



Targeting Foreign Corruption and Human Rights Violators in FY2018 Consolidated Appropriations

Introduction

The United States maintains several foreign policy tools to target foreign corruption and human rights violators. One of these is a visa ban, provided for in Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (P.L. 115-141; 8 U.S.C. 1182 note).

Section 7031(c) requires the Secretary of State to make foreign officials and their immediate family members ineligible for U.S. entry if there is credible evidence that such individuals “have been involved in significant corruption, including corruption related to the extraction of natural resources, or a gross violation of human rights.” A pending U.S. visa application need not exist. Section 7031(c) does not invoke the Immigration and Nationality Act (INA) and states that, for the purposes of this section, decisions regarding U.S. entry eligibility are not to be considered confidential. In contrast, Section 222(f) of the INA (8 U.S.C. 1182(f)) states that, in general, State Department records pertaining to the issuance or refusal of U.S. visas or permits are confidential.

The origins of Section 7031(c) can be traced to FY2008 appropriations, when Congress sought to identify and make ineligible for U.S. entry foreign kleptocrats whose alleged corruption involved the extraction of natural resources (see **Figure 1**). Beginning in FY2012, Congress enacted a broader provision that addressed “significant corruption” in general as well as corruption related to natural resources extraction. In FY2014, Congress expanded the provision to target foreign officials involved in “a gross violation of human rights.” In FY2015, Congress further clarified that designations pursuant to Section 7031(c) may be made publicly or privately.

Key Elements to Section 7031(c) in the FY2018 Consolidated Appropriations Act

Who may be found ineligible for U.S. entry? Foreign corrupt officials and their immediate family members.

What derogatory activity triggers a designation? Significant corruption (undefined), including corruption related to natural resources extraction, or a gross violation of human rights.

Are designations confidential? The Secretary of State may designate individuals publicly or privately, but consular records pertaining to the refusal or approval of U.S. entry for designated individuals are not to be considered confidential.

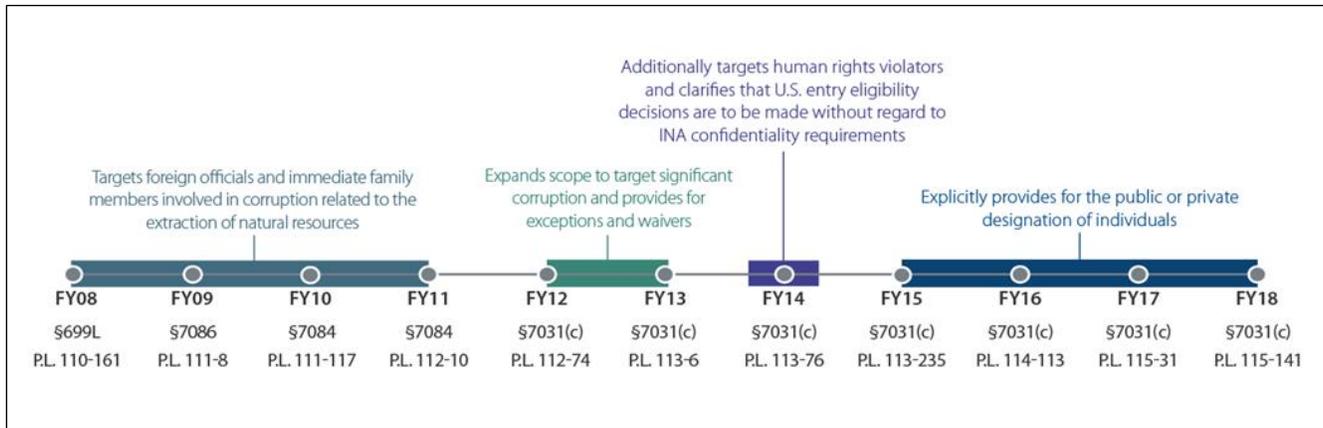
Who cannot be designated? Exceptions to Section 7031(c) include those whose entry would further important U.S. law enforcement objectives or whose entry is required to fulfill U.S. obligations under the United Nations (U.N.) Headquarters Agreement, which requires the United States to allow entry to those who are sent by their government to attend U.N. meetings.

Who may be permitted into the United States, despite a designation? The Secretary of State may waive restrictions for compelling national interest reasons or because circumstances that caused the designation have sufficiently changed.

How does Congress conduct oversight of Section 7031(c)'s implementation? The Secretary of State is required to submit a report to the Committees on Appropriations and on the Judiciary not later than 6 months from enactment (due September 23, 2018), describing its use during the previous 12 months and whether any exceptions or waivers were invoked. Unclassified portions of the report are required to be posted on the State Department website.

When does the requirement end? Section 7031(c) will end on September 30, 2018, unless extended by a continuing resolution or restated in a new law.

Figure I. Legislative History: Origins of Section 7031(c) and Evolution of Its Scope, FY2008-FY2018



Source: CRS, based on legislation available on Congress.gov.

Public Designations

To date, Section 7031(c)'s public designation option has been used three times, each time due to allegations of "significant corruption."

Albania

On February 14, 2018, the State Department publicly designated former Albanian Prosecutor General Adriatik Llalla and on April 16, 2018, publicly designated Albanian Member of Parliament Tom Doshi; their immediate family members were also designated. The United States designated Llalla shortly after he resigned from the Albanian judicial system; critics claimed he resigned to avoid scrutiny under a new process to vet the financial assets of judges and prosecutors. The U.S. ambassador to Albania has accused Llalla of money laundering and the accumulation of unjustified wealth. Doshi, a Member of Parliament in Albania since 2005, was listed under Section 7031(c) for being involved in unspecified high-level corruption.

With U.S. support, Albania joined the North Atlantic Treaty Organization (NATO) in 2009. In order for the country to make progress in its bid to join the European Union (EU), an effort also supported by the United States, the EU requires that it implement reforms designed to strengthen democratic institutions and the rule of law. Efforts to combat corruption and organized crime are a central theme of the reforms.

Dominican Republic (DR)

On June 12, 2018, the State Department publicly designated DR Senator Felix Ramon Bautista Rosario as well as his immediate family members. The same day, the Department of the Treasury also designated him under Global Magnitsky sanctions (see below). According to Treasury, he had engaged in "significant acts of corruption in both the Dominican Republic and Haiti," including accusations of money laundering and embezzlement, bribery, and the procurement of public works contracts for which work was not completed.

Other Visa Restrictions

In addition to Section 7031(c), foreign kleptocrats and human rights violators may be subject to U.S. visa restrictions under Executive Order 13818, which was issued pursuant to the Global Magnitsky Human Rights Accountability Act (P.L. 114-328; 22 U.S.C. 2656 note). Global Magnitsky sanctions, however, differ from Section 7031(c) designations. All individuals designated pursuant to E.O. 13818 are publicly identified and subject to economic sanctions as well as visa restrictions. By contrast, the Secretary of State reserves the option to publicly designate

individuals pursuant to 7031(c) and all 7031(c) designations are made without the concurrent imposition of economic sanctions. Section 7031(c) designations can also target family members of foreign kleptocrats and human rights violators, while Global Magnitsky designations are limited to those who directly or indirectly engaged in acts of corruption or human rights abuse. There has been at least one instance of an individual having been simultaneously designated under both 7031(c) and Global Magnitsky (see text box above).

Human rights violators and corrupt actors may also be subject to visa restrictions under Section 212 of the INA, which provides broad executive branch authority to block entry in service of U.S. interests and foreign policy. Included among the grounds for U.S. visa ineligibility and admission are conviction of a crime involving moral turpitude, participation in genocide, commission of acts of torture or extrajudicial killings, particularly severe violations of religious freedom, significant trafficking in persons, and recruitment and use of child soldiers.

To combat kleptocracy, Presidential Proclamation (PP) 7750 of January 12, 2004 may be used to suspend U.S. entry of foreign public officials engaged in bribery, corruption, misappropriation of public funds, or interference with judicial, electoral, or other public processes that results in serious adverse effects on U.S. national interests. PP7750 draws on authority pursuant to Section 212(f) of the INA. Alien spouses, children, and dependent household members who are beneficiaries of corruption are also ineligible for U.S. entry. To target human rights violators, PP 8697 of August 4, 2011, may be used to suspend U.S. entry of aliens who participated in serious human rights and humanitarian law violations. Several additional country-specific visa bans are in effect, due in part to human rights concerns.

From time to time, the President has also used national emergency authorities to sanction foreign corrupt actors or human rights violators. PP 8693 of July 24, 2011, further suspended U.S. entry of aliens subject to International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) sanctions and U.N. Security Council travel bans. Congress has also enacted statutes that restrict U.S. entry for certain individuals from specific countries. Recent country-specific

examples, which provide for visa ineligibility and economic sanctions against human rights violators, include the Sergei Magnitsky Rule of Law Accountability Act of 2012 (Title IV of P.L. 112-208; 22 U.S.C. 5811 note), the Countering America's Adversaries Through Sanctions Act (P.L. 115-44; 22 U.S.C. 9521 et seq.), and the Venezuela Defense of Human Rights and Civil Society Act of 2014 (P.L. 113-278; 50 U.S.C. 1701 note).

Policy Outlook

As Congress continues to conduct oversight of the Trump Administration's implementation of anti-corruption and human rights-related foreign policy objectives, Members may seek to evaluate the value of Section 7031(c) as a policy tool, compare its implementation to other anti-corruption and human rights programs, and consider whether additional public designations may be warranted. What prevents the use of Section 7031(c) against more

known kleptocrats? How might U.S. bilateral relations be affected by the designation of high-level officials as corrupt? An additional question may include whether the codification of Section 7031(c) or the concurrent application of Global Magnitsky sanctions could bolster its impact. Similarly, some may question whether Global Magnitsky sanctions could be supplemented by Section 7031(c) designations, which can additionally reach family members of those engaged in significant corruption or a gross violation of human rights.

Liana W. Rosen, Specialist in International Crime and Narcotics

Derek E. Mix, Analyst in European Affairs

Michael A. Weber, Analyst in Foreign Affairs

IF10905

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.