitor the latest news before traveling to a particular country.

Family Members of Highly Qualified Specialists Admitted

A government order is allowing a single entry into the Russian Federation for family members of foreign nationals in Russia on work permits for highly qualified specialists (HQS). Family members include spouses, parents, children, adoptive parents, and adopted children.

To qualify, a foreign national must be on a list sent to the Federal Security Service and the Internal Affairs Ministry by the relevant Ministry. The employer of the HQS work permit holder should apply to the Ministry. Also required is a medical document (in Russian and/or English) confirming a negative COVID-19 test, done by the PCR method, within three calendar days before entry into the Russian Federation.

COVID-19 Measures Extended

Russia has extended until June 15, 2021, measures regulating the status of foreign citizens and stateless persons related to the COVID-19 pandemic. Foreigners meeting certain qualifications can stay in Russia until that date, provided the expiration of their immigration documents fell between March 15, 2020, and December 15, 2020.

The extension applies to visas (all types), address registrations, migration cards, temporary and permanent residence permits, and documents confirming refugee status, among others.

If the expiration date of the immigration document falls between March 15, 2020, and June 15, 2021, the document's validity is automatically extended for 458 days after the document expiration date. This applies only to citizens (permanent residents) of other countries with which transport communications (e.g., air travel) have not yet been restored. If transport communication with the country of citizenship or permanent residence has been restored, the foreign national has 90 days from either the date of the Presidential Order, December 17, 2020, or from the date when transport communications were restored, to depart from the Russian Federation. No additional immigration documents will be needed in such cases.

The order does not apply to work permits or patents. Holders of such immigration documents and their employers must file for an extension in the standard manner.

Details:

- "Russia Resumes Air Service With Finland, Vietnam, India, and Qatar," <http://government.ru/news/41340/> (Russian; translation to English available on the page)
- "Russia Extends Suspension of Air Traffic With Britain," <http://government.ru/en/docs/41300/> (Russian; translation to English available on the page)

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UNITED KINGDOM

This article provides an update on issues for European Union citizens to consider in light of Brexit.

Issues for EU Citizens to Consider

European Union (EU) (and European Economic Area and Swiss) citizens who have already been resident in the United Kingdom (UK) are expecting no major issues after the Brexit transition period ended on December 31, 2020. So long as they were resident by the end of 2020, they can apply to the EU Settlement Scheme before the deadline of June 30, 2021. But there are several issues to be aware of regarding absences from the UK for those with pre-settled status and those relying on permanent residence to naturalize as British citizens.

Absences for those with pre-settled status. EU citizens who have pre-settled status must apply for settled status after 5 years in the UK. Pre-settled status is not extendable, so it is important that the residence requirements be met in order to qualify for settled status. Otherwise it will be necessary to switch into a different UK immigration category, such as Skilled Worker. Those with pre-settled status should not be absent for more than 6 months in any 12-month period. A single period of absence of up to 12 months is permitted for an "important" reason, which the rules specify includes pregnancy/childbirth, serious illness, study, vocational training, or an overseas posting.

Given the circumstances, the obvious question is why absences due to the COVID-19 pandemic have not been included in the EU Settlement Scheme rules and guidance. Elsewhere in the rules, absences due to the pandemic have been covered. For example, travel disruption due to the pandemic because there were no available flights or the visa application centers were closed has been a ground for absences above the usual threshold to be allowable on an exceptional basis where they can be evidenced.

The Home Office has advised that absences over 6 months for those with pre-settled status could be permitted on a discretionary basis if:

- The EU citizen, or a person with whom they are living, is suffering from COVID-19 and they are either too ill to travel or forcibly in quarantine for public health reasons; or
- There were no available flights to the UK and in essence the individual has been stranded overseas.

A general reluctance to return to the UK is not expected to be sufficient. As a result of this policy, EU citizens with pre-settled status who have had or may shortly have absences of more than 6 months in a 12-month period that are not very clearly for an important reason must consider:

- Traveling to the UK before they reach 6 months of absence from the UK; or
- Reapplying from outside the UK for pre-settled status before they reach 6 months of absence; or

Relying on permanent residence for naturalization. EU citizens who have been granted a permanent residence document under EU law (not from the EU Settlement Scheme) and who

have held permanent residence for 12 months can normally apply to naturalize as a British citizen. Plus, some applicants' permanent residence will be backdated, meaning they can apply to naturalize right away.

EU citizens should be aware, though, of a rule change as of January 1, 2021. For applications submitted in the new year:

- If the applicant only has a permanent residence document and does not have settled status, they can continue to rely on the permanent residence document for a naturalization application. They should ensure that they do not become an overstayer on July 1, 2021, by applying for settled status (from the EU Settlement Scheme) before that date if their naturalization application remains outstanding; and
- If, on the other hand, the applicant has both a permanent residence document and settled status, as of January 1, 2021, they cannot rely on the permanent residence document and instead must wait until they have held settled status for 12 months.

Details:

- New UK immigration system FAQs,
<https://www.kingsleynapley.co.uk/services/department/immigration/the-uks-new-immigration-system-what-you-need-to-know>

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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

Dagmar Butte (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) and **Vic Goel** (bio: <http://www.abil.com/lawyers/lawyers-goel.cfm?c=US>) were quoted by *Forbes* in "Ending Unlawful Trump H-1B Visa Policies Caused Denials to Plummet." Mr. Goel said the lower H-1B denial rates seen in the fourth quarter of FY 2020 have continued into the first quarter of FY 2021. "Following the decision and settlement in the *ITServe Alliance* case that caused the rescission of the [USCIS] 2010 and 2018 memos, H-1B approval rates improved substantially," he said. Ms. Butte noted that she observed a much lower rate of denials and fewer Requests for Evidence in late FY 2020. <https://www.forbes.com/sites/stuartanderson/2021/01/28/ending-unlawful-trump-h-1b-visa-policies-caused-denials-to-plummet/?sh=69ff467f6211> (subscription)

Ms. Butte was quoted by *Forbes* in "Pardons May Have Revealed Insincerity of Trump Immigration Policies." **Mr. Goel** and **William Stock** (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>) also contributed to the article. Ms. Butte said, "The Trump administration failed to show that employment-based immigration programs had statistically significant levels of fraud. From the data presently available it does not appear the levels are any higher than they were when the Bush administration created the Fraud Detection and National Security Directorate for employment-based immigration. The Trump changes in policy increased costs for employers who needed the talent and desperately wanted to follow the rules to get it. It also created anxiety and harmed the workers who wanted to earn a living and contribute to the U.S. economy. Trump administration policies didn't prevent fraud but discouraged employers and workers from participating in these immigration categories, given the barriers to entry and continued participation. That seems to have been the real purpose of these initiatives." <https://www.forbes.com/sites/stuartanderson/2021/01/25/pardons-may-have-revealed-insincerity-of-trump-immigration-policies/?sh=6eb00cd550d1> (subscription)

Klasko Immigration Law Partners, LLP, has released several new podcast episodes in its series, Statutes of Liberty. <https://bit.ly/3mZzSUF>

Klasko Immigration Law Partners, LLP, published a blog posting: "How to Work in the U.S.: A Brief Guide to Employment Based Immigration." <https://www.klaskolaw.com/h-1b-employment/how-to-work-in-the-u-s-a-brief-guide-to-u-s-employment-based-immigration/>

William Stock, Elise Fialkowski, and Michele Madera of **Klasko Immigration Law Partners, LLP**, presented the 2021 H-1B cap season essentials and latest developments for U.S. employers and their sponsored employees on January 27, 2021, in "2021 H-1B Lottery: Preparing for a New Administration." <https://bit.ly/3aECItN> (recording, available by registration)

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) is co-counsel for a putative class of U.S. visa holders and applicants, including high-skilled and extraordinary ability, who asked a California federal judge to order U.S. government officials to resume employment-based visa processing. Mr. Kuck said that by sustaining former President Trump's proclamation to halt visa processing for many immigrants, "you simply allow the prior administration to carry out what we believe to be an unlawful stopping of legal immigration to the United States." Characterizing the Trump administration's efforts as "king-like enforcement of a royal decree," Mr. Kuck said Mr. Trump "used a health crisis to carry out an illegitimate, nativist agenda." <https://www.law360.com/immigration/articles/1347823/visa-seekers-ask-judge-to-halt-trump-s-nativist-agenda->

Mr. Kuck and **Cyrus Mehta** (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) were quoted by the *Times of India* in "U.S. Agency Issues Final Wage Rules for H-1Bs and Green Card Holders, Higher Wages to Apply in a Phased Manner." Mr. Kuck said, "We will be amending our lawsuit to seek to enjoin this lame attempt to fix its prior illegal regulation. We remain confident that this regulation will never see the light of day as written." Mr. Mehta said, "The new rule

acknowledges that an abrupt transition to the new wage levels could be disruptive to the economy and detrimental to U.S. employers, so the DOL will gradually introduce the new wages over a period of a year and a half, with the first increase set to take place on July 1, 2021. In addition, for H-1B workers who were the beneficiaries of approved I-140 applications (for green cards) as of October 8, 2021 and are caught in the backlogs, the phase-in period for the increased wages is extended over a three and a half year period." He also said, "Despite the phase-in, the increased wages will be artificial and will not be consistent with market wages, and the new rule is a continuation of the nonsensical wage rule that was previously blocked by the courts. I expect this rule to be challenged too as there is no basis in [immigration law] to calculate prevailing wages to such high levels as the DOL has done. Prevailing wages must reflect the market wages that are ordinarily paid to U.S. workers in the same occupation." <https://bit.ly/3ip3tWD>

Mr. Kuck was quoted by *Law360* in "Visa Seekers Ask Judge To Halt Trump's 'Nativist Agenda.'" Mr. Kuck, co-counsel for a putative class of U.S. visa holders and applicants, told a U.S. district judge during a preliminary injunction hearing, "By sustaining this proclamation further, you simply allow the prior administration to carry out what we believe to be an unlawful stopping of legal immigration to the United States. The ex-president used a health crisis to carry out an illegitimate, nativist agenda." <https://www.law360.com/immigration/articles/1347823/visa-seekers-ask-judge-to-halt-trump-s-nativist-agenda-> (registration required)

Mazzeschi SRL, a leading Italian immigration company, has opened a new representative office in Tokyo to enhance its presence in Japan and boost support for its clients' Japan-Italy projects. Yayoi Ashikaga is the new representative in Japan. The Japan Desk, mostly operating in Milan, offers customized services to the Japanese market and is managed by Dr. Yuu Shibata. The Japan Desk is active in providing information on strategic topics on doing business in Italy, especially from a legal perspective. Mazzeschi SRL publishes monthly articles on an online business platform called "Bizbuddy." <https://www.mazzeschi.it/japan-desk-eng/>

Mr. Mehta was quoted by the *Tennessee Tribune* in "Biden Starts to Unwind Trump Rules and Advocates Are Happy." Mr. Mehta said, "For example, if somebody has been sponsored on an H-1B visa and the employer files for a green card on behalf of a person born in India, it would take several decades before that person gets a green card." He said that in the family categories, it could take 10 to 20 years for family members of U.S. citizens to immigrate. "It's ridiculous. That's not the way Congress intended it to be when the last reform with immigration numbers happened in the 1990 Act. They were thinking that 2- to 3-year waits would be too long but now we have waits that stretch into several decades." <https://tntribune.com/biden-starts-to-unwind-trump-rules-and-advocates-are-happy/>

Mr. Mehta chaired several recent events:

- "Basic Immigration Law 2021: Business, Family, Naturalization and Related Areas," Practising Law Institute, Feb. 4, 2021 (webcast), <https://www.pli.edu/programs/basic-immigration-law>
- "Asylum, Special Immigrant Juvenile Status, Crime Victim, and Other Immigration Relief 2021," Practising Law Institute, Feb. 5, 2021 (webcast), <https://www.pli.edu/programs/asylum-juvenile-immigration-relief>

Mr. Mehta was featured and quoted by *India West* in "Immigration Advocates Cheer as President Biden Launches Bold Initiatives for Immigration Reform." Mr. Mehta said, "The numbers of green cards allotted each year are woefully inadequate." He added that the wait could be lessened by eliminating the per-country cap that currently allots only 7 percent of all employment-based visas per year. India, for example, "gets less than 10,000 green cards per year, while 800,000 wait in the queue," he said. <https://bit.ly/3tymIYw>

Mr. Mehta and **Greg Siskind, of Siskind Susser, P.C.**, were quoted by the *Economic Times* in "Joe Biden Revokes Buy American, Hire American Order, Eases Path to H-1B." Mr. Mehta said, "The BAHA policy gave justification to immigration officers to deny H-1B and L-1A petitions in the name of protecting American workers. Since the BAHA policy came from the President, officers felt incentivized to find ways to deny these petitions even when they were otherwise meritorious." Mr. Siskind said, "I think the revocation of that memo will have an impact, though it's not easy to quantify. BAHA essentially was a mandate to change the culture of welcoming immigrants to treating them as a threat to the U.S. Ending BAHA will hopefully be the beginning of restoring that. Another cultural change at the agency was changing USCIS' mission statement by removing 'welcoming immigrants' language. Hopefully, as soon as we have Biden's appointed USCIS Director confirmed, that will also change."

<https://economictimes.indiatimes.com/nri/work/biden-revokes-buy-american-hire-american-order/articleshow/80653866.cms?from=mdr>

Mr. Mehta spoke at "President Biden's Bold Immigration Plan: What Can Immigrants Expect?" The briefing was sponsored by Ethnic Media Services. Link to broadcast (video):

<https://drive.google.com/file/d/1ZZAbwMtXL4ZGQS0-8x8gwE1gP9fgZWzV/view>

Mr. Mehta spoke at an American Immigration Lawyers Association seminar, "Preparing for H-1B Cap Season 2021," on January 26, 2021. <https://agora.aila.org/Conference/Detail/1848>

Mr. Mehta has authored a new blog posting: "The Rescission of Trump's Buy American Hire American Will Benefit Immigrants and America." <http://blog.cyrusmehta.com/2021/01/the-rescission-of-trumps-buy-american-hire-american-will-benefit-immigrants-and-america.html>

Mr. Mehta's blog, "President Biden Ushers in New Hope on Immigration After Trump's Destructive and Xenophobic Four Years," was included in LexBlog's Top 10 in Law Blogs. Top 10 list: <https://www.lexblog.com/2021/01/29/top-10-in-law-blogs-tesla-law-suit-climate-change-inaction-investor-fraud/>. Mr. Mehta's blog, co-authored with Kaitlyn Box: <https://www.lexblog.com/2021/01/25/president-biden-ushers-in-new-hope-on-immigration-after-trumps-destructive-and-xenophobic-four-years/>

Mr. Mehta spoke on a panel, "Ethical Issues in Pro Bono Representation 2020," under the aegis of the Practising Law Institute on December 10, 2020. The program highlighted ethical issues arising in pro bono representation across different legal disciplines. Mr. Mehta spoke about ethical issues arising in immigration pro bono practice with an emphasis on additional challenges that have arisen for immigration practitioners during the COVID-19 pandemic. <https://www.pli.edu/programs/ethical-issues-in-pro-bono-representation>

Mr. Mehta was quoted by the *Times of India* in "White House Freezes Recent Draconian Immigration Rules. Mr. Mehta said, "As the H-1B rule that sought to replace the lottery system with one based on wages will be frozen for 60 days, it probably will not impact the upcoming H-1B lottery process." <https://timesofindia.indiatimes.com/world/us/white-house-freezes-recent-draconian-immigration-rules/articleshow/80387530.cms>

Mr. Mehta was quoted by the *Economic Times* in "U.S. Pulls H-1B Rule Tweak That Vexed Technology Cos" on whether the midnight rules promulgated under the Trump administration will survive as well as how proposed immigration legislation proposed by the Biden administration will affect Indians. Referring to a ban on issuing new H-1B visas that is still in place, Mr. Mehta said, "During that 60-day pause, the administration can issue a new rule to rescind the old rule or such a pause would give more time to challenge those rules in court if the Biden administration decides to go along with them. I can see the Biden administration being sympathetic towards the Department of Labor wage rule that increases the wage requirement to be paid to H-1B workers."

Mr. Mehta and **William Stock, of Klasko Immigration Law Partners, LLP**, were quoted by Forbes in "DHS and DOL Team Up on H-1B Visas Against IT Services Companies." Mr. Mehta

said he believes both the DOL memo and the DHS rule could be legally vulnerable due to the Supreme Court's opinion in *Kisor v. Wilkie*. "While the need for a 'secondary employer' to file an H-1B petition was suggested in the preamble to the DHS rule, it is not stated in the actual rule, which essentially defines the employer but does not include any definition of 'secondary employer' and the need to file an H-1B petition. DOL's interpretation of its rule can also be similarly challenged under *Kisor*. Agencies no longer have unbridled discretion to interpret their own regulations under *Auer v. Robbins*. If the new interpretation of the ambiguous rule has never been the authoritative position of the DHS and DOL, and it has taken stakeholders by unfair surprise, it should be held to be an unreasonable interpretation under *Kisor*." Mr. Mehta said the regulation is also vulnerable "because this is not a *de minimis* change at all. Through sleight of hand, both DHS and DOL have used the expanded definition, which they term innocuous, to deem client companies as employers and force them to file LCAs and H-1B petitions when they do not pay the wages or have no direct knowledge of the wages paid or other details required under the LCA. This would also interfere in contractual relations and force the vendor to divulge confidential data." Mr. Stock called it "astounding chutzpah" for DHS to claim a "good cause" exception to the normal rulemaking process and to argue its rule won't be of any consequence. "It is likely the rule will be struck on both grounds," he said, adding that it was a "stretch" for DHS to argue that it can accept comments on an invalidly promulgated interim rule from October 2020 and go directly to a final rule, particularly because Chad Wolf's appointment to serve as acting DHS secretary was ruled unlawful by several courts.
<https://www.forbes.com/sites/stuartanderson/2021/01/18/dhs-and-dol-team-up-on-h-1b-visas-against-it-services-companies/?sh=417c765547e9>

Mr. Mehta's views on the Department of Justice complaint accusing Facebook of citizenship discrimination are reflected in a *Bloomberg Law* article, "Facebook Suit by U.S. Augurs Green Card Sponsor Chill." Mr. Mehta said, "This lawsuit could create a chilling effect on the labor certification program that employers use to sponsor skilled foreign worker nationals. If an employer scrupulously follows the Labor Department's complex rules governing the labor certification process, the employer could still be penalized by another branch of the federal government, based on this complaint. ... You can't just have them as guest workers and then throw them out after a few years. This lawsuit could create a chilling effect on the labor certification program that employers use to sponsor skilled foreign worker nationals."
<https://news.bloomberglaw.com/daily-labor-report/dojs-facebook-allegations-risk-chilling-green-card-sponsorship?context=search&index=0>

Mr. Mehta co-authored several new blog entries: "Top Ten Most Viewed Posts on the Insightful Immigration Blog in 2020," <http://blog.cyrusmehta.com/2020/12/top-ten-most-viewed-posts-on-the-insightful-immigration-blog-in-2020.html>; "Extending the Immigrant and Nonimmigrant Visa Bans: The Last Gasps of 212(f) Jurisprudence Under Trump," <http://blog.cyrusmehta.com/2021/01/extending-the-immigrant-and-nonimmigrant-visa-bans-the-last-gasps-of-212f-jurisprudence-under-trump.html>; "Trump's Final Attacks on H-1B Visas and Legal Immigration: Reintroduction of the Wage Rule and Rule Requiring Client Companies to File H-1B Petitions," <https://bit.ly/3nSN4uP>

Mr. Mehta and **Stephen Yale-Loehr** (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) were quoted by the *Times of India* in "U.S. Extends Ban on H-1B, L-1 Till March." Mr. Mehta said the visa ban extension contradicts its rationale to protect U.S. jobs after President Trump's recent claim that the unemployment rate is below 6.7%. "It is Trump's last gasp to hurt immigration that benefits the U.S. as the skilled workers impacted promote economic recovery. Although the ban was enjoined by the court in *NAM (National Association of Manufacturers) v Trump*, that ruling was limited to the plaintiff organizations that brought the suit. Therefore, the extension will still be effective on others." Mr. Yale-Loehr said that "[b]arring temporary foreign workers from entering the country was a mistake in June. It remains a

mistake today." <https://timesofindia.indiatimes.com/business/international-business/us-extends-ban-on-h-1b-l-1-till-march/articleshow/80068643.cms>

Mr. Mehta was quoted by *Bloomberg Law* in "Trump's Executive Orders on Immigration Could Be Tough to Undo." Those who support President Trump's policies could argue that potential harm could ensue from President-elect Biden's future executive actions, such as to U.S. workers, Mr. Mehta noted. He also commented on a recent Ninth Circuit decision that he noted could give the President more latitude to overturn previous actions. <https://news.bloomberglaw.com/daily-labor-report/trumps-executive-orders-on-immigration-could-be-tough-to-undo>

Mr. Mehta's views on the DOL wage rule are reflected in an *India West* article, "Labor Department Raises Mandatory Wages for H-1B Workers." He said, "They [DOL] have skewed prevailing wages and artificially inflated them so that employers will have to pay higher than market wages." As an example, Mr. Mehta said the pay hike for entry-level workers was "an unjustified entry-level wage." <https://bit.ly/2LXfID9>

Mr. Mehta was quoted by the *Times of India* in "Trump Admin Fires Again: Customers of IT Service Companies to Meet H-1B Filing & Other Obligations Under New Rule." He said, "This Trump rule, issued in the waning days of a failed presidency, has been designed to kill the India heritage IT industry. However, it will also hurt corporate America that relies on this IT industry to keep humming away and remain competitive in the global economy. The change will also do significant harm to other sectors as well that involve third-party placements, including nursing, consulting, audit, [and] engineering services, among many others." <https://bit.ly/3iymypH>

Mr. Mehta co-authored a blog post with **Kaitlyn Box** that was heavily cited in an article in *India West*, on the Ninth Circuit Court of Appeals ruling that recognized the occupation of computer programmer as a specialty occupation. "In Innova Solutions, the Ninth Circuit reminds the USCIS, as the numerous lower court decisions have done, that the [Occupational Outlook Handbook] may not be used as a Holy Grail to deny H-1B petitions that are based on well-reasoned arguments by the petitioner and corroborated by substantial evidence, including expert opinions," he said. <https://bit.ly/3hiNIQH>

Mr. Mehta; Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>); **Greg Siskind**, of Siskind Susser, PC; **William Stock** (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>); and **Mr. Yale-Loehr** contributed recommendations to "Deregulating Legal Immigration: A Blueprint for Agency Action," published by the Cato Institute. The article presents 30 deregulatory proposals by 15 authors for consideration by the Biden administration. The proposals focus on agency measures to improve the process for legal immigrants. The Cato article is at <https://www.cato.org/publications/study/deregulating-legal-immigration-blueprint-agency-action>. A related op-ed, "Leading Legal Experts Urge Aggressive Immigration Actions," published by *The Hill*, is at <https://thehill.com/blogs/congress-blog/politics/530948-leading-legal-experts-urge-aggressive-immigration-actions>.

Mr. Mehta's views on the court victory in favor of computer programmers under the H-1B visa are reflected in "Big Win! U.S. Appeals Court Rules in Favour of Grant of H-1B Visas to Computer Programmers," *Times of India*, <https://bit.ly/34v7rr8>

Mr. Mehta's weekly articles, along with the articles of other lawyers in his firm, were noted in this ILW editorial, <https://discuss.ilw.com/articles/recent-issues/396807-dec-1-cyrus-mehta-articles>

Mr. Mehta and **Kaitlyn Box** co-authored several new blog postings: "Innova Solutions v. Baran: Computer Programmer is a Specialty Occupation Under the H-1B Visa," <https://bit.ly/3h4Cor7>; and "Two New York Ethics Opinions Instruct When Lawyers Can Withdraw from Representing a Client in Court During COVID-19," <https://bit.ly/3aoIXDH>

Mr. Mehta was interviewed by Nikhila Natarajan of *Indo Asian News Services* on wide-ranging issues regarding immigration under the Trump administration, especially during the transition, and what the future bodes for immigration under the Biden-Harris administration.

<https://www.youtube.com/watch?v=fRzHjtyW2r4&feature=youtu.be> (video)

Mr. Mehta's views on the Department of Justice complaint accusing Facebook of citizenship discrimination are reflected in a *Bloomberg Law* article at <https://news.bloomberglaw.com/daily-labor-report/dojs-facebook-allegations-risk-chilling-green-card-sponsorship?context=search&index=0>. "This lawsuit could create a chilling effect on the labor certification program that employers use to sponsor skilled foreign worker nationals," he said. "If an employer scrupulously follows the Labor Department's complex rules governing the labor certification process, the employer could still be penalized by another branch of the federal government, based on this complaint. You can't just have them as guest workers and then throw them out after a few years."

Mr. Mehta spoke on a panel, "Ethical Issues in Pro Bono Representation 2020," under the aegis of the Practising Law Institute on December 10, 2020. The program highlighted ethical issues arising in pro bono representation across different legal disciplines. Mr. Mehta spoke about ethical issues arising in immigration pro bono practice with an emphasis on additional challenges that have arisen for immigration practitioners during the COVID-19 pandemic.

<https://www.pli.edu/programs/ethical-issues-in-pro-bono-representation>

Mr. Paparelli and **Mr. Yale-Loehr** co-authored a blog posting: "Big-Picture, Clean-Slate Immigration Reforms for the Biden-Harris Administration." <https://www.nationofimmigrators.com/>

Mr. Stock was quoted by *Forbes* in "DHS Publishes Final Rule To End H-1B Visa Lottery." He said, "Under the Administrative Procedure Act, an agency must meaningfully address comments raised by the public in response to the proposed rulemaking. DHS needed to address a significant number of comments regarding whether the rule was lawfully promulgated, and did little more than repeat legal arguments that have been rejected by numerous federal courts about the lawfulness of the DHS secretary's appointment."

<https://www.forbes.com/sites/stuartanderson/2021/01/08/dhs-publishes-final-rule-to-end-h-1b-visa-lottery/?sh=fb098724af04>

Mr. Stock was quoted by *Forbes* in "The Biden Administration and What Happens to Trump's H-1B Visa rules." Mr. Stock said, "Because the DOL wage rule has a phased-in process that leaves the current wages in place until July 1 in any event, even if DOL publishes a 60-day delay, it won't change when that rule really takes effect. It is likely that current lawsuits which successfully rolled back the interim rule will be amended to challenge the final rule on substantive grounds." <https://www.forbes.com/sites/stuartanderson/2021/01/21/the-biden-administration-and-what-happens-to-trumps-h-1b-visa-rules/?sh=320649d3726b>

Wolfsdorf Rosenthal LLP has published several new blog postings: "Acting DHS Secretary Pekoske Extends Temporary Protected Status for Syria," "Biden Reinstates Travel Restrictions on U.S. Noncitizen Travelers from European Schengen Countries, U.K., Ireland and Brazil; South Africa Added," "President Biden Moves Forward with Ambitious Immigration Agenda," "Mandamus Litigation—The Solution for Unreasonably Delayed Employment and Travel Authorization Cards," "Trump Administration Lifts Regional Covid-19 Bans for Europe and Brazil Starting Jan. 26—Biden Team to Reverse," "WR Immigration Litigation Success Story—Successfully Challenging the USCIS Denial of an Extraordinary Ability Immigrant Visa in Federal District Court," "Naturalization Application Denials for Lack of Old Employment or Tax Records," and "Expediting Immigration Applications Before USCIS," "USCIS to Replace Sticker That Extends Validity of Green Cards," "DOL Announces New Rule That Will Raise Prevailing Wage Levels in July," "U.S. Will Require Negative COVID-19 Tests From International Air Travelers Starting Jan. 26," "Tools Biden Will Use to Reverse Trump Administration Business Immigration Bans," and "Filing Period for Certain Liberians Applying for Adjustment Extended to

Two Years," "DHS Issues Final Rule to Modify H-1B Cap Lottery With Selection Process Based on Wage Level; New Administration Likely to Reverse Course," "President Trump Extends Presidential Proclamation 10052 Impacting Immigrants and Nonimmigrants," "January Visa Bulletin Report," "Expansion of Interview Waiver Eligibility," and "2020 At-A-Glance: Immigration Update." <https://wolfsdorf.com/blog/>

Mr. Yale-Loehr was quoted by *Law360* in "DHS Will Maintain H-1B Lottery System Through 2021." Mr. Yale-Loehr said the announcement was good news for employers and potential H-1B workers, particularly junior-level applicants. "It gives them reassurance that the normal H-1B lottery rules apply again this year. It also means that new graduates have an equal shot this year in being selected for the H-1B lottery. By contrast, if the Trump lottery rule had applied, it is likely that no entry-level applicants would have been selected this year," he said.

<https://www.law360.com/articles/1352470/dhs-will-maintain-h-1b-lottery-system-through-2021> (registration required)

Mr. Yale-Loehr was quoted by *Correio Braziliense* in " 'Os EUA estão de volta', diz Biden ao retomar alianças" (" 'The U.S. Is Back,' Says Biden As He Resumes Alliances"). Mr. Yale-Loehr said it will take time for the United States to admit up to 125,000 refugees a year, as the Biden administration has called for. "But it sends a symbolic message that the country supports a robust refugee policy. It is also part of Biden's more friendly tone towards immigrants," he said. According to Mr. Yale-Loehr, President Biden has already made several important decisions on immigration, such as ending the ban on travel for Muslims and Africans, temporarily suspending deportations, and creating a task force to bring together separated families. "Reforming the failed immigration system will require the help of the United States Congress," he noted.

<https://www.correiobraziliense.com.br/mundo/2021/02/4904774-os-eua-estao-de-volta-diz-biden-ao-retomar-aliancas.html> (Portuguese)

Mr. Yale-Loehr was quoted by the *Haitian Times* in "Over 1400 Haitians Scheduled for Removal by U.S. Immigration Authorities." He noted that the Biden administration has discretion to review Title 42 and determine expulsion based on legitimate national security concerns, as opposed to a blanket policy that assumes all entrants are a COVID-19 threat. Separately, he said a Texas federal judge's order "does not require everyone to be deported immediately. The Biden administration can take other administrative steps to review deportation orders." For example, he noted, the administration can direct immigration officials to loosen prosecutorial discretion, allowing for the continuation of legal proceedings concerning deportation.

<https://haitiantimes.com/2021/02/03/over-1400-haitians-scheduled-for-removal-by-us-immigration-authorities/> (subscription required)

Mr. Yale-Loehr was quoted by the *Associated Press* in an article about deportations under the Biden administration. "Scheduling deportations is still a matter of discretion for the agency," Mr. Yale-Loehr said. <https://www.latimes.com/world-nation/story/2021-02-02/hundreds-deported-under-biden-witness-walmart-massacre>

Mr. Yale-Loehr was quoted by the *Arizona Republic* in "Thousands of Dreamers Have Applied for DACA Since December as Texas Court Ruling Looms." Mr. Yale-Loehr noted that a judge expected to rule on the legality of the Deferred Action for Childhood Arrivals (DACA) program "certainly seemed to indicate that the DACA program was illegal." Mr. Yale-Loehr said he believes the program is lawful because deferred action has been on the books for 50 years and has benefitted many people. Work permits that DACA recipients receive stem from separate regulations that say that anyone granted deferred action from deportation is eligible for a work permit, he noted. <https://bit.ly/3clokUa>

Mr. Yale-Loehr co-authored a new report published by the Brookings Institution, "4 Ways the Biden Administration Can Improve the Employment-Based Immigration System Without Congress." The article focuses on structural changes to help the U.S. economy attract and retain needed international essential workers. The authors reviewed plans from 14

organizations published after the 2020 election to focus the discussion on employment-based/student immigration, and identified four trends: (1) remove impediments to immigration; (2) improve the predictability of the immigration system; (3) resume the use of discretion by immigration officers; and (4) expand customer service. <https://www.brookings.edu/research/4-ways-the-biden-administration-can-improve-the-employment-based-immigration-system-without-congress/>

Mr. Yale-Loehr was quoted by *Bloomberg Law* in "Biden Agenda Draws Same Legal Challenges Used Against Trump." Commenting on a Texas court ruling temporarily blocking President Biden's plan to pause deportations, Mr. Yale-Loehr said the ruling "shows the difficulty that the Biden administration will have in trying to change immigration policy. Not only do they have to worry about a deeply divided Congress, they have to worry about federal courts upending their efforts. He noted that the Biden action was "just a short 100-day pause -- not a final realignment of their enforcement policy. But that was still enough for a federal court to strike it down," at least temporarily. <https://news.bloomberglaw.com/us-law-week/texas-victory-over-deportation-pause-is-warning-sign-for-biden>

Mr. Yale-Loehr was quoted by *Inside Higher Ed* in "Keeping STEM Ph.D.s." "These people have very specialized qualifications, and the companies need this kind of specialized talent to be able to compete in the global marketplace," he said. <https://www.insidehighered.com/news/2021/01/27/new-research-argues-need-streamline-green-card-process-foreign-stem-phds>

Mr. Yale-Loehr was quoted by the *New York Times* in "In First Blow to Biden Administration's Immigration Agenda, Federal Judge Blocks 100-Day Pause on Deportation." Mr. Yale-Loehr said, "The court's order shows the uphill battle President Biden has in trying to reverse the prior administration's immigration restrictions. A single judge can halt a federal agency's effort to review and reprioritize its immigration enforcement policies." <https://www.nytimes.com/2021/01/26/us/politics/biden-immigration-deportation.html> (subscription)

Mr. Yale-Loehr was quoted by the Sinclair Broadcast Group in an article about possible immigration reform that was distributed by many media outlets nationwide. One such article, "Biden to Seek Comprehensive Immigration Reform in Narrowly Divided Congress," was published by CBS Austin. Mr. Yale-Loehr said, "Given the 50-50 split between Republicans and Democrats in the Senate, it may be difficult to enact a comprehensive immigration reform bill, whenever Congress gets around it. A narrower bill, such as legislation to help so-called Dreamers, may be easier to enact." <https://cbsaustin.com/news/nation-world/biden-moves-to-dismantle-trump-immigration-policies-as-he-eyes-broader-reform>

Mr. Yale-Loehr was quoted by *Univision* in "¿Una moratoria a las deportaciones por 100 días? Biden a Biden actuar mientras revisa la política migratoria de Trump." Mr. Yale-Loehr said the more than 400 changes to immigration law over the past four years "have caused substantial confusion among lawyers and immigrants. The fact that many of these changes have been challenged in court has only exacerbated the misunderstandings. This may be the goal of poorly drafted and complicated executive orders and agency rules: to deter people from immigrating, seeking asylum, or staying in the United States. The Trump administration has used chaos as a deliberate immigration tactic and it has been effective," he said, noting that "immigrants have faced repeated threats in multiple settings, including repeated travel bans, the danger of ending Deferred Action for Childhood Arrivals (DACA) programs and temporary protected status (TPS), raids by Immigration and Customs Enforcement (ICE) agents and aggressive asylum restrictions." He further observed that "the courts overturned or delayed some of the Trump administration's immigration policy changes. But litigation takes time. And, with enough uncertainty generated, these policies have a similar impact as if they were actually implemented. In essence, the impact of these public policy changes extends far beyond the

specific legal modifications themselves."

<https://www.univision.com/noticias/inmigracion/reforma-migratoria-biden-deportaciones>
(Spanish)

Mr. Yale-Loehr was quoted by the *New York Times* in "A Judge Has Blocked Trump's Sweeping Restrictions on Asylum Applications." Commenting on a new rule blocked by a federal judge that would have closed the United States to most asylum seekers, Mr. Yale-Loehr said, "The rule would have been the death knell for many asylum seekers. The court's decision today leaves the door open for people fleeing persecution." <https://nyti.ms/2JZ3TWY>

Mr. Yale-Loehr was quoted by *Univision* in "Corte de California frena la entrada en vigor de la última regla de asilo de Trump [California court slows Trump's latest asylum rule from taking effect]." "This new final rule will radically restrict the ability of people fleeing persecution to obtain asylum in the United States," he said, calling the new rule "an asylum hater's dream." Mr. Yale-Loehr said the new rule would "gut the United States asylum system and, ultimately, very few people will be able to request and obtain [asylum]."

<https://www.univision.com/noticias/inmigracion/corte-de-california-frena-la-ultima-regla-de-asilo-de-trump>

Mr. Yale-Loehr was quoted by the *Houston Chronicle* in "Chef at Houston's Maharaja Bhog Rejected for Visa Renewal Amid Trump's 'invisible wall.'" He noted that USCIS began interpreting "specialized knowledge" more narrowly and in 2017 rescinded its policy of instructing officers to defer to prior determinations in petitions for extension of nonimmigrant status. "The Trump administration has been unable to build a physical wall along the U.S.-Mexico border but it has effectively built an invisible wall against legal immigration. The endgame is deny, deny, deny or delay, delay, delay." He said that rejections of visa extensions for specialized-knowledge workers have cropped up dozens of times in federal court.

<https://www.houstonchronicle.com/news/houston-texas/houston/article/Houston-chef-maharaja-bhog-visa-reject-trump-15853495.php>

Mr. Yale-Loehr was quoted by *Law360* in "Top 5 Immigration Cases to Watch in 2021." Commenting on a case before the Supreme Court, *Agusto Niz-Chavez v. Barr*, he said that if the Supreme Court holds that deportation notices must be sent as one document to stop the clock on residency accrual, the ruling "could affect hundreds of thousands of cases" and give immigrants whose immigration court proceedings were initiated with multipart notices a potential new avenue for relief. The decision could also force the federal government to jump through "more procedural hoops" and worsen an already ballooning immigration court backlog if the government has to reissue old notices and correct future ones to be one document, he said. "That will slow down the immigration court process, and we've already got a messed up immigration court," Mr. Yale-Loehr said.

<https://www.law360.com/immigration/articles/1333366/top-5-immigration-cases-to-watch-in-2021> (registration required)

Mr. Yale-Loehr was quoted by *Univision* in "Inmigrantes de bajos recursos, los principales afectados por la política migratoria de Trump en el 2020," about the effects of President Trump's immigration policy in 2020 on low-income immigrants. Mr. Yale-Loehr noted that the Trump administration revised procedural rules "to allow immigration judges to deny asylum applications without a hearing if they lack certain evidence. This particularly harms applicants without a lawyer. This rule is an asylum hater's dream. It guts the U.S. refugee system and ultimately very few people will be able to get [asylum]."

<https://www.univision.com/noticias/inmigracion/la-politica-migratoria-de-trump-en-2020>
(Spanish)

Mr. Yale-Loehr was quoted by *Law360* in "Top Immigration Cases of 2020: Year in Review." He said the flurry of immigration-related litigation in 2020 was "unprecedented. I've seen more immigration litigation in 2020 than I have in any other year in my 35 years of experience in

immigration law." Mr. Yale-Loehr commented on *DHS v. Thuraissigiam*, a Supreme Court case that focused on prior expedited removal policy: "That was a very scary decision. It lays the groundwork for restricting immigrants' rights to sue in federal court in a variety of ways. We'll have to see whether the case has legs, or whether it's sort of relegated to its own specific facts." <https://www.law360.com/articles/1333361/top-immigration-cases-of-2020-year-in-review> (registration required)

Mr. Yale-Loehr was quoted by *Congressional Quarterly News* in "DOJ Finalizes Substantial Fee Hikes for Migrants Fighting Deportation." He said it could be difficult for the incoming Biden administration to quickly come up with a remedy for the higher fees. "Given the fact that the Biden administration has so many competing priorities—like the pandemic, the economy, and other bigger immigration issues—it could take quite a while before the Biden administration could get around to proposing a rule to undo these changes," he said. (Subscription required.)

Mr. Yale-Loehr was quoted by *Univision* in "Este viernes el gobierno publica regla final que endurece requisitos para pedir asilo en EEUU," on a new final rule that toughens requirements to request asylum in the United States. The final rule "will radically restrict the ability of people fleeing persecution to obtain asylum in the United States," he said. Among other things, Mr. Yale-Loehr cited the imposition of "various prohibitions, including failure to pay taxes." He also mentioned a new definition of the term "persecution" that will impose a higher standard than the previous definition. He noted that the rule redefines membership in a "particular social group," a change that "will generally exclude people who are fleeing persecution because they oppose gangs in their country. It will also restrict the possibility of applying for asylum based on gender. Even women fleeing sexual slavery at the hands of ISIS may not qualify for asylum," he warned. Another modification in the final rule concerns the procedure to allow immigration judges to reject asylum applications without a hearing if they lack certain evidence, he said. "This will be particularly damaging to applicants without an attorney representing them." Mr. Yale-Loehr characterized the rule as "the asylum hater's dream. It will gut the system and, indeed, very few people will be able to obtain protection in our country." He noted that the rule is scheduled to take effect in 30 days, just before the inauguration. "The courts could eventually overthrow it, arguing that it violates U.S. and international law," he noted. <https://www.univision.com/noticias/inmigracion/gobierno-publica-este-viernes-regla-final-de-asilo> (Spanish)

Mr. Yale-Loehr was quoted by the *Washington Post* in "A Maryland Immigrant Hoped to Delay His Deportation Until Biden Took Office. It Didn't Work." The article reports on a case in which a man who had been in the United States for 20 years and has three small U.S.-born children was followed in his car by an unmarked vehicle, pulled over, and deported. He said that unilateral actions by ICE grew increasingly common under the Trump administration, but vary by regional office. Mr. Yale-Loehr said that although such moves are legal, they go against the spirit of laws passed in sanctuary jurisdictions such as Prince George's County, Maryland (where the incident occurred), which explicitly barred county agencies from engaging in immigration enforcement. https://www.washingtonpost.com/local/public-safety/maryland-immigrant-deported/2020/12/07/0678c202-30d1-11eb-96c2-aac3f162215d_story.html

Mr. Yale-Loehr was quoted in the *San Francisco Chronicle* in "New Asylum Rule Bars Gays, Lesbians Facing Persecution, Immigrants Threatened With Violence." Mr. Yale-Loehr said the rule is "an asylum-hater's dream" that "will gut the U.S. asylum system. Effectively, very few people will be able to win asylum." <https://www.sfchronicle.com/nation/article/New-asylum-rule-bars-gays-lesbians-facing-15795663.php>

Mr. Yale-Loehr was quoted by the *Dallas Morning News* in "Will DACA Survive the Litigation Roller Coaster?" He said that an upcoming decision by a federal judge who was appointed by former President George W. Bush could be grim for DACA recipients. "Given Judge Hanen's past decisions on this issue, I think he is likely to rule that the DACA program is illegal."

Appeals, or the issuance of new executive measures, could result in lengthy litigation before there's a final decision, he said. <https://www.dallasnews.com/news/immigration/2020/12/11/will-daca-survive-the-litigation-rollercoaster/>

Mr. Yale-Loehr was quoted by *Univision* in "Cómo la regla final de asilo del gobierno de Trump deja sin opciones a los migrantes." He said that a new final rule on asylum "will radically restrict the ability of people fleeing persecution to obtain asylum in the United States." The final rule also revised the procedural rules "to allow immigration judges to deny asylum applications without a hearing if they lack certain evidence. This will particularly harm applicants without a lawyer," he noted. <https://www.univision.com/noticias/inmigracion/estas-son-las-claves-de-la-regla-final-de-asilo-de-trump>

Mr. Yale-Loehr was quoted by *Haitian Times* in "Over 1400 Haitians Scheduled for Removal by U.S. Immigration Authorities." He noted that the Biden administration has discretion to review Title 42 and determine expulsion based on legitimate national security concerns, as opposed to a blanket policy that assumes all entrants are a COVID-19 threat. Separately, he said a Texas federal judge's order "does not require everyone to be deported immediately. The Biden administration can take other administrative steps to review deportation orders." For example, he noted, the administration can direct immigration officials to loosen prosecutorial discretion, allowing for the continuation of legal proceedings concerning deportation. <https://haitiantimes.com/2021/02/03/over-1400-haitians-scheduled-for-removal-by-us-immigration-authorities/> (subscription required)

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