

ROMANIA– national procedures for transfer of sentenced persons
Updated 06/11/2014

<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for the transfer of sentenced persons:</p>	<p>Central authority: Ministry of Justice Directorate for International Law and Judicial Cooperation Division for International Judicial Cooperation in Criminal Matters Address: Apolodor 17 Street, Sector 5, Bucharest, 050741 Fax: +40.372.041.084 /+40.372.041.079 Tel: +40.372.041.077 E-mail: transfer@just.ro Office hours: 9⁰⁰ - 17⁰⁰ Languages (for informal communication): RO, EN, FR, IT, ES</p>
<p>If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):</p>	<p>Not the case</p>
<p>If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned (name of the institutions, address, telephone, fax and e-mail where available):</p>	<p>Competence for implementing the physical transfer of the sentenced person belongs to: International Police Cooperation Center Calea 13 Septembrie, nr. 1-5 street, București - Sector 5 Fax: 0040 312 36 00; E-mail: ccpi@mai.gov.ro</p>
<p>Channels of communication for the request for the transfer of sentenced persons (directly, through</p>	<p>Direct communication with the Ministry of Justice is accepted.</p>

diplomatic channels or other):	
Means of communication (e.g. by post, fax, e-mail ¹):	Via post but fax and email are also accepted.

Language requirements:	All the documents (initial and additional) have to be translated in one of the following languages: Romanian, English or French.
Documentation required:	<p>The sentencing State shall transmit the following:</p> <ul style="list-style-type: none"> - personal data of the sentenced person and if possible his or her address in Romania (the real identity of the sentenced person has to be established and clear indicated by the sentencing state). - certified copies of the decisions as well as of the relevant law; - statement that the conviction is final and enforceable; - <u>complete and updated</u> details about the length of the sentence (total length, full period already served in the sentencing state, number of days to be deducted in case of amenities, pardons or other clemencies already granted to the sentenced person; - information about the beginning and the end of the early/conditional release; - information about the relation with and extradition/EAW previously issued by Romania or other state; - the consent of the sentenced person on his or her transfer, <i>or</i> if the sentenced person is the subject to an expulsion or detention order, his or her opinion; In case of consent, information weather it is revocable or not should also to be provided. - the medical report concerning the sentenced person, any

¹ Please indicate if encryption or electronic signature is required.

	<p>information on the treatment followed by and indication of any medical prescription; information about the authority in charge (and its coordinates) with the surrender of the sentenced person.</p> <ul style="list-style-type: none"> - coordinates of the penitentiary where the sentenced person is currently detained; <p>Also, in case that the sentenced person was convicted for a plurality of offences it would be practicable and advisable to attach the relevant law on the sanction regime (due to the differences that might be between the Romanian system and that of the sentencing state).</p> <p>It has also to be specified if the sentenced person performed some work during his or her detention and if, pursuant to the sentencing state law, the respective work is taking into consideration or deducted from the sentence applied.</p> <p>It also would be practicable to indicate which are the means of review provided by the article 13 from the Convention ETS 112 and to which authority an eventual request should be addressed, if the personal appearance of the transferred person is required or not (art. 14 from the Second Additional Protocol ETS 182).</p> <p>Romania, as a sentencing state, has to be provided with: a certificate or a statement that the sentenced person is a national/resident of the administrating state; a copy or a certificate of the relevant law of the provisions revealing that the acts or omissions on account on which the sentence has been imposed constitute a criminal offence according to the law of the administering State or would constitute if it would be committed on its territory; relevant law and information on released on parole; a statement on the manner of enforcement; information about the authority in charge (and its coordinates) for implementing the physical transfer of the sentenced person.</p>

Continued enforcement or conversion of the sentence ² :	As administering State, Romania applies both procedures (art. 10 and art. 11 from the Convention ETS 112). In case conversion is applied, this is to be done before the transfer takes place.
General rules on early release:	<p>In Romania, according to articles 99-100 of the Criminal Code, conditional release <u>in case of life imprisonment</u> may be granted if: a) the prisoner served 20 years of detention; b) the prisoner had a good behaviour throughout the detention; c) the prisoner fully paid the compensation imposed by the sentence, except for the cases when he produces evidence that he had no possibility to pay; d) the court is satisfied that the prisoner has improved and is ready to be reintegrated into society. It is compulsory to state the factual reasons that led to granting the conditional release and that the prisoner is warned on his future behaviour and on the consequences he is facing, should he commit further offences or fail to comply with the obligations imposed during the probation period. Starting with the date of the conditional release, the prisoner is under a probation period of 10 years.</p> <p>Conditional release <u>in case of imprisonment</u> may be granted if: a) the prisoner served at least two thirds of the penalty, in the case of imprisonment not exceeding 10 years, or at least three fourths of the penalty, but not more than 20 years, in case of imprisonment exceeding 10 years; b) the prisoner is serving the sentence in a semi-open or open regime; c) the prisoner fully paid the civil compensation imposed by the convicted sentence, except for the case when the produces evidence that he had no possibility to pay; d) the court is satisfied that the prisoner has improved and is ready to be reintegrated into society. In the calculation of the fractions of the penalty provided above, the part of the penalty that can be considered, according to the law, as served based on the work carried out, shall be taken into account. In this case however, conditional release cannot be granted before the actual service of at least half of the penalty of imprisonment under 10 years or of at least two thirds for imprisonment over 10 years.</p>

² In case the sentence is converted, please specify whether this is done before or after the transfer has taken place.

	<p>According to article 587 of the criminal procedure code, conditional release is granted following a request or a submission filed according to the provision of the law concerning the enforcement of sentences, by the first instance court in whose territorial jurisdiction the detention facility is placed. When the court finds that the requirements for the conditional release are not met, it will set a time limit after which the submission or the request may be renewed, by the decision denying the request. The time limit cannot exceed one year and it runs from the date when the decision remained final. The court's decision may be challenged before the district court in whose territorial jurisdiction the detention facility is placed, within a 3 days' deadline from the notification. The challenge filed by the prosecutor will suspend the execution of the decision. A copy of the final decision will be notified to the competent probation service, as well as to the proximity police.</p>
<p>Scope of application with regard to transfer of mentally disordered persons:</p>	<p>It is possible to transfer this type of persons, unless the measure in question consists of medical or psychiatrically assistance that cannot be executed in Romania or provides for a medical or therapeutically treatment which cannot be supervised in Romania, according to our legal system or to our health care system.</p>
<p>Scope of application with regard to nationals and/or residents:</p>	<p>Nationals (including persons with double nationality) and stateless or foreign persons permanently residing in Romania.</p>
<p>Other particularly relevant information (such as practice regarding time limits or revocation of consent):</p>	<p>When Romania is acting as a sentencing state, the consent is not revocable.</p> <p>When additional information is required, the case is to be closed if the sentencing state does not provide them within 180 days.</p> <p>In terms of decision please note that this is always a judicial one and is to be taken by the competent court of appeal (first</p>

	<p>instance) and High Court of Cassation and Justice (appeal).</p> <p>The judicial decision is subject to appeal. Therefore, the decision is to be always served to the sentenced person either directly to the penitentiary where he or she is detained (if such procedure is acceptable by the sentencing state) or via the central authorities.</p>

Links to national legislation, national guides on procedure:	

Link to information about the Convention (according to Article 4) in the official language(s) of the State Party (see also Rec. R (84) 11 of the Committee of Ministers concerning information about ETS°112 and PC-OC INF 12):	

For Parties to the Additional Protocol

Information on the implementation of Article 2 (e.g. interpretation of “by fleeing to”):	The interpretation provided by the Explanatory Report is considered appropriate and therefore taken into consideration.

Information on the implementation of Article 3 (e.g. interpretation of the requirement of a consequential link between the decision on expulsion and the sentence):	

Documentation required:	As in the case of a request made under Convention. In addition, when the custodial sentence was applied in absentia the sentencing state has to provide information about the summoning procedure and also to inform if any remedy/opposition is available to her/him. Please note that in case of an available remedy/opposition this is to be examined only in the sentencing state.
Other relevant information:	Upon of the request of the sentencing state, the person could be subject to provisional measures upon the request of the sentencing state. In case of arrest, the request and the appropriate documents has to be provided no later than 30 days.