

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

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RECOMMENDATION No. R (84) 11

**OF THE COMMITTEE OF MINISTERS TO MEMBER STATES**  
**CONCERNING INFORMATION ABOUT THE CONVENTION ON THE TRANSFER**  
**OF SENTENCED PERSONS**

*(Adopted by the Committee of Ministers on 21 June 1984  
at the 374th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to the Convention on the Transfer of Sentenced Persons of 21 March 1983 ;

Desirous of assisting Contracting States to fulfil their obligation, under Article 4.1 of the convention, to furnish sentenced persons to whom the convention may apply with information on its substance ;

Considering it essential that this information is provided in a language which the sentenced person understands ;

Convinced that a standard text to be used for conveying information on the substance of the convention to potential transferees will assist Contracting States in arranging for the necessary translations,

- I. Recommends the governments of member states to provide an authoritative translation of the standard text annexed to this recommendation into their official language or languages, taking into account any reservations or declarations to the convention of which the potential transferees would need to be aware, and deposit the translation with the Secretary General of the Council of Europe at the time of ratification, acceptance or approval of the convention ;
- II. Instructs the Secretary General of the Council of Europe to forward copies of the translations so received to each of the Contracting States for use by their prison authorities ;
- III. Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of the non-member states which have participated in the elaboration of the convention and to the governments of states invited to accede to the convention.

## APPENDIX

### Standard text providing information about the Convention on the Transfer of Sentenced Persons

The Convention on the Transfer of Sentenced Persons enables, under certain conditions, persons who have received a custodial sentence in a country other than their own to be transferred to their home country to serve the sentence there. A brief explanation of these conditions is given below. This document does not constitute an exhaustive description of the convention. If, therefore, you wish to enquire into the possibility of being transferred to serve your sentence in (administering State), you should ask the prison authority, or the appropriate authority in (administering State), for more detailed information, for example, to arrange for you to receive a copy of the convention and for both States to consider the possibility of your transfer. You may also address any request for information to a consular representative of (administering State).

#### *Who has to agree to the transfer?*

A transfer requires :

- a. the consent of the person concerned or, where requisite, that of his legal representative ;
- b. the consent of the State where he was sentenced ; and
- c. the consent of the State to which transfer is requested.

#### *Who may benefit from a transfer to (administering State)?*

You may be eligible for transfer to (administering State) if the following conditions are fulfilled :

- a. if you are considered a national of (administering State) ;
- b. if the judgment by which your sentence was imposed is final ;
- c. if, as a general rule, at least six months of your sentence remain to be served, though in exceptional circumstances this period may be less ; and
- d. if the offence for which you were tried is a criminal offence under the law of (administering State).

#### *What sentence would need to be served following transfer?*

— (States using the “continued enforcement” procedure :)

The maximum sentence to be served following transfer would be the amount of the original sentence which remained after deduction of any remission earned in (sentencing State) up to the date of transfer. If the sentence imposed in (sentencing State) was longer or of a different nature than the sentence which could be imposed for the same offence in (administering State), it would be adapted to the nearest equivalent sentence which was available under the law of (administering State) without being longer or more severe than the original sentence.

— (States using the “conversion of sentence” procedure :)

It would not be possible to confirm before transfer the precise nature and length of the sentence to be served in (administering State), because the original sentence would need to be converted by (a court) (the competent authorities) in (administering State) following transfer to a sentence which could have been imposed if the offence had been committed in (administering State). You would be given some idea, however, of the nature and length of the sentence to which the original sentence might be converted in (administering State), to help you to decide whether to seek a transfer. Under the terms of the convention a sentence converted in this way will not be more severe nor longer than the original sentence, will not be subject to any minimum which the law of (administering State) may provide for the offence, and will take account of the full period spent in custody before transfer.

If you are transferred, your sentence will be enforced in accordance with the law and regulations which apply in (administering State).

*Prosecution for other offences*

Please note that in the event of your transfer the authorities of (administering State) are entitled to prosecute, sentence or detain you for any offence other than that for which your current sentence was imposed.

*Pardon, amnesty, commutation*

Your transfer would not prevent you from benefiting from any pardon, amnesty or commutation of sentence which might be granted by either (sentencing State) or (administering State).

*Review of original judgment*

If new information came to light after your transfer which you considered grounds for a review of the original judgment passed in (sentencing State), it would be for (sentencing State) alone to decide on any application for review.

*Termination of enforcement*

If for any reason whatsoever the sentence originally imposed in (sentencing State) ceased to be enforceable in (sentencing State), the (administering State) authorities, as soon as they were informed of this, would release you from the sentence being served. Similarly, when the sentence being served in (administering State) ceased to be enforceable there, you could no longer be required to serve the original sentence imposed in (sentencing State) if you should return there.

*Some information on the procedure*

You may express your interest in being transferred to the authorities of either (sentencing State) or (administering State).

If the (sentencing State) authorities are prepared to consider your transfer, they will provide the (administering State) authorities with information about you, about the facts relating to your conviction and sentence and about the nature and length of your sentence. If the (administering State) authorities are prepared to consider your transfer, they will respond by providing (information about the nature and duration of the sentence you would need to serve after transfer)<sup>1</sup>, (an indication as to how your sentence might be converted following your transfer)<sup>2</sup>, together with information about the arrangements for remission, conditional release, etc. in (administering State).

Provided both States are content to agree to your transfer, you will be asked whether, having received and considered the information provided by (administering State), you consent to being transferred under the convention.

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1. Applies to states using the "continued enforcement" procedure.  
2. Applies to states using the "conversion of sentence" procedure.