



DEPARTMENT OF STATE

Office of the Secretary

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DOS; Office of the Secretary, DHS

ACTION: Notice of determination.

Following consultations with the Attorney General, the Secretary of Homeland Security and the Secretary of State have determined that grounds of inadmissibility at section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(3)(B), bar certain individuals who do not pose a national security or public safety risk from admission to the United States and from obtaining immigration benefits or other status. Accordingly, consistent with prior exercises of the exemption authority, the Secretary of Homeland Security and the Secretary of State, in consultation with the Attorney General, hereby conclude, as a matter of discretion in accordance with the authority granted by section 212(d)(3)(B)(i) of the INA, 8 U.S.C. 1182(d)(3)(B)(i), as amended, after considering the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B)(iv)(VI)(cc) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(cc), shall not apply with respect to an individual who provided: (1) insignificant material support (i.e., support that was minimal in amount and inconsequential in effect); or (2) limited material support under circumstances involving certain routine commercial transactions, certain routine social transactions (i.e., in the satisfaction of certain well-established or verifiable family, social, or cultural obligations), certain humanitarian assistance, or substantial pressure that does not rise to the level of duress, to a designated terrorist organization as described in subsection 212(a)(3)(B)(vi)(I) or subsection 212(a)(3)(B)(vi)(II) of

the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or 8 U.S.C. 1182(a)(3)(B)(vi)(II), or to any member of such organization, and provided that the individual satisfies the relevant agency authority that the individual:

(a) Did not voluntarily and knowingly engage in terrorist activity on behalf of a designated terrorist organization as described 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);

(b) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(c) Has undergone and passed all relevant background and security checks;

(d) Has fully disclosed, to the best of their knowledge, in all relevant applications and interviews with government representatives and agents, the nature and circumstances of any material support provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), as well as all contact with a terrorist organization and its members;

(e) Has not provided the material support with any intent or desire to assist any terrorist organization or terrorist activity;

(f) Has not provided material support that the individual knew or reasonably should have known could directly be used to engage in terrorist or violent activity;

(g) Has not provided material support to terrorist activities that they knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;

(h) Has not provided 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;

(i) Is not otherwise inadmissible under section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), for which no exemption applies;

(j) Poses no danger to the safety and security of the United States; and

(k) Warrants an exemption from the relevant inadmissibility provision(s) in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time, with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority creates no substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the applicant or beneficiaries to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the U.S. Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Authority: 8 U.S.C. § 1182(d)(3)(B)(i).

Dated: June 8, 2022.

Alejandro N. Mayorkas,
Secretary,
U.S. Department of Homeland Security.

Dated: June 8, 2022.

Antony J. Blinken,
Secretary,
U.S. Department of State.

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