

Administration of Joseph R. Biden, Jr., 2021

Proclamation 10309—Suspension of Entry as Immigrants and Nonimmigrants of Persons Responsible for Policies or Actions That Threaten Democracy in Nicaragua
November 16, 2021

By the President of the United States of America

A Proclamation

In light of the importance to the United States of fostering democratic processes and institutions in Nicaragua to help the Nicaraguan people achieve their aspirations for democracy, and given the suppression of human rights and democracy in Nicaragua, I have determined that it is in the interest of the United States to restrict and suspend the entry into the United States, as immigrants and nonimmigrants, of members of the Government of Nicaragua, led by President Daniel Ortega, including his spouse and Vice President Rosario Murillo, and others described in this proclamation who formulate, implement, or benefit from policies or actions that undermine or injure democratic institutions or impede the return to democracy in Nicaragua.

The repressive and abusive acts of the Ortega government and those who support it compel the United States to act. The Ortega government's crackdown on opposition leaders, civil society leaders, and journalists in preparation for the November 2021 Nicaraguan presidential and legislative elections harms the institutions and processes essential to a functioning democracy. The Ortega government's undemocratic, authoritarian actions have crippled the electoral process and stripped away the right of Nicaraguan citizens to choose their leaders in free and fair elections.

The Ortega government's detention of and denial of fair trial guarantees to peaceful protesters, civil society leaders, private sector leaders, student leaders, political leaders, journalists, and presidential candidates in Nicaragua stifles political discourse and the democratic process. Police and prison authorities contribute to the repressive climate the Ortega government promotes by carrying out politically motivated arrests and detentions of individuals exercising their human rights and holding political prisoners incommunicado, without access to lawyers, family members, and needed medical care. Family members and the media have reported that some prisoners have lost significant weight in detention, cannot walk unassisted, have been held in solitary confinement, and are subjected to frequent, extensive interrogations. The physical and psychological abuse of political prisoners at the hands of police and prison authorities is intolerable and cannot stand.

The Ortega government controls multiple security services, including non-uniformed, armed, and masked parapolice, who abuse persons to further the Ortega government's authoritarian agenda, including by harassing, threatening, and committing violence against those opposed to the government. Members of the Nicaraguan National Police (NNP), along with violent mobs of pro-government supporters also controlled by government actors, have attacked religious institutions in retaliation for their support for political and religious leaders.

Municipal officials, acting on direct orders from the Ortega government, have directed violence against pro-democracy protesters in their communities and other local actors opposed to the government. For example, mayors and mayors' offices loyal to the Ortega government have organized and channeled state funds to parapolice groups engaged in violent repression. These municipal officials wield enormous political power and discretionary budget authority, conferred upon them from the highest levels of the Ortega government. The climate of fear established and

perpetuated by these municipal officials has diminished the possibility of free and fair elections and undermined democracy in Nicaragua.

The judiciary has failed the Nicaraguan people by aiding and abetting the Ortega government's use of politically motivated charges to lock up political prisoners. By stacking the judiciary with government-controlled judges and prosecutors, the Ortega government has abused the justice system to silence critics. Authorities have held many political prisoners incommunicado for months, without access to their lawyers, and with no knowledge of the spurious charges presented against them.

The widespread impunity for crimes committed against opposition actors; the persistent corruption practiced by Nicaraguan government officials in the performance of public functions that has eroded democratic institutions; and the continued failure of President Daniel Ortega, Vice President Rosario Murillo, Nicaraguan government officials, and others to support the rule of law, human rights, and other principles of high priority to the United States demand a forceful response.

Now, Therefore, I, Joseph R. Biden Jr., President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including sections 212(f) and 215(a) of the Immigration and Nationality Act (8 U.S.C. 1182(f) and 1185(a)) and section 301 of title 3, United States Code, hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 4 of this proclamation, be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. Suspension and Limitation on Entry. The entry into the United States, as immigrants or nonimmigrants, of the following persons is hereby suspended:

- (a) Members of the Government of Nicaragua, including elected officials and their staff members;
- (b) Mayors, vice mayors, or political secretaries who planned, ordered, assisted, aided and abetted, committed, or otherwise participated in, including through command responsibility, serious abuses or violations of human rights to punish peaceful protestors or deny Nicaraguans fundamental freedoms, or who attempted or conspired to do so;
- (c) Officials of Nicaragua's security services, including the Nicaraguan Military, NNP, Directorate of Special Police Operations, parapolice groups, and paramilitary groups;
- (d) Officials of the Nicaraguan penitentiary administration;
- (e) Senior members of the Nicaraguan judiciary, Public Prosecutors Office, and Ministry of the Interior;
- (f) Members of Nicaraguan government ministries, regulatory agencies, parastatal companies, higher education administrators and faculty, and elected officials who undertake actions, including human rights abuses, to deny services to those who make peaceful efforts to demand the return to democracy in Nicaragua;
- (g) Non-government persons who serve as agents of or act at the behest of those described in subsections (a)–(f) of this section to facilitate or derive financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the return to democracy in Nicaragua; and
- (h) The spouses, sons, and daughters of persons described in subsections (a)–(g) of this section.

Sec. 2. Authority of the Secretary of State to Identify Covered Individuals. Persons covered by section 1 of this proclamation shall be identified by the Secretary of State, or the Secretary of State's designee, in the Secretary of State's sole discretion, pursuant to such procedures as the Secretary of State may establish.

Sec. 3. Implementation of Suspension and Limitation on Entry. The Secretary of State shall implement this proclamation as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish. The Secretary of Homeland Security shall implement this proclamation as it applies to the entry of noncitizens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

Sec. 4. Scope of Suspension and Limitation on Entry. Section 1 of this proclamation shall not apply to:

(a) Any lawful permanent resident of the United States;

(b) Any individual who has been granted asylum by the United States, any refugee who has already been admitted to the United States, or any individual granted withholding of removal or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and nothing in this proclamation shall be construed to affect any individual's eligibility for asylum, refugee status, withholding of removal, or protection under the Convention Against Torture, consistent with the laws and regulations of the United States;

(c) Any person otherwise covered by section 1 of this proclamation, upon determination by the Secretary of State that the person has ceased actions that undermine democratic institutions and taken concrete steps to help restore democracy in Nicaragua; or

(d) Any person otherwise covered by section 1 of this proclamation, upon determination by the Secretary of State that the person's entry would not be contrary to the interests of the United States, including when the Secretary of State so determines, based on a recommendation of the Attorney General, that the person's entry would further important United States law enforcement objectives. In exercising this responsibility, the Secretary of State shall consult the Secretary of Homeland Security on matters related to admissibility or inadmissibility within the authority of the Secretary of Homeland Security.

Sec. 5. Termination. This proclamation shall remain in effect until terminated by the President. The Secretary of State shall, as circumstances warrant, recommend whether the President should continue, modify, or terminate this proclamation.

Sec. 6. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) United States Government obligations under applicable international agreements;

(ii) the authority granted by law to an executive department or agency, or the head thereof; or

(iii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

In Witness Whereof, I have hereunto set my hand this sixteenth day of November, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.

JOSEPH R. BIDEN, JR.

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NOTE: This proclamation was published in the *Federal Register* on November 19.

Categories: Proclamations : Nicaragua, persons threatening democratic institutions, suspension of U.S. entry as immigrants and nonimmigrants.

Subjects: Nicaragua : Democracy efforts; Nicaragua : U.S. sanctions.

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