Processing of Adults and Family Units Arriving at the Southern Border Without Valid Documents

From Entry to Immigration Court or Removal

The Trump Administration has implemented a series of policies that change the processing of non-U.S. nationals (aliens) who arrive at the southern border without valid entry documents, many of whom claim asylum or a fear of persecution. These policies include metering, the Migrant Protection Protocols, an interim final rule that makes aliens ineligible for asylum if they reach the southern border through third countries (with limited exceptions), and safe third country agreements with Guatemala, Honduras, and El Salvador (these agreements are at varying stages of implementation). These policies generally apply to adults and family units only. (The interim final rule, however, also applies to unaccompanied alien children in formal removal proceedings.)

**Port of Entry**
- Metering May Apply
- Unlawful Entry Between Ports

**CBP: 3 Primary Options for first-time entrants**

- **MPP (if "admissible". See footnote 1)**
- **Expeditied Removal**
- **Formal Removal Proceedings (may release with NTA, although this option has been disfavored since DHS announced "the end to widespread catch and release" on September 23, 2019)**

**May the alien be removed to a third country under an STCA?**

- **YES**
- **NO**

**Does adult or family unit request asylum or express fear of persecution?**

- **YES**
- **NO**

**Removed to 3rd country (unless alien withdraws asylum application in U.S. and requests removal to one's own country instead)**

**Credible or reasonable fear interview**
- (Under the IFR third country transit triggers reasonable fear standard with limited exceptions)
  - Credible or reasonable fear found
  - Credible or reasonable fear not found

**Formal Proceedings in Immigration Court**

- ICE may detain adults during formal proceedings.
- Regulations terminating the Flores settlement would permit family detention but are currently enjoined.
- Aliens in MPP remain in Mexico during formal proceedings. The proceedings may occur in “tent courts.”
- Under the IFR, third country transit makes aliens ineligible for asylum in immigration court with limited exceptions.

**EOIR (DOJ): Request for review of negative determination**

- Overturned
- Upheld

**Removal**
- CBP removes Mexican nationals subject to expedited removal who do not claim fear; ICE removes all others.

**Abbreviations**

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*Unaccompanied alien children, Mexican nationals, aliens likely to face persecution or torture in Mexico, and some other categories of aliens are not "admissible" to the MPP. See Customs and Border Protection, MPP Guiding Principles (Jan. 28, 2019), https://www.cbp.gov/sites/default/files/assets/documents/2019-Jan/MPP%20Guiding%20Principles%201-28-19.pdf*
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