

Forced Migration

Class 15/16: deterrence; access to procedures

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Deterrence and Access to Procedures

Overview

Limits Under Refugee Convention

Visa Requirements and Carrier Sanctions

Interdiction

Expedited Removal

Detention

Deterrence

Overview

Carrier Sanctions

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Expedited Procedures

Detention

Punishing for Illegal Entry

Punishing for Frivolous Applications

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Deterrence

Limits Under Refugee Convention

Art. 26:

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.

Deterrence

Limits Under Refugee Convention

Art. 31:

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.
2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Deterrence

Limits Under Refugee Convention

Art. 33:

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Deterrence

Visa Requirements and Carrier Sanctions

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Interdiction

INA § 243(h): The Attorney General shall not deport or return any alien . . . to a country if the Attorney General determines that such alien's life or freedom would be threatened”

Deterrence

Interdiction

INA § 241(b)(3): [T]he Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened”

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