

ITALY

National Procedures for Transfer of sentenced persons

Updated on 03/05/2021

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| The Central Authority responsible for the transfer of sentenced persons | Ministero della Giustizia (Ministry of Justice) – Direzione Generale degli Affari Internazionali e della Cooperazione Giudiziaria (Directorate General of International Affairs and Judicial Cooperation) - Ufficio I (Office 1), via Arenula 70 (Arenula street 70) – 00186 Roma Phone: +39 06 68852180 Fax: +39 06 68897528 E-mail: cooperation.dginternazionale.dag@giustizia.it |
| If different from the Central Authority, the authority to which the request should be sent: | // |
| If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned: | // |
| Channels of communication for the request for the transfer of sentenced persons: (directly, through diplomatic channels or other) | Directly between Ministries of Justice, as provided for in article 5, paragraph 2, of ETS112. |
| Means of communication (eg. by post, fax, e-mail ¹): | By post. Any other mean, like fax and e-mail, is also accepted, provided that it gives an assurance that the communication comes from the competent authority. Encryption and/or electronic signature is not required. |
| Language requirements: | Languages accepted are Italian, English and French. |
| Documentation required: | As provided for in article 6, including, on the basis of paragraph 2 letter b), information on whether the detainee was granted with a reduction of penalty because of his/her good conduct, which is important to know in order to determine the actual penalty to be executed. |

¹ Please indicate if encryption or electronic signature is required.

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| Continued enforcement or conversion of the sentence²: | According to Italian law, the transfer causes the continued enforcement of the sentence. So, the second part of the question is not applicable to Italy. |
| General rules on early release: | Italian law foresees a plenty of alternative measures to detention, with several and different requirements, also relating to the type of crime for which the sentence is given. Thus, their description is not easy to be given. So, we suggest to contact the above mentioned Central Authority before or while making a request of transfer. In any case, in general, Italian law foresees, for instance: 1) conditional release (2/3 of the penalty must be executed; in case of life imprisonment, 26 years); early release (a certain number of days per year for good conduct); permits; possibility to serve the sentence at home rather than in prison; possibility to work outside and get back in prison in the evening, etc. |
| Scope of application with regard to transfer of mentally disordered persons: | Social reintegration and/or rehabilitation, if possible. |
| Scope of application with regard to nationals and/or residents: | The Convention applies to nationals and to stateless people, if residents. |
| Other relevant information: (such as practice regarding time limits or revocation of consent) | According to the art. 205bis disp.att. of the Criminal Procedure Code, the consent given by the concerned person, on a regular basis, cannot be revoked. |
| Links to national legislation, national guides on procedure: | Information about national legislation and procedure can be gathered by asking the advice of the national experts listed in the list of official, as well as the contact points of the European Judicial Network, and also referring to the relevant tools, like Atlas, Fiches Belges, etc. |
| 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): | The Department for penitentiary administration usually distributes leaflets on the Convention to the detainees eligible for its application. |
| For Parties to the Additional Protocol | |
| Information on the implementation of Article 2: (e.g. interpretation of “by fleeing to”) | According to Italian Law 29 March 2021, n. 49 – which provides for the ratification of the Additional Protocol to the Convention and of the Amending Protocol thereof – the transfer of a sentenced person, without his/her consent, may be requested by the convicting State to the State of his/her nationality, not only when he/she escapes, but also when he/she anyway returns to the State of nationality, as long as he/she is aware of the proceeding carried out or the criminal decision made against him/her in the convicting State. |

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

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| 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) | // |
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| Documentation required: | // |
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| Other relevant information: | // |
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