

MUSLIM BAN: TRAVEL & REFUGEE BANS

IMPORTANT UPDATE: This KYR Guide is current as of April 10, 2018, including the government's implementation of new refugee screening procedures, the December 2017 federal court order enjoining the October 2017 refugee restrictions for those with bona fide relationships to a U.S. person or entity, and the Supreme Court's order allowing the September 24th Presidential Proclamation to take full effect.

The information below provides an overview for informational purposes only. This overview is NOT meant to provide legal advice. We recommend that you consult with an immigration attorney for advice about your specific circumstances.

BACKGROUND ON THE MUSLIM BAN

On January 27, 2017, soon after taking office, the President issued Executive Order 13,769 ("Muslim Ban 1.0"), which indefinitely blocked refugees from Syria from entering the United States, suspended aspects of the U.S. refugee program for 120 days, and prohibited individuals from seven predominantly Muslim countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen) from entering the United States for 90 days. Federal courts temporarily blocked Muslim Ban 1.0 soon after it went into effect.

On March 6, 2017, the President revoked Muslim Ban 1.0 and replaced it with a revised order, Executive Order 13,780 ("Muslim Ban 2.0"), banning travel from six of the seven original predominantly Muslim countries (the same countries except Iraq) and again suspending aspects of the refugee program. Federal courts also temporarily blocked Muslim Ban 2.0 before it went into effect. On June 26, 2017, however, the Supreme Court allowed the ban to take effect as to people without bona fide relationships with a person or an entity in the United States. The President issued a memorandum that set the expiration date of the travel ban portion of Muslim Ban 2.0 to September 24 and the refugee ban portion to October 24.

On September 24, 2017, the President issued a Proclamation ("Muslim Ban 3.0") that revises Muslim Ban 2.0 to indefinitely restrict or ban travel of nationals from eight countries: Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen (Sudan is no longer on the list). In addition, the Proclamation recommends additional scrutiny of Iraqis and of Somalis seeking nonimmigrant entry, as well as enhanced screening and vetting requirements for Iranians traveling on F, M, and J visas and additional measures for Venezuelan visa holders. This Proclamation and its current status is explained in more detail below in the travel ban section.

On October 24, 2017, Muslim Ban 2.0's 120-day suspension of the refugee program expired, but the government announced changes to the refugee program that continue to suspend admission for certain refugee applicants. These announcements are described in more detail below in the refugee ban section.

CURRENT STATUS OF THE TRAVEL BAN PORTIONS OF THE MUSLIM BAN

Current status: On December 4, 2017 the Supreme Court allowed Muslim Ban 3.0 (Presidential Proclamation dated Sept. 24, 2017) to take full effect for individuals from Syria, Iran, Chad, Libya, Yemen, and Somalia, including for those individuals with “a credible claim of a bona fide relationship with a person or entity in the United States.” On April 10, 2018 the U.S. Government removed Chad from the list of countries with travel restrictions (effective April 13). The Proclamation had already been in effect for banned individuals from North Korea and Venezuela as of October 18, 2017.

Muslim Ban 3.0 currently imposes the following restrictions:

<ul style="list-style-type: none">● Syria: No entry for immigrants and nonimmigrants.● North Korea: No entry for immigrants and nonimmigrants.
<ul style="list-style-type: none">● Iran: No entry for immigrants and nonimmigrants, except for those with valid student (F&M) and exchange visitor (J) visas.
<ul style="list-style-type: none">● Libya: No entry for immigrants and nonimmigrants on business (B-1), tourist (B-2), and business/tourist (B-1/B-2) visas.● Yemen: No entry for immigrants and nonimmigrants on business (B-1), tourist (B-2), and business/tourist (B-1/B-2) visas.
<ul style="list-style-type: none">● Somalia: No entry for immigrants.
<ul style="list-style-type: none">● Venezuela: No entry for officials of government agencies involved in screening and vetting procedures and their immediate family members traveling as nonimmigrants on business (B-1), tourist (B-2), and business/tourist (B-1/B-2) visas.

“Immigrants” are those who are seeking to live in the United States permanently. “Nonimmigrants” are those who are seeking to enter the United States temporarily, such as to study or to visit. These restrictions do not apply to certain categories of travelers, which are described below.

Under Muslim Ban 3.0, these restrictions apply only to those people who are outside of the United States and do not have a valid visa on the applicable effective date. Also, if your visa was marked “revoked” or “canceled” as a result of Muslim Ban 1.0, you are entitled to a travel document under the

terms and conditions of the visa marked “revoked” or marked “canceled” and you are exempt from the Proclamation. If this applies to you, contact airport@refugeerights.org for legal assistance.

These restrictions do not apply to:

- Lawful permanent residents (i.e., green card holders);
- Those admitted to or paroled into the United States on or after the effective date;
- Those with a document other than a visa — such as a transportation letter, an appropriate boarding foil, or an advance parole document — valid on the effective date or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission;
- Dual nationals traveling on a passport of a country not subject to the restrictions;
- Those traveling on diplomatic or diplomatic-type visas, North Atlantic Treaty Organization visa, C-2 visa for travel to the United Nations, or G-1, G-2, G-3, or G-4 visa; or
- Those who have been admitted as a refugee or granted asylum, withholding of removal, advance parole, or protection under the Convention Against Torture.
- These restrictions also do not apply to refugee admissions, which are governed by restrictions described below.

Case-by-case waivers may be granted to those who demonstrate that denying entry would cause them “undue hardship,” would not “pose a threat to the national security or public safety of the United States,” and would be in the “national interest.” The Proclamation states that further guidance will be issued regarding waivers, but that a waiver may be appropriate where:

- The person has previously been admitted to the United States for a continuous period to engage in long-term activity, is outside the country on the effective date, seeks to re-enter the country to resume the activity, and the denial of reentry would impair the activity;
- The person has previously established significant contacts with the United States but is outside the country on the effective date for work, study, or other lawful activity;
- The person seeks to enter the United States for significant business or professional obligations which the denial of entry would impair;
- The person seeks to visit or reside with a close family member who is a U.S. citizen, lawful permanent resident, or is lawfully admitted on a valid nonimmigrant visa, and the denial of entry would cause the person undue hardship;
- The person is an infant, a young child or adoptee, needs urgent medical care, or faces other special circumstances justifying their entry;
- The person has been employed by, or on behalf of, the United States Government (or is an eligible dependent of such an employee) and can document that they provided faithful and valuable service to the government;

- The person is a Canadian permanent resident who applies for a visa at a location within Canada;
- The person is traveling for certain purposes relating to the U.S. government or an international organization.

Muslim Ban 3.0 stated that these travel restrictions are effective immediately for nationals of Iran, Libya, Somalia, Syria, and Yemen who lack a claim of a bona fide relationship with a person or an entity in the United States.

Individuals have a “bona fide relationship with a person or an entity in the United States” if:

(1) They have a close familial relationship, such as parents, parents-in-law, spouses, fiancés/fiancées, siblings, siblings-in-law, children, children-in-law, grandparents, grandchildren, aunts/uncles, nieces/nephews, and cousins, in the United States; or

(2) They have a “formal, documented” relationship to a U.S. entity that is “formed in the ordinary course,” such as people who have been admitted to a school, hired by an employer, or invited to speak to an audience in the United States.

For all other affected individuals, Muslim Ban 3.0 stated that the restrictions will be effective at 12:01 a.m. eastern daylight time on October 18, 2017. Federal courts initially enjoined parts of Muslim Ban 3.0, but the Supreme Court allowed it to go into full effect for all affected individuals, regardless of whether they have a “bona fide relationship with a person or entity in the United States,” on December 4, 2017.

CURRENT STATUS OF THE REFUGEE BAN PORTION OF THE MUSLIM BAN

Current status:

On February 1, 2018 the government implemented new refugee screening procedures for follow-to-join (Visas 93) refugee applicants, including additional security vetting.

On January 22, 2018 the government concluded its review of refugee screening procedures and implemented additional vetting for nationals of Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, Republic of South Sudan, Sudan, Syria, and Yemen.

The December 23, 2017 federal court order lifting the October 2017 restrictions for refugee applicants (described below) if they have a “bona fide relationship with a person or an entity in the United States” remains in effect. Refugees have a bona fide relationship if either:

(1) They have a close familial relationship, such as parents, parents-in-law, spouses, fiancés/fiancées, siblings, siblings-in-law, children, children-in-law, grandparents, grandchildren, aunts/uncles, nieces/nephews, and cousins, in the United States; or

(2) They have a “formal, documented” relationship to a U.S. entity that is “formed in the ordinary course,” such as people who have been admitted to a school, hired by an employer, or invited to speak to an audience in the United States.

Note that, by definition, all follow-to-join (Visas 93) refugee applicants have bona fide relationships with U.S. persons due to their relationship with the principal refugee.

On October 24, 2017, the President released an Executive Order Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities, which was accompanied by a Memorandum to the President from the Department of State, Department of Homeland Security, and Office of the Director of National Intelligence. But the government did not resume the refugee program for all refugee applicants. The October 24 Executive Order and accompanying Memorandum imposed restrictions on two groups of refugee applicants:

(1) Refugee applicants from the following 11 countries: Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, Republic of South Sudan, Sudan, Syria, and Yemen, as well as stateless persons who last habitually resided in one of these countries. For 90 days, the United States planned to deprioritize refugee applications from these individuals.

The memorandum stated that the government would still consider for potential admission those whose resettlement in the United States “would fulfill critical foreign policy interests, without compromising national security and the welfare of the United States” and will admit “on a case-by-case basis only refugees whose admission is deemed to be in the national interest and poses no threat to the security or welfare of the United States.” The government stated that after 90 days it would determine what additional safeguards to the programs, if any, are necessary.

(2) Follow-to-Join Refugee Applicants. For an indefinite period, the “follow-to-join” program for refugees (also known as Visas 93), which allows spouses and unmarried children under the age of 21 to join their refugee family members already resettled in the United States, was suspended for all nationalities. The government stated that it will work on implementing additional screening mechanisms for these refugees. The Memorandum does not address the follow-to-join program for asylee family members (also known as Visas 92), who are admitted under asylum rather than refugee provisions.

What Do I Do If I Am Worried About Being Detained During Upcoming Travel?

Muslim Ban 1.0 caused chaos at the nation’s airports as thousands of people were detained at the airports. We do not expect Muslim Ban 3.0 to have the same effect at airports given that it applies only to those people who are outside of the United States and do not have a valid visa on the applicable effective date, as explained above.

It is always a good idea, however, to give a trusted family member or a friend your itinerary before traveling to the United States. After you land and while your airplane is taxiing, quickly contact this person to confirm that you’ve arrived and ask the person to contact a lawyer if you do not clear immigration inspection in 2 hours.

Customs and Border Protection (“CBP”) policy requires officers to treat you “courteously and professionally.” You can note the name of any discourteous CBP officers to make a report.

IRAP’s airport hotline is airport@refugeerights.org. Additional resources are [located here](#).