



VILLAGRÁN LARA

attorneys



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ECUADOR

We are a professional organization of attorneys in Ecuador focused in the business world and dealing in complex matters.

Our members are experienced professionals with first class academic knowledge.

The firm objective is to contribute with effective legal solutions to fit the needs of our clients, under a scheme of quality and personalized services.



VILLAGRÁN LARA attorneys

Our main operations center is located in Guayaquil - Ecuador.

We also operate in the city of Quito, as well as in other important cities of Ecuador through our associates and correspondents.

Contact us by email at: contact@villagranlara.com



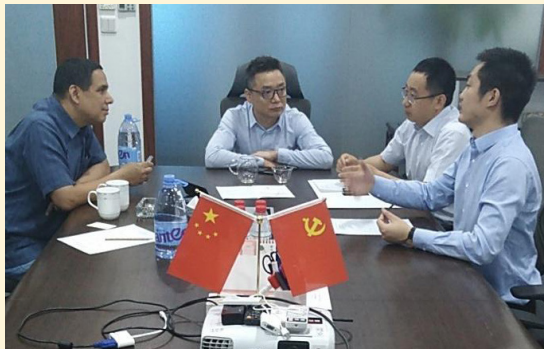


DOING BUSINESS IN ECUADOR

We advise the operation of businesses in Ecuador, including incorporation of companies, license to foreign corporations, franchise and distribution structures and agreements, contracts, joint ventures, due diligence, negotiations, Tax and labor law, real estate issues, intellectual property audits and registration, conflict resolution and prevention, litigation, etc.

MARITIME LAW & MARINE INSURANCE

Our Maritime law division assists our clients in regard to any maritime incident in a 24/7 basis. We support entities such as P&I Clubs, insurance companies for assessment of liabilities, claims handling, conflict resolution or prevention, Litigation on Charters parties and bills of lading, cargo claims, subrogation claims, arrest and release of ships, investigations by Harbour Masters and by prosecutors in regard to pollution



IMMIGRATION LAW & EXPATS ASSISTANCE

We assist our clients in immigration law to find the best solution for their legal status. Besides, Ecuador is one of the most important destinations for retirees. Our lawfirm provides full and effective legal assistance in regard to allocating in Ecuador, residence issues, investments, etc. These are very personalized services with the aim to find solutions and assure an easy moving and living in Ecuador.

FAMILY LAW

We assist our clients in the structure of wills, divorce, child support, division of assets and property, litigation, conflict resolution and prevention



INTELLECTUAL PROPERTY LAW

We assist entrepreneurs, corporations and entities in selecting and protecting their intellectual property rights, as trademarks, patents, utility models, corporate image, designs, copyrights.

JAIME MOLINARI

50 years contributing to the maritime world



1969: Jaime was just 25 years old when he began to work in the Grancolombiana line with responsibilities as Cargo Canvassing and Public Relations officer. He served in this company until 1977 when he was already a lawyer with interest in marine affairs. In the same year he began as a Sales Manager for CCT, featuring the first ro-ro system, which was brought to Manta port, helping to accelerate loading and unloading of cargo. By 1980, Jaime was invited to be part of the Holco group/Transec, led by Luis Trujillo Bustamante. Jaime created the legal and claims department and attended the representation of Bureau Veritas and the correspondence of the UK P&I Club. In 1988, Ecuapandi was created as a partnership affiliated to the Holco group. Finally, Jaime Molinari acquired all rights in this company by 2008. Ecuapandi is currently correspondent for a number of P&I Clubs including IGP&I members as The UK Club, Shipowners, West of England, Steamship Mutual, Japan, Swedish Club and many others. Jaime continues leading Ecuapandi with the help of his daughter Luiggina Molinari, by often sharing his expertise of marine insurance and maritime law with universities and entities by providing lectures.

The Impact of COVID-19 in Maritime Transport

On April 29, 2020, the UPACIFICO organized an online panel of experts on maritime issues to discuss the impact of COVID-19 in the transport sector, with participation of professors María

Angélica Correa, Captain Orlando Carrión, and Leonidas Villagran, Who discussed the impact at national and international level for the sector, including the approach related to maritime insurance



María Angélica Correa holds a MBA from UEES University, a Master Degree in Environmental Management from University of Guayaquil, and she graduated as a Civil Engineer from UEES University Guayaquil. She specialized in Port Management and Control and has served as National Director for ports, Senior advisor to the Undersecretariat of Maritime Transportation, and Environmental Technician for Suinsa Oil Terminal. In the private sector she has provided consultancy to port and bridge construction companies. Currently, she serves as environmental specialist for the city of Guayaquil and lectures as professor of port and shipping management in UTEG University and UPACIFICO.



Orlando Carrion holds a Master Degree in Occupational Safety and Health from the SEK University, Maritime and Port Engineer from Metropolitan University and is titled as Merchant Marine Master. He served from 2001 in FLOPEC, the Ecuador stated owned shipping company for oil transportation, in several high rank capacities including: Technical Manager for the fleet, and Manager in charge of safety and security for the fleet in regard to ISM, as the designated person on land; Officer in charge for implementation of ISPS, ISO 9001 and ISO 14001, compliance with OCIMF-SIRE rules, local and international maritime regulations; OMI instructor in safety measures; and currently is a maritime consultant and surveyor and as professor of shipping management in UPACIFICO.



Leonidas Villagran was awarded a Master Degree in International Maritime law by the World Maritime University, a Constitutional law master degree from UEES University, a Postgraduate Diploma in Marine insurance by the WMU, and a specialization in International Commerce from Catholic University of Guayaquil. He serves as Senior Partner of VL attorneys and is in charge of the maritime law area, Professor of Maritime law in UPACIFICO, and has served as Director in the mentioned university for maritime postgraduate programs. Also, as undersecretary of the Ministry of Government, Regional Manager for the development bank of Ecuador and Senior advisor for the council of the judiciary.

The new reality: From the perspective of a millennial attorney

Andrea Vives-Peláez is an outstanding member of our firm. She recently graduated from the Master of Law, Business and Justice of the University of Valencia.

Faced with the impact and the reality of the Covid-19, she provided the answers to the following questions:

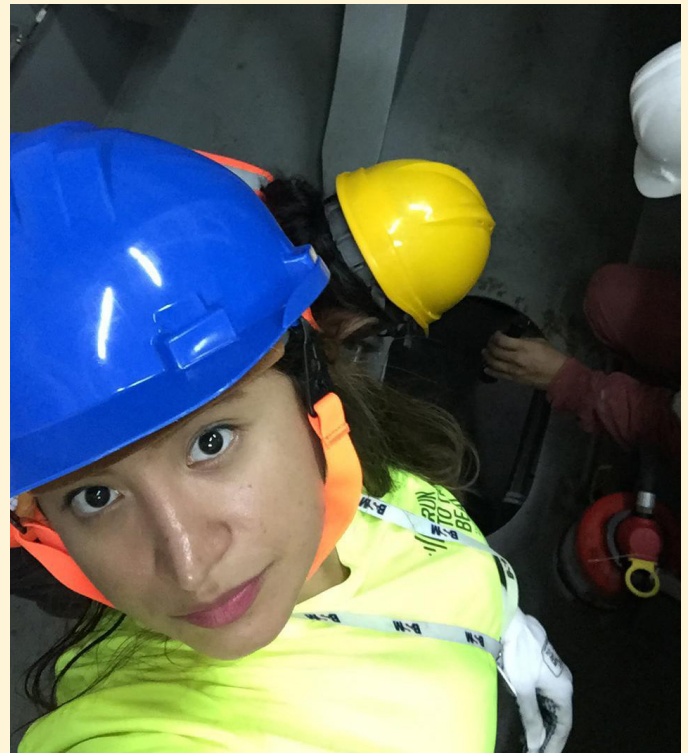
1. What is one of the biggest professional impacts?

The presence of Covid-19 has caused different businesses and people to quickly adapt to the challenge of using technological means that were not important before. Both the administration and the judicial sector are understanding that these tools are imperative.

2. What is visible in the new reality?

The use of digital platforms for teleconferences, webinars and judicial hearings as well as for administrative and judicial matters are activities that now form part of our daily basis.

The new normality will be reflected in electronic, documents, digital signatures and telematic hearings.



Andrea inside a vessel that was affected by a grounding.

In fact, before the pandemic, our firm arranged online depositions from crew members onboard vessels, but also to submit written files by email. The law already allowed it, we helped to implement it.

In December 2019, our partner, Dr. Jose Villagrán participated as an expert witness before the maritime courts of Panama via Skype. We were informed that it was the first time that this court used these electronic means that are now common with the new reality.

3. Do you consider that we are approaching the electronic judicial file?

I believe that the necessity gradually forces us to develop a digital environment and that we need to duly adapt. Government institutions and judicial agencies have to implement it.

4. How to face potential cyberattacks in the development of the new reality for the justice sector?

Cyber attacks are a reality that we cannot ignore within this technological leap. These attacks exploit vulnerabilities in both operating systems and people who run it, so it is important for all to implement all measures to avert them.

Our Comments On The Ecuador Marine Navigation Bill

Leonidas Villagran, partner of the firm, in several forums has provided recommendations in relation to the Marine Navigation bill that is under the consideration of the National Assembly of Ecuador, with the objective to replace the actual Code of Maritime Police 1960.

A hearing in the Legislative Committee in charge of Sovereignty and International affairs in Quito and a forum of experts in maritime law, organized by the University of the Pacific in Guayaquil, were places in which our partner introduced several comments and recommendations to improve the wording of the bill.

Leonidas Villagran explained that the bill mentions the creation of a National Maritime Organization system, including the participation of various entities, with the defense authority presiding. However, the bill only mentions the functions of the defense authority and the Ecuadorian Navy, but does not include functions of other entities in the organization in relation to competencies

in the administrative maritime sphere. These entities are, for example, the Ministry of Transport, the Ministry of the Environment, etc. In this sense, Leonidas recommended to specify the functions of all entities with authority in the so called National Maritime Organization System. "This will ensure sufficient articulation and will avoid overlap or confusion in regard to powers and activities," he mentioned.

He quoted as an example that the sanctioning functions of the Superintendencies of Oil Terminals in relation to maritime incidents and contamination by vessels in the area of their jurisdiction would turn uncertain, since these regulations are in the actual Maritime Police Code that is sought to be replaced with the new bill.

Also, he suggested that there is a need to comply with the new Organic Administrative Code, especially regarding sanctioning processes.



Assemblywoman Esther Cuesta presiding the Legislative Committee session in which our partner, Leonidas Villagran commented about the Navigation Bill.



In addition, he indicated that the new bill establishes that the prosecution of maritime infringement corresponds to the Harbour Master or the Jury of Captains. However, it is not established how the Jury of Captains is to be integrated, relegating this to a regulation.

He recommends that the integration of the Jury of Captains be included in the same bill. "The form of designation of an administrative panel must be in the Act and not in a regulation. This has been the case since the 19th century," he said.

Additional comment has been in relation to the fines proposed in the bill. The construction of the fines are in relation to the vessel which is not a good proportion construction. For example, a simple sailor from a 500 Ton vessel has to pay almost twenty thousand dollars for just not appearing to a summons by a Harbor Master. He added that the Bill must take into account



Discussion in UPACIFICO in regard to the Bill with Admiral Johnny Estupiñan and Roberto Barriga, including Cap. Ernesto Escobar via Skype.

the constitutional principles on environmental damage: strict liability and non-prescription of actions related to pollution.

Additionally, Leonidas mentioned that the Bill should include two important rules regarding the Master's responsibility for correct stowage, and the responsibility of the shipowner in relation to proper operation of the equipment and the personnel in charge of them, as it has been maintained by the Code of Maritime Police 1960.

He mentioned that it is necessary and imperative for the Bill to be completely revised in order to avoid further multiple reforms. "Maritime transport is a means of generating development and progress. Any Bill to be approved needs stability to generate certainty," he concluded.

Mesa Redonda:

Proyecto de Ley de Navegación Gestión de Seguridad y Protección Marítima

Miércoles 10 de julio

Panelistas



**Ab. Roberto
Barriga Maldonado**



**CPCB-GC
Ernesto Escobar**



**Dr. Leonidas
Villagran**

- Lugar: **Auditorio UPACÍFICO, Campus Guayaquil**
Km 7 1/2m vía a la costa
(a pocos metros del Riocentro Ceibos)
- Hora: **18H30**

Registro:
<http://bit.ly/LeyNavegacion>
educacion.continua@upacifico.edu.ec



**UNIVERSIDAD
DEL
PACÍFICO**
ESCUELA DE NEGOCIOS
ECUADOR

**Evento
GRATIS**

Ecuador:

International sources of Shipping law

Ecuador is party to several international conventions, some are mentioned in the following.

Basically, in 2012 Ecuador ratified the accession to the United Nations Convention on the Laws of the Sea (UNCLOS 1982), also known as the Constitution for the seas.

As per the named four pillars of maritime law regulation, Ecuador is party to The International Convention for the Safety of Life at Sea (SOLAS 1974) and its 1988 Protocol which relates to minimum safety in relation to construction, equipment and operation of merchant vessels.

Additionally, it is party to the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78), including Annex 1 (oil and oily waters), II (Noxious Liquid Substances Carried in Bulk by tankers), III (Harmful Substances Carried by Sea in Packaged form), IV (Sewage from ships), and V (Garbage from ships), not being party of the Annex VI (air pollution by ships).

In addition, Ecuador is party to The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW 1978), but not party to the 1995 amendments. The same occurs with the STCW-F which was created in relation to fishing vessel personnel.

Finally, Ecuador is not party to The Maritime Labour Convention MLC 2006 nor to the Work in Fishing Convention 2007. Regardless, in relation to the MLC the Constitutional Court approved its terms in March 2017. Therefore, the Convention is pending approval by the legislature.

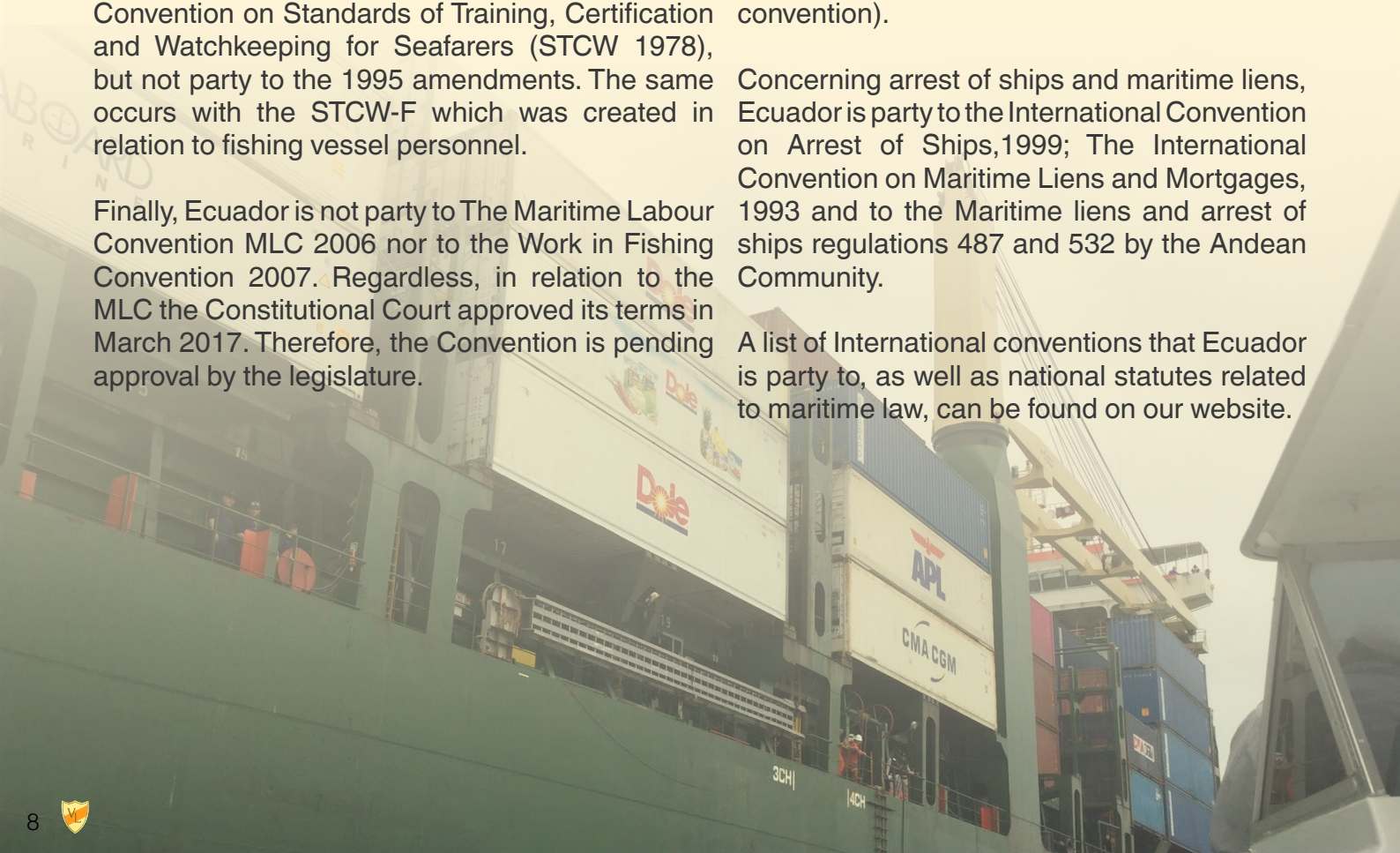
In relation to maritime commerce, Ecuador is party to the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (The Hague-Visby Rules). Multimodal transportation (including transportation by sea) related to consignments to or from the Andean Countries is regulated under Decisions 331 and 393 of the Andean Community.

Previously, as a regional intention to unify the law, in 1928 several South American countries signed the Sanchez de Bustamante Code for Private International Law. Ecuador ratified this Code in 1933 with the reserve that it was accepted in all parts not in opposition to the Constitution and the law. The Code includes in its third title provisions related to maritime commerce (Bustamante Code 1928).

In regard to collisions, Ecuador adhered to the COLREGS - International Regulations for Preventing Collisions at Sea 1972, but not in the case of The Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels, 1910 (The Brussels collision convention).

Concerning arrest of ships and maritime liens, Ecuador is party to the International Convention on Arrest of Ships, 1999; The International Convention on Maritime Liens and Mortgages, 1993 and to the Maritime liens and arrest of ships regulations 487 and 532 by the Andean Community.

A list of International conventions that Ecuador is party to, as well as national statutes related to maritime law, can be found on our website.



Remembering Patricio Vasconez

1954-2020



Patricio enjoyed participating as lecturer Here with Leonidas Villagran, Julian Reyna and Fernando Castro, Conference on marine incidents and insurance.



Patricio acted as surveyor and P&I Correspondent. Here visiting a vessel for a technical inspection with Leonidas Villagran.

Patricio Vasconez was always known as an expert in maritime affairs and very well respected with many important projects and ideas for the maritime development of Ecuador.

He was a Mechanical Engineer, graduated from the University of Chicago with a Master Degree in maritime transportation by The Metropolitan University of Ecuador, Accredited Surveyor for classifications societies, P&I Correspondent, insurance adjuster, judicial expert, and CEO of Power Maritima.

Moreover, Patricio Vasconez was awarded an LLM merit in Maritime law by the Metropolitan University of London, and studied postgraduate programs in international maritime law and marine insurance, including a certification in marine pollution by Lloyds Maritime Academy.

Sharing knowledge was Patricio's characteristic. He gave several lectures in Universities about marine incidents and insurance.

His contribution to the maritime sector was significant. We extend our condolences to his family.



Patricio enjoyed lecturing. Here in the UPACIFICO in a marine incidents and insurance conference. Featuring Leonidas Daniel Villagran, Oscar Noe, Bosco Solórzano, Leonidas Villagran, Jaime Molinari, Andrea Vives and Martha Vallejo.



Patricio Vasconez participated as lecturer in UMET University in Machala with Edwin Ponce, Erik Betancourt, Fabricio Mera and Leonidas Villagran.

Hector Villagrán promoting solutions in COVID-19 times with Chinese Cooperation



Since Ecuador began experiencing the Covid-19 crisis, our senior partner Hector Villágran, with the help of the Beijing Language and Culture University, have organized a program of cooperation in which several doctors residing in China have been providing technical advice on the Chinese struggle against Covid-19.

Hence, a number of video conferences have been organized, some with the local coordination of the University of the Pacific, and others with the Catalans Association of Guayaquil. These conferences have been produced with the participation of local governments, universities,

doctors, journalists and community leaders, all which have been public, so communities are able to benefit.

Chinese doctors Michael Chen, Guo Liyuan, Cristina Vallverdu, Dorothy Dexter, Roo Changizi, and Melisa Rodriguez have lectured about their experience with Covid-19 in China and also answered questions from the participants.

Conferences have been produced for medical doctors of Guayaquil, local governments and community leaders of Santa Elena, Pichincha and Manabi provinces. While conferences have



continued, the transmission has improved, as in Santa Elena province where it was reported by Facebook live, there were only around 8,000 transmissions; and the experience of Manabi province, where the local association of Radio and Television, as well the organization for Cable TV, and a network of community leaders organized broad coverage for the first of three transmissions.

Hector is a former Minister of Transportation of Ecuador. He is currently living in Beijing, China. He began as Commercial Counselor of Ecuador, and now is Honorary Professor and Vice-President of the China-Latin American Center in the Beijing Language and Culture University

SANTA ELENA PUEDE!

Juntos enfrentamos el #COVID-19

CONVERSATORIO CON:
Dra. Cristina Vallerdú i Pagès

AUTORIDADES:

- JOSÉ DANIEL VILLAO
Prefecto de Santa Elena
- ING. JIMMY CANDELL S.
Asambleísta por Santa Elena
- DANIEL CISNEROS
Alcalde de Salinas
- SR. VÍCTOR VALDIVIESO
Alcalde de La Libertad
- ING. OTTO VERA P.
Alcalde de Santa Elena

COORDINACIÓN:

- HECTOR VILLAGRAN CEPEDA
- LEONIDAS VILLAGRAN CEPEDA
- SANTIAGO BARREIRO ECHANIQUE

VIE. 24 | 20:00

En vivo vía

EN COLABORACIÓN CON:

Beijing Language and Culture University

Casal Català de Manabí

La Prefectura de Santa Elena

La Libertad

Santa Elena, Juntos Enfrentamos el Covid 19!

CONVERSATORIO VIRTUAL
Dra. Cristina Vallerdú i Pagès

24 DE ABRIL - 20:00

VIA: [Facebook Live](#) [YouTube](#)

AUTORIDADES:

- Víctor Valdivieso
ALCALDE DE LA LIBERTAD
- Otto Vera
ALCALDE DE SANTA ELENA
- Daniel Cisneros
ALCALDE DE SALINAS
- José Daniel Villao
PREFECTO DE SANTA ELENA

COORDINACIÓN:

- Héctor Villagran Cepeda
- Leonidas Villagran Cepeda
- Santiago Barreiro Echanique

COLABORACIÓN:

Beijing Language and Culture University

Casal Català de Manabí

Manabí unida!

Juntos enfrentamos al Covid-19

Dra. Cristina Vallerdú desde Beijing, China
Estrategia de lucha contra el corona virus

JUEVES 20:00

Beijing Language and Culture University

Casal Català de Manabí

Cooperación Internacional

Chinese Way for COVID 19

Dr. Michael Chen

La Manera china para luchar contra el COVID 19

Beijing Language and Culture University

Casal Català de Manabí

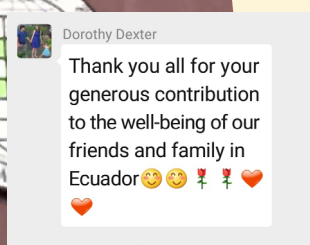
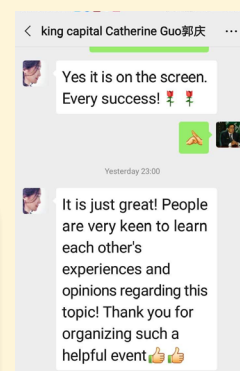
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martes 09:00

2020.abr.14



Video Conferences with doctors specialized in traditional Chinese medicine were held and retransmitted through local radios with the Manabi Province.



Visas and restrictions: Investors and Retirees

It has been a tradition that the Ecuador law provides small investors the possibility to obtain resident visas. Anyway, several restrictions affected this option. An amendment to the relevant Act has contributed to abolish some of them.

Jessica Cisneros

The Human Mobility Organic Act (LOMH), art. 60, states several categories to obtain immigrant visas, such as for worker, renter, retiree, investor, scientist, among others, depending on the circumstances of each individual with the intention of obtaining residence status.

This residence is granted on a temporary basis for up to two years, and is renewable once. Permanent residence is granted to temporary residents that have reached 21 months in their temporary status.

Moreover, Ecuador is open to small investors to obtain resident status. As an example, currently, with an investment of US\$40,000 in a CD in a local bank, or buying a real estate property with the same registered value, or through investment of shares a foreign individual has the option to become a resident.

However, the resident has been restricted to not to stay out of Ecuador for more than 90 days in the case of temporary residents, and 180 days for permanent residents in their first two years. Failure to comply would mean fines and in the end the loss of the resident status. These restrictions have affected those residents willing to travel, keeping their home base in Ecuador.

Recently, an amendment to the LOMH benefited those individuals that hold the investor visa. This means that a restriction to stay in Ecuador is no longer valid. Investor visa holders are able to keep their resident status regardless of their permanence in Ecuador or not.

Notably, this is a positive outcome to enhance investments. Anyway, in a broader view it seems that there are still several obstacles. It seems that the legislature has not considered the positive impact of foreign retirees in Ecuador. Yes, our country is one of the preferred destinations in the world for nationals mostly from North America and Europe, who retire and are in search of nature, low cost and relaxation. Cuenca, Salinas and their surroundings are the main targets in our country. They are also small investors.

They come and buy apartments, some of them set up businesses and contribute to the communities.

Regretfully, the retiree visa category does not enjoy the same mentioned benefit that the investor visa has. It has been normal to see retirees traveling around the world on long term cruises or switching the place where they live according to the seasons to escape from the cold, looking for the best weather. No doubt, Ecuador is open to give them a visa to live in but the restriction of not to stay out of Ecuador for more than 90 days is a hateful condition.

Additionally, some of the foreigners that are retired and love Ecuador have bought properties and keep their tourist status, but they also have another restriction: the 90 days admission. Of course they can renew it, but with burdensome processes. They can also apply for the 1 year tourist special visa, every 5 years. Ecuador is likely not to welcome long term tourists.

Ecuador immigration law needs to facilitate this new era of small foreign investors as a recognition of their important contribution to development.

Ecuador immigration law needs to facilitate this new era of small foreign investors as a recognition of their important contribution to development.

A foreigner that arrives in our country as a temporary visitor, is admitted to stay for 90 days (counting from the first entry) per year. According to the Organic Law of Human Mobility (LOMH), foreigners cannot perform work activities during said time.

Moreover, to extend the admission an extension petition for an additional 90 days can be filed. Finally, a special tourism visa can be requested, but only every five years

SAS Corporations in The Ecuador Arena

A new type of corporation has been introduced into Ecuador law which seeks to provide reduction of incorporation time and facilitate agreements between shareholders. It is likely that many companies would decide to switch to this new system.

With the enactment of the Entrepreneurship and Innovation Act by publication in the Official Register of 28 February 2020, Ecuador has introduced a new category of companies, known as SAS, Simplified Corporations. These types of companies inspired initially by French law provide several interesting distinctions in comparison with traditional companies in Ecuador.

Some of the characteristics of the SAS companies are as follows:

- Articles of Incorporation and bylaws are to be agreed by a private document. Other types of companies (such as S.A. and C. LTDA) are required to execute said documents in a public deed before a Notary Public.
- SAS can be incorporated by one sole shareholder. Other types of companies require at least two shareholders.
- SAS are able to be incorporated with the purpose of one or multiple activities. Other types of companies are restricted and need to have a detailed activity, with no multiple activities allowed.
- Minimum capital in SAS corporations is 1 dollar. Other types of companies have higher minimum capital but not more than 800 dollars.
- The approval and registration of directors is to be executed only by the Superintendency of Companies. Other types of companies are required to have the approval of the Superintendency and once obtained, there is a need to hand these papers to the Commercial Register, which is a double process that provides no value.
- General meetings of shareholders can be called by a letter to the shareholders and even by email. In the other types of companies a publication in a newspaper is required.
- General meetings of shareholders can be executed by electronic means as videoconference. The other types of companies require physical presence and do not consider electronic communications.
- General meetings of shareholders in which 100% of the capital is present can be executed in any place of the world. This characteristic is restricted in other

types of companies and the meetings can only be executed in Ecuador.

- Current existing companies in other types are able to be transformed to a SAS with a simplified legal process, no deed required.
- Two or more SAS corporations are able to fuse into one single company by a simplified legal process. In respect to other types of companies, there is no simplified process.
- SAS allows direct agreements between shareholders in regard to their capacities, for example, to limit the possibility of transferring the shares. Other types of corporations ban any agreement in regard to restriction for the transfer of shares by a shareholder.
- SAS companies are not able to be registered with the stock exchange. The S.A. Companies have this possibility.
- SAS corporations are not allowed for banking, finance, stock exchange, insurance nor any other special activity designated by law.

Things to consider in relation to foreign shareholders:

- Foreign persons and corporations are able to appear as shareholders.
- A local company that has one or more foreign corporations as shareholder needs to report to the beneficial owners the meaning of the information regarding the directors and shareholders of each reported shareholder in the Ecuadorian company. This is to be reported from the incorporation initially and every following year.
- Every foreign company that owns shares in Ecuadorian companies has to appoint a representative in Ecuador with PoA and authority to appear in court. The representative needs to be an Ecuador citizen or a foreign citizen with a resident visa.
- According to tax regulations at least one Director of the company has to be registered within the Tax Administration, such representative needs to be an Ecuador citizen or a foreign citizen with a resident visa. Moreover, the company needs to submit an address where the company will operate.

OUR MEMORIES



Héctor Villagran awarded as Honorary Professor by Liu Li, President of the Beijing Language and Culture University



After a meeting with Jobst Von Werder at Reme law firm in Hamburg.



A visit to Esther Mallack and Dieter Schwampe in their office of Arnecke Sibeth Dabelstein in Hamburg.



Leonidas Villagran in a visit to Gard offices in Oslo with Nils-Joakim Rosdahl. It was a pleasure to lecture about Ecuador law and liabilities in a collision incident.



A nice visit to Daniel Bloch Danielsen in headquarter offices of the Norwegian Hull Club Oslo office, by our senior partner Leonidas Villagran.



A visit to our clients China Harbour with officers of the ministry of foreign relations: Jessica Cisneros, Andrea Vives, Wang Yixin, Richard Olivo, Desire Maquilon and Xingjun Guo



Visit to Marcela Pineda and Josh Williams in the offices of SKULD in Hamburg



Leonidas Villagran receives the Lloyd's Maritime Academy Prize from the IMO Secretary General Lee Kitak and the President of the World Maritime University Cleopatra Doumbia-Henry



Our Senior Partner Hector Villagran with Kong Fanbin, Manager of China Harbour Engineering Company Limited, our clients in the Posorja Multi-purpose Terminal Project.



Visit to the Ministry of Defense. Here Leonidas Villagran and Cpt. Ernesto Escobar, mates from the World Maritime University



Visiting Georg Duncker Marine insurance brokers at Hamburg. Here with Frauke Bretzger, Justus Paul and Finn Berne



In a meeting with Kontor 17 Shipmanagement and GeorgDuncker in Hamburg. With Marc Elsholz and Frauke Bretzger

VL Trademark Registration Services

Basic Information regarding the Process of a Trademark Registration in Ecuador

Leonidas Daniel Villagran
leonidas.daniel@villagranlara.com

Ecuador is a single class trademark application country, meaning that each application has to be related only to one class or activity as stated in the Niza Agreement. The governmental organization in Ecuador with authority for registration of trademarks is SENADI.

Before filing for a registration it is recommended to file for an Official trademark search. Our attorneys analyze the results and a report is issued to the client before application of registration is filed before SENADI.

The application for a new trademark has to be submitted with several documents. Basically, there is a need for a Power of attorney duly translated and apostilled or legalised (We always provide advice in the wording and execution of the PoA which needs to fulfill several requirements).

In case of foreign companies or entities, it is to consider that local law entitles them to have a permanent representative in Ecuador. Therefore, mentioned PoA will help to comply with the requirement. If the trademark involves a logo

then an electronic file is needed.

Moreover, in case there is a need to claim priority, relevant documents duly translated and apostilled or legalised need to be submitted with the application.

Once the trademark registration request is filed and complete, the information about the petition is published in the IP Gazette to allow opposition from third parties within 30 days. SENADI will also execute an internal review. If the petition has no opposition and passes the review, then SENADI will issue its resolution approving the trademark registration. An average procedure takes around eight months. In case of oppositions or situations as the current pandemic then the registration time may be delayed. Notably, in any case of oppositions our law firm provides the defence in the best interests of our clients.

In case of more information about our trademark registration services contact us at:
contact@villagranlara.com.

Meeting with officers of Human Rights Secretariat



José Ricardo Villagrán and Jessica Cisneros participated in an online meeting with officers of the Human Rights Secretariat of the Ecuador government, discussing a case that our law firm handles before the Inter-American Commission on Human Rights.



The roots of Maritime Law in Ecuador

The historical origin in the legal system of Hispanic America comes from Roman law, with wide influence throughout Europe as Spain and France, known as countries with a civil system, based on the written law.

In contrast, despite the Roman invasion and its influence, the legal system of common law prevailed in England, based on the characteristic that the law is built on a foundation of jurisprudential precedents but also written rules known as Statutes.

The Roman Justinian Digest included regulations related to maritime law based in the so-called Lex Rhodia de lactu, influenced by the mediterranean compilation of customary maritime regulations called the Rhodian law.

Thus, the Roman law influenced the world including the region now known as Spain. Consequently, the Spanish Empire imposed its law to the new American colonies in the XIV century after the discovery and conquest of several parts of the Americas.

On the other hand, in the 17th century King Louis XV issued the French Marine Ordinance of 1681, which was considered the most important maritime code of this century. (Healy and Sweeney 1998), being the

first attempt to compile norms related to maritime law in Europe, incorporating the medieval legal principles from the Rôles d'Oléron, the Visby Ordinances and the Book of the Consulate of the Sea.

In the 18th century, the Spanish colonies used as sources of trading law the so-called Bilbao Ordinances of 1737, a series of regulations instituted by the Bilbao Consulate of the Basque Country, which was constituted by a local community of merchants who applied self regulations.

Indeed, by 1829, a good number of colonies had already become independent from the Empire and as a transition they adopted Spanish laws as far as they were not opposed to their new interests. This was the case with the 1821 Constitution of Cúcuta, the first Magna Carta of Great Colombia, which was initially formed by Venezuela and Colombia, including Panama. In 1822, Ecuador adhered to the Great Colombia upon obtaining its independence and consequently the validity of the Bilbao Ordinances was maintained.

The nineteenth century in Hispanic America was marked by independence attempts and exploits.

In contrast, in Europe the so-called golden era of codification promoted by Napoleon in France had already flourished. (Tetley 2002). This is how the Napoleonic codes were developed, beginning with the first French Civil Code of 1804, and continuing with the Commercial Code in 1807. In the case of the Napoleonic Commercial Code, the principles regarding maritime trade were adopted from the famous French Ordinance of the Navy of 1681, contained in the second chapter of said instrument. (Klimaszewska 2012).

The Commercial Code since then has traditionally been a compendium of provisions regarding merchant matters and their relationships. It is important to mention that Spain begins to codify its laws, under the same logic as the Napoleonic Codes.

Consequently and in tune with this trend, the reign of Spain issued its own Commercial Code in 1829, inspired by its traditional commercial law through the Bilbao Ordinances of 1737. (Garteiz-Aurrecoa 2011), but the maritime trade was strongly inspired by the Napoleonic Code of 1807. (Lasso 1998).

The Spanish Code of 1829 included provisions related to maritime law in its third book called Maritime Trade. The nascent Spanish Commercial Code was then a fusion of provisions from Spanish law itself, as well as from the French law.

In 1830, Ecuador abandoned the Great Colombia and on November 4, 1831 the Constitutional Congress of the State of Ecuador decided to repeal the Bilbao Ordinances and adopt the Spanish Code of Commerce of 1829, except for book no. 5, corresponding to the administration of justice, but maintaining the Guayaquil Consulate created during the Spanish rule. Remarkably, the first Spanish Commercial Code of 1829 was a model for the

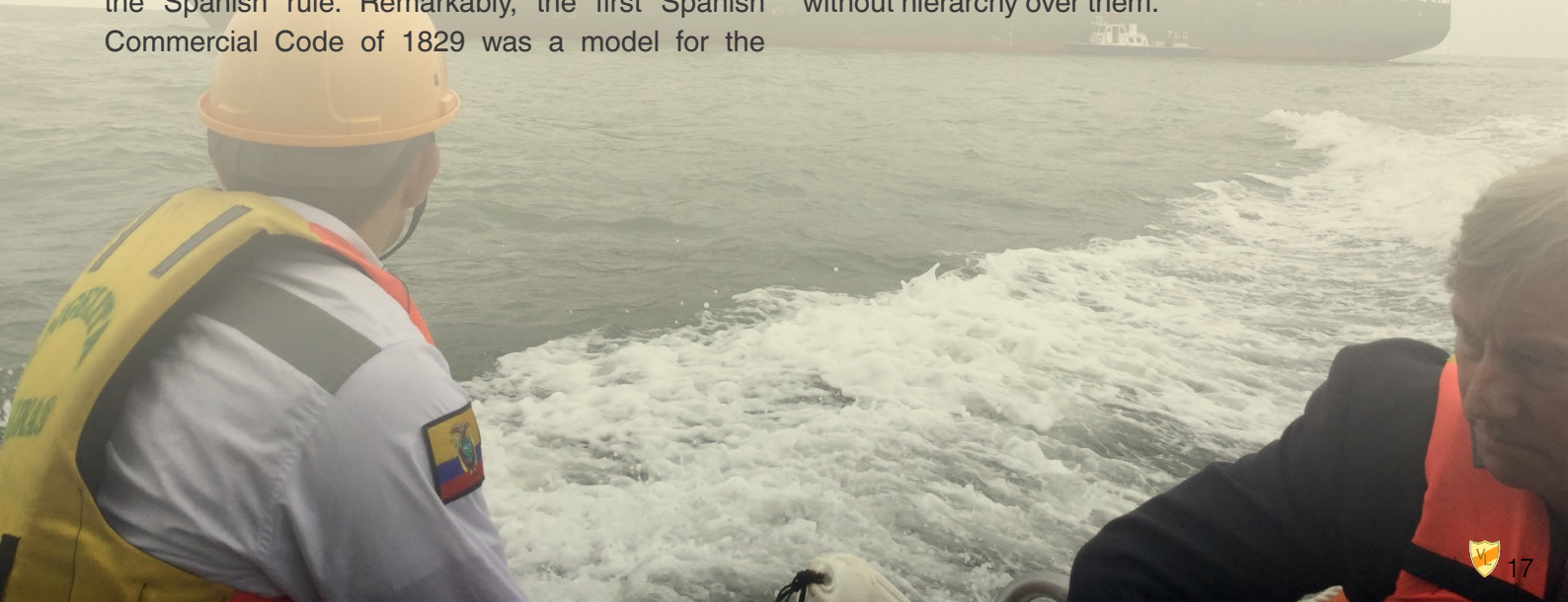
nascent republics, and that was the reason why it was considered a Hispanic code (Abásolo 2009).

Meanwhile, and once independent, Ecuador began to develop its own laws based on the emerging Chilean law. The Supreme Court prepared a Commercial Code bill approved by the National Convention of 1878 and finally President Ignacio de Veintemilla approved the first Commercial Code of Ecuador. (Alterini 2008).

This Code was replaced by a new one issued in 1906 by President Eloy Alfaro. Later, in 1960, Ecuador approved a new codification, the third Commercial Code that was valid until 2019. In all these codes, the third book referred to Maritime Commerce, without major changes.

In contrast, the Commercial Code that entered into effect in 2019 makes fundamental changes in relation to maritime law, under a simple and useful exercise to update the regulations, harmonizing them with the universal doctrines in force. For example, incorporating into our legislation the content of the international doctrine on collision contained in the Brussels Collision Convention 1910. Ecuador is not a party to this Convention, but it has introduced its rules into its domestic legislation.

It is important to mention that by ratification of 1933, Ecuador is part of the Sánchez de Bustamante Code for Private International Law of 1928. This instrument contains regulations related to maritime law in its third title. However, this instrument was ratified by Ecuador with a reserve, which is that it is accepted in all terms that are not in opposition to the Constitution and the law. This reduces this International Code to an instrument dependent on Ecuadorian laws, without hierarchy over them.



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