
Preserve Judicial Review of Asylum Decisions

As with [most final decisions](#) of federal agencies, U.S. law has long ensured access to [federal court review in immigration cases, including asylum](#). This crucial safeguard saves lives and provides oversight to agency decision-making. The “[Emergency National Security Supplemental Appropriations Act, 2024](#)” eliminates review by the federal circuit courts of appeals of decisions made in its new process.

Current law [allows](#) a person to file a petition for review of a final order of removal. The Emergency National Security Supplemental Appropriations Act of 2024 would strip federal courts of jurisdiction to review final orders of removal issued through its new protection proceedings. Additionally, the bill would grant USCIS exclusive jurisdiction to review its own asylum decisions in these proceedings, instead of being subject to review by Immigration Courts and the BIA. This is of great concern because USCIS [routinely fails](#) to grant protection to individuals who are subsequently granted relief by Immigration Courts.

Even without the Emergency National Security Supplemental Appropriations Act, access to review by federal courts is hampered by lack of access to counsel and short deadlines: [less than 3,500](#) asylum-related petitions for review were filed with the circuit courts of appeals in 2023. While only a small portion of asylum seekers pursue review by circuit courts of appeals, this safeguard is essential to the rule of law and to uphold U.S. treaty obligations.

Judicial review prevents the return of bona fide refugees to persecution

Federal court review has saved from return to persecution refugees who qualify for protection under our laws. It also has ensured adherence to proper legal standards and recognition of claims for at-risk and marginalized groups including LGBTQ+ persons, persecuted women, and religious minorities. For example, courts of appeals have corrected wrongful decisions endangering:

- [a Russian dissident](#) associated with Alexei Navalny's Anti-Corruption Foundation who was clearly persecuted for political opinion;
- [a gay man](#) who suffered brutal persecution in Serbia and was then denied protection by an Immigration Judge who, stereotyping, said he did “not appear to be overtly gay;”
- [a man who converted to Christianity in Iran](#), where apostasy is punishable by death;
- [a Nicaraguan opposition activist](#) who suffered death threats, her home burned down, and an attack on a convoy in which she was traveling;
- a young [Pentecostal Christian man in Eritrea](#) who sought protection from persecution;
- [a woman who escaped sex trafficking](#) in Albania; and
- [women](#) fleeing gender-based violence in countries that would not protect them, based on the [erroneous categorical application](#) of *Matter of A-B-*, which was later [vacated](#) by Attorney General Garland.

Judicial review has also saved many refugees from deportation to danger due to [illegal](#) or [politicized](#) policies, as well as from patterns of [faulty legal](#) and [factual](#) analysis in agency decisions. In any system of agency adjudication, the risk of error grows as the number of cases increases and adjudicators' exposure to external scrutiny is diminished. Judicial oversight is necessary to improve the system and uphold the rule of law.