



Why Trump is having trouble rewriting his travel ban for 7 Muslim nations

Franco Ordonez

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The Trump administration is still struggling to revise its executive order limiting travel to the United States for citizens of seven majority-Muslim countries and won't be prepared to unveil its new version until next week.

White House press secretary Sean Spicer acknowledged the delay on Thursday, saying the administration is taking great care with the revised to ensure a "flawless" roll-out of the new order. Whether that's a credit to an administration learning a lesson from the embarrassing roll-out of the original order or to department leaders' unwillingness to risk their own careers by introducing a document that violates a federal court order was uncertain.

"It's not a question of delaying it; it's a question of getting it right," Spicer said.

According to a person who's been briefed on the administration's deliberations, three issues have complicated the revision.

First, officials are debating whether the new order should again revoke the visas of some 60,000 to 100,000 people from the seven countries. Those visas were reinstated after a federal judge in Seattle blocked the initial executive order. Some officials worry that revoking them again would run afoul of the judge's order.

A second complication is comment made by a senior White House aide, Stephen Miller, that the revised order would be basically the same as the original, with "mostly minor technical differences." Some officials are concerned that those comments also will anger the judge since he had already ruled against it, though a senior White House official defended Miller's comments, saying they were not much different from what the president had said during a news

conference last week. “The president’s comments are clearer, but they mean the same thing,” the official said.

A third issue is the administration’s search for support from Republican leaders on Capitol Hill, such as House Speaker Paul Ryan and House Majority Leader Kevin McCarthy of California, who are demanding more information about the 60,000 to 100,000 visas.

“They’re trying to get buy in from the folks on the hill,” said the person who’d been briefed by a top Justice Department official involved in drafting the new order. “But they cannot do that until they determine what they’re going to do with the non-immigrant visas.”

On Thursday, Spicer said the order is already finalized, but that the administration wants to make sure that it goes through all affected departments and agencies “so that any concerns or questions are handled on the front end.”

“We are acting with appropriate haste and diligence to make sure that the order is done in an appropriate manner,” Spicer said.

Citing national security concerns, Trump had said that he would issue a new executive order this week “tailored” to a federal appeals court decision that blocked his Jan. 27 executive order that temporarily suspended entry into the United States by citizens of Iran, Iraq, Libya, Sudan, Somalia, Syria and Yemen.

In issuing his decision blocking the order, U.S. District Judge James Robart sided with the states of Washington and Minnesota who argued that Trump’s travel ban targeted Muslims and violated the constitutional rights of immigrants and their families.

Homeland Security and Justice Department officials are debating whether the court’s ruling would apply to a new executive order or only to the original. Homeland Security and White House officials want to revoke the visas while Justice Department lawyers worry about running afoul of the Seattle judge’s order.

Alex Nowrasteh, an immigration policy analyst at the libertarian Cato Institute, sees an administration that’s less sure of itself legally after arrogantly arguing they had the “absolute legal authority” to do this.

“I think they were taken aback by these court orders and by the debates in the public sphere about whether this is legal,” Nowrasteh said. “And they’re trying to get all their ducks in a row so they don’t have a repeat of another sloppy executive order.”

A new order will need to address two key aspects of the Seattle judge's order in order to prevent another suspension, according to Polly Price, an Emory University law professor.

She said the new order must honor the permanent resident status of so-called green-card holders and not apply to the temporary visas of people who are already in the United States. It must also provide a better justification why these countries are being singled out so that it doesn't appear to be a ban based on religion.

The government could decide to revoke the temporary visas of people who are still overseas and have not started traveling to the United States, she said.

"It's reasonable to believe that green card holders would have constitutional rights, at least to some degree," she said. On the other hand, temporary visitors who haven't yet entered the United States "don't have any rights that we can review," she said.