

Countries Ineligible for the Visa Waiver Program Now Include Libya, Somalia, and Yemen

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On Feb. 18, 2016, the Department of Homeland Security (DHS) added Libya, Somalia, and Yemen to the growing list of countries that are no longer eligible for the Visa Waiver Program (VWP). These three countries join Iran, Iraq, Sudan and Syria (announced last month as reported [here](#)) as countries with restrictions on travel for certain individuals. This move furthers the goal of the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, which aims at strengthening security measures in the face of concerns that terrorists may be gaining entry into the United States by exploiting the VWP.

In its announcement, DHS stated that it will be imposing restrictions on travelers of the 38 VWP countries that have traveled to Libya, Somalia, and Yemen after March 1, 2011. On the other hand, DHS will not be imposing travel restrictions at this time on nationals of VWP countries who are also dual nationals with Libya, Somalia, and Yemen. This is unlike the announcement made for Iran, Syria, Iraq, and Sudan, where nationals of VWP countries are no longer eligible to participate in the program if they are also nationals of those countries. However, DHS will process visa applications and expedite visa interviews at U.S. Embassies and Consulates for travelers affected by any of these restrictions who are determined to have “urgent business, medical, or humanitarian travel” needs.

Furthermore, DHS noted that it has the authority to waive VWP restrictions on a case-by-case basis. Specifically, DHS named general categories of travelers who still may be eligible for VWP waivers including:

- Individuals who traveled to Libya, Somalia, and Yemen on behalf of international organizations, regional organizations, and subnational governments on official duty;
- Individuals who traveled to Libya, Somalia, and Yemen on behalf of a humanitarian NGO on official duty; or
- Individuals who traveled to Libya, Somalia, and Yemen as a journalist for reporting purposes.

DHS has yet to provide guidance relating to the revised Electronic System for Travel Authorization

(ESTA) application and accommodation of the exceptions in the law relating to military or government service. DHS stated that a new ESTA application would be released in spring 2016. Further, DHS mentioned that it will continue to work with the National Intelligence Director and the Department of State to examine the VWP and determine whether other countries should be added to the list of those ineligible for the program. We will continue to report on any updates to the VWP.

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