April 08, 2022

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
Washington, DC 20528

Dear Secretary Mayorkas,

This month, the U.S. Immigration and Customs Enforcement posted new language on its website regarding visa sanctions directed toward countries who are considered recalcitrant in the repatriation of their nationals residing in the United States under final order of removal.

Section 243(d) of the Immigration and Nationality Act (INA) gives authority to the Secretary of State to order sanctions upon countries who refuse to cooperate in the repatriation of their nationals while in final order of removal from the United States. Recalcitrant countries’ negligence to accept the return of their nationals has led to unnecessary costs aimed at detaining these individuals. Due to the Supreme Court’s decision in Zadvydas v. Davis U.S. 678 (2001), aliens with final orders of removal from recalcitrant countries are generally required to be released into the public within 6 months if there isn’t a “significant likelihood of removal in the reasonably foreseeable future”. As you are aware, and as reported by the DHS Inspector General in a scathing report on June 16, 2016, when you were serving as DHS Deputy Secretary, this ruling has resulted in dangerous criminal aliens from recalcitrant countries being routinely released on American soil regardless of their criminal status or the danger they may pose to American society.

ICE’s website discloses that the Secretary of State, pursuant to authority granted in Section 243(d) of the Immigration and Nationality Act (INA), invoked visa sanctions on Burundi, China, and Ethiopia in 2020. The website also reports that visa sanctions have been lifted for Burundi, Ethiopia, Ghana, Guyana, Guinea, The Gambia and reduced for Laos and Sierra Leone.

We request the following official data regarding visa sanctions for recalcitrant countries under the authority of Section 243(d):

- A complete list of all countries ICE has determined to be recalcitrant;
- A complete list of all countries ICE has determined to be at risk of becoming recalcitrant/non-compliant;
- The total number of removable aliens from each recalcitrant and at-risk of becoming recalcitrant/non-compliant country, broken down by country, and the total number of these aliens who have criminal records, broken down by country;
• A breakdown of all visa sanctions invoked under Section 243(d) visas since 2001;

• The total number of aliens, by country, from recalcitrant countries released and currently amongst the American general public;

• Detailed information and current status of negotiations for countries that have had 243(d) sanctions invoked.

It is imperative that American citizens have full transparency regarding the usage of 243(d) sanctions as this policy directly impacts the safety and national security of the United States. Your prompt response is appreciated.

Sincerely,

Madison Cawthorn  Randy K. Weber
Member of Congress  Member of Congress