

COUNCIL OF EUROPE



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**EUROPEAN COMMITTEE ON CRIME PROBLEMS**

**(CDPC)**

**COMMITTEE OF EXPERTS**

**ON THE OPERATION OF EUROPEAN CONVENTIONS**

**ON CO-OPERATION IN CRIMINAL MATTERS**

**(PC-OC)**

**E-Transfer**

**Proposal by Israel**

**State of Israel**  
**Ministry of Justice**  
Office of the State Attorney  
Department of International Affairs



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Ms. Joana Gomes Ferreira  
Chair of PC-OC  
Council of Europe

**Re: E-transfer: Primary Recommendation for an Online  
Multi-National Information System**

Dear Ms. Gomes Ferreira,

I wanted to follow up on a matter that I mentioned briefly to you in a conversation during my attendance at the PC-OC in May. This was with regard to the idea of establishing an electronic multi-national information system to solve some of the problems in communication which can act as obstacles to the smooth operation of prisoner transfer under the Convention on Transfer of Sentenced Persons ("the Convention"). I wanted to pursue this idea and to see if you thought it is something that the PCOC could discuss and perhaps ultimately promote.

One of the main difficulties which characterize the process of prisoner transfer is the lack of communication between the various participants, including the prisoners and/or their representatives, the central authorities in the sentencing states and the central authorities of the administering states. These problems exist despite efforts made to make the relevant information accessible to all relevant parties through published contact lists and information sheets. Therefore, there is a clear and evident need to increase the means which would facilitate the exchange of information regarding the submission of a request and its relevant data and processing – particularly between the two states' central authorities. It appears that some of the experts' replies to the 2013 questionnaire reflected this need, particularly in situations when the prior prisoner transfer relations between two states have been rare or sporadic.

The Convention, unlike many other conventions, does not include clearly delineated procedures relating to the submission and handling of requests and indeed

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allows a great deal of flexibility in this regard and only roughly coordinates the stages of the transfer process. There is definitely advantage to this flexibility but, at the same time, it causes any lack of communication between the relevant participants to become even more problematic. This is evident, for example, with respect to the very question of how a request for transfer initiates. Under the Convention, the sentenced person may apply to the sentencing state, to the administering state or to both. Each one of the two states might then require additional information from the other state in order to decide whether to approve the request. Either the administering state or the sentencing state may announce their approval first and thus become "the requesting state". Such announcement, frequently accompanied with a request for further information, could sometimes become the first notification received by the other state regarding the prisoner's request to transfer.

We are of the opinion that these flexible, but less than clear processes are a major cause in the delays that sometimes occur in prisoner transfer proceedings. Any solution to these difficulties would have to include concentrated efforts to close the information gaps, and encourage maximal communication, as soon as possible after the initiation of a transfer application.

We believe that, conceptually, the application should always be regarded as one which is made by the prisoner on his own behalf, directly or indirectly, to the two states' central authorities. For an efficient and effective application of the Convention, and the humanitarian purposes it is meant to effectuate, it seems to us advisable to harness the available technology and to create a sort of 'electronic conference room' in which communications could be quickly and simultaneously made to all relevant parties. It would seem that an effective way of creating this could be to integrate into the existing COE internet website a simple and elementary system of online applications for both states. It should be emphasized that in addition to facilitating communication between the central authorities, this suggested system might also serve the aim of keeping the sentenced person and/or his representatives informed regarding the status of his application. This communication system would be relevant not only during the pre-transfer stage but also after the transfer, informing the central

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authorities of both states regarding the administration of the sentence by the administering state or the revision of the sentence by the sentencing state.

The purpose of this suggestion is neither for it to become the only legal way to handle the transfer process, nor that it become the sole means of communication between the participants. The suggestion, of course, would not involve any changes in the Convention. Neither would the application of this suggestion require the cooperation of all states party to the Convention. Obviously, however, the effect and efficiency of the system would increase with the number of authorities who make use of it. In this sense, cooperation should be solicited not only from the central authorities but, considering the limited access of prisoners to the internet, prison authorities and consulates – organs that may serve as representatives of the prisoners.

For purposes of illustration, I provide some description of how such a system could operate:

#### Semi-Public Space on the Site

A prisoner or his representative entering into the communication system via the website will find an online form, with essential fields that must be filled in regarding: the identification of the prisoner, the states involved the sentence and the relevant contact person. After the required information is put in the applicant may confirm it and transmit the form. He or she will receive a coded reference number.

Following the submission of the application, the two states' central authorities will be automatically notified. Both central authorities, each one separately, will have the ability to update the phase or the status of the request on the application online with relevant data, according to the extent of its willingness to share information with the prisoner or his representatives. Document attachments should be made possible.

The system should allow the ability to revoke a request, which would enter into effect after a series of confirmations. Short explanations, within an open field, should be allowed.

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The Central Authorities' Restricted Area on the Site

The previous description related to the portion of the site open to all participants. An area of the site would, however, be reserved for confidential communications between the central authorities. As mentioned above, both states will be notified of the submission of an application via the site. The application page, generated by the applicant and open solely to the two authorities involved, will reflect the details provided by the prisoner or on his behalf. Through this page, the two authorities will be able to exchange information and documents, before and after the actual transfer. Each update should include the date on which it was made. It is suggested that the site allow for the printing of the page or of its components, in order to enable their filing in physical files, thus encouraging the cooperation of as many of central authorities as possible.


\* \* \*

We would hope that the development and the use of such a system will facilitate application of the Convention, streamline the transfer process and increase the trust between central authorities and between the prisoners and the authorities.

If you think it would be appropriate to bring this proposal to the attention of the PCOC, we would be pleased to provide any further input or explanation that would be helpful. Indeed, we would be grateful in knowing how you think it would be best to proceed regarding this suggestion.

Sincerely

Aviad Eliya

  
 Senior First Deputy (International Affairs)  
 Department of International Affairs  
 State Attorney's Office  
 Ministry of Justice  
 State of Israel