

Congress of the United States
House of Representatives
Washington, DC 20515-0603

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By ESEC at 11:33 am, Jul 27, 2022

July 26, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
245 Murray Lane, SW
Washington, D.C. 20528

The Honorable Antony J. Blinken
Secretary
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Secretaries Mayorkas and Blinken:

We write to express our grave concern regarding the Biden regime's decision to utilize 8 U.S.C. 1182(d)(3)(B)(i)¹, a narrow exemption in immigration law, to excuse certain foreign nationals from terrorism related grounds of inadmissibility (TRIG). The Immigration and Nationality Act explicitly renders inadmissible any alien who has engaged in terrorist activity, to include the provision of financial assistance and other forms of support for terrorism;² however, with wanton disregard for US national security interests, this regime has utilized a small exemption to provide a reprieve to untold numbers of foreign nationals who have had various levels of affiliation with known terrorist organizations.

As written, this notice may apply to affiliates of any number of foreign terrorist organizations (FTOs), including ISIS, Al-Qaeda, Hezbollah, and even the Islamic Revolutionary Guard Corps (IRGC).³ In the case of IRGC conscripts, provided that those conscripts received military training prior to April 15, 2019 – the date in which the Trump Administration designated the IRGC as an FTO – there is no reason why they would be inadmissible on the basis of that military training. Indeed, this public notice even appears to make IRGC conscripts eligible for immigration relief if those conscripts received other forms of training aside from military, to include financial and intelligence training, *following* the IRGC's 2019 FTO designation.⁴ Quite frankly, the United States does not need an outpost of Iran's gangster Islamist theocracy within our borders.

¹ Mayorkas, A. N., & Blinken, A. J. (2022, June 23). *Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act*. Federal Register. Retrieved July 5, 2022, from <https://www.federalregister.gov/documents/2022/06/23/2022-13472/exercise-of-authority-under-section-212d3bi-of-the-immigration-and-nationality-act>

² Section 212(a)(3)(B) of the Immigration and Nationality Act of 1965

³ Kliegman, A. (n.d.). *Biden to allow some migrants with terrorist ties into country, raising security concerns*. Just The News. Retrieved July 5, 2022, from <https://justthenews.com/government/security/why-terrorists-will-now-have-easier-time-entering-us-legally>

⁴ Noronha, G. (2022, June 30). *Iranian Terrorism Concerns Surround New Biden Immigration Regulation*. The Jewish Institute for National Security of America (JINSA). Retrieved July 5, 2022, from https://jinsa.org/wp-content/uploads/2022/06/JINSA_20220630_FTO_v1-2-1.pdf

Since January 20, 2021, the State Department has stopped at nothing to enter into a nuclear agreement with the Islamic Republic of Iran, a State Sponsor of Terrorism. True to form, the Iranians have insisted on our Government's willingness to de-list the IRGC as a foreign terrorist organization. As an overwhelming bipartisan coalition of Republican and Democrat senators have rejected the Biden regime's efforts to de-list the IRGC,⁵ this public notice appears to be a way to circumvent the will of the American people in service of a nuclear deal that no one outside of Washington, D.C. believes is a good idea.

The vague, non-descript nature of this public notice provides zero clarity to the American people as to the policy objective the Biden regime is hoping to achieve. As a result, we request answers to the following inquiries by **August 4, 2022**:

1). The public notice provides potential relief to individuals – regardless of nationality – who have provided terrorist organizations with “insignificant material support,” “routine commercial interactions,” “certain humanitarian assistance,” and “substantial pressure that does not rise to the level of duress.”⁶ This provides career bureaucrats with broad discretion over who may be admissible or inadmissible into the United States. Pursuant to our constitutional oversight responsibilities, we request copies of any field guidance, policy manual updates, training materials, and all other documents related to the implementation of this notice.

2). Given that elements of the Iranian Revolutionary Guard Corps (IRGC) could benefit from the public notice in its current iteration, was this public notice drafted to incentivize the Iranian regime to continue nuclear negotiations in Vienna? To this point, we request copies of any and all records, including reviews, reports, memoranda, or emails (including from personal email accounts), regarding this public notice and the ongoing Iranian nuclear negotiations from the following individuals:

- a). Secretary Mayorkas
- b). Secretary Blinken
- c). Special Envoy for Iran Robert Malley

3). Is it possible that a conscript or affiliate of the Iranian Revolutionary Guard Corps may be granted admission into the United States as the public notice is currently written? If not, please cite a specific provision in the notice that would forestall any such scenario.

4). Is there any willingness on the part of the government to edit the notice and pare down the enormous flexibility this latest action gives to career bureaucrats as to whether to admit those with ties to terrorist organizations or terrorist activity? Better still, would this regime be willing to rescind this sorely misguided and harmful public notice?

⁵ Samuels, B. (2022, May 5). *U.S. Senate passes non-binding motion barring Biden from removing IRGC as Terror Group*. Haaretz.com. Retrieved July 5, 2022, from <https://www.haaretz.com/us-news/2022-05-05/ty-article/premium/u-s-senate-passes-non-binding-motion-barring-biden-from-moving-irgc-off-terror-list/00000180-9e49-d9e1-a9c0-bf5d283b0000>

⁶ See footnote 3, *Biden to allow some migrants with terrorist ties into country, raising security concerns*.

Americans have endured a dearth of leadership for a year and a half. This bumbling, incompetent regime has subjected the citizens of this great country to trial after trial. In Fiscal Year 2022 alone, border encounters have exceeded 1.5 million⁷ – and that’s just through May 31st. We’ve seen 50 arrests of illegal aliens on the Terrorist Screening Database, and more will surely come to this country because of this disingenuous public notice. This regime is failing in its most essential obligation; the safety and security of the American people is not a bargaining chip with which to advance your totalitarian leftist notions.

Your cooperation in facilitating answers to these inquiries is appreciated and expected.

Sincerely,



Lauren Boebert
Member of Congress



Andy Biggs
Member of Congress



Paul A. Gosar, D.D.S.
Member of Congress



Mary E. Miller
Member of Congress



Louie Gohmert
Member of Congress



Troy E. Nehls
Member of Congress

⁷ *Southwest Land Border Encounters*. U.S. Customs and Border Protection. (n.d.). Retrieved July 6, 2022, from https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters?language_content_entity=en



Scott Perry
Member of Congress



Clay Higgins
Member of Congress



W. Gregory Steube
Member of Congress



Lance Gooden
Member of Congress



Ralph Norman
Member of Congress



U.S. Citizenship
and Immigration
Services

October 14, 2022

The Honorable Lauren Boebert
U.S. House of Representatives
Washington, DC 20515

Dear Representative Boebert:

Thank you for your July 26, 2022 letter to the Department of Homeland Security regarding the recent exercise of authority under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA) concerning the provision of certain limited or insignificant material support to designated terrorist organizations. Secretary Mayorkas asked that I respond on his behalf, and I apologize for the delay in my response.

As noted in the June 23, 2022 Federal Register notice,¹ this action is consistent with prior exercises of the exemption authority contained in INA section 212(d)(3)(B)(i), taking into consideration relevant foreign policy and national security interests, and is exercised only on a case-by-case basis. The Secretary of State and Secretary of Homeland Security determined, in consultation with each other and the Attorney General, that the exemption authority may apply as a matter of discretion when an individual meets the criteria outlined below and in the Federal Register notice.

In general, U.S. Citizenship and Immigration Services (USCIS) may only apply an exemption after an individual establishes that they:

- are otherwise eligible for the immigration benefit sought;
- have completed and passed all required background and security checks;
- have fully disclosed the nature and circumstances of each activity or association implicating a terrorism-related inadmissibility ground (TRIG) concern;
- pose no danger to the safety or security of the United States; and
- Are not otherwise inadmissible under a different provision of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), for which no exemption applies.²

¹ DHS and Department of State, *Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act* (June 23, 2022), <https://www.federalregister.gov/documents/2022/06/23/2022-13472/exercise-of-authority-under-section-212d3bi-of-the-immigration-and-nationality-act>.

² See USCIS, *PM-602-0191, Implementation of the Discretionary Exemption Authority Under Immigration and Nationality Act (INA) § 212(d)(3)(B)(i) for the Provision of Certain Limited or Insignificant Material Support to Designated Organizations* (Aug. 10, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual/Certain-Limited-Material-Support-Insignificant-Material-Support-for-Designated-Groups-PM-602-0191.pdf>.

In addition to the general requirements, this exemption further requires individuals to establish that they:

- Did not voluntarily and knowingly engage in terrorist activity (e.g., provide material support) on behalf of a designated terrorist organization defined in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II);
- Did not provide the material support with any intent or desire to assist any terrorist organization or terrorist activity;
- Did not provide material support that they knew or reasonably should have known could directly be used to engage in terrorist or violent activity;
- Did not provide material support to terrorist activities that they knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;
- Did not provide material support that the individual knew or reasonably should have known involved providing weapons, ammunition, explosives, or components thereof, or the transportation or concealment of such items.

USCIS requires two levels of supervisory review for all TRIG exemptions to ensure that they are adjudicated correctly and appropriately, and that individuals considered for an exemption merit such a benefit in the totality of circumstances. Consistent with past practice, cases considered for this exemption will undergo special headquarters review by national security experts for as long as the agency determines necessary.

Regarding the Islamic Revolutionary Guard Corps (IRGC), the use of this exemption for IRGC conscripts or affiliates is not anticipated at this time. Notably, this exemption is only available to exempt the provision of material support under limited criteria and would not exempt the applicability of other TRIG violations, such as individuals who are a current member of a terrorist organization, received military-type training from a terrorist organization, or committed a terrorist activity.

Lastly, USCIS provides annual statistics to Congress on the number and category of TRIG exemptions applied, in accordance with INA section 212(d)(3)(B)(ii). These annual statistics are provided to Congress within 90 days of the end of each fiscal year.

Thank you for your interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director