

## Third Country Removals: Legal Protections and Compliance Concerns

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The U.S. government is increasingly using [third country](#) removals to transfer noncitizens to countries other than their own, raising serious legal and human rights concerns. This includes the removal of at least 760 people to [countries](#) such as [El Salvador](#), [Costa Rica](#), [Panama](#), and [South Sudan](#), with [reported](#) plans to expand to additional nations. This factsheet outlines the legal framework governing third country removals, highlights applicable limits and required procedural safeguards, and distinguishes these removals from safe third country agreements.

### Overview

In limited circumstances, U.S. [immigration law](#) permits the removal of noncitizens to a third country, meaning a country other than the individual's country of origin or nationality, subject to statutory and constitutional protections. Such removals may occur when the government is legally barred from returning someone to their country of origin due to a risk of persecution or torture, or when that country refuses to accept their return. In all cases, removal must comply with U.S. and international law, which prohibit transfer to any country where the individual would face a risk of persecution or torture. The administration has also invoked the [Alien Enemies Act \(AEA\)](#) to carry out third country removals outside the immigration statutory framework, an unprecedented policy that is being repeatedly challenged in [federal courts](#).

### What Are the Legal Limits to Third Country Removals?

Removal of a noncitizen to a third country is prohibited if the person's [life or freedom would be threatened](#) on account of race, religion, nationality, membership in a particular social group, or political opinion, or if the person faces a [substantial risk of torture](#). These statutory protections implement the United States' obligations under the [1967 Refugee Protocol](#) and the [1984 Convention Against Torture](#) (CAT). Furthermore, the government may remove a person to a third country only if that country [agrees to accept](#) them.

### What Process Must Be Followed for Third Country Removals?

Any attempt to remove an individual to a third country must comply with the Fifth Amendment [constitutional right to due process](#). This means the government must provide meaningful notice of the proposed destination. If the person expresses a fear of persecution or torture in that country, or of being sent from that country to yet another country where such harm may occur, the government must provide an opportunity to seek protection from removal to the third country, including withholding of removal and relief under CAT. The noncitizen bears the burden of proving eligibility for such protection, but removal cannot proceed without a lawful determination that it complies with these safeguards. See more about the applicable legal framework [here](#).

The [Supreme Court](#) confirmed that when the government invokes the AEA, individuals are entitled to due process protections, including notice and an opportunity to challenge their designation as "enemy aliens" and their removal. Ongoing litigation in [D.V.D. v. DHS](#) challenges the Administration's failure to provide such notice and opportunity for individuals with final removal orders. However, the Supreme Court has [allowed](#) these removals to proceed pending appeal. Civil society groups are developing [resources](#) to assist practitioners engaged in related advocacy.

### What Are Safe Third Country Agreements?

[Safe third country agreements](#) are formal bilateral or multilateral arrangements that make certain asylum seekers ineligible to apply for asylum in the United States if they can be removed to a country that provides access to a full and fair asylum procedure and does not return people to places where they would face persecution or torture. [Federal law](#) also provides that a grant of asylum may be terminated if a noncitizen may be removed pursuant to a safe third country agreement to a country where they are eligible to receive asylum or equivalent temporary protection. These agreements are implemented through the administrative rulemaking process and must guarantee these protections in practice. The United States has only one such agreement, with [Canada](#), and the provision allowing for asylum termination under such agreements has not been used in practice.