

GLOBAL IMMIGRATION UPDATE

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Feature Article

REMOTE WORK: AN OVERVIEW – This article provides an overview of remote work issues in several countries.

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INDIA – The Indian government has simplified the rules for renewal of OCI cards.

ITALY – The validity of residence permits has been extended to July 31, 2021. Also, quarantine requirements have been updated for nationals of various countries who wish to enter Italy.

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UNITED KINGDOM – The Migration Advisory Committee (MAC) has been commissioned to review the Intra-Company Transfer (ICT) category. This article also provides an update on right-to-work checks.

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REMOTE WORK: AN OVERVIEW

This article provides an overview of remote work issues in Canada, Italy, and Peru.

Canada

Working Remotely: Is a Work Permit Required?

Under the Immigration and Refugee Protection Regulations, "work," for which a foreign national must obtain a valid work permit, is defined broadly as "an activity for which wages are paid or commission is earned, or that is in direct competition with the activities of Canadian citizens or permanent residents in the Canadian labour market." This broad definition of work signals the Canadian government's intention to ensure that Canadian employers hire Canadians and permanent residents first. However, long-distance work, conducted via telephone or internet, that is performed by a temporary resident for an employer who is located outside Canada and who is being remunerated from outside Canada, is not considered to be work for which a Canadian work permit is required.

Possible Taxation Implications of Remote Work

Notably, as a caution, even in situations where a foreign worker is not required to obtain a work permit to work remotely in Canada, work conducted remotely while in Canada may expose both the employer and employee to Canadian tax obligations. This is because tax implications are often driven by the location in which the work is physically performed.

Details:

- What is/is not work? <https://bit.ly/34a3mYN>
- See also <https://www.cic.gc.ca/english/helpcentre/answer.asp?qnum=1528&top=17>

Italy

Italy does not have any specific provision regarding remote work carried out by foreign visitors.

From a strict legal point of view, however, it appears that even if an individual works for clients outside Italy, if he or she is in Italy without a work visa (for tourism or business), that person is still working and therefore would be violating the scope of the visa or authorization to enter (if a non-visa national).

Details:

- Working Remotely: Should I Stay or Should I Go?," <https://www.mazzeschi.it/remote-working-in-italy-can-you-do-it/>

Peru

With respect to working remotely in Peru, there are several aspects to bear in mind.

Once the first case of Covid-19 was confirmed in Peru on March 6, 2020, a "mandatory social immobilization" of the population and several restrictions were decreed in the following days.

The Peruvian government declared a State of National Emergency, as well as a declaration of Sanitary Emergency, which established the temporary closure of the borders. At present, these declarations remain in force, although Peruvian borders were opened months ago, with some restrictions.

Since March 2020, employers were authorized to decide whether to implement remote work policies for those positions where it was compatible. Public and private sector employers were encouraged and authorized to modify the place of provision of services of all of their workers to implement remote work, which is set out in the framework of the Sanitary Emergency.

"Remote work" is characterized by the provision of certain services by workers physically present in their home or place of home isolation, using any means or mechanism that makes it possible to carry out the work outside the workplace, provided that the nature of the labor permits it.

Currently, with already more than a year having elapsed since the beginning of the State of Emergency, and the need to continue remote work to avoid the further spread of Covid-19 while the process of vaccination is advancing, it is important to review how various companies have implemented remote work, its consequences, and applicable rules to facilitate it. Everything points to the possibility that remote work could be implemented permanently for some positions, where feasible.

Peru does not have any specific immigration provision regarding remote work carried out by foreign employees or foreign visitors. The only reference that can be found, and that might be applied by analogy to this scenario, is established in D.U. N° 026-2020, which refers to remote work for dependent workers prevented from entering the country by the provisions of the Ministry of Transport and Communications in the framework of Covid-19, who can perform remote work from where they are. Presumably, this provision, issued from a labor point of view, has been thought mainly for national employees and not for foreign workers necessarily, and less for their visa processes and their renewals. This seems even more the case since from March 2020, MIGRACIONES requires the physical presence of the applicant in Peru for visa purposes, either for in-country processing post-arrival or visa processing of renewals. The other modality used to obtain work permits, which includes a consular phase, is not operating.

So, from a legal point of view, it could be the case that even though a foreign individual could be working for their clients outside Peru, they would still be working, and if they were to enter Peru without a work visa (for tourism or business), this would violate the scope of the required visa (if the individual is a non-visa foreign national worker, strictly speaking).

It is also important to mention that any worker is subject to the rules of the country where they work. This applies to Social Security' and tax regulations also. Specific provisions to determine these aspects for employment and immigration purposes in Peru, because

working remotely in a country may have consequences both for the individual and for the company by which they are eventually employed.

In Peru, there is no visa category yet that allows employees of overseas companies who remain employed outside Peruvian jurisdiction to work remotely in Peru without the need to obtain a standard work permit.

An employee of any overseas company working in Peru in a local company or client must hold either a temporary or resident appointed worker immigration status.

Foreign employees who continue working for their overseas employer and are visiting Peru, where, for example, they are stuck in Peruvian territory due to travel restrictions or public health emergencies, according to Peruvian immigration rules, should retain a temporary business immigration status/visa as provided at their Peruvian consulate abroad or granted when they entered Peru (visa waiver), because it is understood that they are in the country to perform certain business activities.

Likewise, there are no visitor rules yet that explicitly permit temporary remote working, such as, for example, when the employee of a foreign company cannot leave the territory due to health or other emergencies.

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Country Updates

CANADA

This article discusses the demise of the Owner Operator labour market impact assessment, and what options remain for entrepreneurs hoping to come to Canada.

In Canada, the starting point to obtain a work permit as a foreign national is a labour market impact assessment (LMIA). This requires a Canadian company to demonstrate that they advertised the position and that Canadian citizens and permanent residents were given a reasonable opportunity to apply for the position. Until recently, one of the most popular exemptions from advertising to support an LMIA application was the Owner Operator category. Where a foreign national owned more than 50 percent of a Canadian company, no advertising was required, and the Canadian company merely had to establish that the impact of hiring the foreign national would have a neutral or positive impact on the Canadian labor market and that the job offer was genuine.

The Entrepreneur permanent residence category was eliminated approximately two decades ago. Since then, many of the provinces have designed entrepreneur programs, but these provincial programs typically require a minimum investment and creation of jobs in Canada and often take months to be approved. Accordingly, in the absence of a true entrepreneur program, the Owner Operator LMIA provided a path for many self-employed business entrepreneurs to initially come to Canada to work, gain Canadian experience working for a Canadian company, and then ultimately apply for permanent residence under the Express Entry path.

What options remain for entrepreneurs hoping to come to Canada and start a new business?

Recently, Immigration, Refugees and Citizenship Canada (IRCC) launched the Start-Up Visa Program. This program requires foreign nationals to secure financial backing from a designated angel fund or venture capital funds or the support of a business incubator. The Start-Up Visa

Program has been underutilized, likely because entrepreneurs are not interested in sharing their business ideas or ownership in their future business.

There is also a C-11 work permit for Entrepreneurs /Self-Employed candidates, but it does not include a direct path to permanent residence. Since most successful candidates for permanent residence require "Canadian work experience," and self-employed work is not considered "Canadian work experience" (*Immigration and Refugee Protection Act*), it is unlikely that C-11 work permit holders will qualify for permanent residence.

With the elimination of the Owner Operator LMIA and limitations with the Start-Up Visa, C-11 work permit, and provincial programs for entrepreneurs, Canada is missing out on the potential to attract entrepreneurs. Given that it is well-established that new immigrants are often risk-takers and therefore make good entrepreneurs, this could have a negative long-term impact on Canada's immigration program and economy. This is particularly relevant in light of estimates of approximately a trillion dollars' worth of small and medium-sized businesses in Canada that are owned by baby boomers who are set to retire within the next 10 years. So far there has been no indication IRCC plans to develop more policies and programs to create paths for entrepreneurs.

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INDIA

The Indian government has simplified the rules for renewal of OCI cards.

The Overseas Citizenship of India (OCI) card is popular among foreign nationals who are of Indian origin and spouses of foreign origin of Indian citizens. The card provides for hassle-free entry and unlimited stay in India.

According to news reports, the Ministry of Home Affairs has simplified the rules regarding renewals. OCI cardholders are no longer required to have their OCI cards reissued each time they obtain a new passport.

Previously, it was mandatory for OCI cards to be re-issued each time a cardholder 20 years of age or younger obtained a new passport, and also at least once after the cardholder obtained a passport after the age of 50. Although the Indian government never enforced this rule consistently and permitted entry to OCIs even if they had not renewed the card, many OCIs frequently faced issues at foreign airports before traveling to India if they had not renewed the OCI card after being issued a new passport. Different airlines interpreted these rules inconsistently.

The new guidance is summarized as follows:

- **Card issued before holder turned 20.** Those with OCI cards issued before the cardholder turned 20 years old only need to obtain a reissued OCI card once when they obtain a new passport after reaching 20 years of age.
- **Card issued after holder turned 20.** OCI cardholders who obtained their OCI card after they turned 20 years of age no longer need to obtain a re-issued OCI card and can continue to use their existing card.
- **New passport obtained after holder turns 50.** OCI cardholders who obtain new passports after the age of 50 are no longer required to have their OCI card reissued.

- **New government notification requirements.**
 - OCI cardholders 20 years of age or younger must upload copies of their new passports with recent passport-size photographs to the OCI online portal each time a new passport is issued, and once after reaching 50 years of age.
 - OCI cardholders married to Indian citizens or other OCI cardholders who obtain a new passport must upload a copy of their passport with a recent photograph and a declaration that they are still married.
 - Updated documents and photographs may be uploaded by OCI cardholders within three months of receipt of the new passport.
- **Travel restrictions.** There are no travel restrictions from the date the new passport is issued until new details are recorded on the OCI portal.

The Indian government has yet to post instructions on updating documents and photographs under the relaxed guidance.

Details:

- "Government Simplifies Renewal of OCI Cards," NDTV, Apr. 16, 2021, <https://bit.ly/3wJFw2q>

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ITALY

Residence Permit Validity Extended

By means of law decree no. 56 of April 30, 2021, the validity of residence permits has been extended to July 31, 2021. Also, quarantine requirements have been updated for nationals of various countries who wish to enter Italy.

The law also extends the validity of *Nulla Osta* (entry clearances for family reasons, work permits) for the same period, and the terms for conversion of study permits into work permits.

Travel Update: Quarantine Requirements

Travelers from the following countries are no longer required to quarantine upon arrival in Italy: **list C countries (Austria, Belgium, Bulgaria, Cyprus, Croatia, Denmark—including the Faroe Islands and Greenland—Estonia, Finland, France—including Guadeloupe, Martinique, Guyana, Reunion, Mayotte and excluding other overseas territories outside the European mainland—Germany, Greece, Ireland, Israel, Latvia, Lithuania, Luxembourg, Malta, Netherlands—excluding other overseas territories outside the European mainland—Poland, Portugal—including the Azores and Madeira—United Kingdom, Czech Republic, Romania, Slovakia, Slovenia, Spain—including the territories in Africa—Sweden, Hungary, Iceland, Norway, Liechtenstein, Switzerland, Andorra, Monaco)**. They must, however, fill out a self-declaration, inform the Prevention Department of the local health authority of their arrival, and present a Covid-19 green certificate confirming a negative (molecular or antigen) swab test taken within the last 48 hours before entering Italy.

Travelers from **Canada, Japan, and the United States of America** are no longer required to have a specific reason for entering Italy (as well as travelers from other list D countries: Australia, New Zealand, Rwanda, Republic of Korea, Singapore, and Thailand). Upon arrival, they must inform the Prevention Department of the local health authority that they have entered Italy, fill out a self-declaration form, present a negative molecular or antigen swab test taken within the last 72 hours before entering Italy, and quarantine for 10 days. After the period of self-isolation, another molecular or antigenic test must be taken.

The authorizations for Covid-tested flights have been extended to the following countries: **Canada, Japan, the United Arab Emirates, and the United States of America.**

Travelers from **list E countries** (i.e., all other countries not included in the above lists, with the exception of India, Bangladesh, Sri Lanka, and Brazil, to which special rules apply) can enter Italy only for specific reasons, such as work, study, health, or other absolutely essential reasons, or to return to their home or place of residence. The requirements are to inform the Prevention Department of the local health authority upon arrival, fill out a self-declaration form, present a negative (molecular or antigen) swab test taken within the last 72 hours before entering Italy, and quarantine for 10 days. After the quarantine, it is mandatory to take a further molecular or antigenic test.

The paper self-declaration form will be soon replaced by a Digital Passenger Locator Form.

Special rules apply to travelers from **India, Bangladesh, Sri Lanka, and Brazil:**

- Entry into Italy from India, Bangladesh, or Sri Lanka is allowed only for Italian citizens registered as residents in Italy before April 29, 2021; Italian citizens registered with A.I.R.E. (Register of Italian nationals residing abroad); and travelers authorized by the Ministry of Health.
- Entry into Italy from Brazil was allowed only for residents in Italy before February 13, 2021; to those who are traveling to reach their minor children or spouse in Italy; and to anyone traveling for an essential reason with the authorization of the Ministry of Health.

Details:

For the full set of rules and exceptions that apply, see https://www.esteri.it/mae/resource/doc/2021/05/annex_to_self-declaration_form_justifying_travel_to_italy_14.05_eng_293.pdf or fill out the questionnaire at https://infocovid.viaggiare Sicuri.it/index_en.html.

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RUSSIA

Air travel has resumed between Russia and several countries.

As of May 25, 2021, according to information on the official government portal, air travel is resumed with the following countries:

- Iceland (Moscow – Reykjavik two times a week);
- Malta (Moscow – Valletta two times a week);
- Mexico (Moscow – Cancun three times a week);
- Portugal (Moscow – Lisbon three times a week);

- Saudi Arabia (Moscow – Jeddah three times a week; Grozny – Jeddah once a week; Makhachkala – Jeddah once a week);

Air travel is also open between Russia and following countries (subject to change):

- UK
- Tanzania
- Turkey
- Switzerland
- Egypt
- Maldives
- United Arab Emirates
- Republic of South Ossetia
- Belarus
- Kazakhstan
- Kyrgyzstan
- The Republic Of Korea
- Abkhazia
- Cuba
- Serbia
- Japan
- Seychelles
- Ethiopia
- Finland
- Vietnam
- India
- Qatar
- Greece
- Singapore
- Azerbaijan
- Armenia
- Germany
- Venezuela
- Syria
- Tajikistan

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UNITED KINGDOM

The Migration Advisory Committee (MAC) has been commissioned to review the Intra-Company Transfer (ICT) category. This article also provides an update on right-to-work checks.

ICT Category Survey

An online survey has easy-to-complete multiple-choice questions and closes on June 15, 2021.

The ICT Category

As licensed sponsors may be aware, on December 1, 2020, Tier 2 (General) and Tier 2 (ICT) were replaced with the Skilled Worker and ICT categories, respectively.

Traditionally, the ICT category has been extremely popular for international corporate groups. An employee of a group company outside the United Kingdom (UK) can be sent to work at the UK group sponsor on a temporary basis.

This survey represents a chance to share your views on the future of the ICT category and how it can be aligned to your business and industry sector.

Key themes of the survey include:

- Use of the ICT category
- Salary threshold
- Allowances
- Skill level
- English language requirements
- Length of service with overseas group company
- Ability to apply for ILR

A FAQ on the UK immigration system FAQ is at <https://bit.ly/3udeBdD>.

Right-to-Work Checks

Where an original document check is required, the temporary adjusted Covid-19 video call process will no longer be available as of June 21, 2021. Further details are provided below.

Background

Employers may be familiar with online and original document (manual) right-to-work checks. Online right-to-work checks have been unaffected by the pandemic. They continue to be possible where, for example, the employee has a Biometric Residence Permit (BRP), status under the European Union (EU) Settlement Scheme, a British National (Overseas) visa, or a Skilled Worker visa as an EU citizen.

Where an online check is not possible, an in-person check of original hardcopy documents is normally required. For example, British citizens need to show their original passports, as can EU citizens until June 30, 2021. Those with a visa stamp in their passport will also ordinarily need an in-person document check. Given the lockdown restrictions and most people not working in the office, these in-person checks have not been possible for employers.

End of the Temporary Adjusted Process

The temporary adjusted Covid right-to-work check process in place since March 30, 2020, has allowed employers to use a video call to check employees' physical documents. Where such a check has been carried out, it is not necessary for the employer to do a retrospective check on the original documents.

Recently, the Home Office said the temporary adjusted Covid process would end on May 16, 2021. Many stakeholders wrote to their senior contacts about this issue. Given that the majority of offices had not yet re-opened, it did not make sense that in-person original document checks would be required starting May 17, 2021.

Thankfully, the Home Office has listened and moved the date to June 21, 2021.

Ongoing Issues

It is expected that many will not be back in the office until after June 21, 2021, so there are still concerns around whether it is possible for employers to carry out a compliant in-person original document check when an online check is not possible.

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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 **William Stock** (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>) were quoted by *Forbes* in "The State Department Can Act to Reduce Visa Delays." She said, "To get an expedited interview, you have to first make a regular appointment, and then you need to explain what are the factors, such as dire business need or family issues. So far, I am seeing that mere inconvenience or business interruption without demonstrable and serious financial consequences won't do it." The article says that Mr. Stock shared a thread showing that a client's interview in Paris for an O-1 visa was bumped four times. Two other appointments scheduled for July, one for an L-1B visa (intracompany transferee), were canceled. "The first new interview appointments in Paris appear to be in February 2022," the article notes.

<https://www.forbes.com/sites/stuartanderson/2021/04/19/the-state-department-can-act-to-reduce-visa-delays/?sh=1fc601c95c26>

Dorothee Mitchell, an attorney and partner at **Foster LLP**, was named new Honorary Consul of the Federal Republic of Germany in Austin, Texas. Ms. Mitchell was inaugurated by Consul General Thomas Meister at a ceremony on May 11, 2021. Ms. Mitchell is licensed to practice law in both the United States and in Germany. She is a native German speaker with fluency in English, and is a dual German-U.S. citizen with extensive German and U.S. legal experience. She has lived in Austin, Texas, for the past 15 years and is well-connected in the German

community in Austin. <https://www.germany.info/us-en/embassy-consulates/gkhoustonen/-/2458662>

Jeff Joseph, of **Joseph & Hall, PC**; **Charles Kuck** (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>); and **Greg Siskind**, of **Siskind Susser, PC**, along with the American Immigration Lawyers Association and several other nonprofit organizations, filed a federal lawsuit challenging a rule that would prioritize H-1B visas based on wage levels. Among other things, the plaintiffs argue that the rule would "have a deleterious impact on small business, start-ups, non-profits, ruraly located business and other industries that rely on foreign highly skilled workers, but who are not able to compensate workers at the highest wage level." According to reports, the lawsuit also notes that Chad Wolf, who reviewed and approved the final rule, was not properly appointed as Acting Secretary of Homeland Security and thus lacked the authority to promulgate the rule. <https://timesofindia.indiatimes.com/world/us/lawsuit-against-biden-admin-challenges-proposed-allocation-of-h-1b-visas-based-on-wages/articleshow/82733895.cms>

Klasko Immigration Law Partners, LLP, has released the third and final episode in a three-part series about problems in the EB-5 investor program. This episode covers litigation options. <https://bit.ly/3yqnjZn>

Mazzeschi S.r.l. has opened a Brazilian desk. Mazzeschi assists clients worldwide in English, Japanese, Chinese, Spanish, and Italian, and now they can assist also in Portuguese, with a Brazilian lawyer—Laura Anselmo—who lives in Italy.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) was quoted extensively by the *Times of India* in "U.S. Immigration Reforms: Stop Counting Family Members to Mitigate Green Card Backlogs, Says Cyrus Mehta, Immigration Attorney." The article reported on his recommendations to overcome barriers to legal immigration. <https://bit.ly/3fAGjNd>

Mr. Mehta was quoted in several articles about H-1B temporary workers who traveled to India to look after their Covid-stricken parents and are now stranded there:

- "They Went Back to India to Care for Parents Dying of COVID-19. Now, They're Stranded," *Mother Jones*, May 6, 2021. Mr. Mehta said that the ban on travel from India isn't very useful in stopping the spread of the virus since citizens, permanent residents, and others are still allowed to travel. But the ban disproportionately affects those who are working on temporary visas such as the H-1B visa. "Representing H1B visa holders, I know what they've gone through. Each time they go to India, there's a ban imposed on them. In the Trump administration, they were subject to bans. Then they wait patiently. They've now scheduled a visa appointment. And their appointment for later this week has been cancelled because of this latest COVID ban on India. So they've got a double whammy." He suggested stricter controls and protocols such as rigorous testing, quarantining, and vaccination requirements as a better approach to controlling the spread of the virus, the article noted. <https://bit.ly/3w9BhN4>
- "As U.S. Travel Ban Kicks In, Families Are Sundered and Plans Are Disrupted," *Times of India*, May 5, 2021. Instead of banning nonimmigrant professionals from India, who may have been vaccinated or tested negative for the virus, while allowing in students, green card holders, and citizens from around the world who may be carrying the virus, "[i]sn't it better to ensure that travelers to [the United States] are vaccinated and/or test negative and quarantine?" he said. Mr. Mehta added that the ban is disproportionately affecting professionals from India and the virus "does not know the difference" between citizens and nonimmigrants. <https://bit.ly/2QqKGRq>

Mr. Mehta spoke on "Australian Gold Rush or Cave In? Navigating the Minefield of Dual Representation in Family-Based Immigration" at the 2021 Annual Conference of the American Immigration Lawyers Association's Asia-Pacific Chapter (APAC) on May 10, 2021.

Mr. Mehta was quoted by *Bloomberg Law* in "'Legal Dreamers' See Renewed Chance for Relief in Legislation." Regarding the children of the H-1B specialty visa applicant population awaiting green cards who age out, he said, "If they start all over again they'll have to wait another 50 years. It's a hopeless situation for H-4 children of parents born in India."

<https://news.bloomberglaw.com/daily-labor-report/legal-dreamers-see-renewed-chance-for-relief-in-legislation>

Mr. Mehta authored or co-authored several new blog posts: "Proposals for Shattering Barriers and Obstacles to Legal Immigration Without Waiting for Congress to Act," <http://blog.cyrusmehta.com/2021/05/proposals-for-shattering-barriers-and-obstacles-to-legal-immigration-without-waiting-for-congress-to-act.html>; "What Happens to a Lawful Permanent Resident Who Has Been Stranded for Over One Year Abroad and the Green Card Validity Has Expired?," <http://blog.cyrusmehta.com/2021/04/what-happens-to-a-lawful-permanent-resident-who-has-been-stranded-for-over-one-year-abroad-and-the-green-card-validity-has-expired.html>, "Coping With Delays Facing H-4 and L-2 Spouses When They Have a Pending Adjustment Application," <http://blog.cyrusmehta.com/2021/04/coping-with-delays-facing-h-4-and-l-2-spouse-when-they-have-a-pending-adjustment-application-part-2.html>; and "U.S. Imposes Covid Travel Ban on India: How Effective Are Such Travel Bans?," <http://blog.cyrusmehta.com/2021/05/us-imposes-covid-travel-ban-on-india-how-effective-are-such-travel-bans.html>

Mr. Mehta was quoted by the *Times of India* in "Green Card Holders Stuck in India Need to Prove U.S. Ties." He said, "With respect to green card holders who have been outside for more than a year, they should first try to apply for the returning resident or SB-1 visa. On the ground level, obtaining an appointment at the U.S. Consulate during the pandemic can be challenging. Even pre-Covid, the U.S. consulates have not been very generous in issuing SB-1 visas." He noted that "if the green card holder cannot obtain the SB-1 visa, and the green card date has not expired, they can still try to board a flight and assert that they have not abandoned their green card at the U.S. port of entry." Mr. Mehta also said that U.S. courts "have provided a test regarding green card abandonment, which is quite generous. Even if the green card holder has been outside the U.S. for much longer than a year, the key question is whether they consistently harbored an intent to return to the U.S. and continued to maintain ties with the country. Under the law, the government has a very heavy burden to prove that the green card holder has abandoned that status. During Covid, a green card holder who has been away for more than a year still has a good chance of being allowed entry if this person otherwise kept ties with the U.S." <https://bit.ly/3tolx6S>

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>); **Stephen Yale-Loehr** (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) and **Nicolai Hinrichsen**, a partner at **Miller Mayer, LLP**; and **Bernard Wolfsdorf** (bio: <http://www.abil.com/lawyers/lawyers-wolfsdorf.cfm>) and **Vivian Zhu**, a partner at **Wolfsdorf Rosenthal LLP**, were listed in the 2021 edition of *EB5 Investors Magazine's* awards issue.

<https://www.eb5investors.com/magazine/article/eb5-top25-attorneys-immigration-attorneys>

Mr. Paparelli authored several new blog posts: "Oops No More, USCIS," <https://www.nationofimmigrants.com/uscis/oops-no-more-uscis/>, "What's Up With USCIS?—An Oops, Yet Still A Promising Start," <https://www.nationofimmigrants.com/uscis/whats-up-with-uscis-an-oops-yet-still-a-promising-start/>, and "Coping With Delays Facing H-4 and L-2 Spouses," <http://blog.cyrusmehta.com/2021/04/coping-with-delays-facing-h-4-and-l-2-spouses.html>

Mr. Siskind was quoted by the *New York Times* in "They Live in the U.S., But They're Not Allowed to Come Home." Mr. Siskind said that the Biden administration "just put the same blanket ban for India that they were using in the Trump administration. He is suing the administration over the Department of State's inability to issue visas in countries experiencing lockdowns. "This was the same style ban that President Biden said last March was ineffective and was a bad idea." <https://www.nytimes.com/2021/05/17/us/politics/india-travel-restrictions.html>

Several ABIL members/firms submitted comments in response to the Biden administration's invitation to suggest ways to overcome barriers to legal immigration:

- **Mr. Mehta**, <https://www.regulations.gov/comment/USCIS-2021-0004-6585>
- **Mr. Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>), <https://www.regulations.gov/comment/USCIS-2021-0004-7288>
- **Mr. Siskind**, <https://www.regulations.gov/comment/USCIS-2021-0004-5933>

Bernard Wolfsdorf presented "Australian Outback: Scorching Topics in the World of EB-5" at the American Immigration Lawyers Association's Asia-Pacific Chapter EB-5 Annual Conference on May 11, 2021. <https://wolfsdorf.com/bernard-wolfsdorf-to-present-at-the-aila-asia-pacific-chapter-eb-5-annual-conference/>

Wolfsdorf Rosenthal LLP has published several new blog posts: "HR is Driving the Economy With Foreign-Born Talent," "Biden's Actions on Immigration Enforcement Have Been Inconsistent Since Taking Office," "Do H-1B Workers Displace American Workers? It's Not a Zero-Sum Game," "Global Mobility Issues: Tips for Avoiding Delays at Ports of Entry," "Immigration Update," "Top Immigration Pain Points for Employees," "I-829 Processing Times Have Run Amok," "Updated Travel Advisory," "'Dreamers' and Farmworker Bills Pass House; Fate in Senate Uncertain," "Could EB-5 Green Cards Be Processed in 2 Years Without Expedites? Will I-526 EB-5 Petition Processing Dramatically Improve in Near Future?," "Top Workforce Trends in the Global Life Sciences Industry in 2021," and "DHS to Withdraw Trump Opposition to International Entrepreneur Parole Rule." <https://wolfsdorf.com/news/>

WR Immigration Partners Leslie Ditrani and Philip Curtis, and Of Counsel Lorie Lunn, were listed in Best Lawyers in New England. <https://wolfsdorf.com/wr-immigration-in-best-lawyers-in-new-england/>

WR Immigration will present at the WERC Spring Virtual Conference on a panel, "Reinventing Global Mobility Through Tech: Solutions for a Post-Pandemic World," on May 24, 2021. <https://wolfsdorf.com/wr-immigration-selected-to-present-at-2021-werc-spring-virtual-conference/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was interviewed in a podcast, Immigration Nerds. <https://player.captivate.fm/episode/c8dc09d2-b41e-492e-9d29-5aef3bb99d54>

Mr. Yale-Loehr co-authored an article with **Leon Rodriguez** (partner at **Seyfarth Shaw LLP** and former USCIS Director) and others called "Unleashing International Entrepreneurs to Help the U.S. Economy Recover from the Pandemic." The article, published by the Brookings Institution, recommends several ways to make it easier for international entrepreneurs to work in the United States and build or grow new companies. <https://www.brookings.edu/research/unleashing-international-entrepreneurs-to-help-the-u-s-economy-recover-from-the-pandemic/>

Mr. Yale-Loehr authored an op-ed for The Hill that was mentioned in a Forbes article, "What International Students and U.S. Universities Need to Know." Forbes article: <https://www.forbes.com/sites/stuartanderson/2021/05/03/what-international-students-and-us-universities-need-to-know/?sh=5ef5033c79d2>; Hill op-ed: "Biden Brings Hope for International Students," <https://thehill.com/opinion/immigration/550110-biden-brings-hope-for-international-students>

Mr. Yale-Loehr co-authored an article in the *New England Journal of Medicine* about a Cornell University asylum clinic client, Dr. Merlys Rodriguez Hernandez, who was in immigration detention while seeking asylum during the Covid-19 pandemic. She is now released on bond but still fighting

deportation. The article, "Graphic Perspective: Detained," is accessible to nonsubscribers with site registration. <https://www.nejm.org/doi/full/10.1056/NEJMp2032690>

Mr. Yale-Loehr was quoted by *Reuters* in "U.S. Supreme Court Hands Victory to Immigrants Facing Deportation." The article appeared in many news outlets. He said the ruling gives immigrants "a second chance to try to prove that they qualify for cancellation of removal and other forms of relief." <https://www.yahoo.com/news/u-supreme-court-hands-victory-154737133.html>

Mr. Yale-Loehr was quoted by *Univision* in "Biden Changes His Tone on Immigration Issues, But the Underlying Crisis is the Same." He said, "President Biden has done a lot on immigration in his first 100 days in office. Among other things, he sent a major immigration reform bill to Congress, reinstated the DACA program, reprioritized deportation policy to focus on serious offenders, ended the previous administration's travel bans, and allowed families and unaccompanied children to enter the United States while they await their asylum hearings. Doing all of this in 100 days is extraordinary, especially given everything else he is dealing with, including stopping the Covid-19 pandemic, economic woes, climate change, and efforts to improve our aging infrastructure." However, he noted that "much remains to be done. In particular, the surge in people trying to enter the United States is giving Republicans an easy talking point to say that President Biden is 'soft' on immigration. That may make it more difficult to persuade Congress to enact comprehensive immigration reform this year." <https://www.univision.com/noticias/inmigracion/primeros-100-dias-biden-y-sus-promesas-para-la-crisis-migratoria> (Spanish, with English translation offered)

Mr. Yale-Loehr was quoted by *Correio Braziliense* in "Experts Analyze 100 Days of Biden and President's Speech to Congress." He said, "President Biden has done a lot in the first 100 days of his term. The government has helped many Americans get vaccinated against Covid-19. It also persuaded Congress to pass legislation to help people cope with the pandemic." He also noted Biden's suspension of the Trump-era ban on U.S. entry of people from Muslim countries, and said, "Biden also stated that unaccompanied children at the border should not be detained while seeking asylum. However, he failed to increase the number of refugees from other countries. It is worth remembering that Trump made more than 400 changes in immigration policy. It will take some time to undo these changes." <https://bit.ly/2PBDd1g> (Portuguese, with English translation offered)

Mr. Yale-Loehr authored an op-ed published in *The Hill*: "Biden Brings Hope for International Students." The op-ed notes a positive change in attitude in the current administration toward international students but recommends certain actions to attract international students, provide predictability, and allow universities and employers to retain global talent. <https://thehill.com/opinion/immigration/550110-biden-brings-hope-for-international-students>

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