

Guide to Judiciary Policy

Vol. 7: Defender Services

Pt. B: International Prisoner Transfer Proceedings

Ch. 1: Overview

[§ 110 Purpose](#)

[§ 120 International Prisoner Transfer Program](#)

[§ 130 Consent Verification Hearings](#)

[§ 140 Statutes and Authority](#)

[§ 150 Further Guidance](#)

§ 110 Purpose

Part B of Volume 7 sets forth regulations promulgated by the Director of the Administrative Office of the U.S. Courts (AO) under [18 U.S.C. § 4109\(a\)\(2\)](#) for the appointment and compensation of counsel in international prisoner transfer proceedings. Part B also provides information and guidance on the appointment and compensation of guardians ad litem in international prisoner transfer proceedings.

§ 120 International Prisoner Transfer Program

- (a) The International Prisoner Transfer Program began in 1977, when the United States negotiated the first in a series of treaties that permit the transfer of prisoners from the countries in which they have been convicted and incarcerated to their home countries. **See:** [18 U.S.C. §§ 4100-4115](#). More than 70 countries and nationalities are now parties to either bilateral or multilateral prisoner transfer treaties with the United States.
- (b) Prisoner transfers under the various treaties are available to United States citizens incarcerated abroad as well as to foreign nationals incarcerated within the United States.
- (c) Although most inmates who are transferred out of the United States under these treaties are federal prisoners, all 50 states, Puerto Rico, and the Northern Mariana Islands have legislation authorizing them to participate in the International Prisoner Transfer Program.

- (d) Prisoner transfer treaties are negotiated principally by the United States Department of State. However, the program itself is administered by the United States Department of Justice (DOJ), Criminal Division, International Prisoner Transfer Unit.
- (e) For more information on the program and participating countries, **see:** [DOJ Office of Enforcement Operations website](#).

§ 130 Consent Verification Hearings

- (a) United States citizens incarcerated abroad and foreign nationals incarcerated within the United States must obtain approval for a transfer from both the DOJ and the government of the foreign country in which the prisoner is currently incarcerated or to which the prisoner wishes to transfer.
- (b) Once the prisoner has obtained the necessary approvals, a consent verification hearing is scheduled. This hearing is mandated by [18 U.S.C. § 4108\(a\)](#). The purpose of the hearing is to verify that the individual consents to a transfer to his or her home country to complete a sentence of incarceration voluntarily, and with full knowledge of the consequences of the transfer.
- (c) The consent verification hearing is held in the country in which the sentence was imposed and is conducted by a U.S. magistrate judge or by a citizen specifically designated by a judge of the United States as defined by [28 U.S.C. § 451](#). **See:** [18 U.S.C. § 4108\(a\)](#).
- (d) If at the time of the transfer, the offender is under 18 years of age or deemed by the U.S. magistrate judge to be incompetent, consent to the transfer must be given by a parent, guardian, guardian ad litem, or by an appropriate court of the sentencing country. **See:** [18 U.S.C. § 4100\(b\)](#).
- (e) Additional guidance on the procedures for consent verification hearings in international prisoner transfer cases may be obtained from the AO's Judicial Services Office, 202-502-1800.

§ 140 Statutes and Authority

- Transfer to or from foreign countries ([18 U.S.C. §§ 4100-4115](#))
- Right to counsel, appointment of counsel ([18 U.S.C. § 4109](#))
- Transfers from the United States to a foreign country ([18 U.S.C. § 4107](#))
- Transfers to the United States from a foreign country ([18 U.S.C. § 4108](#))
- Jurisdiction of proceedings relating to transferred offenders ([18 U.S.C. § 3244](#))

- Prisoner transfer treaties apply to U.S. military personnel ([10 U.S.C. § 955](#))
- International Prisoner Transfer Program ([7 Foreign Affairs Manual 480](#))

§ 150 Further Guidance

Inquiries concerning the appointment of counsel in international prisoner transfer proceedings should be directed to the Legal and Policy Division of the AO's Defender Services Office, at 202-502-3030, dso_lpd@ao.uscourts.gov, or by mail to:

Chief, Defender Services Office
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