

treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) Prohibition on investigative activities of agents

(1) In general

No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

(2) Exception

The prohibition under paragraph (1) shall not apply with respect to investigative activities that—

(A) relate solely to investigations and prosecutions of foreign persons for crimes within the jurisdiction of the International Criminal Court related to the Situation in Ukraine; and

(B) are undertaken in concurrence with the Attorney General.

(Pub. L. 107-206, title II, §2004, Aug. 2, 2002, 116 Stat. 902; Pub. L. 117-328, div. K, title VII, §7073(a), Dec. 29, 2022, 136 Stat. 5092.)

Editorial Notes

AMENDMENTS

2022—Subsec. (h). Pub. L. 117-328 designated existing provisions as par. (1), inserted heading, and added par. (2).

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 117-328, div. K, title VII, §7073(c), Dec. 29, 2022, 136 Stat. 5092, provided that: “Nothing in this section [amending this section and section 7433 of this title] may be construed to modify the existing roles or authorities of any Federal agency or official.”

§ 7424. Restriction on United States participation in certain United Nations peacekeeping operations

(a) Policy

Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the

International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) Restriction

Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) Certification

The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

(Pub. L. 107-206, title II, §2005, Aug. 2, 2002, 116 Stat. 903.)

§ 7425. Prohibition on direct or indirect transfer of classified national security information and law enforcement information to the International Criminal Court

(a) In general

Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement informa-

tion to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) Indirect transfer

The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) Construction

The provisions of this section shall not be construed to prohibit any action permitted under section 7427 of this title.

(Pub. L. 107–206, title II, § 2006, Aug. 2, 2002, 116 Stat. 904.)

§ 7426. Repealed. Pub. L. 110–181, div. A, title XII, § 1212(a), Jan. 28, 2008, 122 Stat. 371

Section, Pub. L. 107–206, title II, § 2007, Aug. 2, 2002, 116 Stat. 905, prohibited United States military assistance to parties to the International Criminal Court.

§ 7427. Authority to free members of the Armed Forces of the United States and certain other persons detained or imprisoned by or on behalf of the International Criminal Court

(a) Authority

The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) Persons authorized to be freed

The authority of subsection (a) shall extend to the following persons:

- (1) Covered United States persons.
- (2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) Authorization of legal assistance

When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

- (1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) Bribes and other inducements not authorized

This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

(Pub. L. 107–206, title II, § 2008, Aug. 2, 2002, 116 Stat. 905.)

§ 7428. Alliance command arrangements

(a) Report on alliance command arrangements

Not later than 6 months after August 2, 2002, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) Description of measures to achieve enhanced protection for members of the Armed Forces of the United States

Not later than 1 year after August 2, 2002, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) Submission in classified form

The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

(Pub. L. 107–206, title II, § 2009, Aug. 2, 2002, 116 Stat. 906.)

§ 7429. Withholdings

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 7401 of this title are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.