

Executive Order of President Donald Trump - Frequently Asked Questions - Updated February 2, 2017

Note: The following is general information regarding the January 27th Executive Order issued by President Donald Trump. It does not constitute legal advice. You should consult with an immigration attorney in order to get personalized answers to your own situation.

This document will be updated as changes occur. If you need immediate assistance, please call (314) 961-8200 or email us at info@hackinglawpractice.com. You should also visit our website at www.hackinglawpractice.com/muslimban for more info.

What changes did President Trump make to the visa and entry process?

The Executive Order states, "In order to protect Americans, we must ensure that those admitted to this country do not bear hostile attitudes toward our country and its founding principles."

President Trump has prohibited the State Department from issuing any visa, admission, or any other benefit to individuals from particular countries.

Starting on January 27, 2017, and continuing for the next 90 days, the U.S. will exclude from entry immigrants and nonimmigrants who are from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen.

Additional countries may be added to this list at any time. The Executive Order provides a very limited exception to this rule, but that would require that the State Department or Homeland Security find that it is in the national interest for the person to be issued a visa or allowed to enter the U.S.

The President also directed State and DHS to develop additional criteria to determine ways to make sure "the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat."

To which types of immigrants do these changes apply?

Based on reports that we are receiving, these changes apply to any noncitizen from one of the listed 7 countries. Lawful permanent residents from these countries have been prohibited from boarding planes to the U.S. since the ban was put into place on January 27th. Recently, the Trump White House has indicated that lawful permanent residents will be allowed into the country.

Students attempting to come to the U.S. from one of the listed countries have also been denied their F1 student visas. We have every reason to believe that the ban will apply to all nonimmigrant and immigrant visas, including the spouses and fiancées of U.S. citizens.

We believe that the embassies in these countries (not all have a U.S. embassy) will be prohibited from issuing visas to the spouses and fiancées of U.S. citizens, even if USCIS has previously approved their applications.

One question that remains unclear are U.S. citizens who maintain a U.S. passport and a passport from one of the listed countries (so-called dual citizens). When you become a U.S. citizen, you are not supposed to travel on any passport other than your American passport. We have heard of problems since the ban went into effect for people.

Should I leave the U.S. if I am from one of these countries?

We recommend that non-citizens from these seven countries stay in the U.S. as long as they have the necessary permission to be here. Non-essential travel should be avoided at all cost. There is no guarantee that people from these countries will be allowed back into the U.S.

For now, we would even recommend that U.S. citizens from these countries not leave the U.S. either. We think it is unlikely that they would not be able to get back, but no reason to take the risk if they can avoid it.

What if I am from a predominantly-Muslim country that is not on the list?

Our advice for all non-U.S.-citizens is to remain in the U.S. No one can guarantee that other countries will not be added to the list. You may find yourself stuck out of the U.S. for months and months.

Does the ban apply to non-citizens who are already in the U.S.?

As of now, the President's Executive Order does not apply to people who are already in the United States. It is unclear as to whether the President has made changes to the asylum system in the U.S. Spouses of U.S. citizens who happen to be from one of the listed countries may still be able to adjust their status to that of lawful permanent resident. Recent news reports suggest that USCIS has been instructed to continue processing all immigration cases, but that final decisions should not be issued for individuals from the seven listed countries.

Can these changes be challenged in court?

Lawsuits challenging this Executive Order are already on file. The people suing the government will most likely ask the Court to temporarily lift the ban on the issuance of visas. Federal courts throughout the U.S. have been issuing rulings – all of them so far have been against the Trump administration.

It is very difficult to obtain such orders. The plaintiffs would have to demonstrate that they would suffer irreparable harm (harm that could not be fixed) if the ban is not lifted. Moving forward, the courts will give President Trump great deference and it seems more likely that the ban will stay in place while the courts figure out what to do with the lawsuit.

For immigrant visas (family members of U.S. citizens and lawful permanent residents), under the Immigration Act of 1965, the president may not refuse to give visas to immigrants coming to live in the United States permanently due to their nationality. The provision is unequivocal in stating that no person may “be discriminated against in the issuance of an immigrant visa because of the person’s race, sex, nationality, place of birth, or place of residence.”

What changes did the President make with regard to refugees?

The United States will refuse entry for any refugees from any country for the next 120 days.

The President has directed State and DHS to review the screening process to see if any refugees pose a threat to the U.S. Refugee applicants who are already in the process may be admitted if they make it through the new, heightened scrutiny.

After the 120 days have gone by, refugees for countries that the U.S. believes has sufficient safeguards in place to “ensure the security and welfare of the U.S.” may be allowed to enter as refugees.

The order halts the processing and admission of Syrian refugees indefinitely, until the President determines that sufficient changes have been made to ensure that the admission of Syrian refugees is in the national interest.

President Trump has directed that preferences be given to refugees claiming “religious based persecution” if they are a minority religion in their home country. An example would be Christians from Syria (a predominantly Muslim country). In other words, Muslim refugees will most likely not be admitted into the U.S. in the foreseeable future (beyond the 120 days).

I am traveling to the U.S. from overseas. What should I do?

First, make sure you have permission to enter the U.S. Lawful permanent residents and citizens should be allowed into the country. Expect extra scrutiny if you are from one of the listed countries or traveled there recently. If you are a lawful permanent resident, do NOT sign any forms to abandon your residency. Customs officials should allow you into the country. For other visa holders, you may not be allowed to board if your visa has been revoked.

What can we do?

Contact the White House and your members of Congress. Write letters to local and national newspapers. Join the American Civil Liberties Union and the Council on American-Islamic Relations. Join a political party and advocate for real change. Educate yourself and attend marches and rallies.