

Nach mündlicher Gerichtsverhandlung bestreitet US-Präsident Trump, die Proklamation, mit der das Handeln von Tren de Aragua zu einer „invasion or predatory incursion [...] against the territory of the United States by any foreign nation or government“ erklärt wird, um deren Mitglieder auf die Schnelle aus den USA abschieben zu können, unterzeichnet zu haben

Teil I eines Berichts über die mündliche Verhandlung

Am Freitagnachmittag Ostküsten- bzw. -abend Mitteleuropäischer Zeit fand – [wie angekündigt](#) – eine weitere mündliche Verhandlung vor dem *District Court* für den *District of Columbia* statt. Gegenstand des Verfahrens sind Abschiebungen, die am Samstag des vergangenen Wochenendes teils stattfanden und teils stattfinden sollten. Grundlage für die Abschiebungen ist nach Regierungsargumentation, die Proklamation 10903 *Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua*, die [mit dem Unterschrifts-Datum des 14.03.2023 am 20.03.2023 im Federal Register der USA im Namen und mit Unterschrift von US-Präsident Trump](#) sowie [am 15.03.2024 auf der Website des Weißen Hauses](#) veröffentlicht worden war:

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Title 3—
The President

Proclamation 10903 of March 14, 2023
Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua

By the President of the United States of America

A Proclamation

Tren de Aragua (TDA) is a designated Foreign Terrorist Organization with thousands of members, many of whom have unlawfully infiltrated the United States and are conducting irregular warfare and undertaking hostile actions against the United States. TDA operates in conjunction with *Carriel de los Soles*, the Nicolás Maduro regime-sponsored, neo-revolutionary enterprise based in Venezuela, and commits brutal crimes, including murders, kidnapping, extortion, and human, drug, and weapons trafficking. TDA has engaged in and continues to engage in cross-border operations in the United States to further its objectives of harming United States citizens, undermining public safety, and supporting the Maduro regime's goal of destabilizing democratic nations in the Americas, including the United States.

TDA is closely aligned with, and indeed has infiltrated, the Maduro regime, including its military and law enforcement agencies. TDA grew significantly while Erick El Alassani served as governor of Aragua between 2012 and 2017. In 2017, El Alassani was appointed as Vice President of Venezuela's State Secretariat, the United States Department of the Treasury designated El Alassani as a Specially Designated Narcotics Trafficker under the Foreign Narcotics Kingpin Designation Act, 21 U.S.C. 1903 et seq. El Alassani is currently a United States fugitive facing charges arising from his violations of United States sanctions imposed by his Department of the Treasury designation.

Lila El Alassani, Nicolás Maduro, who claims to act as Venezuela's President and exercises control over the security forces and other military organizations, including the *Carriel de los Soles*, which coordinate with TDA, and the Maduro regime-sponsored *entrepresa Carriel de los Soles*, which coordinate with TDA, and other regime members were charged with participation in and other crimes in connection with this plot against America.

Over the years, Venezuelan national and local authorities have coded enforcement control over their territories to transnational criminal organizations, including TDA. The result is a bilateral criminal trade in perpetration of an invasion and predatory incursion into the United States, and which poses a significant danger to the United States. Evidence from the United States (INTERPOL Washington confirmed): Tren de Aragua has emerged as a significant threat to the United States as it has invaded the United States and continues to do so, and has engaged in and continues to engage in the country's perpetrated irregular warfare within the country; and used drug trafficking as a weapon against citizens.

Based upon a review of TDA's activities, and in consultation with the Attorney General and the Secretary of Homeland Security on February 28, 2024, acting pursuant to the authority in 8 U.S.C. 1385, the Secretary of State designated TDA as a Foreign Terrorist Organization.

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all necessary actions under the Alien Enemies Act to effectuate this proclamation, consistent with applicable law. In doing so, and for such purposes, they are authorized to utilize agents, agencies, and officers of the United States Government and of the several States, territories, dependencies, and municipalities thereof and of the District of Columbia. All such agents, agencies, and officers are hereby granted full authority for all acts done by them in the execution of such regulations when acting by direction of the Attorney General or the Secretary of Homeland Security, as the case may be.

Pursuant to the authority vested in me by the Constitution and the laws of the United States of America, including the Alien Enemies Act, 50 U.S.C. 21 et seq., I hereby declare and establish the following regulations which I find necessary "in the premises and for the public safety":

(a) No Alien Enemy described in section 1 of this proclamation shall enter, attempt to enter, or be found within any territory subject to the jurisdiction of the United States. Any such Alien Enemy who enters, attempts to enter, or is found within such territory shall be immediately apprehended and detained until removed from the United States. All such Alien Enemies, whenever found within any territory subject to the jurisdiction of the United States, are subject to summary apprehension.

(b) Alien Enemies apprehended pursuant to this proclamation shall be subject to detention until removed from the United States in such place of detention as may be directed by the officers responsible for the execution of these regulations.

(c) Alien Enemies shall be subject to removal to any such location as may be directed by the officers responsible for the execution of these regulations consistent with applicable law.

(d) All property in the possession of, or traceable to, an Alien Enemy, which is used, intended to be used, or is commonly used to perpetrate such hostile activity and irregular warfare, shall be subject to seizure and forfeiture.

The Attorney General is further granted authority, pursuant to the Alien Enemies Act and 5 U.S.C. 552, in consultation with the Secretary of Homeland Security, to issue any guidance necessary to effectuate the prompt apprehension, detention, and removal of all Alien Enemies described in section 1 of this proclamation. Any such guidance shall be effective immediately upon issuance by the Attorney General.

This proclamation and the directives and regulations prescribed herein shall extend and apply to all land and water continental or insular, in any way within the jurisdiction of the United States.

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As President of the United States and Commander in Chief, it is my solemn duty to protect the American people from the devastating effects of this invasion. NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including the Alien Enemies Act, 50 U.S.C. 21 et seq., hereby proclaim and direct as follows:

Section 1. I find and declare that TDA is perpetrating, attempting, and financing an invasion or predatory incursion against the territory of the United States. TDA is undertaking hostile actions and conducting irregular warfare against the territory of the United States both directly and as the direction, clandestine or otherwise, of the Maduro regime in Venezuela. I make these findings, with the full extent of my authority, to protect the United States and its citizens from the threat posed by TDA and to ensure that the United States' foreign interests under the Constitution, based on treaty obligations, and by the authority vested in me by the Constitution and the laws of the United States of America, including 50 U.S.C. 21, protect that all Venezuelan citizens 14 years of age or older who are members of TDA, are within the United States, and are not actually authorized to lawfully permanent residents of the United States are liable to be apprehended, restrained, removed, and removed as Alien Enemies. I further find and declare that all such members of TDA are, by virtue of their membership in that organization, chargeable with actual hostility against the United States and are therefore ineligible for the benefits of 50 U.S.C. 22. I further find and declare that all such members of TDA are a danger to the public peace or safety of the United States.

Sec. 2. I direct the Attorney General, within 60 days of the date of this proclamation, to prepare and publish a letter under her signature declaring the policy described in section 1 of this proclamation in the policy of the United States and attaching this proclamation. I direct the Attorney General to transmit this letter to the Chief Justice of the United States, the chief judge of every circuit court of appeals, the chief judge of every district and territorial court of the United States, each Governor of a State and territory of the United States, and the highest-ranking judicial officer of each State and territory of the United States.

Sec. 3. I direct that all Alien Enemies described in section 1 of this proclamation are subject to immediate apprehension, detention, and removal, and further that they shall not be permitted residence in the United States.

Sec. 4. Pursuant to the Alien Enemies Act, the Attorney General and the Secretary of Homeland Security shall, consistent with applicable law, apprehend, detain, remove, and remove every Alien Enemy described in section 1 of this proclamation. The Secretary of Homeland Security retains discretion to apprehend and remove any Alien Enemy under my separate authority.

Sec. 5. All executive departments and agencies (agencies) shall collaborate with law enforcement officials of the United States and with appropriate State, local, and tribal officials, to use all lawful means to apprehend, restrain, secure, and remove Alien Enemies described in section 1 of this proclamation.

Sec. 6. Pursuant to my authority under 50 U.S.C. 21 to direct the conduct to be observed on the part of the United States toward the Alien Enemies subject to this proclamation, to direct the manner and degree of the restraint to which such Alien Enemies shall be subject and to what extent, to provide for the removal of such Alien Enemies, and to establish any other regulations which are found necessary "in the premises and for the public safety," I hereby direct the Attorney General and the Secretary of Homeland Security to issue any guidance necessary to effectuate the prompt apprehension, detention, and removal of all Alien Enemies described in section 1 of this proclamation. The Attorney General and the Secretary of Homeland Security are further directed to cause the apprehension, detention, and removal of all members of TDA who are members of TDA as described in section 1 of this proclamation. The Attorney General and the Secretary of Homeland Security are authorized to take



(8) (50 USC 2002)
FSA-1-18-14, 4-81 and
8106; GSA 330-2.1-2

In der mündlichen Verhandlung am Freitag hatte Drew C. Ensign, der *Lead Attorney* der Regierung in dem Verfahren, gesagt:

„The government is complying with the law as it understands the law to be.“
(zit. n. <https://x.com/kyledcheney/status/1903155506593550835>)

Daran ist im *ersten* Zugriff nichts auszusetzen – *anders* verhält es sich freilich, *wenn Gerichte bereits* (für einen konkreten Fall) *entschieden haben*, wie das Gesetz auszulegen ist – und dann die Regierung trotzdem dem folgt, was sie für das Gesetz hält, und nicht dem, was das oder die Gerichte für das Gesetz halten.

Der mit der Sache befaßte Richter hatte allerdings unter einem anderen Gesichtspunkt ein – nämlich dem, daß eingangs erwähnte *proclamation* bereits auf Freitag, den 14.03.2025 datiert ist, aber erst am Samstag, den 15.03.2025 – als der Rechtsstreit wegen der Abschiebungen bereits anhängig war – auf der Website des Weißen Hauses und am 20.03. im *Federal Register* veröffentlicht wurde. Der Richter fragte deshalb:

„If that's so [also: falls die Regierung meinte legal zu handeln], why was this proclamation essentially signed in the dark on Friday ... and then these people rushed onto planes? It seems to me the only reason to do that is if you know it's a problem and you want to get them out of the country before there are suits filed.“
(zit. n. *ebd.*; vgl. <https://www.politico.com/news/2025/03/21/james-boasberg-trump-administration-deportations-00003815>)

Dies führte dazu, daß Trump nach der mündlichen Verhandlung auf die rhetorische Frage und Bemerkung des Richters von JournalistInnen angesprochen wurde. Antwort von Trump:

„We want to get criminals out of our country, number one, and I don't know when it was signed because **I didn't sign it**,“ Trump said. „Other people handled it, but (Secretary of State) Marco Rubio has done a great job and he wanted them out and we go along with that. We want to get criminals out of our country.“
(<https://edition.cnn.com/politics/live-news/trump-administration-presidency-news-03-21-2025/#cm8jdlkdb000p3b6q6zooop245>; Hv. hinzugefügt;
vgl. <https://www.c-span.org/program/white-house-event/president-trump-speaks-to-reporters-before-departure-to-new-jersey/657570> [ab Min. 2:36 und 3:05] und <https://de.nachrichten.yahoo.com/trump-bestreitet-beteiligung-veranlassung-abschiebefl%C3%BCgen-062105965.html> [deutsch-sprachige AfP-Meldung])

Auch auf eine weitere Frage stellte Trump – nach CNN-Darstellung – die Sache so dar, daß sie ganz in den Händen von Außenminister Rubio liege:

Trump raised Rubio's name without prompting from reporters. When he was then asked a hypothetical question about whether he would send another deportation flight to El Salvador tonight amid the ongoing litigation, Trump said it would be up to Rubio.
„I would say that I'd have the Secretary of State handle it, because I'm not really involved in that, but the concept of getting bad people murderers, rapists, drug dealers, all of the, these are really some bad people out of our country. I ran on that. I won on that,“ Trump said.
(*ebd.*)

Dies ist deshalb wichtig, weil der *Alien Enemies Act* auf den sich die US-Regierung be-
ruft, eindeutig bestimmt:

„Whenever there is

- a declared war between the United States and any foreign nation or government,
or
- any invasion or predatory incursion is perpetrated, attempted, or threatened
against the territory of the United States by any foreign nation or government,

and

- the President makes public proclamation of the event,

all natives, citizens, denizens, or subjects **of the hostile nation or government**, being
of the age of fourteen years and upward, who shall be within the United States and not
actually naturalized, **shall be liable to be** apprehended, restrained, secured, and **re-**
moved as alien enemies.“

([50 USC 21](#) Satz 1; Hv. hinzugefügt)

Es müssen also – [wie bereits am vergangenen Samstag erklärt](#) – zwei Voraussetzungen
geben sein, damit *auf Grundlage dieser* Norm Abschiebungen erfolgen dürfen:

- *Erstens* muß (materiell) ein „*declared war*“ (ist in Bezug auf *Tren de Aragua* und
USA *nicht* der Fall!) oder eine „*invasion or predatory incursion*“ (ist in Bezug auf
diese beide Akteure zumindest sehr fragwürdig) gegeben sein – und bei dem
Gegner der USA muß es sich um eine „*foreign nation or government*“ handeln
(ist bei *Tren de Aragua* nicht der Fall, auch wenn die Trump-Regierung behauptet,
TdA sei mit der venezolanischen Regierung verhandelt und übe auch selbst
Kontrolle über einen Teil Venezuelas aus)
und
- *zweitens* muß (prozedural) die „**public proclamation**“ des vermeintlichen Ereignisses
(*declared war, invasion or predatory incursion*) erfolgt sein – und zwar
durch den Präsidenten („*the President makes public proclamation of the event*“).

Es stellen sich also vorliegend mindestens drei Fragen:

- Es ist erforderlich, daß der/die jeweilige PräsidentIn eine solche Proklamation
selbst unterschreibt? Oder genügt es, daß es irgendjemandE in der Regierung
im Namen und mit der – zumindest nachträglichen – Billigung des/der Präsidenten/in
eine solche Proklamation mit der präsidialen Unterschrift versieht und veröffentlicht?
- Welchen Beweiswert hat die gestrige Trump-Äußerung gegenüber JournalistInnen?
Was ist, falls Trump sich nach dem Wochenende ‚erinnert‘, die Proklamation
unterzeichnet zu haben oder RegierungsmitarbeiterInnen bezeugen, eine (angebliche)
Unterzeichnung durch Trump gesehen zu haben?
- Wurde die Proklamation schon *vor* Veröffentlichung (z.B. durch Verbringung von
Leuten aus ihren Wohn- oder Inhaftierungsorten nach Texas, von wo aus die Abschiebe-
Flüge starteten), angewandt (vgl. <https://youtu.be/bfiOmEodURY?t=1376>
[ab Min. 22:55] via <https://www.lawfaremedia.org/article/lawfare-live--trials-of-the-trump-administration--march-21>)?