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Proclamation on Ending Discriminatory Bans on Entry to The United States

January 21, 2021

What is the proclamation?

On his first day in office, January 20, 2021, President Biden issued a [proclamation](#) to repeal the [travel ban](#) issued by former President Trump. The Bans restricted certain nonimmigrants and immigrants from Arab and Muslim-majority and African-majority countries from entering the United States. The travel ban was [challenged](#) in the courts with oral arguments heard by the Supreme Court. In June 2018, the Court ultimately [ruled](#) in a 5-4 opinion that the proclamation did not violate the INA or the constitution. With a new administration, this proclamation is the first of many to undo the restraints placed on immigration policy by the Trump Administration.

Why did President Biden issue this proclamation?

The proclamation emphasizes the importance of religious freedom and tolerance. It opens with, “The United States was built on a foundation of religious freedom and tolerance, a principle enshrined in the United States Constitution. Nevertheless, the previous administration enacted a number of Executive Orders and Presidential Proclamations that prevented certain individuals from entering the United States — first from primarily Arab and Muslim countries, and later, from largely African countries. Those actions are a stain on our national conscience and are inconsistent with our long history of welcoming people of all faiths and no faith at all.”

What does the proclamation do?

In the Proclamation, President Biden revokes Executive Order 13780, Proclamation 9645 (Muslim Travel Ban), Proclamation 9723 (Removing Chad from Muslim Travel Ban), and the most recent ban on African-majority countries, Proclamation 9983 (African Travel Ban).

Please review this [fact sheet](#) for a list of countries that were included in these bans.

The goal of this document is to provide general information and is not meant to act as a substitute to legal advice from an attorney.

What happens now for individuals seeking visas from these countries?

Under the proclamation, the Secretary of State shall direct all embassies and consulates to cease applying the repealed executive orders and proclamations and resume all processing of visas. The proclamation also requires that, within 45 days of the proclamation's date, the Secretary of State provide the President:

- The number of visa applicants considered for a waiver under the latest bans ([Proclamation 9645 or 9983 or "bans"](#)) and a plan for expeditiously adjudicating their pending visa applications.
- A proposal to ensure that individuals whose immigrant visa applications were denied because of the bans may have their applications reconsidered. The proposal should also consider whether to reopen immigrant visa applications denied as a result of the bans, if it is necessary to charge an additional fee to process those visa applications, and a plan for the Department of State to expedite consideration of those visa applications.
- A plan to ensure that visa applicants are not prejudiced as a result of a previous visa denial under the bans if they choose to re-apply for a visa.

In addition to resuming visa processing, the proclamation directs the Secretary of State and the Secretary of Homeland Security, in consultation with the Director of National Intelligence, shall provide to the President within 120 days:

- A description of the current screening and vetting procedures for those seeking entry to the United States on a permanent or temporary basis.
- A review of information sharing practices between the United States and foreign governments to evaluate the efficacy and accuracy of those practices and recommendations for improvements of such practices.
- A review about whether social media identifiers have been enhanced screening and vetting.

What can I do if my case was denied under the bans? At this time, there is nothing to do until the Department of State (DOS) conducts its assessment and sets up a procedure for denied cases which could take many months. It may be that DOS will automatically reopen cases, or an applicant may need to reach out to the Embassy to request the case be reopened, *but only after the embassies have been given instructions on how to reopen cases*. Emailing embassies now will not help a case get processed any sooner.

What impact does the proclamation have on the Diversity Visa (DV) Lottery Winners between 2017-2020? There is no language in the proclamation to indicate relief for DV winners who were excluded under the bans. Organizations will have to consider if there is any avenue for relief.

What effect will COVID-19 have on visa processing even if the proclamation applies to me? Covid-19 has caused a significant slowdown in U.S. visa processing at consulates and embassies around the world. More information is available [here](#)

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What is the relationship between the proclamation and other immigrant, nonimmigrant and COVID-19 bans? The new proclamation does not address these other bans so you may need to wait until those bans are rescinded or expired, or in the case of the 14-day COVID-19 bans, you will need to quarantine in a different country for 14-days before entering the United States. It is important to consult with an immigration attorney to understand your options.

What about the lingering impacts of the bans? While this Proclamation ends the bans targeting predominantly Arab and Muslim and African countries, the lingering effects are still significant, [according to Dean Shoba Sivaprasad Wadhia](#), Director of Penn State Law Center for Immigrants' Rights Clinic. [The Cato Institute reports](#) that over 9,000 spouses and minor children of U.S. Citizens have been barred due to the ban as of January 2019. Similarly, those family members unable to visit family or participate in a special event in the United States will not regain this opportunity.

Where can I find more resources?

For more information, please visit:

- [Penn State Law Center for Immigrants' Rights Clinic](#) website
- [Muslim Advocates](#) website
- [Featured Issue: First 100 Days of the Biden Administration](#) on the website of the American Immigration Lawyers Association (AILA)
- [American-Arab Anti-Discrimination Committee](#) website

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