



**Processing Delays in the Special Immigrant Visa Program:
Findings in *Afghan and Iraqi Allies v. Pompeo***

Background on SIV programs

The Afghan and Iraqi SIV programs were established to provide a legal pathway to safety for Afghan and Iraqi nationals who have supported the U.S. government and military in their home countries and, as a result, have been targeted by militias. Despite a Congressional mandate that the State Department and the Department of Homeland Security (DHS) adjudicate SIV applications within nine months, Iraqi and Afghan SIV applicants face extensive delays in visa processing.

Afghan and Iraqi allies who provided valuable and faithful service to the United States are now waiting for unacceptable periods of time, often in the face of immense danger.

Moreover, the government's shortcomings in fulfilling wartime promises to protect allies threatens U.S. national security and jeopardizes the success of future missions abroad.

In *Afghan and Iraqi Allies v. Pompeo*, filed in June 2018 in federal district court in the District of Columbia, the International Refugee Assistance Project (IRAP) and Freshfields Bruckhaus Deringer US LLP are challenging widespread delays in the processing of SIV applications. In discovery for the lawsuit, IRAP and Freshfields uncovered evidence that the government is inaccurately reporting processing times for Afghan and Iraqi Special Immigrant Visa (SIV) applications. **The data suggests that the average Afghan and Iraqi SIV applicant is likely to wait for more than four years for a visa.** The data also undermines the validity of the DHS and State Department's joint quarterly reports on the status of the programs that are mandated by Congress.

In efforts to expedite the already egregious wait times for these applicants, IRAP and Freshfields are asking the Court to order the government to propose a schedule within 30 days for adjudicating applications pending longer than nine months, and to provide ongoing status reports on the government's compliance with the schedule. The Court held a hearing on the request in late July but has not yet ruled.

Evidence

Data on SIV processing times was divided into two distinct phases: Chief of Mission (COM) applications and Post-COM processing. In the COM phase, individuals submit an application for COM approval to verify their employment on behalf of the U.S. government with a letter from the employer's Human Resources department, a letter of recommendation from a supervisor, a statement of threats received as a result of their work on behalf of the U.S. government, and biographical data. The Post-COM phase includes USCIS petition adjudication, submission of visa



documentation, visa interviews, administrative processing, and final adjudication. Data from both phases depict **significant processing delays**.

The government data and testimony shows:

- **The State Department and DHS have not complied with a Congressional mandate** requiring them to adjudicate SIV applications within nine months. Government-provided data shows that there are at least **14,000 Iraqis and Afghans whose applications have been stalled past the nine-month benchmark**, exemplifying the government's noncompliance and lack of accountability within the SIV process.
- Of the 14,000 SIV applicants whose applications have been pending longer than nine months, approximately **5,300 applicants have waited an average of two and a half years for Chief of Mission (COM) approval**, which is only the **first** step in the SIV application process. Over 6,300 applicants who appealed the denial of their COM application have waited an average of nearly three years for a decision on the appeal alone.
- More than **2,300 SIV applicants have waited an average of three years to complete the remaining phases**--in addition to the time these individuals spent awaiting COM approval.
- **98% of applicants in the last stage of processing**, who have attended an interview and are awaiting final adjudication, **have waited over the statutory mandate of nine months**. Many of those who are issued visas will have waited four years or more to receive their visas.
- Congress requires the State Department and DHS to publish "average wait times for applicants" at various stages in the SIV application process; however, **the government is systematically undercounting processing times** in their quarterly reports, thus masking the full extent of the delays from the public and Congress. IRAP and Freshfields discovered methodological flaws in reporting the actual delays faced by applicants in these reports:
 - Rather than utilizing arithmetic averages, the **State Department and DHS intentionally excluded groups of applicants** that are subject to additional background checks from the averages, **omitted parts of the process** that take weeks or months from the count **and used insufficient sample sizes to inform their reports**.
 - Furthermore, by excluding pending cases from their reporting, the agencies fail to capture the extent of delays in the programs. In its [April 2019](#) report, the government reported a total average processing time for Afghan SIV applicants of 564 days. Data examined by IRAP and Freshfields shows that the wait for SIV applicants with pending applications is much longer: applicants in the COM phase have already waited an average of two years, and applicants in the Post-COM phase awaiting final adjudication have already waited an average of three years.