

Judge blocks Trump policy allowing states to refuse refugees

Lomi Kriel Jan. 15, 2020 Updated: Jan. 15, 2020 6:56 p.m.

A federal judge on Wednesday temporarily blocked an executive order allowing state and local authorities to refuse to resettle refugees, just days after Republican Gov. Greg Abbott made Texas the only state to withdraw from the program.

In a strongly-worded 31-page decision, U.S. District Judge Peter J. Messitte said that the new consent requirement is likely “unlawful” for violating the 1980 Refugee Act, which sets conditions for refugee resettlement and grants the federal government authority over where to send them.

“Giving states and local governments the power to consent to the resettlement of refugees — which is to say veto power to determine whether refugees will be received in their midst — flies in the face of clear Congressional intent,” Messitte wrote. “One is left to wonder exactly what the rationale is for doing away entirely with a process that has worked so successfully for so long.”

A spokesman for Abbott did not respond to an email seeking comment.

Abbott is the only governor to opt out of the federally funded program while seven other states —including Georgia, Florida, and Alabama —had not yet notified the State Department of its decision before the injunction.

The Justice Department declined to comment on whether it would appeal the ruling. A State Department spokesman said the agency is reviewing the judge’s decision.

The new veto power for states and cities, required by an executive order President Donald Trump issued in September, is unprecedented in decades of U.S. resettlement. It comes as the White House has slashed the number of refugees allowed into the country to a record low of 18,000 for 2020 — down from 30,000

in 2019 and an average of 102,000 annually during the program's peak under President Ronald Reagan in the 1980s.

This year, about 2,000 refugees were expected to be resettled in Texas, compared to 7,800 admitted during the last year of President Barack Obama's administration in 2016.

"Today's ruling not only protects the important work the resettlement agencies have been doing with communities for decades, but also reflects our values as a nation," said Melissa Keaney, an attorney for the International Refugee Assistance Project who argued the case on behalf of three national resettlement agencies.

Mark Hetfield, chief executive of HIAS, a Jewish refugee organization which was a plaintiff to the lawsuit, said the judge's decision reflected the fact that 42 states — including 17 led by Republican governors — agreed to continue taking in refugees.

"An overwhelming majority of governors and municipalities have already expressed their desire to continue welcoming refugees," Hetfield said in a statement. "To those few who have not, we say not only is it unkind and un-American to ban refugees from your states and towns, but it is unlawful."

In a letter to Secretary of State Mike Pompeo Friday, Abbott wrote that since 2010, more refugees have been sent to Texas than any other state and about 1 in 10 are resettled here. At the same time, the governor wrote, the state has been the focus of immigrants crossing the southern border.

"The state and non-profit organizations have a responsibility to dedicate available resources to those who are already here, including refugees, migrants, and the homeless — indeed, all Texans," Abbott wrote.

His spokesman, John Wittman, defended the decision in a statement earlier this week, saying it "will not prevent any refugee from coming to America."

Withdrawing from the program would have meant federal funding could not be distributed to resettle any refugees in Texas, said Kimberly Haynes, a regional refugee coordinator with the South Texas Office of Refugees. But it would not have prevented refugees from coming here on their own without such assistance.

Most refugees coming to Houston are joining relatives and would likely have continued to resettle here no matter where they initially were placed, Haynes said. But under Abbott's withdrawal they would not have qualified for federal services to help them integrate, including assistance with housing, finding work, and learning English.

"We're breathing a big sigh of relief knowing that communities across the country can continue to welcome refugees and won't have to make decisions if they want to be with their family members or access important services, especially when it comes to Texas," said Jen Smyers, director of policy for Church World Service, a national resettlement agency that joined the lawsuit against the government.

She said the issue of refugee resettlement had wrongly been conflated with illegal immigration and asylum seekers at the southern border. Refugees must prove they suffered persecution because of their race, religion, nationality, membership in a particular social group, or political opinion. They apply for the protection through the United Nations from another country and can be resettled all over the world.

The U.N. estimates there are an unprecedented 25.9 million refugees globally — over half of whom are under the age of 18 — and most go to Turkey, Jordan and Pakistan. Of the 30,000 refugees admitted into the United States in the 2019 fiscal year ending in September, 60 percent were from the Democratic Republic of Congo and Myanmar. They undergo stringent U.S. State Department security screenings and multiple interviews in a process that can last three years and are widely regarded as the most-closely vetted entrants to the country.

Other than Texas, two counties and one city opted to block refugees from coming there. No refugees had been resettled in the counties — Appomattox in Virginia and Beltrami in Minnesota — for years, Smyers said. Mayor Domenic J. Sarno of Springfield, Mass., which has been a resettlement destination for refugees, also said he would not consent to their admission, though city council members were considering measures to overrule him.

On Tuesday, state Attorney General Ken Paxton appeared on Fox & Friends to defend Abbott's decision, saying Texas had resettled the greatest share of refugees in the nation and that it was "expensive."

“I think people understand in Texas that we have done our share for a long time and we’re going to continue doing our share given the fact that Congress is not reacting to the border crisis,” Paxton said.

No direct state funding goes to refugee resettlement, although refugees can qualify for Medicaid and food assistance.

A spokesman for Paxton did not immediately return an email seeking comment.

U.S. Sen. John Cornyn, a Texas Republican, said he’d “like to have a private conversation” with Abbott to “get more detail about his thought process” in declining to accept refugees, even as the senator said he understood that the state had long borne the brunt of illegal immigration at the border.

“I think legal immigration is a good thing, and these refugees - once they come to the United States, they’re not required to live where they’re settled. They could move tomorrow,” Cornyn said.

Still, he said, Abbott’s decision was “certainly within the governor’s purview and not my decision to make.”

Mark Krikorian, executive director of the Center for Immigration Studies, a Washington D.C. group that supports reducing immigration, cast the ruling as “another lawless attempt by judges who don’t like Trump to prevent his policies from going into effect.”

Ali Al Sudani, who came here as a refugee from Iraq a decade ago and is now chief programs officer at Interfaith Ministries for Greater Houston, said he was grateful the decision would continue allowing refugees to resettle in Texas, popular for its plentiful job opportunities, cost of living and rich faith community.

He said he hoped the legal challenge would not continue to politicize what for decades has been a program with bipartisan support.

“I hope this will be a situation where the federal government, state government, local, faith, nonprofit and business groups come to realize once again that this is the right thing to do, the American thing to do,” Al Sudani said.