



United States Department of State

Washington, D.C. 20520

January 26, 2023

Case No. FL-2018-05010

John Miano  
Federation for American Immigration Reform  
25 Massachusetts Ave. NW, Suite 330  
Washington, DC 20001

Dear Mr. Miano:

We refer you to our letter dated December 15, 2022, regarding the release of certain Department of State (“Department”) material under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. The Department has located five additional documents responsive to your request. We have determined that all five documents may be released in part.

An enclosure explains the FOIA exemptions and other grounds for withholding material. Where we made excisions, the applicable FOIA exemptions are marked on each document. All non-exempt material that is reasonably segregable from the exempt material has been released in the enclosed pages.

The processing of your request is ongoing. If you have any questions, your attorney may contact Assistant United States Attorney Stephanie Johnson at (202) 252-7874 or [Stephanie.Johnson5@usdoj.gov](mailto:Stephanie.Johnson5@usdoj.gov). Please refer to the case number, FL-2018-05010, and the civil action number, 19-cv-00182, in all correspondence about this case.

Sincerely,

A handwritten signature in black ink, appearing to read 'Diamonece Hickson', with a stylized flourish at the end.

Diamonece Hickson  
Chief, Litigation and Appeals Branch  
Office of Information Program and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

(b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:

- 1.4(a) Military plans, systems, or operations
- 1.4(b) Foreign government information
- 1.4(c) Intelligence activities, sources or methods, or cryptology
- 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
- 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
- 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
- 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
- 1.4(h) Weapons of mass destruction

(b)(2) Related solely to the internal personnel rules and practices of an agency

(b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:

ARMSEXP	Arms Export Control Act, 50a USC 2411(c)
CIA PERS/ORG	Central Intelligence Agency Act of 1949, 50 USC 403(g)
EXPORT CONTROL	Export Administration Act of 1979, 50 USC App. Sec. 2411(c)
FS ACT	Foreign Service Act of 1980, 22 USC 4004
INA	Immigration and Nationality Act, 8 USC 1202(f), Sec. 222(f)
IRAN	Iran Claims Settlement Act, Public Law 99-99, Sec. 505

(b)(4) Trade secrets and confidential commercial or financial information

(b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product

(b)(6) Personal privacy information

(b)(7) Law enforcement information whose disclosure would:

- (A) interfere with enforcement proceedings
- (B) deprive a person of a fair trial
- (C) constitute an unwarranted invasion of personal privacy
- (D) disclose confidential sources
- (E) disclose investigation techniques
- (F) endanger life or physical safety of an individual

(b)(8) Prepared by or for a government agency regulating or supervising financial institutions

(b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

NR Material not responsive to a FOIA request excised with the agreement of the requester

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This report details all measures, including diplomatic measures, that are being pursued against countries that refuse to expeditiously accept the repatriation of their nationals, including those pursuant to section 12 of Executive Order 13780 to implement the sanctions authorized by section 243(d) of the INA.

## Executive Summary

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### II. Legislative Language, Background, Legal Challenges

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### V. Diplomatic Engagement for Uncooperative Countries

### VI. Diplomatic Engagement with At Risk of Non-Compliant Countries

### VII. (b)(5)

### VII. Alignment of Actions with April 6, 2018 Presidential Memorandum

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## Overview

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## Visas Refused Under 243(d) Since September 12, 2017

Country	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
Cambodia		3											
Eritrea		37											
The Gambia		22											
Guinea		44											
Senegal		1											
Sierra Leone		8											

Updated: 2/15/22



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September 30, 2016

**ACTION MEMO FOR SECRETARY KERRY**

FROM: CA – Michele Thoren Bond  
AF – Bruce Wharton, Acting *BW*

SUBJECT: ~~(SBU)~~ Discontinuing Issuance of Certain Visas in The Gambia under  
Section 243(d) of the Immigration and Nationality Act (INA) for  
Failure to Accept Return of Certain Nationals

**Recommendation**

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**Background**

(U) Under section 243(d) of the INA, if the Secretary of Homeland Security notifies you that a country denies or unreasonably delays accepting an alien who has been ordered removed from the United States, you are required to order consular officers in country “to discontinue granting immigrant or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country” until the Secretary of Homeland Security notifies you that the country has accepted the

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subject aliens. Under the 2003 Memorandum of Understanding between the Secretaries of State and Homeland Security Concerning Implementation of Section 428 of the Homeland Security Act of 2002, you have the authority to determine which visa classifications and categories of applicants are subject to discontinuation under section 243(d).

~~(SBU)~~ The Government of The Gambia (GoTG) has been informed repeatedly and at senior levels in both Washington and Banjul that discontinuation of visa issuance is likely if the GoTG failed by September 30 to issue travel documents for (b)(7)(E) named Gambians and to commit to timely issuance of documentation of Gambian nationals subject to a final order of removal in the future. The GoTG has failed to comply with those requests and Secretary Johnson has notified you pursuant to INA 243(d) that The Gambia "has denied or unreasonably delayed accepting its citizens" subject to removal from the United States. (Tab 1)

~~(SBU)~~

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~~(SBU)~~ The proposed exercise of authority does not apply for travel consistent with U.S. international legal obligations such as under the United Nations Headquarters Agreement. In addition, there are exceptions for other U.S. government interests, and for urgent humanitarian or emergency reasons. Under the proposed procedures, the Department will review all "A" visa applicants and each case that the adjudicating consular officer believes may fall within one of the exceptions. "A" visa applicants will be reviewed for acceptance, as defined in INA section 101(a)(15)(A). Normal issuance of visas in The Gambia will resume when the Secretary of Homeland Security provides notice as required under the statute.

~~(SBU)~~The last time INA section 243(d) restrictions were invoked was in 2001, when the Secretary ordered the discontinuation of certain nonimmigrant visas to employees of the Government of Guyana and certain associated business entities. Guyana accepted the return of its nationals shortly thereafter and the sanctions were lifted.

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Attachments:

Tab 1 - Notification from Secretary of Homeland Security

Tab 2- Exercise of Authority under Section 243(d) of the Immigration and Nationality Act (INA) Temporarily Discontinuing Visa Issuance to Certain Applicants in The Gambia

Approved: CA – Michele T. Bond ( )  
AF: – Bruce Wharton (ok)

Drafted: CA/VO – Liliane Hudspeth, (b)(6)

Cleared: AF/W – VTrim (ok)  
L/FO – Khooke (ok)  
L/CA – J Osborn/EDonnelly (ok)  
USEmb Banjul: CAlsup (ok)  
USEmb Banjul: MMurray (ok)  
CA/VO: ERamatowski (ok)  
CA/VO: KKing (ok)  
CA/VO: SHankinson (ok)  
CA/VO/F: MMcEvoy (ok)  
CA/VO/L: DNewman (ok)  
CA/VO/L: NPerry (ok)  
D: CDavis (ok)  
M/PRI: ALarkin (ok)  
P: JJefferys (ok)  
OFM: CSeagroves (ok)  
D-MR: BThomas (ok)  
M: DWinters (ok)  
S/P: SOat-Judge (ok)

CA Tracking Number:

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Report to Congress

Discontinuation of Visas to Nationals of Certain Countries

[Month, 2018]

The House Report accompanying the State, Foreign Operations, and Related Programs Appropriations Bill, 2018, H.R. Rep. 115-253, No. 253 at 13, urged the Secretary of State to submit a report to ensure that consular officers comply with section 1253 of title 8 of the United States Code, with the goal of ensuring all countries are accepting persons with final orders of removal for repatriation. This initial report, prepared by the Department of State, Bureau of Consular Affairs, is being submitted to the Senate Appropriations Committee, Senate Appropriations Subcommittee on Foreign Operations; House Appropriations Committee, and House Appropriations Subcommittee on Foreign Operations. This report covers the period up until March 30, 2018.

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**Statement by the Assistant Secretary of State for Consular Affairs**

**Executive Summary**

**Table of Contents**

## I. Legislative Language and Background

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**From:** Herndon, Megan  
**Sent:** Thu, 28 Dec 2017 07:52:43 -0700  
**To:** Kennedy, Barbara J  
**Cc:** Lage, Andrea B; Callard, Robert A  
**Subject:** RE: Published ALDACs re:

## DeControlled

Barbara,

Thanks. I'd been watching for that cable, but if Nick cleared, I guess that's why I didn't see it. You are correct that all that needs to happen here is to remove "The Gambia,". The transmittal should be "243(d) sanctions lifted". I clear on this. Let me know if you need any more on this one.

(b)(5)

Megan

Megan B. Herndon  
Chief, Legislation and Regulations, Visa Office  
U.S. Department of State  
600 19<sup>th</sup> Street NW  
SA-17, 12<sup>th</sup> Floor, Room 406  
Washington, DC 20006  
(202) 485-7440

**Official ~~SECRET~~**  
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**From:** Kennedy, Barbara J  
**Sent:** Thursday, December 28, 2017 9:43 AM  
**To:** Herndon, Megan  
**Cc:** Lage, Andrea B; Kennedy, Barbara J; Callard, Robert A  
**Subject:** FW: Published ALDACs re:

Hi Megan – DIR is asking if a couple of our recent cables need to have FAM notes codified. Andrew Fenzel drafted <http://repository.state.gov/archive/2017/12/11/ea98608c-d640-40f5-bd90-429ce0fa2047/17-STATE-122488.eml.PDF> and I noticed that Nick cleared. Jennifer Liu, I believe, is responsible for updating 9 FAM 601.12 but I don't know if she is aware of this revision? (b)(5)

(b)(5)

Thanks! Barbara

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**From:** Callard, Robert A  
**Sent:** Thursday, December 28, 2017 9:17 AM  
**To:** Kennedy, Barbara J; Waggoner, Kimberly M  
**Subject:** FW: Published ALDACs

Barbara-- Here's one. VO/F's Andrew Fenzel drafted the cable removing The Gambia from the Section 243(d) list, so it should also be removed from the 9 FAM section just below. Rob

## **9 FAM 601.12-2(C) (U) What Countries, Visa Classifications, and Categories of Applicants are Subject to Discontinuation of Visa Issuance Under INA 243(d)**

(CT:VISA-445; 09-12-2017)

**(U)** *The following countries are currently subject to discontinuation of visa issuance under INA 243(d): Cambodia, The Gambia, Guinea, Eritrea, and Sierra Leone.*

**MRN:** 17 STATE 122488

**Date/DTG:** Dec 11, 2017 / 112001Z DEC 17

**From:** SECSTATE WASHDC

**Action:** SOMALIA, USMISSION *ROUTINE*;  
ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE *ROUTINE*

**E.O.:** 13526

**TAGS:** CMGT, CVIS, GM, DHS

**Captions:** SENSITIVE

**Reference:** A) 16 STATE 110082

B) 16 STATE 108632

C) 17 STATE 122340

**Subject:** GUIDANCE ON THE RESUMPTION OF NORMAL VISA PROCESSING IN THE GAMBIA UNDER SECTION 243(d) OF THE IMMIGRATION AND NATIONALITY ACT

1. (U) SUMMARY AND ACTION REQUEST: As instructed in Reftel C, effective December 12, consular officers at Embassy Banjul should resume normal visa processing to individuals covered by the October 3, 2016

order of the Secretary. This order discontinued the issuance of certain nonimmigrant visas to covered individuals

associated with the Government of The Gambia or related entities ("covered individuals"), as well as the spouses

and children, whether minor or adult, of these individuals. As a result, the instructions in Reftel A are no longer

applicable. Other posts need not transfer any new cases to Embassy Banjul pursuant to Reftel A and 9 FAM 601.12-3(E), as the restrictions are no longer in effect. See paragraph 5. END SUMMARY.

**Drafted By:** CA/VO/F:Andrew Fenzel

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**From:** Kennedy, Barbara J  
**Sent:** Thursday, December 28, 2017 8:53 AM  
**To:** Callard, Robert A  
**Cc:** Waggoner, Kimberly M  
**Subject:** FW: Published ALDACs

Hi Rob – (b)(5) If you think so find out who the drafters were so we can identify the SME's to ping. Thanks! Barbara

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**From:** Waggoner, Kimberly M  
**Sent:** Thursday, December 28, 2017 8:30 AM  
**To:** Kennedy, Barbara J  
**Subject:** FW: Published ALDACs

Morning, Barbara – (b)(5)

Thanks!

Kim

**Kim Waggoner**  
U.S. Department of State  
EFAM Gatekeeper  
A/GIS/DIR  
*Contractor, Geneva Software, Inc.*  
614-302-0945  
[waggonerkm@state.gov](mailto:waggonerkm@state.gov)

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**From:** Delaney, Kelli T  
**Sent:** Wednesday, December 27, 2017 9:43 AM  
**To:** Waggoner, Kimberly M <[WaggonerKM@state.gov](mailto:WaggonerKM@state.gov)>  
**Subject:** Published ALDACs

Hey Kim,

Could you check on these for me?

<http://repository.state.gov/archive/2017/12/11/ea98608c-d640-40f5-bd90-429ce0fa2047/17-STATE-122488.eml.PDF>

<http://repository.state.gov/archive/2017/12/06/34828a8d-4e05-49a3-a4f1-230b1457fe47/17-STATE-1220862.eml.PDF> ALDAC 17 STATE 97682 from October has a similar title as this so the update may be the same.

Thank you,  
**Kelli Delaney**  
**A/GIS/DIR**  
**SA-22, Suite 2400**  
**1800 G. Street N.W**  
**Washington DC, 20522**

**(b)(6)** Fax 202-312-9603

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