

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

DOC SOCIETY  
20 Jay Street, Suite 1008  
Brooklyn, NY 11201,

INTERNATIONAL DOCUMENTARY  
ASSOCIATION

3470 Wilshire Boulevard, Suite 980  
Los Angeles, CA 90010,

Plaintiffs,

v.

MICHAEL R. POMPEO, in his official  
capacity as Secretary of State  
2201 C Street, NW  
Washington, D.C. 20520,

CHAD F. WOLF, in his official capacity as  
Acting Secretary of Homeland Security  
245 Murray Lane, SW, Mail Stop 0485  
Washington, D.C. 20528-0485,

Defendants.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Case No. 19-3632

**COMPLAINT**

1. This lawsuit challenges U.S. Department of State (“State Department”) rules requiring nearly all individuals who apply for U.S. visas from abroad to register their social media identifiers with the U.S. government. These rules require an estimated 14.7 million visa applicants each year to disclose on their application forms all social media identifiers, including pseudonymous ones, they have used on any of twenty social media platforms during the preceding five years (the “Registration Requirement”). The Registration Requirement applies even to those with substantial connections to the United States, including to those already residing in the United

States who apply for new visas from abroad. The information collected through the Registration Requirement is retained in records systems of the State Department and U.S. Department of Homeland Security (“DHS”), shared within the U.S. government, and also disseminated, in some circumstances, to other governments. The Registration Requirement is the cornerstone of a far-reaching digital surveillance regime that enables the U.S. government to monitor visa applicants’ constitutionally protected speech and associations not just at the time they apply for visas, but even after they enter the United States.

2. The Registration Requirement violates the expressive and associational rights of visa applicants by compelling them to facilitate the government’s access to what is effectively a live database of their personal, creative, and political activities online. As the Supreme Court has observed, social media platforms are now among the “most important places . . . for the exchange of views.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017). Billions of people from around the world use social media to share information and opinions across borders, petition government officials, and advocate for social, religious, and political change. With access to visa applicants’ social media identifiers, the government can develop a detailed picture of their political and religious views; map their professional, political, and other networks; and closely track their speech and associations in real time.

3. The Registration Requirement, along with related retention and dissemination policies, chills protected speech. Because of the requirement and related policies, some visa applicants who would otherwise use social media to speak to others, and to share their views about personal or political topics, refrain from doing so or publicly share less than they otherwise would. The implications of the Registration Requirement are especially significant for those who use pseudonymous identifiers. Many people use pseudonyms on social media so that they can speak

anonymously about sensitive or controversial issues, and so that they can shield themselves or their families or associates from possible reprisals by state or private actors. The Registration Requirement effectively conditions their eligibility for U.S. visas on their readiness to surrender their online anonymity.

4. Plaintiffs Doc Society and the International Documentary Association (“IDA”) bring this challenge because the Registration Requirement and related retention and dissemination policies violate their rights as well as the rights of their members and partners inside and outside the United States. Doc Society and IDA are U.S.-based documentary film organizations that regularly collaborate with non-U.S. filmmakers and other partners, including by inviting them to screen and discuss their work in the United States. For example, Doc Society hosts “Good Pitch” events throughout the year to facilitate filmmaking partnerships and launch social justice impact campaigns while raising funds to support these efforts. Similarly, IDA’s “Getting Real” conference brings hundreds of filmmakers from around the world together in Los Angeles to share their skills and their stories with each other.

5. Many of Plaintiffs’ members and partners use social media to show their work; draw attention to human rights abuses; connect with other filmmakers, artists, and advocates; and engage with the same social and political issues that they address in their films. The Registration Requirement has a significant chilling effect on their use of social media, especially for political speech. Plaintiffs’ members and partners who anticipate applying for U.S. visas must consider the risk that a U.S. official will misinterpret their speech on social media, impute others’ speech to them, or subject them to additional scrutiny or delayed processing because of the views they or their contacts have expressed. Those who use pseudonymous identifiers must take into account that they will have to relinquish their online anonymity to U.S. officials when they submit their

visa applications, and they must also consider the risk that U.S. officials will disclose their social media identifiers to foreign governments, reveal the identifiers inadvertently, or fail to protect the identifiers from third parties who might access them unlawfully. In recent months, authoritarian and other rights-abusing regimes, including some U.S. allies, have used information gleaned from social media to identify, locate, and detain human rights advocates, journalists, and political dissidents—and even, in some instances, to have them killed.

6. Because of the Registration Requirement, some of Plaintiffs' members and partners now use social media more cautiously, use it less, or no longer use it at all for speech that could be construed as controversial or political. In addition, some of Plaintiffs' members and partners who had considered applying for visas to visit or work in the United States have decided against doing so to avoid having to surrender their social media identifiers to the U.S. government and submit to indefinite surveillance of their speech and associations. The Registration Requirement impairs their professional activities, including their ability to collaborate with Plaintiffs. Plaintiffs' members and partners cannot challenge the Registration Requirement themselves, however, because doing so would require them to give up the very anonymity or obscurity that they seek to protect.

7. The Registration Requirement, along with related retention and dissemination policies, also directly infringes Plaintiffs' expressive and associational rights, as well as those of their members, partners, and audiences here in the United States. The requirement burdens Plaintiffs' ability to discover and spotlight the work of non-U.S. members and partners and to learn about issues confronting their filmmaking communities. It also deprives Plaintiffs' U.S. members and partners of the opportunity to hear the speech that non-U.S. members and partners otherwise would have shared on social media. Additionally, because some will no longer apply for visas to

come to the United States, the requirement limits which non-U.S. members and partners the Plaintiff organizations can include in their flagship events, thereby compromising their ability to promote those events and their organizations, and depriving their U.S. members, partners, and audiences of the opportunity to engage with those foreign filmmakers and other partners in person in the United States.

8. While the implications of the Registration Requirement for individual rights are profound, the requirement is not necessary to serve the government's legitimate interests in adjudicating visa applications, enforcing the immigration laws, or protecting national security. In adopting the Registration Requirement, the State Department cited no evidence that it is likely to be an effective, let alone necessary, means of serving those interests. Indeed, the State Department disregarded contrary evidence in the administrative record, including public comments explaining the difficulties of interpreting social media information across different languages, customs, and cultural norms, and public comments highlighting DHS's documented failures in establishing the usefulness of screening social media information in connection with visa eligibility determinations.

9. As described further below, the Registration Requirement violates the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), because it exceeds the Secretary of State's authority under the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*, because it is contrary to constitutional right, and because it is arbitrary and capricious. The Registration Requirement, as well as related retention and dissemination policies, also violates the First Amendment to the U.S. Constitution. Plaintiffs respectfully request that the Court declare the Registration Requirement and related retention and dissemination policies to be unlawful, and enjoin the government from enforcing or relying on them. While Plaintiffs acknowledge that there

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