

GLOBAL IMMIGRATION UPDATE

Vol. 14, No. 1 • February 2024

FEATURE ARTICLE

[RED FLAGS IN SOCIAL SECURITY RELATED TO IMMIGRATION: AN OVERVIEW](#) – This article provides an update on red flags in social security related to immigration in several countries.

COUNTRY UPDATES

[BULGARIA AND ROMANIA](#) – The European Council has decided to include Bulgaria and Romania in the Schengen Area for maritime and air passengers, effective March 2024.

[CANADA](#) – The Québec Immigrant Investor Program (QIIP) was reopened on January 1, 2024.

[ITALY](#) – The validity of residence permits for Ukrainians under temporary protection in Italy has been extended.

[THE NETHERLANDS](#) – This article discusses the principle of single nationality in Dutch law and the proportionality test, and how they work in practice.

[RUSSIA](#) – New forms and procedures for applications and notifications have been introduced.

[UNITED KINGDOM](#) – There will be an imminent increase to the Immigration Health Surcharge (IHS). Also, the Home Secretary has unveiled a plan to cut net migration, among other developments.

ALSO IN THIS ISSUE

[New Publications and Items of Interest](#)

[ABIL Member/Firm News](#)

RED FLAGS IN SOCIAL SECURITY RELATED TO IMMIGRATION: AN OVERVIEW

This article provides an update on red flags in social security related to immigration in several countries.

Belgium

Foreign nationals who are employed in Belgium by a Belgian employer pursuant to a Belgian employment contract are subject to Belgian social security: their employer must pay social security contributions in Belgium.

Foreign nationals can also work in Belgium on secondment basis. This means that they remain employed by their employer in their home country and are temporarily sent to Belgium; the employment contract (or similar document, e.g., a signed offer letter) with the foreign employer remains applicable, and a separate secondment letter governs specific aspects of the secondment. In this scenario, the home country's social security can remain applicable provided an official certificate from a national social security office confirms this. Three situations can be distinguished:

- **Home country = European Economic Area member state (country that is part of the European Union (EU), Iceland, Liechtenstein, Norway), Switzerland, or the United Kingdom.** The social security authorities of the home country can issue an A1 form, confirming that their national social security continues to apply during the Belgian secondment up to, in principle, a maximum of 24 months.
- **Home country = third country with which Belgium has entered into a bilateral social security treaty (e.g., United States, Canada, Brazil, India, Japan, Korean Republic, Israel, Australia).** The home country's social security authorities can issue a "Certificate of Coverage" confirming that their national social security continues to apply during the Belgian secondment up to, in most cases, a maximum of five years.
- **Home country = third country with which Belgium has not entered into a bilateral social security treaty.** The foreign employer must obtain a statement from the Belgian national social security office confirming that Belgian social security does not apply during the secondment to Belgium. Based on the facts and documents presented (including a copy of the employment contract and secondment letter), the Belgian national social security office will decide whether there is still a direct relationship with the foreign employer during the secondment. A confirmation may be subject to change if, e.g., the Belgian national social security office concludes at a later stage that the employment conditions have changed.

Italy

Italy has reciprocal social security agreements with approximately 40 countries (including all EU countries, Canada, and the United States) whereby expatriates may remain under their home country's social security scheme for a limited period. Agreements normally apply for a maximum of two years and may usually be extended for up to five years. Under the rules of the agreements, an employee of a non-EU company who is transferred to Italy for up to five years can continue to pay social security contributions abroad. For some countries, the foreign company must pay in Italy the minimum social security charges (approximately 9 percent of the salary). The foreign company must register with the Social Security Agency and provide evidence that social security contributions continue to be paid abroad during the period of assignment. For countries with which no agreement is in place, the company must pay social security contributions in Italy through a social security representative.

For more information, see <https://www.inps.it/it/it/dettaglio-approfondimento.schede-informative.paesi-extra-ue-convenzionati.html> (in Italian with English translation available)

Mexico

Hiring foreign talent can bring diversity and expertise to a workforce, but it also comes with specific considerations and obligations for employers in Mexico. This article summarizes red flags employers should be aware of when hiring a foreigner and the essential obligation of registering them within Mexico's Social Security Institution (IMSS).

The employer must carefully review and verify all required documents, such as a valid work visa, passport, and academic or professional certificates. Before making a hiring decision, the employer must also verify if a foreigner has an expired or soon-to-expire work visa and take the necessary measures for the foreigner to have the document in force, because the lack of verification can result in legal consequences for the employer. For this reason, the employer must regularly check the validity of the work visa and ensure that the renewal process is initiated well in advance.

Failing to register a foreign employee with IMSS is a serious violation of labor regulations in Mexico. Employers must ensure prompt registration of the foreign worker with IMSS, provide access to health care, and comply with the legal requirements to protect both the employee and the employer.

Below is a list of red flags employers may face, and solutions to address those situations.

- **Red Flag:** Neglecting to provide health insurance coverage as required by Mexican law, which can lead to fines and legal issues.

Solution: Offer comprehensive health insurance that meets the standards set by IMSS, ensuring the foreign employee's well-being and the employer's compliance with regulations.

- **Red Flag:** Drafting incomplete or vague employment contracts, which may result in misunderstandings and legal disputes.

Solution: Create clear and comprehensive employment contracts, specifying terms of employment, responsibilities, compensation, and benefits, adhering to Mexican labor laws.

- **Red Flag:** Employers unfamiliar with Mexican labor laws and regulations, who may unintentionally violate them.

Solution: Stay informed about Mexican labor laws and regulations or consult legal experts to ensure compliance related to foreign workers, safeguarding the employer's reputation and legal standing.

Hiring foreign talent in Mexico can be a rewarding endeavor, but meticulous attention to detail is needed to navigate the legal complexities. By recognizing red flags and fulfilling obligations such as IMSS registration, employers can foster a positive and compliant working relationship with their foreign workforce, contributing to a successful and harmonious workplace.

Türkiye

Türkiye's immigration procedures, like most countries', are affected by local social security requirements. Issues related to social security law, employment law, and taxes must be considered by the Turkish employer sponsoring a work permit.

When a Turkish company sponsors a work permit, it must fully consider all options for complying with social security requirements. As in many European countries, Türkiye has many social security treaties whereby social security registration and payment of premiums of the work permit holder in the treaty country may satisfy the Turkish employer's social security obligations. So, for example, if a Spanish national is registered and their social security payments are paid in Spain by their employer there, and the foreign national is then transferred to a Türkiye-based branch of that entity, continued social security registration and payment of premiums in Spain during the assignment in Türkiye may satisfy the Turkish sponsor's social security obligations. This requires:

1. A social security treaty between Türkiye and the country where social security registration will continue and the premiums will continue to be paid;
2. Abiding by all restrictions within that treaty (e.g., not exceeding the maximum number of years this coverage may be used);
3. Timely filing and receiving approval for a Certificate of Coverage (CoC) in the country where the premiums are paid;
4. Notifying the Turkish Social Security Institute of the above;
5. If requested, notifying the Work Permit Directorate of the above.

If there is no social security treaty between Türkiye and the country where the premiums are being paid, offsetting the sponsor's obligations in this manner will not be possible. In such cases, the Turkish sponsor of the work permit must register and pay Turkish social security premiums on behalf of the foreigner regardless of whether the salary is to be paid in Türkiye or the home country.

Additionally, as the work permit is adjudicated by a directorate under the Ministry of Labor (MoL), any non-compliance perceived in the filing/renewal of the work permit or observed in an MoL inspection can and will be forwarded to the appropriate directorate within the MoL, such as the Social Security Institute, Employee Health and Safety, or National Health Care.

A violation of social security requirements by an employer of a work permit holder is a major reason for compliance penalties.

[Back to Top](#)

Country Updates

BULGARIA AND ROMANIA

The European Council has decided to include Bulgaria and Romania in the Schengen Area for maritime and air passengers, effective March 2024.

According to reports, the European Council has [unanimously approved](#) the addition of Bulgaria and Romania to the Schengen Area for maritime and air passengers. European Council President Charles Michel said the addition was "a long-awaited step for Romanian and Bulgarian citizens to enjoy easier freedom of movement with the [prospect] of land transport to come." Discussion of including entries via land continues into 2024.

The Schengen Area includes 26 countries. Twenty-two of those are European Union countries.

[Back to Top](#)

CANADA

The Québec Immigrant Investor Program (QIIP) was reopened on January 1, 2024.

The QIIP is the only investment-based immigration program in Canada that does not require the foreign investor to show proof of active business management in Canada at the time of submission of the application, including proof of starting or establishing a business or hiring staff or employees in Canada.

The Québec government seeks to maintain a high level of francophone economic immigration in the Province of Québec. Proof of French language capacity on filing the application accepted by Québec Immigration are a Certificate of Test Results or Diploma for a recognized French language test such as the TEFAQ, TEF Canada, TCF, TCFO, or DELF/DALF, confirming that the applicant has reached a B2 level or higher in oral French (speaking and listening) and/or written French (reading and writing).

At the time of submission, applicants must also demonstrate that they meet the following criteria:

- They are at least 18 years old;
- They have a high school diploma at minimum (equivalent to a secondary diploma in Québec);
- They have at least two years of management experience in the five-year period before submitting the application; and
- They have at least CAD \$2,000,000 of net assets (just under USD \$1,500,000), accompanied with proof that the net assets were accumulated legally.

In addition, interested applicants must sign and agree to an Investment Agreement with a Québec government-authorized financial intermediary. Once the application is approved, they must make a CAD \$1,000,000 five-year investment with IQ Immigrants Investisseurs Inc. (IQII), a Québec crown corporation. The investment is guaranteed and bears no interest. Applicants also must make a non-refundable financial contribution of CAD \$200,000 to the Québec government.

Once the applicants have fulfilled the financial requirements of the Québec Immigrant Investor Program, they will be directed to Immigration, Refugees and Citizenship Canada (IRCC) to apply for a three-year Canadian Work Permit. The principal applicant and their spouse, if applicable, must meet a residency requirement of at least 12 months in Québec within the first two years of being issued their Canadian Work Permits. The principal applicant must reside in Québec for a minimum of six months, while the remaining six months of residency required can be satisfied by either the principal applicant or their spouse. Once they have satisfied this residence requirement, the applicant and the spouse can then apply for a Certificat de Sélection du Québec (CSQ) from Québec and, once the CSQs are received, apply for Canadian permanent residence with IRCC.

There is no quota for the program or deadline for the submission of applications.

[Back to Top](#)

ITALY

The validity of residence permits for Ukrainians under temporary protection in Italy has been extended.

Under Law December 30, 2023, No. 213 (Budget Law), residence permits for temporary protection issued to Ukrainian nationals fleeing from the war that expired on December 31, 2023, will remain valid until December 31, 2024.

Also under the law, temporary protection residence permits can now be converted into work residence permits.

[Back to Top](#)

THE NETHERLANDS

This article discusses the principle of single nationality in Dutch law and the proportionality test, and how they work in practice.

One solid principle of Dutch nationality law is that dual nationality must be avoided. As a result of the Tjebbes ruling by the European Union (EU) Court of Justice, this principle is mitigated by a proportionality test for cases of automatic loss of Dutch nationality. A provision to this effect was introduced in the Netherlands Nationality Act (NNA) on April 1, 2022.

The most frequent cases of automatic loss of Dutch citizenship result from:

1. Voluntary acquisition of another nationality; or
2. Prolonged stay abroad in the possession of two (or more) nationalities.

There are exemptions. For example, acquiring a second nationality does not lead to loss of Dutch nationality if one is married to a person of the new nationality. Nevertheless, these cases occur frequently, and for many of the affected individuals, it is not so much the fact of losing Dutch nationality but rather the automatic character of the loss that strikes the most. It happens by act of law; a decision by a Dutch authority to revoke the nationality is not necessary. The victim often only finds out that they are not Dutch anymore when they try to renew their Dutch passport.

The Tjebbes Ruling

As of April 1, 2022, a new provision was included in the NNA following the Tjebbes ruling by the EU Court of Justice of March 12, 2019. Through a new subcategory of the "option procedure," this group of persons can request to regain their Dutch citizenship. The option procedure is, next to naturalization, a way to request Dutch nationality, in particular for persons of Dutch descent and former Dutch nationals. By submitting an option request based on the new provision, a proportionality test can be requested. The test examines whether the loss of Dutch citizenship was in effect disproportionate.

This criterion was applied in the Tjebbes ruling, in which the EU Court mentioned several circumstances that may be weighed in the proportionality test, mainly related to the person's rights of free movement and residence in the EU territory and whether these have been lost due to the loss of nationality.

Nationality law is increasingly influenced by EU law. This has softened somewhat the strictness of the Dutch law in avoiding dual nationality. Former Dutch nationals now have a formal remedy against disproportionality of the loss of their nationality.

In practice, the standard to meet is high. Case law will determine how effective this proportionality test will turn out to be.

[Back to Top](#)

RUSSIA

New forms and procedures for applications and notifications have been introduced.

As of January 1, 2024, changes have been introduced in the forms for applications and notifications submitted to the Ministry of Internal Affairs regarding foreign employees, as well as the procedure for submitting notifications.

For electronic submissions of notifications regarding the conclusion and termination of an employment agreement, and quarterly salary notifications, either a simple electronic signature or an enhanced unqualified electronic signature should now be used (previously an enhanced qualified electronic signature was required).

New forms for the following documents must now be used:

- Notification on fulfillment by employers and customers of work (services) of obligation to pay salary (remuneration) to a foreign employee—highly qualified specialist (HQS) (quarterly salary notification);
- Notification on conclusion of an employment agreement or a civil contract with a foreign national;
- Notification on termination of an employment agreement or a civil contract with a foreign national;
- Application form for work permit issuance;
- Application form for work permit renewal;
- Application form for the issuance of a duplicate work permit;
- Application form for the work permit amendment;
- Application form of a foreign national for his involvement as an HQS.
- Notification on employment of a foreign national by an organization providing employment services for foreign citizens in Russia.

[Back to Top](#)

UNITED KINGDOM

There will be an imminent increase to the [Immigration Health Surcharge \(IHS\)](#). Also, the Home Secretary has unveiled a plan to cut net migration, among other developments.

The relevant legislation to increase the IHS will come into force February 6, 2024. Below are highlights:

- The increase will apply to visa applications submitted on or after February 6, 2024.
- The IHS will increase from £624 to £1,035 per year of the visa for most adult visa applicants.
- The discounted rate (for students, Youth Mobility Scheme applicants, and those under 18) will increase from £470 to £776.

Home Secretary Plans to Cut Net Migration

In December 2023, the Home Secretary [announced](#) some significant changes to the UK immigration system. Full details are unknown, but here is a summary of selected changes:

Skilled Worker Salary Threshold Increase

The usual Skilled Worker general salary threshold will increase in spring 2024 from £26,200 to £38,700. The exact start date is unknown. To sponsor a Skilled Worker visa, in general, the employer would pay the higher of the general salary threshold, the going rate for the role, or £10.75 per hour. Health and Care Worker roles, and roles with national pay scales (such as teachers), are unaffected by this change. Also, if the employer normally pays above £38,700, these changes should not affect future Skilled Worker applications.

Only 15 of the 225 occupations currently eligible for Skilled Worker sponsorship (as shown in [table 1 here](#)) have minimum going rate salary thresholds over the new £38,700 threshold. Roles with a going rate above £38,700 include, for example, IT project and program managers; business and financial project management professionals; financial managers and directors; marketing and sales directors; legal professionals not elsewhere classified; and chief executives and senior officials.

Although employers in sectors where pay is generally higher will not feel the effects of these changes, those who operate graduate schemes should review their salary levels for their 2024 intake if this is likely to include graduates of United Kingdom (UK) universities.

Shortage Occupation List Changes

Some employers sponsor roles on the [shortage occupation list](#). This has meant the UK Visas and Immigration (UKVI) application fee is slightly lower and the salary threshold is slightly reduced because it needs to be the higher of £20,960; 80% of the going rate for the role; or £10.75 per hour.

The government said that as of spring 2024, it will scrap the 20 percent discount on the going rate. The government has asked the Migration Advisory Committee (MAC) to review the shortage occupation list again with a view toward reducing the number of roles on the list. It is unclear whether the £20,960 threshold will increase, such as to £30,960 as above for new entrants.

Changes for Sponsoring Care Workers – No Family Members

When someone is sponsored to work in a [qualifying](#) health profession, the application will be considered for a Health and Care Worker visa, rather than Skilled Worker. This means that the Immigration Health Surcharge does not need to be paid, and there is a lower UKVI application fee.

The government said that as of spring 2024 when a care worker or senior care worker is sponsored in a Health and Care Worker application, they cannot bring any dependent family members with them to the UK. This change will be significant for care homes and other health care providers. A further change is that care providers in England will only be able to sponsor workers if they are undertaking activities regulated by the Care Quality Commission.

Graduate Visa Route to be Reviewed

The Graduate route allows someone who has completed a degree at a UK university to apply for a two-year visa (or three years if they have completed a PhD). The government has asked the MAC to review this route—potentially with a view toward restricting or even abolishing it. Aside from removing it

altogether, changes could include, for example, limiting it to graduates in certain subjects (such as science, engineering, and mathematics) and/or reducing the length of the visa.

What Employers Should Do Now

Employers who regularly sponsor Skilled Workers and run graduate programs should consider:

- Reviewing existing graduate schemes for 2024 and seeing whether the salaries on offer will meet the new entrant minimum salary threshold, which could be increased to £30,960;
- For those who must delay Skilled Worker sponsorship of those joining graduate programs, considering asking prospective candidates to apply for Graduate visas when they graduate in 2024, subject to any changes to the Graduate route; and
- Reviewing overall pay scales to ensure that these are aligned with the minimum salary requirements to avoid discrimination claims from existing employees on lower salaries; and

The Home Office has published a [fact sheet](#) with more information about its plan to reduce net migration by increasing the Skilled Worker threshold and making other changes.

There have also been some other developments. The key points are as follows:

Skilled Worker Visas

The £38,700 general salary threshold to be introduced in spring 2024 will not apply to existing Skilled Worker visa holders. The fact sheet does not say anything about this, but on December 20, 2023, the Minister for Legal Migration and Delivery confirmed it in an [answer](#) to a written parliamentary question.

The going rates (minimum salaries for different occupation codes) will be increased in spring 2024 to the median salary for each occupation code. Existing Skilled Worker visa holders will be exempt from the new going rates. Their salary will need to be at or above the 25th percentile (not the median) for the relevant occupation code when they apply to change employment, extend their stay, or settle.

Other Changes

Aside from the Home Secretary's announcement, there have been some other developments:

Business visitor rule changes in the Autumn Statement. The [Autumn Statement](#) included a reference to simplifying and expanding the UK's business visitor rules as of January 2024 to:

- Broaden and clarify the activities that can be undertaken in an intra-corporate setting;
- Offer wider coverage for the legal services sector; and
- Simplify arrangements for those undertaking paid engagements.

During 2024, the government will also explore whether further improvements can be made to the business visitor rules.

Illegal working fines increase start date confirmed. The government [previously announced](#) a tripling of civil penalties (fines) for employers that employ someone who does not have permission to work in the UK. This change came into force on January 22, 2024. The fine for a first breach by a UK employer has increased from £15,000 to £45,000 per worker. For repeat breaches, the fine has increased from £20,000 to £60,000 per worker.

Relaxation of Business Visitor Rules

The Home Office will relax the rules for some business visitors. Those changes were formally announced in a [statement of changes to the Immigration Rules](#) and took effect January 31, 2024.

Expansion of the Youth Mobility Scheme

The statement of changes also includes further expansion of the [Youth Mobility Scheme](#). Since June 29, 2023, New Zealanders applying for the Youth Mobility Scheme are eligible if they are aged 18 to 35 (it is normally 18 to 30) and can have a visa for three years (instead of the normal two-years).

As of January 31, 2024, the same rules apply for Australian and Canadian nationals. The statement of changes means that as of that date, Republic of Korea nationals also have the benefit of the expanded 18-to-35 age range, and Uruguay and Andorra are added to the list of eligible Youth Mobility Scheme countries.

[Back to Top](#)

New Publications and Items of Interest

[Kingsley Napley](#) has released [FAQs: The Transition to eVisas in 2024](#). The FAQs note that throughout 2024, the United Kingdom's Home Office plans to transition everyone who has a physical immigration document to an [online immigration status, also known as an eVisa](#).

Alliance of Business Immigration Lawyers:

- ABIL is available on X (formerly Twitter): [@ABILImmigration](#)
- Recent ABIL member blogs are at <http://www.abilblog.com/>

[Back to Top](#)

ABIL Member/Firm News

Several ABIL members spoke at the Practising Law Institute's [56th Annual Immigration and Naturalization Institute](#) conference on November 28-29, 2023:

- USCIS Update and Processing Trends – Practical Tips: [Marketa Lindt](#)
- Permanent Labor Certification Program (PERM) – Current Adjudication Trends: [Vincent Lau](#), [Bob White](#) (Masada Funai).
- Ethical Issues for the Immigration Practitioner: [Cyrus Mehta](#)
- Supreme Court Update and Analysis: Immigration: [Ira Kurzban](#) (Kurzban Kurzban Tetzeli and Pratt P.A.)

[Charles Foster](#), of [Foster LLP](#), recently discussed federal and state immigration policies at the U.S. southern border on C-SPAN's Washington Journal [broadcast](#).

[Fredrikson's Immigration Group](#) will host a discussion, [New Developments and Trends in Immigration Law and Preparing for the Upcoming H-1B Lottery Season](#), on Thursday, February 15, 2024, at 12 p.m. CT on preparing for the upcoming H-1B lottery season and new developments and trends in business immigration. Presenters will discuss FY 2025 H-1B cap season preparation, the status of proposed immigration legislation and regulations, and agency processing and adjudication updates.

[Klasko Immigration Law Partners, LLP](#), has published a new blog post: [USCIS to Launch Organizational Accounts Mid-February](#).

[Klasko Immigration Law Partners](#) announced new leadership changes at the firm. Starting January 1, 2024, the following leadership positions will be effective:

- [H. Ronald Klasko](#), Chairman. Mr. Klasko will continue to concentrate on the firm's strategic growth and vision.
- [William \(Bill\) Stock](#), Managing Partner. Mr. Stock will continue to enhance the firm's operations across all office locations.
- [Elise Fialkowski](#), Corporate Team Co-Chair
- [Michele Madera](#), Corporate Team Co-Chair. Together, Ms. Fialkowski and Ms. Madera will lead the Corporate Immigration Practice, strengthening existing client relationships and offerings for new clients.
- [Timothy \(Tim\) D'Arduini](#), Partner-In-Charge of DC Office. Mr. D'Arduini will lead the opening of the firm's new office and expand its footprint into the D.C. metro area.

[Charles Kuck](#) was quoted by the *Atlanta Journal-Constitution* in [Border Politics Are Worse for Joe Biden Than Anyone Else](#). He discussed the reasons Biden was willing to work with Republicans on immigration and said the bill they crafted over the last four months could have made a meaningful difference: "There's a deterrence that comes from declaring an emergency, limiting the applications at ports of entry, and automatically deporting everybody else who is not at a port of entry. What's missing now is the deterrence factor."

[Mr. Kuck](#) was quoted by the EB-5 Investors blog in [How EB-5 Investors Must Prepare for Rejection in Their Application Process](#). He said, "The reality is that cases are denied and/or rejected for various reasons and no lawyer can guarantee success on a case. This is especially true as it relates to the source of funds (the main reasons [EB-5 investor] cases are denied)." Noting that failing to prove the legality of the EB-5 capital and project-related failures are the main reasons why USCIS rejects I-526 filings, Mr. Kuck said, "The most common reasons you will see is either a source of funds issue or a project filing that was incomplete or did not have the proper supporting documents such as permits, capital stack explanations, etc." He said that a rejected I-526 "can be refiled but will put you back at the end of the line, but a rejected I-526 with a rejected I-485 will cost you your status and your work authorization. There is no appeal to a court of a rejected I-526, at least not one that will be resolved quickly. Do everything you possibly can to make sure you can trace the legality of the money you are investing." Mr. Kuck also recommends that his clients "document every aspect of the case and check in with your attorney every six months after entry as a conditional permanent resident to make sure you are on track for a successful removal of conditions."

[Mr. Kuck](#) joined the [Politically Georgia](#) radio show to discuss border and immigration legislation being debated, including the Senate bill and other political issues.

[Cyrus Mehta](#) has authored a new blog post: [CSPA Disharmony: USCIS Allows Child's Age To Be Protected Under the Date for Filing While DOS Allows Child's Age To Be Protected Under the Final Action Date](#).

[Mr. Mehta](#) and [Kaitlyn Box](#) have co-authored several new blog posts: [USCIS Policy Manual Recognizes Dual Intent for Foreign Students as Expressed in Matter of Hosseinpour](#) and [Personal Conflicts of Interest Arising Out of the Israel-Hamas War](#) and [Musings on Brand X As a Force for Good Ahead of the Supreme Court Ruling on Chevron Deference](#).

[Cyrus Mehta](#) and [Jessica Paszko](#) co-authored several new blog posts: [2023 In Perspective From The Insightful Immigration Blog](#) and [Scripps v. Jaddou Offers Nuanced Interpretation of Final Merits Determination in Reversal of EB-1B Denial for Outstanding Researcher](#).

[Angelo Paparelli](#) has authored a new blog post: [Worrisome Waiting: How Will USCIS "Modernize" the H-1B Visa Program?](#)

[Siskind Susser, P.C.](#), announced that "Gen," a generative artificial intelligence project on which colleagues at the firm have been working, is launching on January 16, 2024. A collaboration between [Visalaw.ai](#) and the American Immigration Lawyers Association, Gen is powered by OpenAI's GPT4 large language model. According to Siskind Susser, it has 100,000+ pages of immigration law documents, treatises, and data sets and can answer most immigration law questions, and provide citations and links to the documents it uses to create the answers. Unlike ChatGPT, the answers are derived only from Siskind Susser's law library, and lawyers can check the original source material to ensure the accuracy of the answers provided. Gen also allows lawyers to upload their own documents. Aside from answering questions, Gen will draft petition letters, memos, RFE responses, checklists, questionnaire forms, and many other kinds of documents. It also can summarize and translate documents. To join the waiting list for Gen, go to www.visalaw.ai.

[Siskind Susser, P.C.](#), announced that [Jason Susser](#) was promoted to Partner. Siskind Susser said that Mr. Susser is a leader in managing immigration matters for founders of technology startup companies. He authored the book, "Immigration for Startups: A Guide for Founders," and is an immigration advisor to several of the country's top business schools and startup accelerators. He has become a "go-to immigration lawyer for entrepreneurs in Silicon Valley." Mr. Susser is also an entrepreneur and is a founder of Visalaw Ventures, a technology company spun off from Siskind Susser.

[WR Immigration](#) has posted several new blog entries: [USCIS Increases H-1B Premium Processing Fee to \\$2,805, Alongside Fee Increases for Other Case Types](#); [What Happened With the Form I-9? End-of-Year Recap](#); and [Department of State Announces H-1B Visa Renewal Pilot Program in the U.S.](#)

[WR Immigration](#) presented [Chatting with Charlie: January 2024 Visa Bulletin Update](#) on December 19, 2023. ET. The webinar provided a sneak peek of what's in store for 2024 with an evaluation of the January 2024 Visa Bulletin.

[Stephen Yale-Loehr](#) was quoted by the *Economist* in [America's Immigration Policies Are Failing: A New Surge of Migration is Straining a Broken System and Might Cost Joe Biden the Election](#) (available by subscription). The article notes that the immense wait for a court hearing, low chance of detention, and the prospect of work in the United States encourage migrants with a weak claim to cross the border and claim asylum. Prioritizing the most recent arrivals' cases would reduce this incentive, Mr. Yale-Loehr said.

[Mr. Yale-Loehr](#) was quoted by the *Boston Globe* in [Biden Has Been Giving Millions of Migrants False Hope; Desperate People Have Been Allowed Into the Country While They Apply for the Right to Stay, But Such Permission is Very Difficult to Obtain](#). He said that many migrants may "lose [their case for] asylum, either because they don't have an attorney to represent them or they don't have a strong case on the merits." Coming from countries with difficult political circumstances isn't enough to support an asylum claim, the article notes—asylum is granted based on persecution due to race, religion, nationality, membership in a particular social group, or political opinion. "It's very hard to show that the persecution is well-founded based on one of those five characteristics," he explained. In the meantime, the article suggests, a large number of migrants live in uncertainty. "That's bad for our legal system, it's bad for our economy, and it's also bad for the migrants themselves," Mr. Yale-Loehr said. The article also quotes

from a recent paper Mr. Yale-Loehr co-authored that calls for expanding other legal pathways to the United States for migrants beyond asylum. "We cannot cut off all avenues to asylum, but we also cannot continue to accept applications from all who arrive, especially those with highly unlikely claims," the paper says. Mr. Yale-Loehr's white paper, [Immigration Reform: A Path Forward](#), was featured in an eCornell podcast discussion, [Three Ways to Reform Immigration Now](#).

Mr. Yale-Loehr was quoted by the *Chronicle of Higher Education* in [Why a Court Challenge to an Obscure Fisheries Regulation Could Upend Student Visa Policy](#) (available by registration). The article discusses a pending Supreme Court case that may have implications for international students and institutions of higher education. He said, "Colleges and universities may think cases involving fisheries regulation have nothing to do with them, but what the Court decides will affect them one way or another." He said the Supreme Court's decision could have an impact on international-student policy in several ways: it could put any current legal challenges on hold until the fisheries cases are decided; it could change the federal government's approach to rulemaking in progress, such as updates to the skilled worker visa program that affect both international students and foreign workers hired by colleges and universities; and if a new standard were applied retroactively, that would allow past policy disputes, like those affecting optional practical training, to be revisited in the courts.

Mr. Yale-Loehr was quoted by the *New York Times* in [Lawyer and Son Ensnared Hundreds of Immigrants in Fraud Scheme](#) (available by subscription). The article discusses a case in which, according to prosecutors, a lawyer and his son advised clients seeking green cards to sign petitions under the Violence Against Women Act (VAWA), which enables undocumented immigrants who are victims of abuse to gain lawful permanent residence in the United States. Mr. Yale-Loehr said he had never heard of someone using VAWA to conduct immigration fraud, but such fraud can be hard to root out. "If it sounds too good to be true, it probably is. If someone says, 'I can guarantee you a green card if you just sign here,' that's a sure sign that something is funny."

Mr. Yale-Loehr was quoted by *CBS News* in [Biden Administration Has Admitted More Than 1 Million Migrants Into U.S. Under Parole Policy Congress is Considering Restricting](#). If Congress restricts parole, it would curtail a key presidential power, he said. "Every administration, Republican and Democratic, has used parole because in an emergency, like the Mariel boatlift or the Hungarian Revolution, you want to have something that allows you to bring in large groups of people to get them out of harm's way. Every administration wants to have maximum flexibility and anything that the Republicans do to require restrictions on parole will hamper any future administration."

Mr. Yale-Loehr was quoted by the *Daily Caller* in [Biden And Abbott Have Set the Stage for One of the Biggest State-Versus-Feds Immigration Fights in More Than a Decade](#). The article discusses Texas's challenge to the role historically played by the federal government in immigration law enforcement and a related complaint filed by the Biden administration in the Supreme Court accusing Texas of overstepping its authority with anti-immigration measures. The Supreme Court previously ruled in favor of the federal government in an Arizona case, but it's not clear whether the same will be true in the Texas case. "The question is now that we've got three different justices on the Supreme Court than were on the court on the Arizona case, will the current Supreme Court rule the same way? I suspect that Texas is hoping that with more conservative justices on the Supreme Court now, they might be able to come out with a different result than Arizona," Mr. Yale-Loehr said.

Mr. Yale-Loehr announced a webinar, [Immigration Slavery in America: A True Story of Forced Labor and Liberation](#), to be held Tuesday, February 6, 2024, at 2 p.m. ET. Mr. Yale-Loehr will moderate a discussion with author Saket Soni and panelists about Mr. Soni's book, [The Great Escape](#). The book tells the story of a group of immigrants trapped in the largest human trafficking scheme in modern U.S. history. The webinar is co-sponsored by the [Cornell Migrations Initiative](#) and Cornell Law School's [Migration and Human Rights Program](#).

Mr. Yale-Loehr co-authored [Is Chevron Dead? Thoughts After Oral Arguments in Relentless, Inc. and Loper Bright Enterprises](#), published by *Think Immigration*.

Stephen Yale-Loehr was quoted by *PolitiFact* in Ask PolitiFact: What Branch of Government is 'Really' Responsible for the crisis at the border? He said, "Each of the three branches of government has a role to play in immigration law and policy, and each has failed. The result: a quagmire, where nothing gets resolved and matters get worse every day. Every branch of government is to blame." For example, the courts have ruled both with and against the executive branch under both Republican and Democratic administrations, Mr. Yale-Loehr said. "Thus, people don't know how courts will rule, which reduces predictability. Moreover, litigation takes time, and is not a good way to manage immigration law and policy." <https://www.politifact.com/article/2024/jan/17/ask-politifact-what-branch-of-government-is-really/>

Mr. Yale-Loehr was quoted by *the Austin American-Statesman* in [Texas Democrats in Congress Say SB4 is Unconstitutional. Here's What They're Doing About It](#) [available by subscription]. "They did it in Arizona," Mr. Yale-Loehr said, referring to a 2012 Supreme Court case in which the Obama administration challenged a similar Arizona law. "[The Arizona law] was unconstitutional. It violated the federal government's obligation to control immigration."

Mr. Yale-Loehr was quoted by *Newsday* in [Migrant Crisis: Politics Diminishes Likely Resolution, Analysts Say](#) [available by subscription].

Mr. Yale-Loehr was quoted by *Agence France-Presse* in [The Photo Intended to Prove That \[Ukrainian President Volodymyr\] Zelensky Received American Citizenship is a Digitally Forged Document](#) (in Polish, with English translation available). He said, "A real naturalization certificate contains the person's signature next to their photo. The certificate in the photo does not contain this. The alleged certificate also does not contain Zelensky's signature at the top, but it should." Mr. Yale-Loehr also noted that obtaining U.S. citizenship is a long process: "No person can simply obtain a certificate of naturalization. He must first go through the green card process, which means he must qualify for a green card based on asylum or sponsorship by an employer or close family member. This can take years. Even after receiving a green card, he has to wait 3-5 years before he can apply for naturalization." In addition, Mr. Yale-Loehr said, he must have been physically present in the United States for at least three months immediately before applying for naturalization. "Zelensky did not meet these requirements," he noted.

Mr. Yale-Loehr co-authored an op-ed in the *Seattle Times*, [Outdated Green Card Laws Hurt Workers From India](#).

Mr. Yale-Loehr's white paper, [Immigration Reform: A Path Forward](#), was featured in an eCornell podcast discussion, [Three Ways to Reform Immigration Now](#). A new podcast by the Bipartisan Policy Center also featured discussion of the white paper. Mr. Yale-Loehr and his co-authors discussed their ideas for reforms to border management and asylum policy, worker visa programs, and DREAMer protections. While large, comprehensive immigration reform is unlikely to move forward in Congress soon, certain targeted reforms are both urgently needed and potentially achievable, they say.

Mr. Yale-Loehr was quoted by *Bloomberg Law* in [Biden's Immigration Agenda Faces Uncertain Fate in U.S. Courts](#). He said, "Federal courts are becoming the arbiters of immigration policy. That makes it very difficult for any administration to manage immigration because no matter what they try to do administratively, someone will sue them in federal court."

Mr. Yale-Loehr was quoted by *NY1.com* in [U.S. Senators Search for Border Policy Deal, as Experts Downplay Potential Short-Term Impact on NY's Migrant Influx](#). He warned that detaining and quickly expelling migrants before asylum screenings would not solve the influx problem for cities like New York, which is grappling with a surge of migrants. "Probably not, because the crisis is larger than any one piece

of legislation." Mr. Yale-Loehr likened the proposed policy changes in Congress to a bandage over a gaping wound and said broader reforms are needed. He suggested that Congress consider ideas like making more work visas available. "We need to have a balanced approach. Yes, we need to have deterrence so that only those people who deserve to be in the United States can come. But we also need to find more legal pathways for people to enter legally in the United States, so that they are not tempted to enter illegally," he said.

Mr. Yale-Loehr was quoted by *CBS News* in [Texas Immigration Law Known as SB4, Allowing State to Arrest Migrants, Signed by Gov. Greg Abbott](#). He called SB4 "unprecedented," noting that the Texas law is more sweeping in nature than SB 1070, a controversial 2010 Arizona law that penalized unauthorized immigrants in various ways, including by empowering state police to stop those believed to be in the country unlawfully. The U.S. Supreme Court partially struck down that Arizona law in 2012, concluding that states could not undermine federal immigration law. "It's by far the most anti-immigrant bill that I have seen," Mr. Yale-Loehr said of SB4.

Mr. Yale-Loehr was quoted by the *Cornell Chronicle* in [Research Team Led by Dr. Gunisha Kaur Wins 2023 National Academy of Medicine Catalyst Prize](#). The article discusses Dr. Kaur's winning research project, [Digital Solutions to Reduce Maternal Morbidity and Mortality in Refugee Women](#), which aims to clinically train and validate a digital refugee health system. Dr. Kaur collaborated with Mr. Yale-Loehr and another professor on the project. "Many refugees and asylum seekers worry that if they seek medical help while pregnant, they might be deported," Mr. Yale-Loehr said. "This new research builds on prior work Dr. Kaur and I did dispelling that concern. Our website [Rights4Health](#) informs immigrants about their eligibility for public benefits."

Mr. Yale-Loehr was quoted by *PolitiFact* in [Ask PolitiFact: Can Joe Biden 'Shut Down the Border' on His Own?](#) "Closing the border arguably would violate" domestic and international asylum laws," he said.

Mr. Yale-Loehr was quoted by the *Los Angeles Times* in [A Decade-Old Scalia Dissent Is Now Driving the Texas-Biden Dispute Over Illegal Immigration](#). Referring to new Texas law SB4, which the article notes "would authorize Texas police and state judges to arrest, detain and deport migrants who are suspected of crossing the border illegally," Mr. Yale-Loehr said, "This is a frontal assault on the federal primacy in immigration enforcement, and it's definitely going to the Supreme Court."

Mr. Yale-Loehr was quoted by the *Chicago Tribune* in [No Help: The Federal Immigration Deal Won't Fix the Migrant Crisis in Chicago—and It's Unlikely to Pass Congress Anyway](#). "When migrants enter the United States at the border, they have 'credible fear interviews' lasting up to 10 to 20 minutes with immigration authorities," he said. Mr. Yale-Loehr also noted that proposed legislation recommends raising the bar for asylum eligibility, which means there could be more expedited removals after migrants' credible fear interviews. "That may reduce the number of asylum-seekers in Chicago because they're deemed not even to be eligible to apply for asylum at the border." He also noted that migrants don't often understand nuanced changes in immigration policy: "People who are fleeing likely don't read the *New York Times*. They are going to come no matter what the law is or how Congress changes."

[Back to Top](#)

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 400 member lawyers and their more than 1,000 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 <https://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.

Disclaimer/Reminder

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

Copyright © 2024 Alliance of Business Immigration Lawyers. All rights reserved.

Back to Top