



No entry: What Trump's migration policies mean for the EU

by Camino Mortera-Martinez

10 April 2017

Trump's 'Muslim ban' does not apply to EU citizens. But his migration and security policies may have unexpected effects in Europe.

US President Donald Trump has been in office less than three months, but he has already come up with two executive orders on migration. The first, signed on January 27th, sparked a wave of protests worldwide, as chaos reigned in airports and at other US border checkpoints. The order was ultimately blocked by US courts, which considered it breached the constitution. But Trump did not give up, and signed what he thought would be a legally watertight new migration order on March 6th. The implementation of the second executive order has been put on hold by two federal courts, which found different grounds for ruling against it.

In essence, the two executive orders are very similar: both vow to protect US national security by issuing a temporary entry ban for citizens of specified countries (Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen in the original order; all but Iraq in the new order); both suspend America's refugee resettlement programme for a period of three months; and both reduce the numbers of refugees America will accept in future (from 110,000 to 50,000 in 2017. The US administration will revise this number every year). Trump's attempts to nuance some of the most problematic parts of the original order (such as the application of the travel ban to legal permanent residents of the US, or giving preferential treatment to Christian refugees) did not convince the judges, who still thought the president's policy was disproportionate and discriminatory.

The 'Muslim ban' may be morally questionable and an inefficient way to protect national security; but the ban itself will have little impact on the EU. After some initial confusion, the White House clarified that dual European citizens will not be affected by the restriction. The new order explicitly excludes dual citizens from it.

For Europe, the problems with Trump's migration and security policies lie elsewhere.

First, the EU has lost an important ally in its quest to solve the refugee crisis. Despite its poor record in relation to Syria's refugee exodus, the US consistently resettles more refugees than any other country in the world. Around three million people have arrived in the US via its resettlement programme since it began in 1975. Last year alone, America took in 85,000 refugees. Unlike the US, the EU does not have a permanent scheme for resettlement, but only two provisional ones. [In July 2015, member-states agreed a temporary scheme to take in 22,504 refugees](#), of which they have only resettled 3,968. Only 17 out of the 28 EU countries have taken part in the system. And, by early March 2017, EU countries had only taken in 3,565 Syrians from Turkey, [under an agreement signed last year which promised to resettle 72,000 Syrian refugees in Europe](#).

Under Trump's new policies, monthly refugee arrivals to the US [are projected to fall from 9,945 in October 2016 to only 1,853 in September 2017](#). The US temporary suspension of the refugee resettlement programme could affect almost 68,000 refugees who have already gone through the strenuous vetting process to be admitted to the US. As America turns its back on them, many asylum seekers will look for alternative options. Europe seems the most obvious. Indeed, the European Commission estimates that the US administration's new refugee policy will affect around 300,000 non-Syrians living in camps in Turkey. If there is a time when Europe needs the support of Western nations who are willing (and able) to shoulder the burden of refugee resettlement, that time is now: fresh tensions between Ankara and Brussels are threatening to bring down the EU-Turkey refugee deal, which would lead to massive inflows of asylum seekers into Europe. And the EU has still not decided the fate of thousands of asylum-seekers who are stranded in refugee camps in Greece.

A second problem for Europe is that Trump's penchant for inflammatory remarks and 'policy-making by Twitter' may cause collateral damage. The executive order has largely been viewed as a 'Muslim ban' because it does not stem from an objective analysis of terrorist threats in the world (it excludes countries with very active terrorist groups such as Pakistan or Saudi Arabia). Although the White House had to correct its initial approach of banning dual EU citizens from entering the US, Trump could still change his mind again in future. During his campaign, he made it clear that he thought some European countries had become terrorist havens. And if the US government were to perform an evidence-based analysis of the global terrorist threat, some European countries would inevitably feature as places of concern. Europe has become a net exporter of terrorists.

While Trump could in theory extend the visa ban to dual nationals, or even to citizens of countries like France or Belgium where the terrorist threat is high, he is unlikely to do so. He still needs the support of his European allies on everything from NATO to the very fight against the self-styled Islamic State. But Trump could use other ways of restricting European citizens without banning them from entering the US altogether. The most obvious place to start would be with the US visa waiver programme. Currently, citizens from all EU countries except for Bulgaria, Croatia, Cyprus, Poland and Romania can travel to the US without having to go through the long process of applying for a visa. Thanks to this programme, a French citizen can obtain authorisation to travel to the US in less than a day, by filling in an internet form and paying \$14, through the Electronic System for Travel Authorisation (ESTA). Dual nationals of Iran, Iraq, Sudan, or Syria, or EU citizens who may have travelled to (or been present in) Iran, Iraq, Libya, Somalia, Sudan, Syria, or Yemen on or after March 1st 2011, are already required to apply for a visa. The Trump administration could decide to extend those restrictions to nationals of EU countries where recent terrorist attacks have exposed deficiencies in national security (such as Belgium).

In principle, if the US ended the visa waiver programme for European countries, the latter could retaliate. The Trump administration might not believe that the EU would take action, however, based on its past weakness. Technically, the US is already ineligible for a collective visa waiver from EU member-states because America does not offer a visa waiver to all of them. The Commission has refused to act against the US, but Trump's belligerent attitude has revived a long-running transatlantic argument which dates back to the Obama administration. In early March, the European Parliament urged the Commission to suspend visa waivers for the US because there was no sign that the US government intended to grant visa waivers to the remaining five EU member-states.

The EU might be less lenient if faced with an increasingly hostile US administration. The European Union is in the process of establishing an ESTA-like system for visa-exempt citizens travelling to Europe. The setting-up of the European Travelling Information and Authorisation System (ETIAS) may provide the Commission with the perfect opportunity to re-assess the visa reciprocity agreement with the US. Trump's cold and sometimes un-diplomatic attitude towards the EU will not help the US make its case for maintaining visa requirements for five EU countries while enjoying a visa waiver for the full territory of the EU.

Finally, Trump's tough approach to national security may further complicate transatlantic co-operation on crime and counter-terrorism. Ever since Edward Snowden exposed the US government's secret mass surveillance programme, relations between Europe and the US on data- and intelligence-sharing have been rocky. It has taken years of patient diplomacy for both parties to agree on a series of treaties setting out a framework for co-operation. But Trump's clumsy conflation of Muslims and terrorists may render all these efforts useless. Many EU governments are uneasy with the new administration's policies on protecting national security; and the European Parliament, which has stopped the EU from concluding agreements with the US on counter-terrorism in the past, has been very vocal in its criticism of Trump's approach to migration and security.

In the medium term, Trump's bark may be worse than his bite: he has a Congress to hold him to account, and a judiciary not afraid to oppose him when he uses his executive powers to sidestep the US constitution. But an ill-judged comment can do a lot of damage to transatlantic co-operation, when it comes from a US president who is more interested in keeping his right-wing base happy than placating the sensitivities of European politicians or upholding human rights. As the UK leaves the EU, America will lose its main ally, defender and interpreter in Europe. The remaining 27 states may be less willing to give Trump's America the benefit of the doubt on migration and human rights issues. Trump is finding the limits of his power at home; and may soon find them abroad. But for the EU, taking the moral high ground may be no substitute for America taking more refugees.

Camino Mortera-Martinez is a research fellow and Brussels representative at the Centre for European Reform.