



**Information Current as of March 16, 2017- 9:56 pm EST**

## **March 6, 2017 Executive Order Revoking and Replacing Travel and Refugee Bans:**

On March 6, 2017, the President revoked Executive Order 13769 and replaced it with a revised order, Executive Order 13870, changing the scope of the ban on travel of nationals from several Muslim-majority countries (informally referred to as the “travel ban”) and the suspension of refugee travel and processing (informally referred to as the “refugee ban”).

On March 15 and 16, federal district courts in Hawai'i and Maryland, respectively, issued orders temporarily blocking enforcement of key parts of the order. Specifically, the “travel ban” and “refugee ban” provisions in section 2 and section 6 of the order are enjoined in full under the order issued in Hawai'i. The court orders apply “in all places, including the United States, at all United States borders and ports of entry, and in the issuance of visas.”

The information below provides an overview for informational purposes only, regarding the provisions of the order that are currently suspended. The provisions discussed below are **NOT** currently in effect due to court orders, unless indicated otherwise.

This overview is **NOT** meant to provide legal advice. For legal assistance for affected individuals, IRAP recommends reaching out to the contacts identified below in [Additional Resources](#).

**Travel Ban:** Although this part of the order is now blocked, the revised order would have suspended the “unrestricted” entry of nationals from Sudan, Syria, Iran, Libya, Somalia, and Yemen from March 16, 2017 at 12:01 a.m. Eastern Daylight Time, and ending June 14, 2017. During this time, nationals of these six countries who are outside the United States; who did not have a valid visa at 5 p.m. Eastern Standard Time on January 27, 2017; and do not have a valid visa on March 16, 2017 would not be eligible to enter the United States. Thus, the revised order would not apply to anyone who had a valid visa on January 27, 2017 (before 5:00 PM EST) or holds a valid visa on March 16, 2017.

Iraq is no longer on the list of banned countries. However, under Section 4 of the revised order, an application by any Iraqi national for a visa, admission, or other immigration benefit is subject to “additional scrutiny” and “thorough review.” This section was not blocked by the court orders and remains in effect.

**Exceptions:** The revised travel ban would not apply to any of the following categories:

- Lawful permanent residents of the United States (green card holders);
- Foreign nationals who are “admitted to or paroled into the United States” on or after March 16, 2017;
- Foreign nationals holding other valid types of travel documents that permit traveling to the United States and seeking entry or admission, like an advance parole document;



- Dual nationals of one of the six countries when traveling on a passport issued by a country that is not one of the six countries;
- Foreign nationals traveling on a diplomatic or diplomatic-type visa; or
- Foreign nationals who have been granted asylum; refugees who have already been admitted to the United States; or anyone who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

**Travel Ban Waivers:** Under the revised order, waivers to the travel ban would be available on a case-by-case basis, in the discretion of a consular officer or U.S. Customs and Border Patrol (CBP). Consular officers or CBP may grant a waiver if they are satisfied that denying entry during the suspension period would cause undue hardship, and that the foreign national's entry would not pose a threat to national security and would be in the national interest. According to the administration, waivers for overseas travelers without a valid visa will be adjudicated by the State Department in conjunction with a visa application. Waivers issued as part of the visa issuance process will be effective for the issuance of the visa and subsequent entries on that visa, although other requirements for admission or entry may still apply. According to the revised order, a waiver may be appropriate in the following cases:

- Foreign nationals who have previously been admitted to the United States for work, study, or other long-term activity;
- Foreign nationals who have previously established significant contacts with the United States but is outside the United States on March 16, 2017;
- Foreign nationals seeking to enter the United States for significant business or professional obligations, and the denial of entry during the suspension period would impair those obligations;
- Foreign nationals seeking to enter the United States to visit or reside with a close family member (spouse, child, parent) who is a U.S. citizen, lawful permanent resident, or alien admitted on a valid nonimmigrant visa, and denial of entry would cause undue hardship;
- Foreign nationals who are infants, young children, or adoptees, who need urgent medical care, or whose entry is otherwise justified by special circumstances;
- Foreign nationals who have been employed by, or on behalf of, the United States Government (or are eligible dependents of such employees) and the employee can document that they provided faithful and valuable service to the United States Government;
- Foreign nationals who are traveling for purposes related to an international organization designated under the International Organizations Immunities Act (IOIA), traveling for purposes of conducting meetings or business with the United States Government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;
- Foreign nationals who are landed Canadian immigrants who apply for a visa within Canada;
- Foreign nationals who are traveling as a United States Government-sponsored exchange visitor.



**Visa Revocations:** Visas issued before March 16, 2017 shall not be revoked under the revised order. Visas that were revoked or canceled under the previous Executive Order “shall be entitled to a travel document confirming that the individual is permitted to travel to the United States and seek entry.” While visas that were canceled or revoked solely because of the previous Executive Order shall not be used as the basis of inadmissibility, CBP may still consider other factors in making determinations about entry or admissibility.

**Refugee Ban:** The revised order would have suspended the travel of refugees into the United States under the United States Refugee Admissions Program (USRAP) and the adjudication of refugee applications from March 16, 2017 until July 14, 2017, but this provision is now blocked by the federal district court in Hawai‘i. Therefore, decisions on applications for refugee status should continue normally. Under pre-existing policy, refugee travel through USRAP is scheduled by the State Department; refugees are not able to book their own travel.

The revised order retained the previous Executive Order’s cap of the number of refugees that can enter in Fiscal Year 2017 at 50,000. However, the court order also blocks the Administration from lowering the cap of the number of refugees that can enter in Fiscal Year 2017 by half.

Per section 6(a) of the revised order, after the 120-day suspension, refugees would only be able travel from countries that the Secretaries of State and Homeland Security and the Director of National Intelligence “have jointly determined that the additional procedures implemented pursuant to this subsection are adequate to ensure the security and welfare of the United States.”

**Refugee Ban Waivers:** If the refugee ban were in effect, the Secretary of State and Secretary of Homeland Security could jointly decide to admit individuals as refugees on a case-by-case basis, in their discretion, so long as they determine that the individual’s entry is in the national interest and does not pose a threat to the security or welfare of the United States. According to the revised order, waivers may be appropriate when an individual’s entry would enable the United States to meet international agreements or when denial of entry would cause undue hardship.

*In short, the revised order’s provisions blocking travel for refugees and nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen are not in effect as of March 16, 2017. Refugee travel should continue to be scheduled by the State Department. However, under a presidential memorandum issued on the same day as the revised order, visa applications may be subject to “heightened screening” and travelers may be subject to extended secondary screening at U.S. ports of entry. If you are traveling and concerned about being detained, email [airport@refugeerights.org](mailto:airport@refugeerights.org) to be put in touch with volunteer lawyers at the airport where you will be clearing customs.*



## **Additional Resources**

### **For Travelers Affected by the Executive Order**

ACLU, Know Your Rights When Encountering Law Enforcement at Airports and Other Ports of Entry into the United States, <https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-airports-and-other-ports-entry-us>

AILA Immigration Lawyer Search: <http://www.ailalawyer.org/>

National Lawyers Guild Chapter List: <https://www.nlg.org/chapters/>

List of Pro Bono Immigration Legal Services Providers from the Department of Justice:

<https://www.justice.gov/eoir/list-pro-bono-legal-service-providers-map>

Immigration Advocates Network Legal Service Directory:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

ACLU Local Affiliates List: <https://www.aclu.org/about/affiliates>

Council on American-Islamic Relations Chapter List: <https://www.cair.com/cair-chapters.html>

### **For Refugees in the United States Seeking Guidance**

Refugee Center Online, KYR Materials, [https://therefugeecenter.org/resources/rights\\_laws/](https://therefugeecenter.org/resources/rights_laws/)

Refugee Center Online, Local Resources, <https://therefugeecenter.org/in-your-city/>

Office of Refugee Resettlement, State Programs Director, <https://www.acf.hhs.gov/orr/state-programs-annual-overview>

### **For Refugees Outside the United States Seeking Guidance**

International Refugee Rights Initiative: Rights in Exile Programme,

<http://www.refugeelegalaidinformation.org/>

UNHCR, the UN Refugee Agency, <http://www.unhcr.org/en-us>

International Refugee Assistance Project, <https://refugeerights.org/contact-us/>

### **For Lawyers Seeking Legal Resources on New Developments Impacting Immigrants**

AILA Guidance and Updates:

<http://www.aila.org/advo-media/issues/immigration-2017-a-new-president-and-congress>