



May 1, 2025

Dear Alberto,

Thank you for your time today. You asked us to research and clarify the unique aspects about the Section 7031 visa sanctions program that would prevent President Sali Berisha from simply submitting a waiver application letter.

Section 7031(c) is an entirely political process.¹ The FORPA statute created no waiver process, waiver application, or right to appeal. Instead, it vested sole discretion in the Secretary of State to designate an individual or rescind or revoke that designation. It also granted sole discretion to waive the sanction “if the Secretary determines that the waiver would serve a compelling national interest or that the circumstances which caused the individual to be ineligible have changed sufficiently.”²

Recission or waiver can happen via internal review, political reconsideration, or a change in administration policy. The sanctioned individual or their advocates may petition the State Department, submit rebuttal information, or lobby for revocation, but the ultimate decision is entirely discretionary.

Neither the statute nor subsequent case law recognizes any other avenue for redress. In *Bautista-Rosario v. Mnuchin*, 568 F. Supp. 3d 1, 6 (D.D.C. 2021), the D.C. District Court found that neither Section 7031(c) nor any other statute authorized judicial review of their designation. In the absence of such authorization, “judicial review of an alien’s exclusion is ... unavailable.” The same court agreed in a subsequent decision, finding that “it is not within the province of any court ... to review the determination of the political branch of the Government to exclude a given alien.” *Rahmani v. Yellen*, No. 24-0285, 2024 U.S. Dist. LEXIS 71572, *47 (D.D.C. Apr. 19, 2024) (emphasis added); see *Doshi v. Blinken*, No. 23-3613, 2024 WL 3509486, *9 (D.D.C. Jul. 22, 2024) (Secretary’s decision is “final because the agency has completed its decisionmaking process....”). To be sure, these cases overlook significant infringements upon a designee’s due process rights and stretch the bounds of the Department’s discretion under the Administrative Procedures Act. But they nonetheless stand for the proposition that *only* the Secretary can add or remove from the Section 7031(c) list.

Here, the case for President Berisha’s removal is strong for reasons that are self-evident: He is a staunch American ally whose inclusion on the list was entirely politically motivated by the previous administration. The imminent Albanian election and the need for President Berisha to

¹ Department of State, Foreign Operations, and Related Programs Appropriations Act (“FORPA”), 2021, Pub. L. No. 116-260, div. K, title VII, § 7031(c), 134 Stat. § 1743 (2020) (hereafter, “Section § 7031(c)”), codified as amended at 8 U.S.C. § 1182 note (2024) (Inadmissibility of Foreign Officials and Family Members Involved in Kleptocracy or Human Rights Violations).

² See § 7031(c)(3).

campaign among the Albanian-American diaspora form a "compelling national interest" that warrants quick, decisive action by the Secretary. President Berisha has repeatedly requested a formal review process and opportunity to offer rebuttal information. And President Berisha's supporters in the United States formally petitioned the State Department by letter dated March 28, 2025.

His only remaining means of redress lie with the Secretary.

Sincerely,

A handwritten signature in cursive script, reading "Clay D. Gann, Esq.".

CONTINENTAL PLLC