

FREQUENTLY ASKED QUESTIONS

Why President Trump's New Executive Order Is Still a Refugee and Muslim Ban

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On March 6, 2017, President Trump signed an [executive order](#) (EO), “Protecting the Nation from Foreign Terrorist Entry into the United States,”¹ which replaces his substantially similar [EO of January 27, 2017](#).² Implementation of the Jan. 27 EO had been largely blocked by federal courts around the country, and it continues to be subject to numerous legal challenges.

This updated FAQ summarizes the new EO and explains how it differs from its predecessor. While it appears that the EO of Mar. 6 was drafted specifically to address the many legal and constitutional concerns raised by the EO of Jan. 27, *the new EO is still based on a deeply flawed and prejudicial premise* that harms refugees and people who are from certain Muslim-majority countries. NILC and others will continue to challenge these attacks on our immigrant, refugee, and Muslim communities.

The information in this FAQ is current as of its publication date. The FAQ will be updated as new developments affect implementation of the Mar. 6 EO.



If you or someone you know has been personally affected by the executive orders of January 27 or March 6, please help us monitor the situation by completing this short survey:

www.nilc.org/travel-ban-survey*

(*To access the survey form, you must have and be signed in to a Google account.)



What happened to the January 27 executive order banning refugees and Muslims from entering the U.S.?

After the state of Washington sued to stop further implementation of the Jan. 27 executive order, on February 3, 2017, a federal district court in Seattle issued a temporary

¹ *Protecting the Nation from Foreign Terrorist Entry into the United States* (Office of the Press Secretary, White House, Mar. 6, 2017) (hereinafter “Mar. 6 EO”), www.whitehouse.gov/the-press-office/2017/03/06/executive-order-protecting-nation-foreign-terrorist-entry-united-states.

² *Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States* (Office of the Press Secretary, White House, Jan. 27, 2017), www.whitehouse.gov/the-press-office/2017/01/27/executive-order-protecting-nation-foreign-terrorist-entry-united-states.

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injunction which indefinitely orders that the federal government *not* (a) bar the entrance into the U.S. of any refugees for 120 days, (b) indefinitely bar Syrian refugees from entering the U.S., (c) bar the entrance of people from seven designated countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen), or (d) “[proceed] with any action that prioritizes the refugee claims of certain religious minorities.”³ On Feb. 9, the Ninth Circuit Court of Appeals issued a decision upholding the Seattle court’s order,⁴ and implementation of the Jan. 27 EO has been blocked since then.

The **EO that Trump signed on March 6 takes effect on March 16, 2017**, and, on that date, rescinds the Jan. 27 EO.

What are some of the main differences between the two EOs?

Among the most significant differences between the Jan. 27 and Mar. 6 EOs are the following:

- The **Mar. 6 EO removes Iraq from the Jan. 27 EO’s list of seven countries whose nationals are banned** from entering the U.S. for a 90-day period. Under the new EO, six countries—Iran, Libya, Somalia, Sudan, Syria, and Yemen—are on the list of countries whose nationals are banned. The new EO claims that these six countries were identified after a factual determination of relevant dangers.
- The **Mar. 6 EO specifically exempts from the ban certain categories of people**, including lawful permanent residents (LPRs); nonimmigrant visa-holders who are currently inside the U.S. or who have been in the U.S. but are currently traveling abroad; and people of dual nationality—i.e., they are a national both of one of the six designated countries and of another country—who are traveling to the U.S. on a passport issued by a country other than one of the six designated ones.⁵
- The **Mar. 6 EO removes the “indefinite suspension” of admission into the U.S. of Syrian refugees**. While the new EO still calls for a 120-day suspension of admission into the U.S. of *any* refugees from *any* country while steps are implemented to conduct “extreme vetting” of refugees, Syrian refugees are no longer singled out or subject to an indefinite bar.

What does the March 6 executive order do?

The new executive order contains the following provisions:

- **Suspends the entire U.S. Refugee Admissions Program for at least 120 days**. This means that, regardless of the stage a person has reached in the refugee application process and whether this suspension causes massive delays, their application will not move forward. As noted above, the **Mar. 6 EO removes the indefinite ban on Syrian refugees** resettling in the U.S.

³ Washington v. Trump, No. C17-0141JLR, 2017 WL 462040 (W.D.Wash. Feb. 3, 2017), http://cdn.ca9.uscourts.gov/datastore/general/2017/02/03/17-141_TRO_order.pdf, at 5.

⁴ Washington v. Trump, 847 F.3d 1151, 1157 (9th Cir. 2017). The Ninth Circuit’s order is available at www.nilc.org/wp-content/uploads/2017/02/2-9-17-9th-Circuit-Order.pdf.

⁵ People of dual nationality or citizenship are sometimes referred to as “dual nationals.” There are multiple ways of deriving dual nationality. One way, for example, is that certain people who were born outside the U.S. to U.S.-citizen parents are nationals of both the U.S. and the country in which they were born.

- **Bans individuals from six Muslim-majority countries**—Iran, Libya, Somalia, Sudan, Syria, and Yemen—**from entering the U.S. for at least 90 days**, and authorizes the secretaries of State or Homeland Security to add additional countries to this list. **The Mar. 6 EO removes Iraq from the list of designated countries.**
- **Includes these categorical exceptions to the ban:**
 - any lawful permanent resident of the U.S.;
 - any foreign national who is admitted to or paroled into the U.S. on or after the effective date of this order;
 - any foreign national who has a document other than a visa (a) that is valid on the effective date of this order or issued on any date thereafter and (b) that permits the person to travel to the U.S. and seek entry or admission, such as an advance parole document;
 - any person with dual nationalities, one of which is of one of the six designated countries, who is traveling on a passport issued by a nondesignated country;
 - any foreign national traveling on a diplomatic or diplomatic-type visa, 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
 - any foreign national who has been granted asylum; any refugee who has already been admitted to the U.S.; or any person who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.
- **Permits entry of lawful permanent residents** (LPRs, or “green card”-holders).
- **Permits entry of people of dual nationality** if they are *traveling on a passport issued by a nondesignated country*.
- **Allows for case-by-case exceptions** if the person seeking admission to the U.S. “has demonstrated to the [consular or immigration] officer’s satisfaction” all the following: (a) that denying the person entry “would cause undue hardship,” (b) that their admission would “not pose a threat to national security,” *and* (c) that their admission “would be in the national interest.”⁶ It remains unclear how this exception will be applied.
- **Permits entry of people with valid visas.** Under the Jan. 27 EO, all nonimmigrant and immigrant visas issued to nationals of the seven originally designated countries were immediately suspended, and citizens of these countries were instructed not to attend visa interviews.⁷ However, under the Mar. 6 EO, people who are outside the U.S. and had a valid immigrant or nonimmigrant visa as of 5 p.m. Eastern Standard Time on Jan. 27, 2017, or as of Mar. 16, 2017, will *not* be subject to the ban.

⁶ Mar. 6 EO, *supra* note 1, sec. 3(c).

⁷ *Urgent Notice: Executive Order on Protecting the Nation from Terrorist Attacks by Foreign Nationals* (U.S. Dept. of State, Bureau of Consular Affairs, Jan. 27, 2017), <https://travel.state.gov/content/visas/en/news/executive-order-on-protecting-the-nation-from-terrorist-attacks-by-foreign-nationals.html>.

What lawsuits or other legal challenges have been brought against the Jan. 27 and Mar. 6 executive orders?

After Trump signed the Jan. 27 EO, **numerous lawsuits were filed to challenge its legality.**⁸

- NILC and partner organizations filed the first lawsuit early on the morning of Jan. 28.⁹ A federal district court judge issued an emergency, temporary, nationwide stay of the removal from the U.S. of anyone subject to the EO who had been detained in airports across the U.S.
- On Saturday, Jan. 28, another federal judge in Boston ordered that people from the seven designated countries who were being detained at Boston's Logan Airport be released from detention. A third federal court in Texas ordered that LPRs detained in Dulles International Airport (which serves the Washington, DC, area) be granted access to attorneys in secondary screening.
- On Monday, Jan. 30, Washington State filed its federal lawsuit against Trump, challenging parts of the EO.¹⁰
- Several other lawsuits, including one filed by the Council on American-Islamic Relations (CAIR) in a federal district court in Virginia and [one filed by NILC](#) and partners in a federal district court in Maryland,¹¹ challenge the entire EO.
- On Tuesday, Mar. 7, Hawaii, which on Feb. 3 had filed a lawsuit against the Jan. 27 EO in the Hawaii federal district court, moved to file an amended complaint challenging the Mar. 6 EO. The court granted the motion on Mar. 8.¹²
- We expect that other lawsuits will be filed—and that, as in the Hawaii case, new motions will be filed in existing lawsuits against the Jan. 27 EO—to challenge the Mar. 6 EO.

Despite the resulting federal court rulings ordering that people affected by the original EO not be removed from the U.S. and, in some cases, requiring that they be provided access to attorneys or released from detention, there were **widespread reports of U.S. Customs and Border Protection officials at all major U.S. airports refusing to comply with the federal court orders.** In addition, since Jan. 27 immigration officers have detained, sometimes for many hours, more arriving travelers than they did previously—including people whose circumstances put them clearly outside the scope of the Jan. 27 EO's

⁸ For more information about the litigation filed against Trump's executive orders, see *Civil Rights Challenges to President Trump's Executive Orders on Immigration* (University of Michigan Law School, Civil Rights Litigation Clearinghouse), www.clearinghouse.net/featuredCase.php?id=40.

⁹ Filed by NILC, the International Refugee Assistance Project (IRAP), the Yale Law School Legal Services Organization, the American Civil Liberties Union (ACLU), and Kilpatrick Townsend & Stockton LLP, this is a class action lawsuit in the U.S. District Court for the Eastern District of New York on behalf of two Iraqi men who had visas to enter the U.S. but were being detained at John F. Kennedy International Airport, as well as on behalf all others similarly situated. See www.nilc.org/darweesh-v-trump/.

¹⁰ See *Washington v. Trump*, *supra* note 3.

¹¹ For more information on this NILC case, *International Refugee Assistance Project, et al. v. Donald Trump, et al.*, see www.nilc.org/issues/litigation/irap-v-trump/.

¹² More information about the Hawaii lawsuit is available at www.clearinghouse.net/detail.php?id=15626.

ban. It is clear, therefore, that there will be an ongoing need for immigrants' and civil rights organizations to closely monitor how the Mar. 6 EO is implemented.

I am a lawful permanent resident (LPR) from one of the six countries designated in the March 6 executive order. If I travel outside the U.S., will I be allowed to reenter?

The Mar. 6 EO should not bar you from being readmitted into the U.S. if you travel abroad. However, you should be aware that after the Jan. 27 EO was issued, there were numerous reports that the EO was being applied inconsistently, both at airports in the U.S. and airports overseas where people were attempting to board U.S.-bound flights. Overseas, these inconsistencies affected people who were either departing at the city from which their travel back to the U.S. originated or "in transit," trying to board connecting U.S.-bound flights. For these reasons, you may want to consult with an immigration attorney before you travel abroad.



If you are a lawful permanent resident and have had problems either boarding a U.S.-bound flight or entering the U.S. once in a U.S. airport, please report your experience to us by completing this short survey:

www.nilc.org/travel-ban-survey



I don't have an immigration attorney or Board of Immigration Appeals–accredited representative. How can I find someone to represent me?

An online directory of local organizations in the U.S. that serve low-income people is available at www.immigrationlawhelp.org/. And you can access the directory of the American Immigration Lawyers Association at www.aialawyer.com/.

I am from one of the six countries affected by the ban and am currently *outside* the U.S. What should I do?

You are not subject to the ban and should not be affected if you

- are a lawful permanent resident;
- have dual nationality and can travel on a passport issued by a country whose nationals are not subject to the ban;
- had a valid immigrant or nonimmigrant visa as of 5 p.m. Eastern Standard Time on Jan. 27, 2017, or will have one as of Mar. 16, 2017; or
- otherwise fall into one of the categorical exceptions listed on p. 3, above (under "Includes these categorical exceptions to the ban").

However, if you are from one of the six affected countries and the ban exceptions do not apply to you, you may be denied entry or face other issues at the airport when you land in the U.S. and try to be admitted.

I am from one of the six countries affected by the ban and am currently *outside* the U.S., with plans to travel to the U.S. But I have not yet been issued a visa. What should I do?

You may face delays in your visa application process while the ban is in place. Until there is further guidance, you may not be able to secure your visa. Contact an immigration attorney for further advice.

I am from one of the six countries affected by the ban and am currently *outside* the U.S. I have already been issued a visa to enter the U.S. What should I do?

While you should not be affected by the Mar. 6 EO, before you travel you should get an attorney to represent you and have with you a completed and signed [Form G-28](#) (Notice of Entry of Appearance as Attorney or Accredited Representative).¹³ If you cannot get a signed Form G-28 from your attorney before you travel, be sure to have the attorney's contact information with you. You should be in touch with an immigration attorney at every step of your trip so that they can counsel you and be aware of how your case is being handled.

Do not sign any document that an immigration officer pressures you to sign without first consulting with an attorney!

I am *inside* the U.S. and am from one of the six designated countries. If I travel abroad, will I be allowed back into the U.S.?

You are not subject to the ban and should not be affected if you leave the U.S. and try to reenter if you

- are a lawful permanent resident;
- have dual nationality and can travel on a passport issued by a country whose nationals are not subject to the ban;
- had a valid immigrant or nonimmigrant visa as of 5 p.m. Eastern Standard Time on Jan. 27, 2017, or will have one as of Mar. 16, 2017; or
- otherwise fall into one of the categorical exceptions listed on p. 3, above (under "Includes these categorical exceptions to the ban").

However, because the Jan. 27 EO was implemented so inconsistently and caused so many problems, we expect that the Mar. 6 EO will also be interpreted and applied inconsistently, creating problems for some travelers. Therefore, we strongly suggest that you consult with an immigration attorney or BIA-accredited representative before you travel outside the U.S.

What should I do if an immigration official at the airport asks me to turn over my green card or sign documents to give up my green card or immigrant visa?

Lawful permanent residents should not be asked to give up their LPR status. Do not surrender your green card or sign anything unless your attorney is with you. There have been reports of arriving LPRs being asked to surrender their green cards and sign a [Form I-407](#) (Record of Abandonment of Lawful Permanent Resident Status).¹⁴ If you sign this form, you

¹³ www.uscis.gov/g-28.

¹⁴ www.uscis.gov/i-407.

are giving up your LPR status. If you are asked to sign this form, you should refuse to do so and request to speak to the supervisor who handles admissions of LPRs.

I am not from one of the six designated countries, but I am currently visiting one of those countries. Will I be able to reenter the U.S.?

The EO applies only to individuals from the six countries. If you are not from one of those countries but just visited one of them, you should not be banned from reentering the U.S.

It is important to note, however, that U.S. government agencies and personnel did not apply the Jan. 27 EO in a uniform, consistent way after it was issued. So be prepared to be questioned or experience delays or other problems before boarding your U.S.-bound flight or when you arrive at your destination airport in the U.S.

I am from one of the six designated countries. After my flight arrived in the U.S., I was detained and deported back overseas. Is there anything I can do now?

You may be able to return to the U.S. if your deportation was unlawful. More information about what to do if you are in this situation will be published as it becomes available.



If you were detained and deported as a result of the EO, please report your experience to us by completing this short survey:

www.nilc.org/travel-ban-survey

