

# United States Senate

WASHINGTON, DC 20510-1304

January 12, 2023

The Honorable Joseph R. Biden, Jr.  
President  
1600 Pennsylvania Ave., NW  
Washington, D.C. 20500

Dear Mr. President:

I urge you to use all available authorities under our immigration laws to ensure that former Brazilian President Jair Bolsonaro is not permitted to remain in the United States.

On January 8, we witnessed a horrific scene in Brazil as thousands of misinformed and manipulated supporters of Mr. Bolsonaro stormed and ransacked Brazil's National Congress, Supreme Federal Court, and presidential palace. These actions were preceded by his refusal to accept Brazil's free and fair October 2022 election and by a months-long campaign he waged to deliberately undermine Brazil's public faith in the country's democratic institutions, even as the region has struggled for decades to emerge from authoritarian and military rule.<sup>1</sup> Mr. Bolsonaro also declined to attend the inauguration of his democratically-elected successor, President Luiz Inácio Lula da Silva, and instead fled to the United States, apparently using a visa that was contingent on his now-expired status as a head of state to enter into the country. Notably, he is reportedly the subject of multiple criminal probes in Brazil.<sup>2</sup> The Brazilian people deserve an opportunity to conduct a full investigation into allegations that Mr. Bolsonaro incited the January 8 attack on their government buildings and engaged in other criminal conduct, and to hold him accountable for any crimes he may have committed.

Mr. Bolsonaro was reportedly admitted to the United States based on a diplomatic or "A" nonimmigrant visa granted to him as a result of his former role as a head of state.<sup>3</sup> Generally speaking, if an A visa holder in the United States is no longer engaged in official business on behalf of their government, the visa holder must either depart the United States or request another immigration status within 30 days.<sup>4</sup> If Mr. Bolsonaro does not promptly depart the United States, you have authority under section 212(f) of the Immigration and Nationality Act (INA) to deem his entry detrimental to the interests of the United States, thereby rendering him

<sup>1</sup> See Catherine Osborn, *Brazil's Capitol Riot Shows the Strength of Bolsonarism after Bolsonaro*, Foreign Policy Magazine (Jan. 9, 2023), <https://foreignpolicy.com/2023/01/09/brazil-riot-insurrection-lula-bolsonaro-election-far-right/>.

<sup>2</sup> Ricardo Brito and Gabriel Araujo, *Analysis: Brazil's Bolsonaro faces legal risks after losing immunity*, Reuters (Jan. 4, 2023), <https://www.reuters.com/world/americas/brazils-bolsonaro-faces-legal-risks-after-losing-immunity-2023-01-04/>.

<sup>3</sup> Tracy Wilkinson, *Still wrestling with Jan. 6 fallout, U.S. contends with Bolsonaro's Florida stay after Brazil riots*, Los Angeles Times (Jan. 10, 2023), <https://www.latimes.com/politics/story/2023-01-10/us-bolsonaro-florida-brazil-riots>.

<sup>4</sup> Miriam Berger, Emmanuel Felton, and Karen DeYoung, *U.S. would 'treat seriously' requests to revoke Bolsonaro's visa*, Washington Post (Jan. 9, 2023), <https://www.washingtonpost.com/world/2023/01/09/bolsonaro-extradition-visa-florida-brazil/>.

inadmissible.<sup>5</sup> Prior to the end of the 30-day period, the Secretary of State may also revoke Mr. Bolsonaro's visa, and such action would render him deportable.<sup>6</sup>

The United States must not be a safe haven for those who seek to undermine free and fair democratic elections or the peaceful democratic transfer of power, particularly by inciting violence, regardless of the position of power they previously held. As such, I urge your Administration to use such available authorities to ensure that former President Bolsonaro cannot remain in the United States. If you determine that you are unable to remove him under existing immigration law, please notify me as soon as possible. When the Senate returns to session, I am planning to introduce legislation to clarify the Executive Branch's authority in this area.

As you give this matter your urgent attention, I also request that the Secretary of State and the Secretary of Homeland Security, as appropriate, promptly provide the following information:

- 1) What visa was issued to former President Bolsonaro, and for how long is that visa valid? If he has changed status since entry, what immigration status does he currently hold in the United States?
- 2) Under section 237(a)(1)(C) of the INA, a noncitizen who was admitted as nonimmigrant and who has failed to comply with the conditions of the nonimmigrant status in which he or she was admitted is deportable from the United States. If Mr. Bolsonaro does not leave, as required by law, when his visa expires, what steps are being taken to ensure that he cannot remain in the United States?
- 3) To the extent that Mr. Bolsonaro is in a status that will not expire in 30 days, what interagency steps are being taken by the Department of State and Department of Homeland Security to coordinate revocation of any nonimmigrant status and apply the appropriate grounds of deportability?

Thank you for prompt attention to this important matter.

Sincerely,



Richard J. Durbin  
United States Senator

CC: Secretary of State Antony Blinken  
CC: Secretary of Homeland Security Alejandro Mayorkas

---

<sup>5</sup> 8 U.S.C. 1182(f)

<sup>6</sup> INA section 221(i), 8 U.S.C. 1201(i); INA section 237(a)(1)(B); 8 U.S.C. 1227.