

*Legal consequences of the new USA immigration policies**

*Summary of the Speech given at the Temple University on 12 April 2017

There are 4 ways to get access into the United States

a) ESTA: Visitors apply for an Electronic System for Travel Authorization (Esta) >>> it costs around 20 dollars and it is valid for a couple of years >>> in other words who wants to visit USA for less than 90 days do not need any visa

b) Types of Visas

The most common visitor visas are B-1 and B-2. Then;

- B-1 visa classification is for business travelers to consult with business associates, attend a conference, settle an estate, or negotiate a contract. In this first category we have for example the visas for reasons of Tourism & Visit named B, Business named E, Study named F;
- B-2 visa classification is for tourists on vacation and, people coming for medical treatment, a social event, or participation in amateur contests for no pay. In this case please note that the only consulate in Italy entitled to give the immigrant visa in the Consulate of Naples (and not the Embassy in Roma or the ones in Milano and Firenze);
- Green Card: gives you the right to live in the United States exactly as if you were born in United States >>> The steps to becoming a Green Card holder (permanent resident) vary by category and depend on whether you currently live

inside or outside the United States. The main categories are Green Card Through Family, Green Card Through a Job, Green Card Through Refugee or Asylee Status, Other Ways to Get a Green Card;

- Transit (C) visas are nonimmigrant visas for persons traveling in immediate and continuous transit through the United States en route to another country, with few exceptions. Immediate and continuous transit is defined as a reasonably expeditious departure of the traveler in the normal course of travel as the elements permit and assumes a prearranged itinerary without any unreasonable layover privileges;
- Crewmember (D) visas are nonimmigrant visas for persons working on board sea vessels or international airlines in the United States, providing services required for normal operation and intending to depart the United States on the same vessel or any other vessel within 29 days.

This was the general situation until 27 January 2017 for all people around the world that wanted to visit United States.

Then on 27 January 2017 happened something that in my opinion can potentially change really and deeply all the political relationships between US and all the other countries (not only the ones involved). Of course I'm talking about the so called muslim ban.

On 27 January President Donald Trump has signed an executive order that suspends the admission of all refugees for 120 days (Syrian refugees indefinitely) and banned travel into the United States for citizens from these seven Muslim-majority countries for 90 days: Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen >>>

These countries were named as "countries of concern". Trump also promised that while the issuing of visas is halted, a vetting plan will be put into effects to keep out "radical Islamic terrorists". He also stressed that the ban is not against Muslims and that the issue "is not about religion but terrorism".

More in particular who exactly does it affect? In this regard there was a lot of confusion.

The heart of the question is that all travellers who have nationality of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen are not permitted to enter the US for 90 days, or be issued an immigrant or non-immigrant visa and of course they cannot have neither an Esta (on the other hand people that already have a green card or a permanent visa can move from and to Usa without any restriction).

But please a very important point needs to be really made clear: Many media said that only those seven countries cannot get access to the USA but this is wrong because actually also people that have just visited in the past years those seven countries at the moment cannot get access to the USA and are blocked at the custom >>> for example this morning I was reading that two days ago an Italian lady was blocked in Atlanta Airport because unfortunately she had in her passports some stamps of Iran and Sudan that she had visited >>> so for this reason this Italian (not muslim) lady had her Esta suspended.

The order was immediately enforceable >>> Some travelers who were in the air when Trump signed the order weren't able to enter the country when they landed and neither the pilots and hostess could get access and were stopped by the Customs and Border Protection >>> this is unbeliavable but is the reality.

So there was a couple of days of chaos and confusion after President Trump signed his travel ban. Among other things, Donald Trump has fired Sally Yates, the acting US attorney general after she ordered government lawyers not to defend US president's immigration ban. Yates stated: "My responsibility is to ensure that the positions we take in court remain consistent with this institution's solemn obligation to always seek justice and stand for what is right. At present, I am not convinced that the defense of the executive order is consistent with these responsibilities nor am I convinced that the executive order is lawful".

The Council on American-Islamic Relations, the country's largest Muslim civil rights group, filed a lawsuit challenging the constitutionality of the executive order.

The United Nations and High Commissioner for Human Rights Zeid al-Hussein defined it "illegal and mean-spirited".

Among the countries affected by the ban, Iran first stroke back. Teheran defined Trump's decision a "flagrant insult" to entire Islamic world and announced the use of the principle of reciprocity. Iraq has approved a similar measure that limits US citizens entering the country. Sudan called the US charge d'affaires to protest the executive order, urging Washington to reconsider the decision.

And why not for example Egypt, Arabia Saudita and Turkey even they are basically also muslim countries??? >>> well in this regard I should tell you that these three countries are between the most important commercial partners for the United States

People say that this order is unconstitutional and discriminatory. And in particular we had immediately some rulings againts this

order (I'm talking about a federal judge in New York, a federal court in Washington DC and a Federal judge in Boston).

A judge said the executive order violated a clause in the US constitution that prohibits the favouring of one religion over another and Mr Trump replied the suspension of the order came from a "so-called judge", and that the courts were "making the job very difficult!"

In any case, we must remember that the common law system is based on the fact that what the judges says is law so in this regard the first judgements concerning the muslim ban need to be taken in consideration.

On an international level, harsh criticism also came from Europe. Italy's Prime Minister Paolo Gentiloni said that "an open society, a multifaceted identity and no discrimination are the founding principles of Europe". Germany's Chancellor Angela Merkel said she's "convinced that the necessary, decisive battle against terrorism does not justify a general suspicion against people of a certain origin or a certain religion". UK Prime Minister Theresa May said "we do not agree with this kind of approach." German Chancellor Angela Merkel called Trump herself and reminded the President of the United States' obligations to refugees under the Geneva Conventions.

How is business affected? The Trump's order was shocking especially for the tech industry. Apple CEO Tim Cook has promised (promisd) to help employees affected by it, adding that without immigration "Apple would not exist", as founder Steve Jobs was the son of a Syrian migrant.

Even the Silicon Valley, the cradle of high tech and telecommunications, sent clear messages of aversion. Mark Zukerberg, expressed his concern about the ban and reminded that

the United States should keep its doors open to refugees as “that’s who we are”. Google said the ban “could create barriers to bringing great talent to the US”.

Everything I've said undoubtedly entail political implications as the immigration policy is a direct consequence of the political choices.

I’m not saying that this muslim ban is right or wrong. I believe Mr Trump has been formally appointed on 20 January and then probably he wanted to immediately show his totally new approach and new policy so that’s why just 7 days later he signed the order >>> So probably the order was too sudden, I mean from one day to another without any real notice but on the other hand I totally agree that something needed to be done in order to immediately show that the political scenario changed in USA.

I believe it would be necessary to better organize a checks and balances system because by the way the American Constitution is the most democratic of all the world.

Personally, I totally agree with the President once he feels like to protects the borders from the terrorism and he says America First but From a legal point of view probably the order has to be better defined.