

Trump administration's third-country deportation policy unlawful, judge finds

di David Nakamura

A federal judge in Boston ruled Wednesday that the Trump administration's policy of deporting undocumented immigrants to countries where they are not citizens is unconstitutional, saying the government must provide more time for people to legally challenge their removals over concerns that they could face imminent danger.

U.S. District Judge Brian E. Murphy's final decision invalidates [a policy memo](#) last spring from U.S. Immigration and Customs Enforcement that allows enforcement officers to deport migrants to countries that are not their own with as little as six hours' notice.

The ruling could make it more difficult for the administration, which immigration experts said has sent thousands of migrants to so-called third countries, to continue to use the practice as widely, as authorities seek to speed up President Donald Trump's mass deportation program.

In an 81-page ruling, Murphy said the administration must give migrants "meaningful notice before removal to any third country" and allow them time to raise a country-specific objection. The judge criticized the government for implementing a policy that relies on vague "assurances" that the migrants will not be persecuted or harmed once they arrive in the third countries.

"This new policy — which purports to stand in for the protections Congress has mandated — fails to satisfy due process for a raft of reasons, not least of which is that nobody really knows anything about these purported 'assurances,'" Murphy wrote.

The judge did not define how much advance notice the administration must provide before seeking to deport migrants to countries where they are not citizens. He stayed

his decision for 15 days to allow the administration to seek an appeal, which government lawyers have said they are likely to do.

The ruling is the latest legal decision in a case that has stretched on for nearly a year. Last spring, Murphy certified a class-action lawsuit challenging the administration's third-country removal policy and, as the legal fight played out, temporarily enjoined the government from moving forward without issuing a written notice and meaningful opportunity for the migrants to challenge their deportations.

The Supreme Court later set aside his injunction, allowing the administration to resume its rapid third-country deportations.

Murphy's final ruling on the merits of the case Wednesday "is a forceful statement from the court that the administration's third-country removal policy is unconstitutional," said Trina Realmuto, executive director of the National Immigration Litigation Alliance, which is helping represent the plaintiffs. "Under the government's policy, people have been forcibly returned to countries where U.S. immigration judges have found they will be persecuted or tortured."

In a statement, a Department of Homeland Security spokesperson noted the Supreme Court's previous rulings in the case and said the agency is confident it will prevail if the case reaches the high court again.

"DHS must be allowed to execute its lawful authority and remove illegal aliens to a country willing to accept them," the spokesperson said.

The Trump administration spent more than \$40 million last year to send hundreds of migrants to at least two-dozen countries that are not their own, according to [a report this month](#) from Senate Democrats.

The 30-page analysis from the minority members of the Senate Foreign Relations Committee accused the administration of entering into opaque financial agreements with foreign governments — including some with poor records on corruption and human rights — to rapidly expand a program for third-country removals that once had been reserved for exceptional circumstances.

Its authors contend that the State Department has failed to conduct sufficient oversight to ensure that payments to those countries are not being misspent and that migrants transferred to their custody are not being abused or mistreated.

Administration officials have said they have no choice but to partner with foreign governments that are willing to accept undocumented immigrants whose native nations do not agree to take them back. In most cases, the migrants have criminal histories, authorities said, though public records have shown that some have not been convicted of crimes in the United States.

The report from Senate Democrats, which provides the most comprehensive look at the administration's third-country removal program, found that the U.S. government has sent migrants to two-dozen third countries. The analysis focused primarily on five nations — El Salvador, Equatorial Guinea, Rwanda, Eswatini and Palau — with which the Trump administration has entered into direct financial payments totaling \$32 million.