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LATIN AMERICA: IMMIGRATION TRENDS Q1 2021

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1. COVID-19 regional update

Through the first quarter of 2021, Latin American countries slowly continue to demonstrate efforts to attract foreign investment into the region. But in response to the fluctuating epidemiological situation, many governments have maintained or reintroduced declarations of emergency, partial entry bans, entry/health/quarantine requirements and limited government operations. These are key examples of the common policies and practices.

Trend	Examples
Countries maintaining or re-imposing entry restrictions	<ul style="list-style-type: none"> ▶ Argentina, Bolivia, Brazil, Colombia, Guatemala, Honduras, Jamaica, Panama, Peru - entry ban for travelers from the United Kingdom and/or South Africa ▶ Argentina, Chile, Trinidad and Tobago, Uruguay - with limited exceptions, entry ban for non-resident foreign nationals
Countries extending or re-imposing health-related entry requirements	<ul style="list-style-type: none"> ▶ Most countries in region require travelers to: <ul style="list-style-type: none"> — Submit a pre-departure registration/affidavit; travelers to most Caribbean countries can only enter with a government-issued pre-approval document — Take a COVID-19 test prior to departure; some also upon arrival — Quarantine, especially those arriving from or who have been in Brazil, the United Kingdom and/or Europe; the length varies by country and circumstances ▶ In Argentina, Aruba, Bahamas, Cayman Islands, Chile, Costa Rica, Paraguay, Uruguay: proof of travel/health insurance for foreign national entrants
In-country government processing mostly resuming	Though government processing is resuming with safety restrictions such as pre-scheduled appointments, some consular and in-person services remain suspended throughout the region

What's next?

Restrictive COVID-19 containment policies are likely to continue throughout the year in response to fluctuating health data, balanced by eased policies aimed at improving the economic landscape impacted by COVID-19 (see other trends).

Given the extremely high unemployment rates in the region and growing concerns of a higher influx of migrants into some countries after COVID-19 travel restrictions subside, we may see some governments slowly shift some immigration policies toward the protection of the local workforce. This has already happened in Bermuda, Antigua and Barbuda, and Jamaica, where governments have temporarily stopped issuing work permits for certain categories of foreign nationals or have increased work permit application scrutiny; and in Costa Rica, where the government has temporarily stopped issuing initial work permits for domestic workers.

Under the new immigration law in Chile – expected to be implemented in 2022 – foreign nationals who enter Chile as tourists will no longer be able to change residence status incountry, making it harder for foreign nationals to enter on a tourist visa and remain in Chile without obtaining work and residence documents.

2. Competition for talent continues in the region, though at a slower pace than pre-COVID-19

In the last quarter of 2020 into the first quarter of 2021, Latin American countries continued to revise their foreign worker concessions to preserve foreign talent during the pandemic. Such foreign nationals were favored over those seeking entry:

- ▶ In **Costa Rica**, when immigration department closures were extended past the originally planned expiration date in October 2020, the government extended concessions, including automatic extensions of the validity of identity cards, through January 2021, and extensions of the allowable period of stay for tourists. During entry bans, it exceptionally authorized the entry of certain foreign nationals sponsored by a Costa Rican company, whose entry was required to ensure business continuity in the country
- ▶ **Costa Rica** allows certain managers, executives and specialized technical personnel of accredited companies to apply for entry visas, though entry visa processing and issuance at all Costa Rican consular posts is still suspended
- ▶ **Panama** is exceptionally allowing foreign nationals applying for a Multinational Company Visa to register with immigration authorities while abroad (where this typically required in-country presence) and apply for the visa without submitting several documents which must typically be signed in Panama
- ▶ **Mexico** suspended deadlines until further notice for all immigration-related processes for temporary and permanent residents
- ▶ **Argentina** is continuing the extension of the validity of expired residence permits and work authorization permits

With the economic crisis generated by the pandemic in Latin America, countries in the region also continue to develop more streamlined immigration policies and modernized programs aimed at economic recovery:

- ▶ **Brazil** implemented offshore visa reforms including relaxed eligibility criteria, which now includes professionals on board a foreign vessel or platform (previously only full-time crew members were eligible)
- ▶ In **Panama**, the EMMA special regime for multinational companies in the manufacturing industry has been implemented, adding a fast-track visa for eligible foreign employees
- ▶ **Ecuador's** recently reformed immigration law now allows more foreign nationals to use the temporary resident visa to work, while maintaining a residence and/or working abroad
- ▶ **Mexico's** National Immigration Institute implemented a "same-day residence renewal" process in some of its branches for certain foreign nationals applying in person
- ▶ A proposed law in **Costa Rica** in its final stage of approval seeks to introduce improvements to the Temporary Residence category for foreign retirees, investors and those who live off income from their investments. The changes include a reduced minimum investment for the investor category and a streamlined application process that would reduce processing times, to boost economic recovery during the COVID-19 pandemic

However, growth in this regard has been slow. Though government offices have been gradually resuming operations over the last several months, backlogs and delays persist: in **Costa Rica**, a five-month delay for accredited-company initial residence permit application appointments at the General Immigration Directorate; in **Brazil**, month-long delays for registration appointments at the Federal Police, up from two weeks in pre-pandemic times; in **Chile**, heavy delays in visa registration at the International Police and issuance of visa registration certificates are preventing foreign nationals from obtaining their taxpayer number and National Identity Card; and in **Colombia**, in some cases, over five weeks for visa approval and publication, instead of the usual one to two weeks.

What's next?

These delays are likely to continue throughout 2021. With government resources limited, continued emergency responses and recovery from government closures, the application backlogs and the regularization of foreign nationals may slow down new policy decisions aimed at attracting foreign talent.

Once governments resume standard processing functions and priorities shift away from COVID-19 backlog recovery, more streamlining efforts can be expected to minimize the administrative impact on the government and attract foreign investment and talent into the countries.



3. Continuation of digital transformation

Pressed by the COVID-19 crisis, growth of digitalization in the immigration process continues to be observed in the region during the last two quarters:

- ▶ **Costa Rica** launched a permanent electronic platform that allows foreign nationals to file certain immigration applications and submit electronic copies of their application documents without a personal appearance
- ▶ **Brazil** introduced an online submission system for foreign nationals applying for citizenship
- ▶ **Peru** expanded its online visa application system to include in-country change of status applications and resident visa renewals, among other processes; and implemented an online system (SIVICE – initially introduced in 2018) for filing initial, amended or renewed work contracts to the Ministry of Labor, a mandatory step in the Resident Worker Visa application process
- ▶ In **Chile**, foreign nationals can now complete their visa registration online, and the International Police Department continues to develop their online system to permanently include other services
- ▶ In **Guatemala**, individuals must now use the Ministry of Foreign Affairs' newly created electronic apostille system to request the apostille of public documents issued in Guatemala, instead of making the request in person

What's next?

In 2021, based on government announcements for future policy adoptions, we expect that more countries will adopt and expand their digitization processes. Key plans this year include:

- ▶ **Panama's** Ministry of Labor is prioritizing the development of its electronic platform to include issuance of digital work permit cards (which may eventually develop into QR codes)
- ▶ **Chile's** government expects that by 2022, 80% of its immigration processes will be completely digital
- ▶ **Mexico's** National Immigration Institute is expected to introduce an online appointment and registration system for immigration processes, as part of its 2019-2024 strategic plan

Throughout these transitions, employers should expect short-term delays and frequent process adjustments as governments fine tune their digital systems. In many countries, outdated technological infrastructure systems and change management challenges, especially during a crisis recovery period, may limit process efficiency developments and could cause disruptions over the next several years.

Online applications and processes are not expected to completely replace mandatory, in-person appearances by foreign nationals, at least not in the short term, as tracking methods for foreign populations remain a work-in-progress for many Latin American governments.

REMOTE WORK VISAS

With the unprecedented need for flexibility in work locations to keep business operations afloat during the pandemic and the significant drop in tourism due to COVID-19 travel restrictions, remote work has been a growing trend as countries seek to attract long-term visitors to increase local economic activity.

Within the last year, at least 14 countries have created special visas or programs for digital nomads: **Antigua and Barbuda, the Bahamas, Barbados, Bermuda, the Cayman Islands, Croatia, Curacao, Dominica, Estonia, Georgia, Iceland, Mauritius, Montserrat and the United Arab Emirates.** Among the common unique characteristics of most of these visas are that they do not require company sponsorship (where available), rely on a streamlined digital application process, and do not allow gainful employment in the host country; thereby protecting the local workforce.

In **Colombia**, a recently-approved Entrepreneurship Law creates a special visa for digital nomads and remote entrepreneurs to reside in and work from Colombia. While in early stages of development, the law is designed to promote Colombia as a center of remote work.

In **Costa Rica**, A proposed law currently under legislative review seeks to create a Short-term Visa for Remote Workers or Service Providers. It would allow foreign nationals who are employed outside Costa Rica or who provide services to persons or entities outside Costa Rica to reside and work remotely from Costa Rica for up to one year (renewable for one additional year) without local employer sponsorship. Key elements are that the foreign national must have a stable average income of at least USD 3,000 (or USD 4,000 if accompanied by dependents) and hold private medical insurance; a streamlined digital application process; and tax incentives. The law is expected to be approved in Q2 2021.

Important warnings on remote work:

- ▶ From an immigration perspective, whether a work permit is required in a country depends on the type of activities performed, not necessarily on the duration of the activities. Therefore, an individual analysis of a foreign national's circumstances is a key part of determining whether certain remote work government policies apply to an individual.
- ▶ Until clear national policies that address these and other important open questions are established, employers should be cautious of these programs as opposed to other, more well-established work authorization schemes. Employers should work with a trusted immigration partner to review strategies and assess risks associated with implementing and/or continuing remote work policies, especially since noncompliance with immigration law could lead to fines, administrative penalties, and in many cases, employers losing their rights to hire foreign labor. Employers should also consider tax and labor law implications beyond the scope of immigration-related impacts as part of their decision-making process.



4. Emerging trend – Migrant regularization policies will be increasingly included in immigration policy

The pandemic has highlighted a long-standing structural challenge in the region: the dual labor market where part of the population (generally most migrants) works in informal jobs with lower wages and without traditional benefits. These vulnerable migrant populations were greatly impacted by extended quarantine measures and restricted access to healthcare as COVID-19 infection rates rose in the region. This in turn created unprecedented pressures on health care systems and fiscal policy, among other challenges. Anti-immigrant sentiment and migrant rights abuses persist, as highlighted during the pandemic.

In response to and in preparation for a potential post-COVID-19 influx of foreign nationals from countries hardest hit by the economic crisis, governments are starting to formulate long-term strategies for a more organized and controlled migration, and to activate productivity and development in the countries – one of which is the socioeconomic integration of migrants.

- ▶ **Colombia** (where, according to *Migración Colombia* currently more than 1,729,000 Venezuelans reside – and close to 56% in irregular status) is a leader in taking integration action. In recent years, it introduced several special permits allowing Venezuelan nationals to work in Colombia and access health care services and public education. It also recently created a Temporary Migrant Protection Statute that will allow Venezuelan nationals in Colombia to register with the government and apply for a Personal Protection Permit to reside and work in Colombia for up to 10 years. The government expects to regularize more than 2,000,000 Venezuelans so as to facilitate the integration of the Venezuelan migrant population into the country's labor market.
- ▶ **Costa Rica** introduced a special humanitarian permit available until December 15, 2021, for eligible Cuban, Nicaraguan and Venezuelan nationals to reside and work in Costa Rica for up to two years initially.
- ▶ A new immigration law in **Chile** creates a regularization and work authorization process for foreign nationals who entered Chile legally before March 18, 2020 but are currently in irregular status.
- ▶ The new immigration law in **Chile** (which is expected to be implemented in 2022), will also restrict in-country change of status processes, making it harder for foreign nationals to enter on a tourist visa and remain in the country without obtaining work and residence documents. The government has stated that the intent is precisely to facilitate the integration of foreign nationals in Chile – by reducing the time foreign nationals must wait in country without work authorization and a local identity card, which impacts their ability to legally work, set up bank accounts, or obtain local health insurance coverage, among others.

What's next?

The integration of migrants will play a large role in Latin America's economic recovery plans and lead to other immigration policy changes. These government policies are not expected to override other policies aimed at attracting foreign investment to the country and facilitating the transfer of knowledge and skills not easily available locally – this is required to generate more jobs that migrants already in country can occupy.

However, with a greater local worker supply, companies should be prepared for changing immigration policies that may require foreign nationals to have more advanced qualifications and specialized knowledge, and also that do not displace local workers and consider integration policies when planning assignment viability and timeframes.

5. Opportunities in Latin American immigration policy

While the overall rollout of the COVID-19 vaccine has been slow and the road ahead is long as more countries sign vaccine deals and countries (such as Brazil, Argentina and Mexico) work to build their production capacity and address infrastructure and storage issues, vaccines in larger economies are expected to become widespread toward the second half of 2021. Vaccinated populations and decreasing COVID-19 rates will pave the way for Latin American countries to pursue immigration reforms to attract foreign investment and strengthen its labor markets, and to create economic opportunities for migrants to increase productivity in the region.

Already ahead of the game are Costa Rica, Panama, Mexico, Colombia and Ecuador, which are among the 10 best places to retire in 2021 (according to *International Living's* annual global retirement index), based on factors such as cost of living, healthcare, climate and governance. Moreover, the *Milken Institute's* Global Opportunity Index ranks Chile number 36 out of 145 countries across seven geographic regions, for its attractiveness to foreign investors.



THE WORLD'S BEST PLACES TO RETIRE IN 2021

International Living, a global retirement and relocation magazine, used cost of living, housing, healthcare, retiree benefits, among other factors to calculate its ranking.



SOURCE: 2021 ANNUAL GLOBAL RETIREMENT INDEX INTERNATIONALLIVING.COM

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Image from [Yahoo Finance article. Here are the world's best places to retire in 2021](#) (January 13, 2021)

Though the path to post-COVID-19-economic recovery remains unclear worldwide, Latin America is arguably in a good position to benefit from existing policies that attracted foreign nationals, skills and investors to the region. With an improving epidemiological situation and proactive government policies, it will continue to be a leader in immigration policies that favor both business immigration and tourism.

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APPENDIX

The COVID-19 reset Latin America needs, according to three experts, Worldwide Economic Forum (November 11, 2020), *available at* <https://www.weforum.org/agenda/2020/11/covid-reset-latin-america-needs-recovery-pandemic-economics-jobs/>

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