

Supreme Court Allows Trump to Enforce Travel Ban Until Lower Courts Rule on Challenges

December 4, 2017

Executive Summary

- *The Supreme Court issued an order allowing the Trump Administration to implement its newest travel ban while lower courts continue to consider challenges to it.*
- *Restrictions, which vary by country, will affect certain nationals of Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen, unless exempt or granted a waiver.*

The situation

The Supreme Court today issued an order that will allow the Trump Administration to fully enforce its travel restrictions on certain nationals of Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen, pursuant to a [presidential proclamation](#) that was issued on September 24, 2017.

The Trump Administration had previously been barred from implementing the ban on its intended effective date of October 18, 2017, after two lower federal courts [issued injunctions](#) that temporarily enjoined enforcement of most of the ban's restrictions. Following the Trump Administration's appeal of those rulings and request for temporary permission to implement the proclamation, the Ninth Circuit Court of Appeals [allowed it to partially take effect](#), but exempted travelers with a bona fide relationship to a person or entity in the United States.

Today's order by the Supreme Court removes the relationship exemption and allows the Administration to fully implement the ban while challenges continue in the Courts of Appeals for the Fourth and the Ninth Circuits.

The travel restrictions

The Administration is soon expected to announce when it will begin to impose the travel restrictions pursuant to the Supreme Court's order. When implemented, nationals of the eight countries are expected to be subject to the following U.S. travel limitations, unless otherwise exempt:

- **Chad:** No B-1, B-2 or B-1/B-2 visitor visas; no immigrant or diversity lottery visas.
- **Iran :** No nonimmigrant visas except F and M student visas and J exchange visitor visas; no immigrant or diversity lottery visas.
- **Libya:** No B-1, B-2 or B-1/B-2 visitor visas; no immigrant or diversity lottery visas.
- **North Korea:** No nonimmigrant, immigrant or diversity lottery visas.
- **Somalia:** Nonimmigrant visa applicants subject to heightened scrutiny; no immigrant or diversity visas.
- **Syria:** No nonimmigrant, immigrant or diversity lottery visas.
- **Venezuela :** No B-1, B-2 or B-1/B-2 visas for officials of designated Venezuelan government agencies. Other visa holders are subject to verification of traveler information. No restrictions on immigrant or diversity lottery visas.
- **Yemen:** No B-1, B-2 or B-1/B-2 visitor visas; no immigrant or diversity lottery visas.

Exemptions and waivers

Several classes of foreign nationals are exempt from the restrictions, including U.S. lawful permanent residents, dual nationals traveling on a passport from a non-restricted country, foreign nationals who hold a valid U.S. visa or advance parole and those who were physically in the United States on the applicable original effective date of the travel restrictions.

Those who are not exempt may request a waiver when applying for a visa. To be eligible for a waiver, a foreign national must demonstrate that he or she would suffer undue hardship if denied entry, and that his or her entry would not pose a threat to U.S. national security or public safety and would be in U.S. national interest. Waivers are discretionary and may be difficult to obtain.

What this means for travelers

Foreign nationals who are currently in the United States, hold a passport from a restricted country (other than exempt dual nationals) and would need to apply for a visa to reenter the United States should carefully consider the risks of international travel and the potential for significant delays.

As a reminder, all foreign nationals - including those exempt from the travel restrictions - are subject to national security screening and the potential for additional vetting when applying for a U.S. visa or admission to the United States.

Looking ahead

The travel restrictions will be implemented while the Fourth and Ninth Circuits continue to hear challenges to the presidential proclamation. The Ninth Circuit is scheduled to hear oral arguments on December 6, while the Fourth Circuit is scheduled to hear oral arguments on December 8.

We are closely following the implementation of the court order and will post updates as the Administration puts the restrictions in place.

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