

# GLOBAL IMMIGRATION UPDATE

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## FRAUDULENT MARRIAGE: AN OVERVIEW

*This article provides an overview of the consequences of fraudulent marriage in Canada and Italy.*

### Canada

In Canadian immigration law, fraudulent or false marriages are governed by [Subsection 4\(1\) of the Canadian Immigration and Refugee Protection Regulations \(IRPR\)](#). According to Subsection 4(1), an officer may find that a marriage, common-law union, or conjugal partnership (see [Definitions for common-law partner and conjugal partner](#)) is fraudulent if the officer finds that (i) the individuals entered a marriage, common-law union, or conjugal partnership primarily for the purpose of gaining status in Canada or (ii) the relationship is not genuine. Subsection 4(1) of the *IRPR* therefore outlines two assessments targeting two different periods of time: Paragraph 4(1)(a) examines the individuals' intent or purpose at the moment of entering the marriage, union, or relationship while Paragraph 4(1)(b) assesses the genuineness of the relationship at present time.

The case law shows that determinations under Subsection 4(1) of the *IRPR* should be grounded in an analysis that is holistic and based on the totality of the facts and evidence (see, e.g., *Laifatt v. Canada (Minister of Citizenship and Immigration)*, 2020 FC 365; *Abdi v. Canada (Minister of Citizenship and Immigration)*, 2018 FC 475). The case law also seems to emphasize the importance of officers giving individuals a meaningful opportunity to respond and, thus, to be "heard" during the assessment and processing of their applications (see, e.g., *Likhi v. Canada (Minister of Citizenship and Immigration)*, 2020 FCC 171; *Johnson v. Canada (Minister of Citizenship and Immigration)*, 2017 FC 550).

In Canada, a spouse or common-law partner accompanying a temporary foreign skilled worker may be eligible to apply for an open Work Permit (see [eligibility criteria for spousal open Work Permits as of January 30, 2023](#)). During the assessment and processing of a spousal open Work Permit application, officers may issue a request for additional information to attest the genuineness of the marriage. Practice suggests that, in particular, a request for additional information may be issued in the context of a recent marriage. Examples of additional information that could be provided include photos of the marriage, photos of the couple at different points in time since the start of the relationship, proof of regular and continued communication, proof of joint accounts such as a joint bank account, and any evidence that the couple shared information about their relationship on social media or through means of electronic communications.

If an officer finds that a marriage or common-law union is false or fraudulent, both the open Work Permit application of the accompanying spouse or common-law partner and the Work Permit application of the principal applicant-temporary foreign skilled worker may be refused, and both the primary applicant and the accompanying spouse or common-law partner may be subject to a five-year ban on entering Canada (see, e.g., *Gill v. Canada (Minister of Citizenship and Immigration)*, 2022 FCC 648). Similar consequences could apply in a case where an officer finds that a marriage is fraudulent and where the principal applicant already received a Work Permit and began working inside Canada, and the accompanying spouse or common-law partner applied for a spousal open Work Permit at a later time.

## Italy

Italy does not have specific provisions to curb or criminalize "marriages of convenience." Article 123 of the Italian Civil Code sets forth that a marriage is null and void when the spouses do not fulfill their obligations or exercise the rights connected to the marriage. Marriages of convenience are likely to constitute crimes of false declaration before a public official (art. 495 Criminal Code) and aiding and abetting unauthorized immigration (art. 12 Decree 286/1998).

A family reunification request can be denied when it is proven that the sole purpose for the marriage was to allow the person to enter and reside in the territory of the State (art. 29/9 Decree 286/1998). Similarly, the application for a residence permit or its renewal is rejected, or the residence permit is revoked, when it is proven that the marriage was celebrated only to allow the non-European Union (EU) spouse to reside in Italy (art. 30/1bis Decree 286/1998). The residence permit is immediately revoked when it is established that the marriage was not followed by "actual cohabitation," with an exception made in cases where children were born from the marriage (art. 30/1bis Decree 286/1998).

The Court of Cassation added that the validity of a residence permit is subject to the existence not only of the permanent cohabitation of the spouses but also of the non-EU spouse residing in Italy (n. 25027/2005). On other occasions, however, the Court has adopted a more flexible approach, justifying the situation of a spouse who, for example, lives abroad for work reasons (n. 13165/2005).

In Italy, the family permit allows work without a work permit. Therefore, if the family permit is denied or revoked, the applicant cannot work in Italy based on family member status.

<https://medium.com/studiomazzeschi/italian-citizenship-and-marriages-of-convenience-three-husbands-are-not-enough-3c9ec1c6ac3b>

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## Country Updates

### CANADA

*Housing shortages have led to political pressures and a new law and regulations that could have a chilling effect on the ability of employers to attract foreign talent.*

Foreign workers in Canada face significant challenges due to competing labor and housing shortages. The shortage of workers has triggered the housing shortage given the lack of workers in construction and supporting trades, as well as a shortage of construction materials.

Although Canada has been welcoming record-breaking and ever-growing numbers of immigrants (2022 saw 431,000 new permanent residents, and 2021 saw 405,000), Canadians fear that newcomers will take their homes, which fuels their resentment and fear of newcomers.

The federal government could have addressed the housing shortage with sound immigration policy—specifically, to regularize those workers without status in Canada who were already working in construction trades, and to facilitate the selection of construction trade workers as temporary workers and new immigrants. Current immigration policy favors applicants with post-secondary education and strong English or French language skills, which most construction trade workers lack. Immigration Refugee Citizenship Canada (IRCC) might also have

considered reducing the number of foreign students admitted to Canada as this category of temporary residents has ballooned since 2015, and many will not have a path to permanent residence in any event. The federal government seems to lack the political will to address many issues related to the foreign student program, likely because the foreign student industry is big business.

Instead, the government of Canada passed the *Prohibition On the Purchase of Residential Property by Non-Canadians Act* (the Act), a new law supposedly to help make more homes affordable for people living in Canada. This law has a serious negative implication for newcomers to Canada, in addition to impeding the ability to attract talent to Canada to address labor shortages. The Act came into force on January 1, 2023, and prevents non-Canadians (those who are neither Canadian citizens nor permanent residents of Canada) from buying residential property in Canada for two years, including preventing non-Canadians from using corporate structures to avoid the prohibition. The Act defines residential property as buildings with three homes or fewer, as well as parts of buildings like a semi-detached house or a condominium unit. The law does not prohibit the purchase of larger buildings with multiple units. The Act includes a \$10,000 fine for any non-Canadian or anyone who knowingly assists a non-Canadian and is convicted of violating the Act. Further, if a court finds that a non-Canadian has done this, they may order the sale of the house.

A ban targeting foreign home buyers will not necessarily prevent speculation in real estate markets, especially since nonresidents only make up 2.2 percent of residential property owners in Ontario and 3.1 percent in British Columbia. Newcomers have to live somewhere, so if they are prohibited from buying a home, they will rent a house or apartment and potentially take up valuable living space for Canadians who may not be able to afford to buy and must rent. Rents in Canada have increased by 10 percent on average across Canada in the last year.

Clearly the prohibition could have a chilling effect on the ability of Canadian businesses to attract foreign talent, especially when combined with provincial legislation that taxes the purchase of residential properties by foreign nationals. In Ontario, that tax is 25 percent of the value of the property, although the foreign national can apply for a tax rebate if they become a permanent resident within four years of making the purchase. The regulations under the Act set out specific exemptions, including properties in very rural locations, but unfortunately few foreign workers and immigrants settle in rural areas. Initially, when enacted on January 1, 2023, foreign workers who held a work permit or were authorized to work under section 186 of the Immigration Refugees Protection Regulations, and had worked in Canada a minimum of three years within the four years preceding the year in which the purchase was made, filed income tax returns, and had not purchased more than one residential property, were exempted.

Amendments to the regulations allow more flexibility in certain circumstances. Work permit holders can now purchase residential property, for example, as long as they have 183 days or more of validity remaining on their work permit at the time of purchase and have not purchased more than one residential property. The initial requirements for tax filings and previous work experience in Canada were repealed. They are still subject to any applicable provincial tax.

For many foreign nationals living in Canada temporarily, becoming a permanent resident of Canada is a priority. Without permanent resident status, they may still be subject to the Act and/or provincial taxes. Typically, most foreign nationals do not qualify for permanent residence until they have worked in Canada for a Canadian company for at least one year. Further, there is no ability to apply for permanent residence at will; instead, applicants must be invited to apply for permanent residence by IRCC. Consequently, there is a great deal of uncertainty around qualifying and when to apply for permanent residence, which makes it difficult to provide newcomers with any assurance about their eligibility to buy residential property in Canada

without restrictions. Foreign workers should seek legal advice from a Canadian lawyer about their eligibility for permanent residence soon after they arrive in Canada.

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## **EUROPEAN UNION, BELGIUM**

*The EU Entry-Exit System has been postponed once again. The right to apply for a "fast track" single permit in Belgium has been extended to several new categories. There are new rules for trainees and volunteers.*

### **EU Entry Exit System (EES) Postponed to End of 2023**

The European Union (EU) Entry Exit System (EES), which was initially intended to become operative in 2022 and later in May 2023, is now due to be implemented by the end of 2023. EES is a large-scale IT system to enable the electronic recording of entries and exits of third-country nationals (TCNs) to and from the Schengen Area. The system will replace the current practice of manual stamping of passports.

### **Right to Apply for "Fast-Track" Single Permit in Belgium Extended to New Categories**

As a general rule, third-country (non-European Economic Area [i.e., outside EU, Iceland, Liechtenstein, and Norway] and non-Swiss) nationals who want to work in Belgium for longer than 90 days need a single permit. "Fast-track" single permit applications can be filed while a third-country national resides in Belgium. Fast-track applications are those for which no resident labor test is required. Previous restrictive legislation reserved the right to apply in Belgium to a few categories only (short-term foreign nationals, long-term students, long-term researchers).

A new act now allows several other categories of foreigners to apply for a fast-track single permit while residing in Belgium, including family members of single permit holders and foreign nationals with temporary protection status (in practice, Ukrainian nationals). Ukrainian nationals with temporary protection status in Belgium were already entitled to work on the basis of their status, but they can now switch to employee status in-country: their employer can apply for a single permit while the Ukrainian national resides in Belgium.

### **New Rules for Trainees and Volunteers**

New rules for trainees and volunteers became effective January 1, 2023, under Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016, on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects, and au pairing.

#### *Trainees*

Some third-country trainees can invoke a single permit exemption. For example, students who follow a mandatory internship in Belgium as part of their studies in Belgium, Switzerland, or an EEA country are exempt. If no exemption can be invoked, a single permit for long-term employment in Belgium will be required.

Important regulatory changes include:

- The 18-to-30 age range requirement no longer applies;

- A trainee need only pursue a course of study leading to higher education rather than holding a higher education degree;
- Sufficient means of subsistence are still required, but the guaranteed minimum wage is no longer mentioned as a threshold amount. The integration/benefit income for a single person (at present 1,214.13 euros/month) appears to be the threshold. The payments that will be made to the trainee can be taken into account, as well as the fact that the host entity guarantees sufficient means of subsistence for the trainee.

Work authorizations are issued by the region of employment in Belgium: Brussels, Flanders, and Wallonia. The location of employment determines the applicable rules. The maximum duration of the single permit depends on the duration of the underlying work authorization but cannot exceed six months; renewal up to 12 months may be possible, depending on the location of employment.

### *Volunteers*

Volunteer work can now serve as a legal basis for work-related migration to Belgium. The maximum duration of the single permit depends on the duration of the underlying work authorization but cannot exceed 12 months. The location of employment determines the applicable rules.

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## **ITALY**

*There are uneven processing delays for passports. This article also summarizes the elective residence visa and income requirements.*

### **Italy Passport Delays**

After Brexit and COVID-19, requests for passports have blown up, and the Italian government has been facing issues with processing time. However, the situation is not the same in every city. In many cities (for example, Milan), it is possible to obtain an appointment to request a passport only after 8 to 9 months. In some other cities, the situation may be much better. Genova and Padova have encountered problems with applicants not even being able to obtain an appointment.

According to the authorities, these delays are due to various factors, including the boom in requests for travel documents after the lockdown and Brexit, the lack of staff in passport offices (a section of the police office), and the Mint's issues with passport books.

### **Elective Residence Visa and Income Requirements**

The elective residence visa (*residenza elettiva*) is regulated by inter-ministerial decree 850/2011, attachment A, paragraph 13. To obtain such a visa, the applicant must demonstrate wide and autonomous economic resources that are regular and stable, and likely to remain steady in the future.

Such resources:

- Must come from ownership of conspicuous revenues;

- Must come from ownership of properties; or
- Must come from ownership of stable economic-commercial activities; and
- Other sources different from subordinate work must not be lower than about EUR 2580 per person per month.

*Is the minimum required amount of about EUR 2580 per person per month enough?*

The required monthly income is not enough per se but is evaluated in the context of the general situation. It is considered the minimum economic requirement to start with. This type of elective residence visa is aimed at people with a high availability of assets and economic resources.

*What are the other key requirements?*

Another key requirement is owning property or a lease contract for an apartment or a house in Italy, and demonstrating the intention to relocate there permanently. Declarations of hospitality from third parties, Airbnb, serviced apartments, or boats are not considered sufficient.

*How does the applicant demonstrate the revenues? Is work performed outside Italy taken into consideration?*

The revenues are to be demonstrated not only by showing the last 12 months' bank statements, duly stamped and signed by the bank (or with a QR code) but also by providing tax returns. The consulate wants to confirm that the economic resources are not derived from work and thus are available independently from the actual and daily work activity. Resources deriving from work, either subordinate or autonomous, even if performed and taxed outside Italy, cannot be taken into account.

*How are revenues generated from properties assessed?*

Revenues generated from ownership of properties must be demonstrated by long-term lease agreements, signed well in advance, and likely to remain steady in the future. In any case, the sole revenues generated from properties are by no means enough for a positive evaluation.

Details:

- Mazzeschi Magazine, May 2023. <https://www.mazzeschi.it/news/mazzeschi-magazine-italian-immigration-and-citizenship-may-2023-vol-26/>

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## **TÜRKIYE**

*This article discusses anticipated changes to the processing of montaj-AMS visas for Türkiye.*

### **Montaj-AMS Visa Highlights**

An Assembly and Maintenance Service (AMS, or *montaj*) visa is a very practical work authorization category for technical workers coming to Türkiye for short-term work. Under Turkish immigration regulations, an employee of a foreign company may engage in assembly and maintenance service work for the benefit of a receiving Turkish entity without the need for a work permit for up to 90 days per year.



Appropriate employees include technicians or other technical workers. This category is not suitable for executives or non-technical managers. Employees holding this type of visa must continue being paid outside Türkiye by the foreign entity that sent them. The visa allows the employees to work only in the locale(s) and for the Turkish company that issued the support letter for the visa. If multiple clients or worksites are anticipated, the host letters must reflect this and be issued from each host.

An AMS visa may apply to many categories of "products," including assembly, maintenance, and service (or training) for software, computer hardware, complex machinery, energy equipment, and construction and manufacturing equipment. However, in practice there is significant variation in interpretation at different consular posts. Many non-Organisation for Economic Co-operation and Development (OECD) posts have quite strict interpretations of the business circumstances that qualify to issue this visa. Often the interpretation of the "product" being provided to the Turkish host company may come directly from the foreign employer of the visa applicant. In these cases, extensive additional corporate documents may be needed.

An AMS visa can be issued for a maximum validity of 12 months with a duration of stay of 90 days. The consular posts most often issue 6- or 12-month validity multiple entry AMS visas, although some posts may not grant multiple entry visas or grant visas for a validity of less than 12 months as a matter of discretion. Particularly, many non-OECD-located Turkish consular posts in practice tend to issue single-entry AMS visas with 30-, 60-, or 90-day durations of stay.

### **Proposed Changes**

In September 2022, the Ministry of Labour (MoL) created an application link on its website in preparation for online adjudication of these exemptions under the Law on International Workforce No. 6735 (and subsequent regulations). As announced on September 30, 2022, AMS and other activities listed in the statute as exempt from a work permit requirement may apply for that exemption via the new online system, which is then used to obtain an AMS visa at the consulate or a work permit exemption domestically in certain conditions. Applicants abroad requesting an exemption via the Turkish consular post must use the online system after appearing at the consular post. If the application is accepted, the consular post issues a reference number, which the applicant uses to complete the online application. Applicants in Türkiye on valid residence permits may file their exemption applications using the online system with information requested regarding their residence permits.

The online exemption system is not yet being used extensively for visa applicants because many consular posts are not yet familiar with the system. The online system appears to be a way for the MoL to have more authority in designating which applicants should be eligible for an exemption, regardless of the location of the consular post.

The new work permit exemption online system lists many statutory exemption activities that have been recognized by the MoL, even before the current version of the law. The list of qualifying activities includes certain internships and certain activities in the arts, sciences, media, tourism, education, and sports sectors, each with defined maximum periods of time. The statute also specifies the maximum validity for each qualifying activity. For instance, student internships have maximum ranges of 4 to 12 months. Tour operators are restricted to a period of 8 months. AMS-montaj activities remain limited to 90 days.

For a complete list of work permit exemption categories, see the following MoL webpage: <https://www.csgb.gov.tr/media/89896/ingilizce-tablo.pdf>



## UNITED KINGDOM

*There have been various developments.*

### **Sponsor Guidance Updated on Hybrid and Remote Work**

New Home Office guidance provides an update on sponsoring workers on a remote or hybrid basis. Although the Home Office created guidance to cover pandemic work-from-home situations, it had not kept pace with the post-pandemic shift to flexible working patterns. The much overdue updated guidance sets out the circumstances in which sponsors must report when a sponsored worker is working from home permanently or in a "regular and planned" hybrid working pattern. Specifically, [sponsors must report the following changes](#) in a sponsored worker's normal work location:

- The worker is, or will be, working remotely from home on a permanent or full-time basis (with little or no requirement to physically attend a workplace); or
- The worker has moved, or will be moving, to a hybrid working pattern.

A hybrid working pattern is defined as "where the worker will work remotely on a regular and planned basis from their home or another address, such as a work hub space, that is not a client site or an address listed on your licence, in addition to regularly attending one or more of your offices or branches, or a client site."

The guidance also confirms that sponsors do not need to report day-to-day changes in work location (for example, if a worker occasionally works at a different branch or site, or from home). Sponsors need only tell the Home Office about changes to regular working patterns.

*So what reporting duties do sponsors now have?*

An increasing number of businesses are transitioning to an "officeless operation," which presents unique challenges for recording employee work locations on the certificate of sponsorship. The employee's work location could potentially be their home address or any other remote location that qualifies as a "work location." Similarly, if an employee is working remotely on a permanent basis with little obligation to attend the workplace, this must be reported.

### **New UK Electronic Travel Authorisation Scheme**

The UK's upcoming Electronic Travel Authorisation (ETA) scheme will require some people to apply in advance for digital permission to travel to the UK. A [comprehensive Q&A for employers](#) can be shared with employers' global HR and mobility professionals.

### **Tech Nation Formally Acquired by Founders Forum**

Tech Nation announced that Founders Forum Group ([FF Group](#)) has formally acquired Tech Nation. This is good news for digital tech Global Talent visa applicants. Tech Nation also confirmed that under the FF Group umbrella, it will [continue to endorse Global Talent applications](#) as normal until the Home Office finds a new endorsing body. This means that those with exceptional talent/promise in the digital tech space will continue to apply to [Tech Nation](#) for endorsement and then separately apply to the Home Office for the visa. This has also been [confirmed by the Home Office](#).

### **Endorsing Bodies Revealed for Innovator Founder Route**

The Home Office has provided a [list of the bodies that can endorse Innovator Founder applications](#) where an applicant has an innovative, viable, and scalable business proposal. These include [Investors Limited](#), [UK Endorsing Services](#), [Innovator International](#), and [The Global Entrepreneurs Programme \(GEP\)](#). The Innovator Founders category replaced the Start-up and Innovator routes in April 2023.

### UKVI Outsourced Partners Increase Fees

For the processing of non-digital visa applications where attendance at an appointment is necessary, UK Visas and Immigration (UKVI) uses outsourced visa partners. When an application is submitted at an appointment in the UK, Sopra Steria runs the appointments. As of May 1, 2023, Sopra Steria's fees have increased by 3.12%. One of UKVI's outsourced partners for applications submitted outside the UK is VFS. VFS's fees in the United States have increased: gold and silver package fees have increased to \$2,090 and \$925, respectively, and the roundtrip courier fee has increased from \$75 to \$80.

### Delay in EU's Entry/Exit System

The European Union's (EU's) Entry/Exit System will electronically monitor whether non-EU citizens (including British citizens) are going over 90 days in any 180-day period in the EU/European Economic Area (EEA)/Switzerland (except for Cyprus and Ireland). The scheme was due to launch this year but has been [delayed to 2024](#). Once implemented, travelers in the EU area will need to be more wary than ever of overstaying the 90 days. If the maximum stay is exceeded, it can lead to a ban on entry to the whole of the EU/EEA/Switzerland (except for Cyprus and Ireland).

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## New Publications and Items of Interest

[New webinar](#). In May, Kingsley Napley held a webinar with the Home Office on the United Kingdom's (UK's) upcoming ETA scheme. The ETA scheme will require some people to apply in advance for digital permission to travel to the UK. Some of the key takeaways from the webinar are included in Kingsley Napley's [comprehensive Q&A for employers](#) to share with their global human resources and mobility professionals.

[Alliance of Business Immigration Lawyers](#): <https://www.abil.com/>  
ABIL is also available on Twitter: <https://twitter.com/abilimmigration>

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## ABIL Member/Firm News

**Charles Foster** was awarded the title of "Dean Emeritus" by the Executive Committee of the Consular Corps of Houston for his services as interim and acting Dean of the Consular Corps of Houston in recent years. He is also the Honorary Consul-General of the Kingdom of Thailand. Mr. Foster is the chairman of **Foster LLP**. His law practice focuses primarily on representing multinational companies and foreign investors in U.S. immigration law matters.

**Kingsley Napley's** recent blog sets out the details of the new UK Home Office guidance on sponsoring workers on a remote or hybrid basis. Although the Home Office created guidance to cover the situation where someone was working from home due to COVID-19, it had not kept pace with the post-pandemic shift to flexible working patterns.

<https://www.kingsleynapley.co.uk/insights/blogs/immigration-law-blog/home-office-finally-updates-its-guidance-on-sponsored-remote-working>

**Kingsley Napley** won the bronze award for best immigration practice from the Citywealth Magic Circle Awards 2023. Read more about it [here](#).

**Charles Kuck** (bio: <https://www.abil.com/abil-lawyers/charles-kuck/>) has authored a new blog post: "The Unintended Consequences of USCIS' New 'Family Reunification Program.'" <https://www.immigration.net/2023/05/17/the-unintended-consequences-of-usciss-new-family-reunification-program/>

**Mr. Kuck** was quoted by Atlanta News First in "Georgia Immigration Attorney Discusses Impacts of Title 42 Expiring." He discussed the processes in place for migrants arriving at the southern border, including being detained "for a hearing generally in a phone booth at a detention center," removal if they cannot prove a credible fear of persecution if returned to their home countries, or asylum processing if they can prove a credible fear. "After they have filed their asylum application, they can file for a work permit...when that work permit comes, typically [for] about six months they can work. Which means that for these open jobs, employers here in Georgia [will] now have workers to do those jobs," he said. At the next court date, Mr. Kuck said, migrants "are required to bring evidence and if you don't have evidence other than a suspicious story, you're not going to win asylum." <https://www.atlantaneWSfirst.com/2023/05/10/georgia-immigration-attorney-discusses-impacts-title-42-expiring/>

**Mr. Kuck** was quoted by 11Alive in "Title 42 Ending, Georgia Getting Ready for Expected Increase in Migrants Across Southern Border." He said, "What will happen? You will see videos of lots of people coming to the border, thousands of them, because they've been lining up in Mexico for weeks in anticipation of the much built-up end of Title 42. And we will see a massive surge because the one thing that nobody is talking about is—why are there so many people at the border all of a sudden? And it's because we have unprecedented levels of refugee crises in Latin America that we've never seen in our history. So, the migrants are not generally Mexicans coming in. These are from Central and South America, where crises in their own countries are compelling them to come forward." He said that without Title 42 restrictions, "people will again start to be deported to their home countries. They're going to deport you back to Peru, or they're going to deport you back to Colombia. This enables that process. And that's the message that needs to be delivered to those countries. Desiring a better life is not asylum. You will not be allowed to stay in the U.S. if just wanting a better life is why you're coming to America." <https://www.11alive.com/article/news/local/georgia-prepares-for-additional-migrants/85-9f0e3835-e53f-486e-8398-edc2b19bdd8b>

**Mr. Kuck** was quoted by Bloomberg in " 'I Expected to Work in an Office': Engineers Recruited by Carmakers End Up on the Assembly Line." Mr. Kuck said that legally hiring foreign line workers is difficult at best because "there is not a manual labor visa to do those kinds of jobs." <https://www.bloomberg.com/news/articles/2023-04-25/engineers-from-mexico-on-assembly-lines-instead-of-us-south-car-industry#xj4y7vzkg?leadSource=uverify%20wall>

**Mr. Kuck** was quoted by *The New Republic's* "Soapbox" in "You Know Who Won't Miss Susan Rice? Immigration Advocates." The article says that migrant advocates hope that the departure of Susan Rice, the Biden administration's chief domestic policy adviser, will lead the Biden administration down a new and more humane path. The article quotes Mr. Kuck's tweet: "I cannot think of happier news for those interested in fixing the immigration nightmare. Getting rid of Susan Rice is step one!" <https://newrepublic.com/article/172164/susan-rice-departure-immigration-reset>

**Mr. Kuck** authored a new blog post: "The Farcical H-1B Lottery for FY 2024." <https://bit.ly/3VeDepn>

**Cyrus Mehta** (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) authored a new blog post: "Remembering Mark Von Sternberg Through Matter of Recinas." <http://blog.cyrusmehta.com/2023/05/remembering-mark-von-stenberg-through-matter-of-recinas.html>

**Mr. Mehta** and **Jessica Paszko** co-authored a new blog post: "Termination in the Twilight Zone When the I-485 Application Has Been Pending for Less Than 180 Days." <http://blog.cyrusmehta.com/2023/05/termination-in-the-twilight-zone-when-the-i-485-application-has-been-pending-for-less-than-180-days.html>

**Mr. Mehta** and **Kaitlyn Box** have co-authored several blog posts:

- "Although Section H.10-B Has Disappeared in the New ETA-9089, Will Its Ghost Continue to Haunt Us?," <http://blog.cyrusmehta.com/2023/06/although-section-h-10-b-has-disappeared-in-the-new-eta-9089-will-its-ghost-continue-to-haunt-us.html>
- "Kellogg Has Reared its Ugly Head in the New Labor Certification Fork: How Do We Deal With Alternate Requirements?," <http://blog.cyrusmehta.com/2023/05/kellogg-has-reared-its-ugly-head-in-the-new-labor-certification-form-how-do-we-deal-with-alternate-requirements.html>;
- "Answering Tricky Questions on the Revised Labor Certification Form on Dual Representation and Familial Relationships," <http://blog.cyrusmehta.com/2023/05/answering-tricky-questions-on-the-revised-labor-certification-form-on-dual-representation-and-familial-relationships.html>;
- "Ethical Considerations When the Removal Case is Dismissed," <http://blog.cyrusmehta.com/2023/04/ethical-considerations-when-the-removal-case-is-dismissed.html>;
- "Second Circuit Upholds Trump Era Interpretation on Administrative Closure Even Though Biden Has Changed It. Does This Leave Open Possibility that Biden Era Interpretation May Also Be Upheld if Future Administration Changes It?," <https://bit.ly/3MMIMoT>;
- "Dealing with Section H.10-B Labor Certification Denials," <http://blog.cyrusmehta.com/2023/03/dealing-with-section-h-10-b-labor-certification-denials.html>

**Angelo Paparelli** (bio: <https://www.abil.com/abil-lawyers/angelo-paparelli/>) became a partner at **Vialto Law** on June 1, 2023. Vialto notes that Angelo's career has brought him many accolades, including a 1st ranking among Chambers USA Band 1 Lawyers and a three-time award as the World's Leading Corporate Immigration Lawyer in annual peer rankings of the International Who's Who of Corporate Lawyers. Mr. Paparelli received the Edith Lowenstein Award for Advancing the Practice of Immigration Law and is the first management-side immigration lawyer ever inducted into the College of Labor and Employment Lawyers. He is frequently quoted on immigration law issues in the *New York Times*, the *Wall Street Journal*, *Immigration Law360*, and other leading publications. He has advised some of the largest companies in the world, helping to solve complex immigration issues and craft program-wide immigration strategies. His reputation has made him a trusted advisor to senior policymakers. <https://bit.ly/3NLHCKO>

**Bernard Wolfsdorf** (bio: <https://www.abil.com/abil-lawyers/bernard-wolfsdorf/>) and **Naveen Bhora** co-authored a new blog post: "DV Green Card Lottery Results Out. Hoorah!" <https://wolfsdorf.com/dv-green-card-lottery-results-out/>

**WR Immigration** published a new blog post: "Critical Requirements for New Office L-1 Managerial or Executive Petition." <https://wolfsdorf.com/critical-requirements-for-new-office-l-1-managerial-or-executive-petition/>

**WR Immigration** presented a webinar, "Alternatives to the H-1B Lottery." **Charina Garcia** and **Audrey Lustgarten** discussed what to do when considering global alternatives, including alternative U.S. options, a review of immigration options to confirm eligibility, non-immigration factors, and more. <https://wolfsdorf.com/webinar-alternatives-to-the-h-1b-lottery/>

**WR Immigration** presented a webinar on the Department of Homeland Security's (DHS) announcement of a new process to protect undocumented whistleblowers. WR Immigration and Hirschfeld Kraemer LLP discussed what employers need to know. Attorneys shared their insights on what employers can expect in the months ahead, including likely claims and how employers can prepare in light of the new DHS policy. <https://wolfsdorf.com/us-department-of-homeland-security-announces-new-process-to-protect-undocumented-whistleblowers/> (article)

**Stephen Yale-Loehr** (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by CBS News in "Trump Vows to End Birthright Citizenship for Children of Undocumented Immigrants If He Wins in 2024." Mr. Yale-Loehr said, "Any executive action that a president might try to end birthright citizenship would be challenged in court and would be likely struck down as unconstitutional." He noted, however, that "it's pretty clear that, for political purposes, he thinks that this kind of announcement will appeal to his base. It shows that he has anti-immigration credentials. And most of his voters don't know or don't care about whether such an executive order would be legal." <https://www.cbsnews.com/colorado/news/trump-birthright-citizenship-children-unauthorized-immigrants/?intcid=CNM-00-10abd1h>

**Mr. Yale-Loehr** coauthored an op-ed in *The Hill* with **Jacob Hamburger**, an incoming visiting assistant professor at Cornell Law School. The op-ed, "To Address the Migration Crisis, State Governments Should Hire the Migrants," concerns the controversy over the migrant influx in New York City and other large cities. The op-ed suggests that states can and should employ recent migrant arrivals without violating federal immigration law. Mr. Yale-Loehr and Mr. Hamburger propose that states create a new Migrant Empowerment Corps, modeled after the Depression-era Civilian Conservation Corps. <https://thehill.com/opinion/immigration/4030557-to-address-the-migration-crisis-state-governments-should-hire-the-migrants/>

**Mr. Yale-Loehr** was quoted by *New York Daily News* in "Texas Judge Hears Arguments in Challenge to Revised DACA Policy." He predicted that if the Texas case makes it to the Supreme Court, the court would not issue a final ruling before June 2025: "Litigation takes time. No one should worry that the DACA program is going to end tomorrow." <https://www.nydailynews.com/news/politics/us-elections-government/ny-daca-challenge-texas-judge-hears-arguments-20230602-t7bo6xbinzbgxiw5vpse2ed6ue-story.html>

**Mr. Yale-Loehr** was quoted in a Weill Cornell Medicine press release about recent commentary in a medical journal that he coauthored calling for equal access to health care for Deferred Action for Childhood Arrivals recipients. <https://news.weill.cornell.edu/news/2023/06/commentary-calls-for-equal-access-to-healthcare-for-daca-recipients-and-all-immigrants> (a slightly different version was published in *Mirage News*: <https://www.miragenews.com/commentary-urges-equal-healthcare-access-for-1019415/>)

**Mr. Yale-Loehr** was quoted by Univision in "Biden Government Defends Family Separations at the Border in Court During Trump." Mr. Yale-Loehr said, "The forced separation of families during the Trump administration violated the due process rights of families. Many of them are now suing the United States government for damages. The forced separation also set a bad precedent, both for future presidents and for the leaders of other countries who might try the same thing." <https://www.univision.com/noticias/inmigracion/gobierno-biden-defiende-tribunales-separaciones-forzadas-trump-frontera> (Spanish)

**Mr. Yale-Loehr** was quoted by the *Washington Post* in "Tim Scott Hypes 'Terrorist Watch List' Border Crossings." Commenting on remarks by Republican presidential candidate Tim Scott that "hundreds of people" have been crossing the southern border into the United States, Mr.



Yale-Loehr said that the phrase "crossing our borders" was an exaggeration. "They were caught at the border, either at a port of entry or between a port of entry. So perhaps 'caught attempting to cross the border' would be more accurate." He also noted that not everyone on the watch list is a terrorist. <https://www.washingtonpost.com/politics/2023/05/24/tim-scott-hypes-terrorist-watch-list-border-crossings/> (available by subscription)

**Mr. Yale-Loehr** was quoted by CNY Central in " 'We Welcome Immigrants,' Cornell Professor Says Influx of Migrants Could Improve Economy." Among other things, Mr. Yale-Loehr said, "I would say we welcome immigrants, we want them to come properly, we want them to come legally. I would co-sign Governor Hochul's letter to the federal immigration agency urging them to decide these work permit applications [more quickly], and I would also urge New York State to appropriate more money to help counties on immigration generally." He said that "the people need to think about the fact that these migrants are actually going to help the economies of upstate New York or wherever else. "We have a job shortage in New York State, and there are many jobs these migrants can do...we should be welcoming them with open arms." Video and article: <https://cnycentral.com/news/local/we-welcome-immigrants-cornell-professor-says-influx-of-migrants-could-improve-economy>

**Mr. Yale-Loehr** was quoted by the Associated Press in "Video Prompts False Claims That Soldier Allowed Migrants to Cross Border Illegally." Mr. Yale-Loehr dismissed as "ludicrous" claims that soldiers' actions that were videotaped in Eagle Pass, Texas, and widely circulated violated 8 U.S.C. §§ 1324 and 1327. He said § 1327 is a "rarely used provision" prohibiting people from aiding certain criminal and subversive foreign nationals from entering the country, and § 1324, the other statute mentioned in comments posted on the video, penalizes people who "harbor" undocumented migrants. Mr. Yale-Loehr suggested the bus people were boarding was likely destined for the nearest Border Patrol station where the migrants would be screened, processed, and detained, as is the agency's protocol. They aren't simply being let free as claimed, he noted. "The video doesn't show any effort to harbor or hide undocumented migrants. Claims that federal officials are simply letting migrants enter the U.S. illegally are unfounded." <https://apnews.com/article/fact-check-immigration-border-texas-title-42-919121412226>

**Mr. Yale-Loehr** was interviewed by several media outlets about immigration policy changes:

- "Immigration Expert Expects New Asylum Policy to be Challenged in Court," Scripps News. Mr. Yale-Loehr said, "If you do enter the United States illegally, you will be presumed ineligible for asylum [under the new post-Title 42 Biden administration asylum rule] with certain limited exceptions. They want people instead to use this new CBP One app to schedule asylum interviews and then have the interviews at the ports of entry. So, they're hoping that by the combination of parole, the refugee processing centers, and the CBP One app, people will do things legally. And this new rule then penalizes those who try to enter the United States illegally." He also said "[w]e need to have an approach that realizes that we can only manage the border. We can't ever stop all illegal immigration, but we also need to have Congress enact more work visas so the people who do want to come to the United States temporarily can do so legally and won't be tempted to enter illegally." <https://www.10news.com/news/national/immigration-expert-expects-new-asylum-policy-to-be-challenged-in-court>
- "Migrant Crisis Explained: Where Do We Go From Here?," Fox 5 NY News. Mr. Yale-Loehr said, "Our immigration system has not changed, but the world has changed." He noted that there is no quick fix to asylum backlogs and border issues. "Yes, we do need to try to manage our border. The second prong would be to provide more work visas for people who do want to come and work so they can do so legally ... And the third prong is to legalize the estimated 10 million people in the United States who lack authorization

right now." <https://www.fox5ny.com/news/migrant-crisis-explained-where-do-we-go-from-here>

- A video of Mr. Yale-Loehr's remarks is available at <https://www.10news.com/news/national/immigration-expert-expects-new-asylum-policy-to-be-challenged-in-court>

**Mr. Yale-Loehr** was quoted in several media outlets about the end of Title 42:

- United Press International, "White House, States, Congress Look for Immigration Solutions as Title 42 Ends." Mr. Yale-Loehr said, "Too many people will want to enter, and there won't be enough Border Patrol agents to prevent a surge of illegal entries." He said that just and comprehensive immigration reform, which is unlikely in the current sharply divided Congress, would include more work visas "so that people who want to work temporarily in the U.S. could enter legally rather than illegally." He also said he believes that the estimated 10 million undocumented people in the United States should be legalized "so that they can come out of the shadows." And, finally, he said effective border security must be realized: "It is like three legs of a stool: All three legs are necessary for effective reform." [https://www.upi.com/Top\\_News/US/2023/05/11/title-42-immigration/6881683740849/](https://www.upi.com/Top_News/US/2023/05/11/title-42-immigration/6881683740849/)
- Brazilian Mail (Correio Braziliense), "Biden Decides to Limit Access to Asylum at the Border With Mexico." Mr. Yale-Loehr explained that as part of the end of Title 42, the Biden administration is implementing a new rule under which anyone who enters the United States without authorization will be considered ineligible for asylum. "The authorities want people to use the new app, called CBP One, for scheduling asylum interviews at ports of entry. It's a way to legally apply for asylum," he said. Mr. Yale-Loehr predicted "chaos and confusion at the border at first." <https://www.correiobraziliense.com.br/mundo/2023/05/5093570-biden-decide-limitar-acesso-a-asilo-na-fronteira-com-o-mexico.html> (in Portuguese with English translation available)

**Mr. Yale-Loehr** and **Jacob Hamburger** co-authored an op-ed in *Slate*, "Biden Will Never Get Us Out of the Trump Era Like This." <https://slate.com/news-and-politics/2023/05/biden-immigration-asylum-border-title-forty-two-covid.html>

**Mr. Yale-Loehr** was quoted by *BollyInside* in "Miami's Real Estate Community Concerned About Negative Effects of DeSantis-Supported Bills: 'This Will Be Painful.'" "Limiting the buying power of foreign nationals from several nations in the United States "could be a real blow to [the EB-5 immigrant investor] program," he said. <https://www.bollyinside.com/news/real-estate/miamis-real-estate-community-concerned-about-negative-effects-of-desantis-supported-bills-this-will-be-painful/>

**Mr. Yale-Loehr** was quoted by Courthouse News Service in "Title 42 Ends Next Week, Leaving Questions About the Future of U.S. Immigration Policy." Commenting on the imminent end of Title 42, Mr. Yale-Loehr said, "Certainly it will prevent some people from applying for asylum. It would restrict asylum seekers in major ways. There are a lot of unknowns." He said that he expects legal challenges to the new proposed rules if they are implemented, especially the rule denying people asylum claims if they cross the border before being granted permission. Legal challenges could come from border states like Texas, or Congress may take action, he noted. <https://www.courthousenews.com/title-42-will-end-next-week-leaving-questions-about-the-future-of-us-immigration-policy/>

**Mr. Yale-Loehr** was quoted by CBS News in "Biden Administration Asks Judge to Limit DACA Ruling If He Finds 'Dreamer' Protections Unlawful." Mr. Yale-Loehr said the government's latest filing in litigation by Texas challenging the Deferred Action for Childhood Arrivals (DACA)



program was an attempt by the Biden administration to "minimize" the scope of the judge's ruling. "Based on his past rulings, Judge Hanen is likely to rule that the DACA program is unlawful." He said the judge could agree to pause his ruling pending an appeal. The Biden administration, he noted, would likely appeal a ruling against DACA to the 5th Circuit and ultimately the Supreme Court. "The bottom line is that this still has a long way to go before there's a final resolution. I think the earliest that we may get a final decision by the Supreme Court would be June of 2024, and even that may be premature."

<https://www.cbsnews.com/news/daca-ruling-judge-texas-justice-department-dreamers/>

**Mr. Yale-Loehr** was quoted by the *Cornellians Magazine* in an article about the interdisciplinary Cornell [Migrations Initiative](#), "With 'Migrations,' Big Red Scholars Navigate a World in Motion." Mr. Yale-Loehr said, "We have more migration across the world today than we ever have in the past, and it's going to continue. We need to understand how all these different kinds of migration affect and relate to each other—that's why it's so important to study this from an interdisciplinary and interspecies approach." The article notes that most Migrations-supported research has been heavily rooted in the social sciences. For example, when Mr. Yale-Loehr wanted to assess the awareness of public health care benefits among immigrants, he partnered with a Migrations colleague on a qualitative survey. Their work resulted in [RightsforHealth](#), a website where immigrants can easily research health benefits for which they may be eligible. <https://alumni.cornell.edu/cornellians/migrations/>

**Mr. Yale-Loehr** was quoted by Marketplace in "As Summer Approaches, Labor Shortages Make Summer Hiring Tough." He said that consumers will notice labor shortages "in terms of increased prices. When you go to a restaurant, because there's not enough workers, you're going to see it in terms of reduced hours" at restaurants and at the community recreation center, for example. <https://www.marketplace.org/2023/04/14/labor-shortages-make-seasonal-hiring-tough-summer/>

Below are ABIL Members and their partners/associates listed in Who's Who Legal: Corporate Immigration 2023 (<https://whoswholegal.com/analysis/corporate-immigration-2023---legal-marketplace-analysis>):

## **EUROPE–MIDDLE EAST–AFRICA**

### **Global Elite Thought Leaders:**

Laura Devine – Laura Devine Immigration, London, UK

Ana Garicano – Sagardoy Abogados, Madrid, Spain

Gunther Mävers – michels.pmks Rechtsanwälte Partnerschaft mbB, Cologne, Germany

Marco Mazzeschi – Mazzeschi – Corporate Immigration and Citizenship Law, Milan, Italy

Nicolas Rollason – Kingsley Napley, London, UK

Karl Waheed – Karl Waheed Avocats, Paris, France

### **Leading Firms:**

Kingsley Napley, London, UK

Laura Devine Solicitors, London, UK

Flynn Hodkinson, London, UK

### **Other Leading Individuals:**

BELGIUM: Bernard Caris – Yonunity, Brussels, Belgium

FRANCE: Karl Waheed – Karl Waheed Avocats, Paris, France

GERMANY: Gunther Mävers – michels.pmks Rechtsanwälte Partnerschaft mbB, Cologne, Germany

GERMANY: Bettina Offer – Offer & Mastmann, Frankfurt, Germany

ITALY: Marco Mazzeschi – Mazzeschi – Corporate Immigration and Citizenship Law, Milan, Italy

NETHERLANDS: Jelle Kroes – Kroes Advocaten Immigration Lawyers, Amsterdam, Netherlands

SPAIN: Ana Garicano – Sagardoy Abogados, Madrid, Spain

SWITZERLAND: Nina Perch-Nielsen – Blue Lake Legal, Zurich, Switzerland

TÜRKIYE: Maria Celebi – Bener Law Office, Istanbul, Türkiye

## **NORTH AMERICA**

### **Global Elite Thought Leaders:**

Barbara Jo Caruso – Corporate Immigration Law Firm, Toronto, Canada

Ronald Klasko – Klasko Immigration Law Partners, Philadelphia, United States

Charles Kuck – Kuck Baxter Immigration, Atlanta, United States

Cyrus Mehta – Cyrus D Mehta & Partners, New York, United States

Angelo Paparelli – Vialto, Los Angeles, United States

Gregory Siskind – Siskind Susser, Memphis, United States

William Stock – Klasko Immigration Law Partners, Philadelphia, United States

Bernard Wolfsdorf – Wolfsdorf Rosenthal, Santa Monica, United States

Stephen Yale-Loehr – Miller Mayer LLP, Ithaca, United States

### **Leading Firms:**

Klasko Immigration Law Partners, United States

Foster, United States

Wolfsdorf Rosenthal, United States

### **Other Leading Individuals:**

CANADA: Barbara Jo Caruso – Corporate Immigration Law Firm, Toronto, Canada

U.S.: Cyrus Mehta – Cyrus D Mehta & Partners, New York, NY, United States

U.S.: Charles Kuck – Kuck Baxter Immigration, Atlanta, GA, United States

U.S.: Stephen Yale-Loehr – Miller Mayer LLP, Ithaca, NY, United States

U.S.: Gregory Siskind – Siskind Susser, Memphis, TN, United States

U.S.: Ira Kurzban – Kurzban Kurzban Tetzeli & Pratt, Coral Gables, FL, United States

U.S.: Vincent Lau – Clark Lau, Boston, MA, United States

U.S.: Vic Goel – Goel & Anderson, Reston, VA, United States

U.S.: Marketa Lindt – Sidley Austin, Chicago, IL, United States

U.S.: Rami Fakhoury – Fakhoury Global Immigration, Troy, MI, United States

## **ASIA-PACIFIC**

### **Global Elite Thought Leaders:**

Phillip Yip – Phillip Yip & Associates, Sydney, Australia

### **Other Leading Individuals:**

AUSTRALIA: Phillip Yip – Phillip Yip & Associates, Sydney, Australia

HONG KONG: Eugene Chow – Chow King & Associates, Wanchai, Hong Kong

## **LATIN AMERICA**

### **Global Elite Thought Leaders:**

Ariel Orrego-Villacorta – AOV Abogados, Lima, Peru

### **Other Leading Individuals:**

COLOMBIA: Rodrigo Tannus Serrano – Tannus & Asociados, Bogota, Colombia

PERU: Ariel Orrego-Villacorta – AOV Abogados, Lima, Peru

The following **ABIL members, and members of ABIL firms**, were listed in LawDragon's 2023 list of 100 leading immigration lawyers:

**Delisa Bressler** – Foster – Austin, TX

**Helene Dang** – Foster – Houston, TX

**Corina Farias** – Foster – Austin

**Charles Foster** – Foster – Houston, TX

**H. Ronald Klasko** – Klasko Immigration Law Partners – Philadelphia, PA

**Ira Kurzban** – Kurzban Kurzban – Coral Gables, FL

**Avalyn Langemeier** – Foster – Houston, TX

**Marketa Lindt** – Sidley – Chicago, IL

**Robert Loughran** – Foster – Austin, TX

**John Meyer** – Foster – Austin, TX

**Dorothee Mitchell** – Foster – Austin, TX

**Farshad Owji** – WR Immigration – San Francisco, CA

**Angelo Paparelli** – Vialto Law – Los Angeles, CA

**Jose Perez** – Foster – Houston

**John Pratt** – Kurzban Kurzban – Coral Gables, FL

**Edward Ramos** – Kurzban Kurzban – Coral Gables, FL

**Kimberley Best Robidoux** – WR Immigration – San Diego, CA

**William Stock** – Klasko Immigration Law Partners – Philadelphia, PA

**Helena Tetzeli** – Kurzban Kurzban – Coral Gables, FL

**Bernard Wolfsdorf** – WR Immigration – Santa Monica, CA

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## About ABIL

*The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 445 member lawyers and their more than 1,100 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.*

*The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.*

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