



PRESIDENT TRUMP'S TRAVEL BAN FOR REFUGEES AND NATIONALS OF CERTAIN PREDOMINANTLY MUSLIM COUNTRIES

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On June 26, 2017, the U.S. Supreme Court issued its decision in Trump v. IRAP, partially lifting the injunction that had been staying implementation of President Donald Trump's March 6, 2017 Executive Order banning travel by refugees and nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen.

Both the U.S. Department of State and the U.S. Department of Homeland Security have issued initial guidance about how the travel ban will be implemented. Additional guidance is expected in the coming weeks, and some federal court litigation as already commenced.

What is the Current State of the Travel Ban? (*as of June 30, 2017*)

- The travel ban applies to nationals of the six named countries who were outside the U.S. on June 26, 2017, who did not have a valid visa as of 5:00pm EST on January 27, 2017, and who did not have a valid visa as of 8:00pm EDT on June 29, 2017.
- The travel ban will not be applied against nationals of those six countries who have a *bona fide* (good faith) relationship with a person or entity in the United States, or who are excluded from coverage by the ban, or who qualify for a waiver.
- Relationship with a **person** is understood to mean a close family relationship.
 - Included relationships: parent, parent-in-law, spouse, fiancé, child, adult son or daughter, son-in-law, daughter-in-law, sibling (whether whole, half, or step).
 - Excluded relationships: grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, brothers-in-law and sisters-in-law, and any other “extended” family members.
 - Hawaii has already file a federal lawsuit challenging these family member exclusions; we are waiting for developments in that case.
 - Refugee spouses and children who are “following to join” a refugee who is already in the U.S. should not be barred from entry, in spite of the ban on refugees, since they have a *bona fide* family relationship.
- Relationships with **entities** must be formal, documented, and formed in the ordinary course.
 - Student visas and employment-based visas are related to particular educational or business entities with whom the applicant has a formal, documented relationship

that was formed in the ordinary course, so individuals from one of the six named countries who are seeking visas of this sort should not be barred from receiving the visa or from entry to the U.S.

- The relationship with an entity cannot have been formed for the purpose of evading the travel ban.
- A refugee's relationship with refugee resettlement agency is at this time **not** being recognized as a *bona fide* relationship with an entity in the U.S., for purposes of the travel ban. Additional guidance is expected to be released soon.
- Tourist or visitor visa seekers from one of the six named countries might be barred if they cannot demonstrate a *bona fide* relationship with a person or entity in the U.S.
- The following individuals are **excluded** from the travel ban:
 - permanent residents;
 - those who are admitted or paroled into the U.S. on or after the effective date of the order (June 26, 2017), including pursuant to advance parole;
 - dual nationals traveling on the non-designated country's passport;
 - certain diplomatic visa holders;
 - asylees and refugees already granted status as of the effective date of the order;
 - those granted withholding of removal or protection under the Convention Against Torture.
- **Waivers** may be available if an individual can meet all three of the following criteria:
 - Denying entry would cause undue hardship;
 - Hardship in this context has not yet been defined.
 - Entry would not pose a threat to national security; and
 - Entry would be in the public interest.

What Does the Travel Ban Itself Say?

Among other things, the March 6, 2017 Executive Order on travel directs the federal government to:

- Ban entry for 90 days by all nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen who are outside the U.S. on the effective date of the order (now June 26, 2017), who did not have a valid visa as of 5:00 p.m. EST on January 27, 2017, and who do not have a valid visa on the effective date of the order (now as of 8:00pm EDT on June 29, 2017).
 - Iraq is no longer on the banned list.
- Not apply the ban to permanent residents, those who are admitted or paroled into the U.S. on or after the effective date of the order, including pursuant to advance parole; dual nationals traveling on the non-designated country's passport; certain diplomatic visa holders; asylees, refugees, those granted withholding of removal or protection under the Convention Against Torture.
- Allow waivers of the travel ban on a case-by-case basis, pursuant to various criteria.
- Not apply the travel ban to Iraqi nationals, who will instead be subject to thorough review.

- Stop all refugee admissions for at least 120 days.
 - Does not apply to refugees formally scheduled for transit before the effective date of the order, now 8:00pm EDT on June 29, 2017.
 - Exceptions to refugee ban may be made on a case-by-case basis.
- Reduce refugee admissions for FY2017 to 50,000, from President Obama’s goal of 110,000.
- Expedite completion of a biometric entry-exit system.
- Suspend the Visa Interview Waiver Program, and require all visa applicants to attend an interview unless not required by statute.
 - This does not affect the Visa Waiver Program, which waives the requirement of obtaining a visitor visa.
- Consider ending all waivers of terrorism-related inadmissibility grounds, regardless of how immaterial or insubstantial the individual’s support of a purported “terrorist organization” may have been.

If you have any questions or need assistance, please call our Immigration Hotline at 844-955-3425.