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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)

**COMPLIATION OF REPLIES TO THE QUESTIONNAIRE ON THE APPLICATION OF THE
CONVENTION ON THE TRANSFER OF SENTENCED PERSONS**

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**COMPILATION DES RÉPONSES AU QUESTIONNAIRE SUR L'APPLICATION DE LA
CONVENTION SUR LE TRANSFÈREMENT DES PERSONNES CONDAMNÉES**

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1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?
- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?
- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?
- b. Who would be expected to cover any additional costs arising after the transfer?
- c. How and when do you deal with the issue of damages caused by the crime in question?

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within "a reasonable time"?
- b. Would it be helpful to amend the Convention or issue guidance to allow for a "one-letter model", in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?
- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?
- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?
- e. Do you allow for the withdrawal of consent by the sentenced person?
- f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?
- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?
- b. Do you issue/accept guarantees relating to prison conditions?

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
 - o for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?
 - o for the victims in the sentencing country?
- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?
- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?
- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?
- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

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ANDORRA / ANDORRE

1. Mental health

- d. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?
[To date, we have not had any experience with this issue.](#)
- e. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?
[To date, we have not had any experience with this issue.](#)
- f. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?
[To date, we have not had any experience with this issue.](#)

2. Costs

- d. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?
[To date we have only had cases of transfers with neighbouring countries, so the delivery has been at the border, so we have not had experience with this issue.](#)
- e. Who would be expected to cover any additional costs arising after the transfer?
[To date, we have not had any experience with this issue.](#)
- f. How and when do you deal with the issue of damages caused by the crime in question?
[At the same time as the sentence is passed, civil liability is also established, the function of which is to repair the damage caused by the crime in question.](#)

3. Conditions and time frames required to process transfer requests

- g. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

We don't have a fixed time frame to decide on transfer cases but we truly believe that it would be very convenient to set a deadline to issue a decision, because in our case we have encountered transfer requests that have been extended in time beyond nine months, which can lead to negative consequences for both the sentenced person and for the professionals of the requesting country.

- h. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

In our opinion it would be very convenient, as it would reduce the timelines and also avoid divergences between countries.

- i. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

To date, we have not had any experience with this issue and we do not have specific regulations in this regard.

- j. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

Dual nationality is prohibited for the nationals of the Principality of Andorra. If the transfer concerns a person with multiple nationalities, only the State to which the sentenced person has requested to be transferred is consulted.

- k. Do you allow for the withdrawal of consent by the sentenced person?

Yes, we do allow the withdrawal of consent by the sentenced person.

- l. Have you ever had to deal with conflicting requests regarding transfer and extradition?

To date, we have not had any experience with this issue.

4. Translation

- c. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

To date, we have not had any experience with this issue.

- d. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

We always attach to the request all judgements relating to the matter, and they are translated in their entirety.

5. Prison conditions

- c. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

We have not carried out any check in this regard, as the transfers have always been carried out in neighbouring countries whose facilities we already know about.

- d. Do you issue/accept guarantees relating to prison conditions?

To date, we have not had any experience with this issue.

6. Rights and legal remedies

- d. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:

- o for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

The Principality of Andorra is not part of the Additional Protocol.

- o for the victims in the sentencing country?

Victims cannot intervene in decisions regarding transfers of sentenced persons.

- e. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

The victims are not informed of the transfer and so we have not had any experience with this issue.

- f. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

These types of punishments are not taken into account in making a decision, but are always communicated to the administering state.

7. Prospects for the execution of the sentence

- e. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

To date, no such additional information has been requested in any of the proceedings.

- f. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

To date, we have not had any experience with this issue.

- g. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

If the administering state send us this kind of information, we send it to the competent court that has the criminal record file for their knowledge, but we do not ask for it systematically.

- h. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

We only apply the Convention to persons who have been convicted to a definitive prison sentence that is already being served.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

The average outgoing transfers is 3-4 per year, while the average incoming transfers is 0.

ARMENIA / ARMENIE

1. Mental health

- a. *What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?*
- b. *Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?*
- c. *Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?*

ANSWERS

a. The Ministry of Justice of the Republic of Armenia has drafted the Strategy of Legal and Judicial Reforms. The main priorities of the Strategy are the improvement of system of the protection of the rights of the sentenced persons with mental health, providing proper consideration of their condition, balancing of fairness in trial procedures and their rehabilitation, giving detained individuals adequate care, which will not be the reason of restrictions for the application of the obligations according to the Convention for the sentenced individuals with mental health problems.

b. Armenia makes additional efforts in cases of deprivation of liberty of persons with mental health problems so that they have appropriate rights based on international human rights principles.

c. No, currently, Armenia does not apply the Convention to persons who were involuntarily placed in a mental health hospital.

2. Costs

- a. *When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?*
- b. *Who would be expected to cover any additional costs arising after the transfer?*
- c. *How and when do you deal with the issue of damages caused by the crime in question?*

ANSWERS

- a. The costs of the transfer, including travel and transit costs, are generally covered by the Armenian government as the administering state. However, there may be cases where additional costs (such as medical care during transfer) are discussed on a case-by-case basis.
- b. After the transfer, Armenia assumes responsibility for any costs related to the imprisonment of the sentenced person, including healthcare and rehabilitation expenses.
- c. The issue of damages caused by the crime is handled in accordance with Armenian law. Compensation obligations remain with the sentenced person, and existing financial obligations to the sentenced person are grounds for refusing his transfer.

3. Conditions and time frames required to process transfer requests

- a. *Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within "a reasonable time"?*
- b. *Would it be helpful to amend the Convention or issue guidance to allow for a "one-letter model", in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?*
- c. *What is the minimum time you would require to reconsider a request for transfer that was initially rejected?*
- d. *Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?*
- e. *Do you allow for the withdrawal of consent by the sentenced person?*
- f. *Have you ever had to deal with conflicting requests regarding transfer and extradition?*

ANSWERS

- a. The Law HO-464-N "On Legal Assistance in Criminal proceedings" on 15.11.2024 stipulates that the issue of transfer a sentenced person is subject to discussion and decision within a reasonable time without fixing the concrete time frames.
- b. It would be beneficial to publish a detailed guide introducing a "one-letter model" for the sentencing State. This approach could streamline communication, improve efficiency, and ensure

that necessary information is provided in a more organized and accessible manner when responding to requests for the transfer of prisoners or related matters.

c. If a transfer request is initially rejected, it can be reviewed one year after the rejection. Typically, a new request is considered also if new circumstances arise.

d. Armenia transfers its own nationals even if they have dual nationality. When dealing with a person with multiple nationalities, Armenia consults other concerned states if necessary.

e. Yes, Armenia allows sentenced persons to withdraw their consent before the transfer is finalized.

f. Sometimes Armenia faces conflicting requests for both transfer and extradition of a person. This is a situation that could potentially occur under international law, which have different legal frameworks. In the Ministry of Justice, the requests are discussed and decisions are made (case by case) paying range attention on humanitarian factors.

4. Translation

a. *How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?*

b. *Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?*

ANSWERS

a. In accordance with Article 17, paragraph 3, of the Convention, the Republic of Armenia made a declaration that the requests for the transfer of sentenced persons and supporting documents be accompanied by a translation into the Armenian language or into one of the official languages of the Council of Europe or into Russian language.

b. Judgments from all instances should be attached to the transfer request.

5. Prison conditions

a. *As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?*

b. *Do you issue/accept guarantees relating to prison conditions?*

ANSWERS

a. The Ministry of Justice as a responsible administrative body tries to establish clear communication with the relevant authorities of the foreign states, including not only central bodies but also prison administrations, ministries of justice, and other agencies responsible for prison management and human rights protections to ensure that the minimum human rights standards in prison conditions in the administering state are protected, also reviewing reports of relevant authorities and international organisations, as well as requesting clarifications.

b. Armenia may issue or accept guarantees relating to prison conditions when necessary, particularly if there are concerns about treatment standards or specific detention conditions.

6. Rights and legal remedies

- a. *As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:*
 - *for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?*
 - *for the victims in the sentencing country?*
- b. *Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?*
- c. *As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?*

ANSWERS

The Republic of Armenia has not yet ratified the Additional Protocol

7. Prospects for the execution of the sentence

- a. *As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?*
- b. *When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?*
- c. *Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?*
- d. *Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?*

ANSWERS

- a. Armenia often requests information on sentence execution in the administering state, particularly regarding parole, probation, or possible time frames for early release, regime of serving a sentence on case by case principle. If significant differences exist, transfer may be postponed or refused.
- b. If the sentence is converted after transfer, Armenia may request the decision of court on recognition of the original verdict guarantees that the new sentence aligns with legal principles and does not exceed the main sentence.
- c. Armenia monitors the status of transferred persons, particularly regarding parole, amnesty, and conditional release, through cooperation with the administering state.
- d. Yes, if after converting of the verdict of the transferred sentenced person the Sentencing State reviews the verdict and makes new decision the administering state should recognize and apply it.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

ANSWER

On average, approximately 20 sentenced persons are transferred from the Republic of Armenia to their country of citizenship each year, while around 5 sentenced persons are transferred annually from a foreign state to the Republic of Armenia.

AUSTRIA / AUTRICHE

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

In Austria we have two different situations where a measure of detention in a so-called forensic-therapeutic centre can be imposed on a person affected by a mental or psychological disturbance:

According to Sec 21 para 1 of the Austrian Criminal Code a person who committed a certain type of crime under the influence of a serious and persistent psychological disturbance and can not be punished for the sole reason that the person committed the offence whilst **not being culpable** due to this disorder shall be detained in a forensic-therapeutic centre.

According to para 2 of this provision the court can impose such a detention also in cases where it has to be feared that a person – **even being culpable** – would commit another crime of a certain type under the relevant influence of the serious and persistent psychological disturbance.

Whereas cases falling under para 1 of the provision usually do not cause many problems when taken over by the foreign judicial authority, the cases under para 2 of the provision usually lead to a refusal reasoned on the mere absence of an equivalent measure in the administering state.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

In principle no (but see the exception under question 1a.) - depending on the character of the measure, the court would have to assess the equivalent form of detention under the law of the administering state.

- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

AT as sentencing state applies the Convention only in cases where the person was ordered detention in a forensic-therapeutic centre by a criminal court as a result of a criminal sentence.

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

Under AT code of criminal procedure the costs related to the transfer of a sentenced person towards AT are further costs of the proceedings which in principle should be borne by the sentenced person. The costs, however, will be borne first by the administration and in a second step, usually after the transfer has happened, the Court will decide if the person is able to reimburse these costs.

As sentencing state AT often faces long delays sometimes leading to a factual refusal of the actual handover of the person to the administering state due to the fact that neither the sentenced person him-/herself nor the relatives or the administering state are able or willing to pay the costs.

- b. Who would be expected to cover any additional costs arising after the transfer?

According to Article 17 para 5 the administering state would be expected to cover the any costs arising after the transfer.

- c. How and when do you deal with the issue of damages caused by the crime in question?

Civil obligations out of damages caused by the crime do not hinder a transfer of the sentenced person under AT law. Some sentencing states, however, require the fulfilment of such obligations by the sentenced person before starting a transfer proceedings.

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

Given the long lasting proceedings until a decision on transfer is taken AT would highly recommend introducing a deadline or a time frame for a decision. This would allow to apply the Convention also to shorter sentences because under the current situation only sentences of more than one or one and a half year of imprisonment are worth starting a transfer request.

- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

From the experience of the cooperation within the EU under FD 2008/909/JHA the added value of a form is rather limited since most of the states require the whole sentence(s) for a successful request. The main advantage of a form would be the reduced costs for translation but only if the form does not need to be accompanied by a translation of the sentence itself.

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

It depends on the ground for refusal – the main factor should be the prospects or reinsertion into the society of the administering state. If these circumstances have changed the minimum time for a new request can be rather short. To avoid unnecessary double-work for the courts and judicial authorities there should be a minimum of six months before a new request can be sent.

- d. Do you transfer your own nationals if they have dual nationality?

No.

When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

Such cases have not come up so far but AT would only address the State where the sentenced person has the most intensive ties with for the aim of a best social rehabilitation of the sentenced person.

- e. Do you allow for the withdrawal of consent by the sentenced person?

No. Under AT law the consent shall be given in front of a judge after being instructed about the irrevocability. Not all administering states, however, would respect this irrevocability.

- f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

Yes, but under AT law it is clear, that extradition has full priority.

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

Unless a bilateral treaty is applicable in the question of translations AT requires in accordance with its declaration under Art 17 of the Convention the translation into German, English or French. We do not distinguish between simple information and the communication covered by Art 17 para 1 and 3.

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

In the field of application of the Convention AT as sentencing state translates judgements of all instances into the language of the administering state. Excerpts of a judgement are not used but the AT Code of Criminal Procedure gives the opportunity to the court to issue a judgement in a shortened form when no party lodges a legal remedy. This shortened judgement sometimes causes problems in outgoing requests for transfer requiring further communication between AT and the administering state.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

Prison conditions are checked whenever the person does not consent to a transfer – i.e. under the Additional Protocol ETS No. 167. With some administering states where prison conditions are doubtful according to the jurisprudence of the ECtHR AT would not request a transfer in absence of the consent of the sentenced person. In other cases when applying the Additional Protocol AT would ask further information on the prison conditions from the administering state or rely on independent reports on prison conditions, such as those from the CPT.

Do you issue/accept guarantees relating to prison conditions?

Other than in extradition proceedings, AT would usually not make use of guarantees in cases of transfer of sentenced persons.

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:

- for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

There are no legal remedies foreseen under AT law. According to Section 76 para 9 of the Austrian Federal Law on Extradition and Mutual Legal Assistance in Criminal Matters the person concerned shall have no title to the fact that a request for taking over an execution is made or not.

Consequently, there is no legal remedy against this decision – this legal framework has been confirmed by the Supreme Administrative Court in several decisions.

- for the victims in the sentencing country?
- Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

The victims have no legal remedy. They are only informed in particular cases where the transfer could endanger them – under such circumstances the opinion of the victims would be taken into account when deciding on the initiation of a transfer proceedings as sentencing state. In case of a transfer to the administering state the latter would be asked to inform about the end of the execution of the sentence also with a view to inform the endangered victims thereof.

- b. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

No.

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

Longer time ago AT had problems with one administering state where sentenced persons were released immediately after transfer on a regular basis due to wide reaching amnesty provisions in the administering state. This practice made AT suspend any transfer request. Later on, the situation with this country has changed so the transfer of sentenced persons was resumed. When assessing a possible transfer request AT generally considers conditional release and actual time to be spent in prison in the administering state since these are factors influencing the possibilities of social reintegration in that country.

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

No such cases have occurred.

- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Yes.

- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

AT applies the Convention also in situations where an actual transfer will not be necessary since the sentenced person has not started the execution of his/her sentence but is already in the administering state.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

AT has no statistics on incoming transfer requests but for the outgoing based on the Convention the following statistics can be provided:

AUSTRIA	outgoing requests for transfer	effectuated handovers of persons
2015	19	3
2016	22	6
2017	19	11
2018	13	6
2019	32	7
2020	70	3
2021	50	21
2022	59	14
2023	39	16
2024	53	9

BELGIUM / BELGIQUE

1. Mental health

- What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems? *As an Issuing State : persons with mental health problems are often a competence of the Health Department in the executing state and not of the Justice or judicial authorities and so a transfer is not possible.*
- Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility? *No, in Belgium it is possible to execute measures of deprivation of liberty in an adapted facility. We don't have different/specific procedures for detainees and mentally disordered people.*
- Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? *Yes, the Convention is applicable on person placed in a mental health hospital in Belgium. Does that create difficulties for the transfer? Yes, it creates difficulties for the same reason as mentioned in the answer of question a.*

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)? **The Convention states that the costs for travel and transit have to be covered by the Executing State as is the case inside the EU. However in new and recent bilateral agreements, Belgium adds an article that states that the Issuing State covers these costs. The idea that sentenced persons or their relatives should cover travel costs is raised in Belgium. Türkiye has already this practice.**
- b. Who would be expected to cover any additional costs arising after the transfer? **The Executing State.**
- c. How and when do you deal with the issue of damages caused by the crime in question? **In Belgium, it is no longer a ground for refusal of a transfer if damages or civil parties are not paid. It used to be a ground for refusal but that greatly impacted the possibility of transfers as a vast majority of eligible people did not satisfy that condition.**

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? **No.** Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”? **Yes, comparable with the EU Framework Decision 909 on the mutual recognition of sentences and measures (3 months period to recognize the certificate).**
- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request? **Yes, we already do this in Belgium.**
- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected? **Not longer than one month.**
- d. Do you transfer your own nationals if they have dual nationality? **Yes.** When you transfer a person with multiple nationality, do you consult all the States Parties concerned? **No, if this person has applied voluntarily, we initiate the transfer procedure.**
- e. Do you allow for the withdrawal of consent by the sentenced person? **Yes, but then we examine if a compulsory transfer based upon the residence situation is possible.**
- f. Have you ever had to deal with conflicting requests regarding transfer and extradition? **Yes, sentenced persons who applied for a transfer to their country of origin or legal residence and an extradition request from the same country or from a third State.**

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? **We always have all untranslated documents translated in one of our national languages.** In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication? **Our opinion is that all communication should be translated in the language or one of the languages of the other country or in English, which is a common language in the field of international cooperation.**
- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted? **Yes, the judgments of all instances are attached and fully translated.**

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)? **As a Member State of multilateral and bilateral agreements we have mutual trust regarding prison conditions. That means that we, most of the time, do not request additional informations or garantees regarding prison conditions.**
- b. Do you issue/accept guarantees relating to prison conditions? **In transfer cases we do not issue guarantees and certainly when the sentenced person is voluntary applying for a transfer. Until now we did not receive any request for guarantees in transfer cases.**

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
 - for the sentenced persons, in case of a transfer without their consent under the Additional Protocol? **Sentenced persons can challenge the decision before the summary judge, the court of first instance or the State Council.**
 - for the victims in the sentencing country? **Also victims can challenge the decision before the summary judge or the court of first instance.**
 - ⇒ **There are presently no real legal remedy to stop the transfer as the State Council has always declared itself not competent in this matter. People who would like to challenge the decision should to it on the basis of a subjective right.**
- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? **Victims and civil parties are informed as soon as a voluntary or compulsory transfer procedure has started and are kept informed until there is a decision on the transfer.** Is the opinion of the victims taken into account for the decision concerning transfer? **No. We have not yet had a challenge by the victim or a relative.**
- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer? **No.**

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? **No, just with one specific CoE Member State.** Do you often refuse or postpone transfer on that basis? **No.**
- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable? **No, it is not a possibility for Belgium.**
- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)? **No but in those cases we sometimes are informed by the Executing State. It would be interesting that this become a generalized practice.**
- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced? **No.**

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year? **Outgoing 4 and incoming 3.**

BULGARIA /BULGARIE

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

RE: We believe that, from the point of view of Bulgarian law, the possibility of applying the Convention in relation to such persons is limited, depending on the way in which their mental problems affect their quality as criminally responsible perpetrators of a crime who are sentenced to serve an effective sentence of deprivation of liberty or life imprisonment.

- 1) This option is available to persons sentenced to imprisonment who suffer from alcoholism or other drug addiction affecting their mental status, but without putting them in a position to not understand the nature and significance of their actions during the commission of the act or while serving the sentence. These persons are subject to compulsory treatment under Art. 92 of the Criminal Code, which is compatible with the execution of the penalty of deprivation of liberty. Therefore, they can be transferred with a view to continuing the execution of the sentence in the country of their nationality under these conditions.
- 2) 2) In our opinion, such an option is not available in relation to persons who suffer from a mental illness, excluding their ability to understand the nature and significance of their actions during the commission of a socially dangerous act¹ or who have fallen into such a state during the serving of the sentence. Under Bulgarian law, such persons are not subject to criminal prosecution and criminal execution, but to compulsory medical measures under Art. 89 of the Criminal Code, which implies termination of the criminal proceedings or suspension of the execution of the prison sentence.
- 3) When the imposed measure is under Art. 89, letter "b" and letter "c" from the Criminal Code, it is carried out in an ordinary or special hospital facility and in a way that restricts the freedom of the admitted person, but does not represent a punishment for a crime within the meaning of the Criminal Code. The possibility for the Chief prosecutor to coordinate the incoming transfer of such a person as convicted in the Republic of Bulgaria is denied even on this basis alone, taking into account the fact that our internal procedural law (Art. 453 et seq. of the Criminal Procedure Code) allows the admission of only convicted persons (recognized as guilty of a committed crime) and adaptation of a punishment imposed for a culpably committed crime (and not for a socially dangerous act for which the perpetrator is not responsible).
- 4)) In addition to the above, it should be noted that the Convention itself, in Art. 9, para 4, gives the possibility to any country whose domestic law does not allow to apply the procedures for continuation of the execution or conversion of the punishment in relation to persons who, due to their mental state, are exempted from criminal responsibility for a given crime², and which is prepared to admit such persons for the purpose of continued treatment, shall by declaration indicate the procedures it will apply in such cases. Bulgaria has not made such a declaration, which - in the context of the above-mentioned impossibility to apply the procedures under Art. 9, para 1 regarding a measure against a mentally ill person and the

¹ Precision requires that this act is not called a crime because it was not culpably committed.

² From the point of view of the concepts of Bulgarian criminal law, it is more correct to use the term "socially dangerous act".

perpetrator released from criminal liability, should mean that there is no stated willingness to accept such persons on the basis of the Convention. In the case law after 2020 there are already enough examples of accepting transfers of such persons. This, against the background of the impossibility of such persons to be transferred under the order of the Convention and in the procedure under Art. 453 et seq. of the Criminal Procedure Code creates a problem equal treatment.

- 5) The problem is of significant importance insofar as the transfer of mentally ill persons who have committed a socially dangerous act under conditions of insanity can be carried out under Framework Decision 2008/909/JHA and the possibility of refusing to accept such a person is developed only as an optional basis under Art. 9, para1, letter "k" of the cited Framework Decision.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

RE: As far as the execution of a sentence of deprivation of liberty accompanied by compulsory treatment is concerned against a convict whose sanity is not excluded, there are no difficulties and obstacles in carrying out transfers - both outgoing and incoming. In case of incoming transfers, convicted persons who have mental disorders or drug addictions, subject to treatment while serving a sentence of imprisonment, are accommodated in the specialized hospitals for medical treatment of detainees to the General Directorate for Execution of Punishments of the Ministry of Justice, which should meet the concept of "adapted institution". In relation to persons subjected to compulsory medical measures, suffering from mental illnesses and having committed a socially dangerous act under the conditions of insanity, please see the response to Q: 1 a). Transfer on the basis of the Convention of such persons is not carried out.

- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

RE: In relation to persons subjected to compulsory medical measures, suffering from mental illnesses and having committed a socially dangerous act under the conditions of insanity, please see the response to Q: 1 a). Transfer on the basis of the Convention is not carried out.

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

RE: The transfer costs are borne by the host country of which the convicted person is a citizen.

- b. Who would be expected to cover any additional costs arising after the transfer?

RE: The transfer costs are borne by the host country of which the convicted person is a citizen.

- c. How and when do you deal with the issue of damages caused by the crime in question?

RE: Questions about the damages caused by the crime - their determination, the guarantee of the victim's rights, the awarding of compensation, are decided within the framework of the criminal proceedings conducted in the country that convicted the person.

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

RE: No statutory or other mandatory act has established a deadline for a final decision on a transfer based on the Convention. In practice, the adopted approach is to resolve the matter within a reasonable time by the authority under Art. 453 of the Criminal Procedure Code (the Chief prosecutor), based on sufficient and complete information on the conditions and expediency of the transfer.

- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

RE: We believe that the legal systems of States Parties to the Convention are not sufficiently uniform to allow the adoption of a standardized form or "one letter model" where the sentencing State would provide in one package all the information required by the executing State.

The current regulation of the Convention provides sufficiently clear guidelines regarding the content of the necessary information provided by the sentencing state. Practice shows that it would be useful to keep open the possibility of requesting and receiving additional information, allowing the competent authority of the requested country to make a reasoned and expedient decision on the transfer.

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

RE: No standardized answer can be given. It depends on the reason for rejecting the transfer. In some cases, the request could be reconsidered as soon as the reason for rejecting the transfer is removed (eg obtaining the requested but not yet provided information). In other cases, for example when a transfer is refused to be agreed due to a mandatory major sentence reduction in the host country, conditions for the reconsideration of the application will not arise at all.

- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

RE: There is no obstacle for the person to be transferred to the receiving country of which he is a citizen, regardless of the fact that he is also a citizen of the country that sentenced him. The Republic of Bulgaria may, on the basis of the Convention, carry out outgoing transfers of its citizens who also have another citizenship - to the country of the other citizenship.

The Republic of Bulgaria accepts, on the basis of the Convention, incoming transfers of its citizens, regardless of whether they have another citizenship. However, this does not exclude the possibility of verifying in some, albeit rare, cases whether the transfer of a certain person convicted in a third country would not be more expedient in order to achieve the goals of the Convention for social inclusion, if it were carried out in the country of his other citizenship. This would be the case if the convicted person's social environment - family, workplace, educational institution before his conviction - were located in the country of his other citizenship and he has no established permanent ties in Bulgaria, regardless of the presence of Bulgarian citizenship. Indications of such expediency would be the data on the lack of a social environment for the convicted person in Bulgaria, especially

if his Bulgarian citizenship was acquired immediately before committing the crime for which he was convicted or immediately before the conviction.

When a decision has to be made on the outgoing transfer of a person on the basis of the Convention, who has citizenship in more than one country - parties to the convention, consultation with all the countries of which the person is a citizen is not sought. In the usual case, the transfer is carried out on the basis of the consent of the person, who indicates to which of the countries of which he/she is a citizen, he/she wishes to be transferred. When a transfer is carried out on the basis of the Additional Protocol under the Convention without the person's consent, due to the presence of an expulsion order or due to the fact that the convicted person has fled to a country of which he/she is a citizen, the transfer request is addressed to the country where the person's permanent ties are established, resp. to the country to which the convicted person fled.

e. Do you allow for the withdrawal of consent by the sentenced person?

RE: According to the declaration of the Republic of Bulgaria under article one, para. 2, letter "b" of the Law on Ratification of the European Convention for Cooperation in Criminal Matters, the Convention on the transfer of sentenced persons and the European Convention on Extradition, published State Gazette no. 39/10.05.1994, "The Republic of Bulgaria declares that the person's consent cannot be withdrawn after a decision on his transfer has been made by the competent authorities." This means that the consent given by the convicted person is subject to withdrawal only before the Chief prosecutor and the competent authority of the other country - a party to the Convention have made statements agreeing to the transfer.

f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

RE: There have been cases of requests for transfer being submitted by a convicted person who is also subject to extradition proceedings at the request of the country of his citizenship to which he/she wants to be transferred. In these scenarios, the decision on the transfer request is tied to the development and the decision on the extradition proceedings. In other cases, the transfer of a convicted person to the country of his citizenship was initiated after the country that sentenced the person also ruled on a request for extradition of the requested person, respecting the same, but postponing the actual handover until serving the sentence of imprisonment imposed by its court. In these cases, with the implementation of the transfer, it is assumed that there are grounds for criminal execution or criminal prosecution for the crimes to which the request for extradition also referred.

4. Translation

a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

RE: According to the declaration of the Republic of Bulgaria under article one, para. 2, letter "c" of the Law on Ratification of the European Convention for Cooperation in Criminal Matters, the Convention on the transfer of sentenced persons and the European Convention on Extradition, published State Gazette no. 39/10.05.1994: "The Republic of Bulgaria declares that it will require the transfer applications and accompanying documents to be accompanied by a translation into Bulgarian, and in the absence of such a translation into the official languages of the Council of Europe". With this declaration, the requirement for translation and language of communication is

extended in the same way as to the information under Art. 4, para 2-4 of the Convention, as well as to the application for the transfer of a convicted person and the other accompanying (additional) documents. Therefore, from the point of view of languages and translations, we have no reason to treat the information under Art. 17, para 1 of the Convention and communication, incl. and the request under Art. 17, para 3 of the Convention.

As the receiving country of an incoming transfer, we require the requesting country to refer to us and send us translations of all documents accompanying the application in Bulgarian or one of the official languages of the Council of Europe, and we consider this requirement as a condition for the admissibility of the application. When the translation is provided in French and English, we provide a translation into Bulgarian ourselves for the purposes of the proceedings under the Criminal Procedure Code.

As a sentencing (concurring outbound transfer) country, we comply with the declaration regarding the languages of the person's country of citizenship, which will consider the application or request to take over the execution of the custodial sentence.

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

RE: As a sentencing (agreeing to outgoing transfer) country, we send to the country that will undertake the criminal execution, certified copies of the sentence and the reasons for it, as well as of the decisions of the appellate and cassation instance (if any).

As the receiving country of the inbound transfer, we require the sentenced country to provide us with certified copies and translations of the sentence and acts of its superior courts (if any), with an explicit indication of the date of entry into force of the sentence.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

RE: As the country that sentenced the person in a procedure for the outgoing transfer of a convicted person, we can request guarantees from the country of citizenship of the person with whom we are cooperating to take over the execution of the sentence, and to present the conditions in the penitentiary facility where the convicted person will be brought. Ordinarily, the giving of assurances is sufficient to assume that the convict's rights will be guaranteed. The decision-making body may also consult reports of international human rights organizations to make its decision.

- b. Do you issue/accept guarantees relating to prison conditions?

RE: Upon a corresponding request from another country, we provide guarantees and descriptions of the conditions in Bulgarian prisons and in a specific penitentiary facility, which are prepared by the General Directorate for Execution of Punishments to the Ministry of Justice.

We can require such guarantees and descriptions when discussing the outbound transfer of a convicted person from the Republic of Bulgaria to another country - a party to the Convention.

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:

- for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

RE: The decision to coordinate a transfer under the Convention and the Additional Protocol is made in accordance with Art. 453 of the Criminal Procedure Code and is within the exclusive competence of the Chief Prosecutor. There are no national legal remedies to challenge such a decision.

- for the victims in the sentencing country?

RE: The decision to coordinate a transfer under the Additional Protocol is made in accordance with the procedure of Art. 453 of the Criminal Procedure Code and is within the exclusive competence of the Chief Prosecutor. There are no national legal remedies to challenge such a decision. In order to coordinate the transfer, the Chief Prosecutor may also take into account the opinion of the victims of the crime, when the Republic of Bulgaria is the country that sentenced the person.

- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

RE: There is no legal obligation to inform crime victims about the procedure for the transfer of a convicted person and the final decision on this. At its discretion, the authority under Art. 453 of the Criminal Procedure Code or the authority that assists him in the exercise of his powers (the Supreme Prosecutor's Office) may notify the victims of crime who live in the Republic of Bulgaria, regarding the procedure for the transfer of a convicted person - at any time from its initiation until the time after the actual transfer takes place.

- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

RE: The authority that approves an outgoing transfer (the Chief Prosecutor) may take into account the imposition of additional penalties and their enforcement in the exercise of its powers. Most often, the reasons for non-fulfillment of cumulatively imposed along with the sentence and together with the deprivation of liberty, property penalties - fines - are subject to discussion. Upon ascertaining the opportunity for the convicted person to pay the fine imposed on him/her in whole or in part, the authority under Art. 453 of the Criminal Procedure Code may bind the approval of the transfer to the fulfillment of this condition as well. When it is convincingly established that the public liability arising from the cumulatively imposed fine is uncollectible, the outgoing transfer shall be agreed if there are no other obstacles.

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

RE: At first, we require information about the consequences of the transfer and whether the other country will continue the execution of the punishment, being bound by its legal nature and term (Art. 9, para 1, in conjunction with Art. 10 from the Convention). On the basis of this information, we assess whether a substantial reduction can be expected when adjusting the sentence, with a view to reducing it to the maximum provided for in the law of the host country or for other reasons. We may also request information about the rules on early release of prisoners serving prison sentences in the receiving country, to take into account when the person can be expected to be released from its

prison on an outbound transfer. The cases in which, on the basis of such information, we have refused or postponed the approval of the transfer, or we would do so, are relatively rare - only if we consider that after the transfer, in practice, a substantial and unjustified reduction of the sentence would be reached from the point of view of the state that sentenced the person.

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

RE: When the Republic of Bulgaria is the country that sentenced the person, and at the request of the other country - a party to the Convention, that it allows conversion of the punishment on the basis of Art. 9, para 1, letter "b" in conjunction with Art. 11 of the Convention, an extract from the applicable legislation of that country and guarantees regarding the consequences of the transfer are mandatory. On this basis, a decision is made whether the transfer should be approved.

As a country accepting the transfer, with a declaration under article one, para. 2, letter "c" of the Law on Ratification of the European Convention for Cooperation in Criminal Matters, the Convention on the transfer of sentenced persons and the European Convention on Extradition, published State Gazette no. 39/10.05.1994, "The Republic of Bulgaria declares that, according to the current legislation, it will apply the procedure under Art. 9, para 1, letter "a", in conjunction with Art. 10 of the Convention." Thus, the principle of continuation of the execution of the sentence of imprisonment imposed in the other country has been adopted, and the Republic of Bulgaria is bound by its legal nature and term - as defined in the country that sentenced the person. The possibility of adjustment, in this situation, is connected only with the conditions of Art. 10, para 2 of the Convention, and most often requires clarifications regarding the maximum penalty of imprisonment provided for in the Bulgarian law. This information, together with an extract of the applicable legal norms, is always provided.

- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

RE: Information must be monitored and exchanged between the sentencing and the executing state in the presence of grounds that affect the criminal execution or the criminal legal relationship.

1) Upon receipt of information on amnesty in the country that sentenced the person, from which the transferred person benefits, the Chief Prosecutor immediately orders the termination of the execution in our country (Article 460, para 2 of the Criminal Procedure Code). If there is a legislative act for amnesty of the person in the Republic of Bulgaria after his transfer, the Chief Prosecutor notifies the country that transferred him/her.

2) Decisions of the state that sentenced the person to amend the sentence after its entry into force and after the transfer is carried out are accepted in a new proceeding to resolve the issues of execution of the judicial act (Art. 458, para. 1 from the Criminal Procedure Code), and the decisions of the state that sentenced the person to cancel the sentence in an extraordinary way, made after the acceptance of the person, are executed immediately after receiving them by order of the chief prosecutor (Article 458, para. 2 of the Criminal Procedure Code).

3) By the same logic, the Supreme Cassation Prosecutor's Office notifies the country that has accepted the outgoing transfer of a person convicted in our country, of any cancellation or amendment of the judicial act in an extraordinary way, decreed after the transfer.

4) As for conditional early release, it can only be granted according to the rules of the receiving state and the sentencing state is notified of its effect, as well as of the serving of the sentence.

- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

RE: We understand the question as aimed at clarifying whether the Convention applies to convicted persons in respect of whom the sentence of deprivation of liberty has not (yet) been executed and they have not been detained in a prison of the sentencing country. The answer is positive. This is also the typical case under the Additional Protocol to the Convention, when the sentence is not carried out due to the escape of the convicted person to the country of his citizenship - a country Party to the Convention. Otherwise, at the beginning, every transfer of a convicted person under the Convention presupposes as a mandatory condition that the punishment under the sentence has not been fulfilled - in the sense that it has not been served in full, but that there is a remainder of at least six months (art. 3, letter "c" of the Convention).

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

RE: See the attached file - statistical table - summary of the number of incoming / outgoing transfers for the period 2019-2023, inclusive /N.B: data provided from the Supreme Cassation Prosecutor's Office/.

Incoming requests	2019	2020	2021	2022	2023
Total average per year: 20,8	64	9	7	14	10
Outgoing requests	5	3	3	2	3
Total average per year: 3,2					

CROATIA / CROATIE

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

In practice, there was a problem of the lack of an adequate institution in which the person would be placed after the transfer, as well as certain measures imposed on the person, which as such did not exist in the State to which they were to be transferred.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

There have been cases where the problem has occurred of the lack of an adequate institution in which the person would be placed after the transfer.

- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer? Yes. The transfer procedure in this cases was initiated on the request of the mentally incapable person so the fact that person was involuntarily placed in a mental health hospital did not create any difficulties for the transfer.

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

We do not ask for the travel and transit costs to be covered but we believe that such costs should be borne by the sentenced person.

- b. Who would be expected to cover any additional costs arising after the transfer? **As under a.**
- c. How and when do you deal with the issue of damages caused by the crime in question? According to the Criminal Procedure Act, the court shall decide on the pecuniary claim. In the judgment in which it finds the defendant guilty the court may award the injured party the entire pecuniary claim or may award the pecuniary claim in part and refer the remainder to civil proceedings. If the information from the criminal proceedings does not provide a reliable basis for either a full or partial judgment, the court shall refer the injured party with the pecuniary claim to civil proceedings.

When delivering a judgment of acquittal, a judgment denying the charge or issuing an order discontinuing criminal proceedings, the court shall instruct the injured person to assert his pecuniary claim in a civil action. When the court declares itself incompetent, it shall instruct the injured person to file his pecuniary claim in criminal proceedings that will be instituted or continued by the court having jurisdiction.

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

No, we do not have a fixed time frame to decide on transfer cases. But that kind of cases are considered as urgent. Transfer proceedings are mixed procedures - partly judicial, partly administrative, in which decisions are made by the competent judicial authorities of both the requesting state and the requested state. Therefore, we do not find it necessary to set fixed terms for deciding upon the request.

- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information

needed by the administering State to react upon the request? **We find that it could be helpful to issue guidance to allow for a “one-letter model”.**

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected? There is no prescribed time frame for resubmitting a transfer request.
- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

According to the Act on international legal assistance in criminal matters a Croatian citizen cannot be extradited for criminal prosecution or enforcement of a prison sentence to a foreign state or moved as a sentenced person outside the Republic of Croatia to a foreign state to serve a prison sentence.

According to the Constitution, Croatian citizen can be only extradited to another State when an extradition or surrender decision made in accordance with an international treaty or the *acquis communautaire* of the European Union must be executed. The same applies to the transfer of prisoners.

If transfer if the person with multiple nationality is allowed, we only consult the State to which the convict wants to be transferred.

- e. Do you allow for the withdrawal of consent by the sentenced person? Yes.
- f. Have you ever had to deal with conflicting requests regarding transfer and extradition? Yes.

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

Croatia has not made a declaration on Article 17 of the Convention, therefore no translation of transfer documentation is required.

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted? As under 4a.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)? **Information and guarantees** are requested from the competent authorities of the State to which the person is to be transferred and are taken into account.
- b. Do you issue/accept guarantees relating to prison conditions? In specific cases that kind of guarantees can be requested and can in in case of need be issued and accepted.

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:

- for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?
- for the victims in the sentencing country?

There is no legal remedy against a decision to transfer of a sentenced person. The procedure is initiated by the sentenced person himself/herself. There is only a right of a legal remedy against the judgment recognizing the judgment of the issuing state, according to the Criminal Procedure Act.

- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

No.

- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

According to Act on International Legal Assistance in Criminal Matters, domestic courts shall act further to the request of a requesting state for the enforcement of a penal judgment of a foreign court and enforce the final judgment in relation to the sanction rendered by the foreign court by issuing a sanction in a judgment in accordance with the penal legislation of the Republic of Croatia.

So yes, the complete sanction pronounced in the State where the judgment was issued is taken into account, and when the judgment is recognized, the sanction prescribed by the criminal legislation of the Republic of Croatia is imposed.

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis? As sentencing State we regularly ask the requested State to provide us with provisions of the conditional release and amnesty. We ask for it at the beginning of the procedure and need it before rendering final decision on transfer.
- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

Certain guarantees may be accepted, but the Republic of Croatia, as the State that issued the judgment, sets a condition that it does not consent to the execution of the judgment in such a way that the imposed prison sentence is replaced by the payment of a fine or a probation measure.

- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Depending on the case and at the request of the court of the sentencing State that issued the judgment.

- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

Yes, and especially in the sense of Article 2 of Additional Protocol to the Convention on the Transfer of Sentenced Persons.

In cases when sentenced person has not yet begun serving his prison sentence, he may seek the submission of a request for the execution of the criminal judgment to be taken over in the State of his citizenship or residence.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

We do not have precise statistical data.

CZECHIA / TCHEQUIE

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

Cases of this type are statistically insignificant. The Czech Republic does not record any terminated proceedings of this kind. In general, it is necessary to ensure comparable conditions for the enforcement of a sentence or the execution of a protection measure imposed abroad and to obtain the necessary information or guarantees to that effect in advance.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

As a sentencing state, we aim to ensure comparable conditions of execution of a sentence or execution of a protection measure imposed abroad. In one already closed case where potential transfer of sentenced person being placed in health facility was considered, such information and the required guarantees have not been obtained to the necessary extent.

- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

The Czech Republic does not register cases of this type.

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

Cost of the transfer shall be borne by the administering State. In case of the Czech Republic, the sentenced person or their relatives (the details shall be laid down in a sub-legislative regulation) is requested to cover such costs after the transfer is effected.

- b. Who would be expected to cover any additional costs arising after the transfer?

Administering State Party

- c. How and when do you deal with the issue of damages caused by the crime in question?

Issue of damages caused by the respective crime is considered before the decision to authorise the transfer, i. e. the manner and extent of payment of the costs is assessed in the proceedings (costs against the State and against third parties are distinguished).

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

Procedural internal time-frame applies to individual steps in the MoJ proceedings; setting time limits for court decisions is not regulated by law. Setting time frame could speed up the process of transfer, although any time limits would have a procedural nature only.

- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

In principle, the Czech Republic could support issuing such guidance, although it will not fully solve the differences resulting from diverging legislation and practice at national level.

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

It depends what kind of reason for rejection is taken into account, i.e. the material point of view is decisive. In the event that such reason for rejection ceases to apply, reconsideration is possible immediately. A formal deadline has not been set.

- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

The Czech Republic does not register cases of this type. The legislation does not exclude this possibility.

In the case of transfer on request, effective nationality, i. e. place of residence and prospects in terms of social rehabilitation are always assessed.

- e. Do you allow for the withdrawal of consent by the sentenced person?

The Czech Republic legislation does not allow for withdrawal of consent after the sentenced person has been duly informed of the factual and legal consequences of such consent.

However, if it is expedient in terms of the proceedings, this is taken into account.

- f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

Yes, these cases are registered by the Ministry of Justice. The competing proceedings has to be suspended, and the responsible state notified. In the event of a concurrence between extradition and the transfer procedure, if extradition is found admissible and is granted, the transfer procedure shall be terminated.

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

As administering State, the Czech Republic accepts requests even without a corresponding translation, if it is possible to translate documents into Czech language in the Czech Republic.

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

In general, the Czech Republic requires the entire judgments of all instances to be attached to the request, however, if this is not feasible, relevant parts of the judgments may be accepted, taking into account the usual practice of the third country concerned.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

Relevant information from the competent authority of the counterparty and/or the provision of diplomatic guarantees are required in advance. Reports from states and non-state actors as NGOs are taken into account, a personal visit through the responsible consulate can be required. However, it has to be taken into account that transfer of sentenced person under Convention (if not under Additional Protocol) can only take place with the consent of the person concerned, which is different scenario than extradition. Thus, the extent of assessment of prison conditions etc. is not the same as in the extradition proceedings.

- b. Do you issue/accept guarantees relating to prison conditions?

Yes, see above, in both directions this is possible.

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
 - o for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

In such cases the prerequisite for transfer without the consent of the sentenced person is a sentence that includes expulsion from the Czech Republic after serving the prison sentence. This sentence can be subject to ordinary (appeal to higher court) and also extraordinary remedies (complaint to the Supreme and Constitutional Court).

Once the sentence is final and enforceable, transfer without consent can be authorized and against such authorization no ordinary remedy is available, as such action is only realization of the imposed sentence of expulsion.

- for the victims in the sentencing country?

The opinion of the victim is taken into account in the proceedings, especially in cases of significant harm committed to the victim. However, no formal remedies against authorization of transfer are available to the victim.

- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

The opinion of the victim is taken into account in the proceedings, see above. The appropriate course of action is taken after the court which ruled at first instance issues a positive statement towards eventual transfer.

- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

Yes, this type of conviction is taken into account in a manner appropriate to its nature.

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

This information is requested by the Czech Republic on regular basis.

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

Yes, it is possible.

- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Yes, the status is monitored.

- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

The Ministry of Justice of the Czech Republic does not register cases of this type.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

In the last 5 years, i.e. in 2019-24, the Czech Republic registers an average of 7 outgoing transfers per year and 1 incoming transfer per year (cases completed with effective transfer of the sentenced person; the vast majority of transfers are carried out outside the regime of the Convention on the Transfer of Sentenced Persons, mainly among the Member States of the European Union on the basis of EU legislation, these cases are not included in the statistics).

FINLAND / FINLANDE

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

We have no practical experiences of such cases. In our view, such prisoners (who have not been sentenced to a treatment sanction, but have serious mental health problems) should not be transferred at all. Presumably problems could arise when examining the possibilities of the administering state to provide appropriate treatment (in the prison). See also subsection c below.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

See subsection c below.

- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

Yes, the Convention is applied to persons who are involuntarily placed in a mental health hospital. Our national law provides a procedure for such a transfer (= a transfer of a treatment sanction).

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

When it comes to transfers with third countries, the travel and transit costs are covered by the administering state. If this is to be changed, there should be clear provisions in the Convention.

(With EU transfers, 2008/909/JHA, the situation is reversed: the sentenced person shall

be transported by the sentencing state to the administering state and transport costs shall also be borne by the sentencing state.)

- b. Who would be expected to cover any additional costs arising after the transfer?

We have no practical experiences of such situations. We would apply Art 17 para 5 of the Convention.

- c. How and when do you deal with the issue of damages caused by the crime in question?

Compensation for damages is a separate matter from the enforcement and transfer of a sentence. It is the responsibility of the victim or the competent authorities of the sentencing state to ensure the payment of damages, regardless in which state the prison sentence is carried out.

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

In our current legal framework we do not have a time limit, but we support the idea of setting one. A fixed time frame “xx months” would be clear and straightforward, but even an obligation to decide within “a reasonable time” would be better than no set time frame.

(For EU transfers, there is a 90-day time frame. In practice this is not achieved in all member states. Also in Finland, this time frame is too short if the sentenced person appeals the transfer decision. There is also a time limit for the execution of the transfer, i.e. 30 days after the final decision on the transfer was taken by the administering member state).

- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

Yes, we support this, since currently the back-and-forth correspondence together with translations, delivery of documents etc. makes the process slow. This slowness of the processes often leads to a situation where the prisoner is already released before the transfer could take place or that the remaining sentence at the end of the process is too short for a transfer, thus hindering transfers.

One-letter model is a practice in EU transfers and seems to work excellently.

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

We don't recall facing such situations in practice. But this would probably depend on the situation/reason for which the request was initially rejected. If circumstances were to change substantially etc. then the case could be taken into reconsideration without delay. But otherwise it would seem that the minimum time should be quite long, at least one year if not more.

- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

We transfer Finnish citizens with dual nationality to Finland if requirements for transfer are met. According to our constitution, Finnish citizens always have the right to return to

Finland.

And correspondingly, if our own national with dual nationality requests to be transferred to the other country of nationality, we would consent to the transfer (considering that other requirements are met). We do not recall situations in which a yet third country of nationality would have been involved.

- e. Do you allow for the withdrawal of consent by the sentenced person?

Yes, consent may be withdrawn at any stage of the process.

- f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

We have no practical experiences of such situations.

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

All documents and information must be submitted either in Finnish, Swedish or English/(French).

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

As a general rule, the judgments of all instances should be translated and attached to the request as such. However, in the case of judgments with a particularly large number of pages, it is sufficient that only the most relevant sections concerning the sentenced person (excerpts) are translated and attached to the request.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

When it comes to prison conditions, Finland has so far relied on the information obtained by our Ministry of Foreign Affairs. According to our current knowledge, Finland does not carry out on-site inspections etc, but if we would have the opportunity to make such inspections in person (embassy / other representation and the needed resources in the administering state) this would promote the realisation of human rights.

- b. Do you issue/accept guarantees relating to prison conditions?

We have no practical experiences of such situations with transfers between third countries. If necessary, we would probably consider it possible to issue and accept guarantees.

(With EU transfers the matter has been topical. According to the practice of the Court of Justice of the European Union a so-called two-step test is required when assessing a possible violation of fundamental and human rights. The court has also given approval to the use of guarantees and, as a rule, issued guarantees are to be considered reliable.)

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
 - for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?
 - for the victims in the sentencing country?

The decision may be appealed to the Administrative Court.

For the victims there are no legal remedies against a decision to transfer the sentenced person.

- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

Yes, the victims may be informed of the transfer, but it is only for notification purposes. The opinion of the victim is not inquired and therefore not taken into account in the process. In our view the victim's opinion seems relevant only if the sentenced person is released into the victim's society, but not so much if the sentenced person is transferred elsewhere.

- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

With third countries it is not possible to transfer the enforcement of non-custodial punishments, for example community service.

(In transfers between EU member states the existence of non-custodial punishments may be taken into account and the sentence may be adapted.)

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

Information on the actual execution of the sentence is often provided by the administering state during the process as part of the normal exchange of documents. We have no experience of cases where such information would have been separately requested or where the transfer would have been refused or postponed on that basis.

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

Possible guarantees concerning prison conditions etc. would be requested before making a decision on the transfer. Also any adaption or conversion of the penalty would be decided in advance. Such considerations are often prerequisites for the transfer.

- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

We do no post-monitoring, because the transferred person is no longer under the Finnish sanction system. In our view, it is more important to take the person's release etc. into consideration before deciding on the transfer.

- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

The Convention can be applied to a prison sentence that has yet to be enforced or to a prison sentence that the person already has started to serve, as long as the sentence has

become final.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

In average 5-10 incoming cases /
year. In average 0-5 outgoing cases /
year.

GEORGIA / GEORGIE

1. Mental health

d. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

Georgian national legislation recognizes specific categories of offenders who may be subject to compulsory medical treatment due to mental health concerns:

- Individuals who were not of sound mind at the time of committing an offense and, therefore, cannot be held criminally liable.
- Individuals who develop mental health issues while serving their sentence.

Since Georgian legislation does not explicitly regulate the procedure for transferring sentenced persons with mental illnesses to or from Georgia and given the lack of extensive practice in this area Georgian authorities and the judiciary may face the following challenges:

1. TRANSFER OF INDIVIDUALS DECLARED NOT IN SOUND MIND AT THE TIME OF THE OFFENSE

According to Article 105 of the Criminal Procedure Code of Georgia (CPC), one of the grounds for refraining from initiating or terminating criminal prosecution is a finding that the individual was not of sound mind at the time of committing the offense, as confirmed by a forensic examination report. In such cases, Article 191(2) of the CPC requires the court to terminate the criminal prosecution and, in the same ruling, decide on the necessity of compulsory psychiatric treatment based on the forensic psychiatric examination report.

When a Georgian court converts a foreign sentence for the purpose of transfer, it must align the offense and the sentence with national legislation. However, the court cannot request a forensic psychiatric examination without the individual's presence. This examination will only be possible upon the person's arrival in Georgia. As a result, the Georgian authorities cannot guarantee in advance that the individual will be placed in an appropriate psychiatric institution.

Additionally, the absence of the offender's consent - a necessary requirement for the transfer procedure further complicates the process. The lack of specific national regulations also raises practical issues, such as determining the composition of the escort team, defining the responsibilities of various state agencies, and addressing other procedural issues.

2. TRANSFER OF INDIVIDUALS WHO DEVELOP MENTAL HEALTH ISSUES WHILE SERVING THEIR SENTENCE

Fewer challenges are expected when transferring individuals whose mental health has deteriorated during their sentence. In such cases, the Georgian court can convert the foreign judgment and adjust the offense and sentence in accordance with national legislation. Upon the individual's arrival in Georgia, a forensic psychiatric examination will be conducted, and based on the court's decision, they will be placed in an appropriate institution. However, the requirement for the convicted person's consent may still present an obstacle.

Given these challenges, Georgia is keen to learn from the experiences of other State Parties regarding the transfer of sentenced persons with mental health issues.

- e. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?**

No, there are no difficulties in executing a measure of deprivation of liberty in an adapted facility.

- f. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?**

To date, Georgia has not applied the Convention to individuals placed in a mental health hospital.

2. Costs

- d. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?**

Under Georgian legislation, the costs related to the transfer of a sentenced person are to be covered by the sentenced person or their family. However, there are no restrictions preventing a foreign country from covering these costs. At the same time, national legislation does not provide a legal basis for the Government of Georgia to assume these expenses.

- e. Who would be expected to cover any additional costs arising after the transfer?**

Unless otherwise agreed, Georgia assumes the costs related to the implementation of the Convention on its territory after the transfer.

- f. How and when do you deal with the issue of damages caused by the crime in question?**

When considering a transfer case, the Central Authority (Ministry of Justice) obtains certification regarding the compensation of damages.

3. Conditions and time frames required to process transfer requests

- g. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?**

Georgian legislation does not prescribe a fixed timeframe for processing transfer requests. Since the consideration of a case depends on domestic legal procedures, imposing a deadline would not necessarily expedite the process.

- h. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?**

The "one-letter model" will be helpful for expediting transfer cases. Currently, delays often arise due to the need for additional documentation from the sentencing State.

- i. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?**

In practice, Georgia does not officially reject a transfer request if the circumstances preventing the transfer might change (e.g., law enforcement agencies revise their stance, damages are paid, or the victim consents to the transfer). The Central Authority reconsiders such cases every six months, either upon request or on its own initiative.

j. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

According to the Constitution of Georgia, the extradition, expulsion, or transfer of a Georgian citizen is prohibited unless explicitly allowed by an international treaty. Since the Convention does not expressly permit the transfer of nationals, Georgia is unable to grant such requests.

k. Do you allow for the withdrawal of consent by the sentenced person?

National legislation does not explicitly regulate the withdrawal of consent. However, in practice, a sentenced person may revoke their consent before the Minister of Justice issues the transfer order. Once the order is issued, consent can no longer be withdrawn.

l. Have you ever had to deal with conflicting requests regarding transfer and extradition?

As a sentencing state, Georgia has not faced conflicting requests regarding the transfer and extradition. However, there were cases when the transfer of Georgian national was rejected (postponed) due to ongoing extradition proceedings.

4. Translation

c. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

Requests and supporting materials should be translated into one of the language specified in the declaration made by Georgia. If not, they will be returned to the sentencing State. Since all documents related to transfer procedures are part of national proceedings, translation is required in all cases.

d. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

Georgia, as a sentencing State, attaches full judgments from all instances along with appropriate translations when submitting a transfer request.

5. Prison conditions

c. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

Before issuing a transfer decision, Georgia requests information on prison conditions, medical treatment, rehabilitation programs, and other relevant aspects from the administering State's Central

Authority. Officially provided information is generally considered sufficient. Reports from human rights treaty bodies (e.g., CPT, CAT, SPT) are also taken into account.

d. Do you issue/accept guarantees relating to prison conditions?

Georgia may issue or accept guarantees related to prison conditions.

6. Rights and legal remedies

d. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:

- *for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?*
- *for the victims in the sentencing country?*

Legal remedies available under national legislation apply.

e. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

Yes, victims (if any) are informed, and their opinion is considered during the decision-making process.

f. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

Non-custodial sentences are not a primary factor in transfer decisions. However, payment of court-imposed fines is considered.

7. Prospects for the execution of the sentence

e. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

Yes, Georgia requests such information before deciding on a transfer. If the administering State fails to provide sufficient details or guarantees regarding sentence execution, the Ministry of Justice may refuse or postpone the transfer until the necessary information is provided.

f. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

Under the Criminal Procedure Code of Georgia, the remaining sentence imposed by a foreign court must be served in Georgia under the same conditions as a domestic sentence. The converted judgment is shared with the sentencing State. If required, based on the converted judgment, guarantees can be provided. Georgia, as a sentencing State, may also accept guarantees from the administering State regarding sentence enforcement.

g. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Yes, administering States regularly provide updates on the status of transferred persons (pardon, amnesty, parole). In some cases, the Ministry of Justice has requested additional information regarding sentence conditions and terms.

h. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

No, Georgia does not apply the Convention to individuals whose sentence has not yet been enforced.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

Each year, the Central Authority processes approximately:

- 70 incoming and 90 outgoing cases, including
- 30 new incoming and 50 new outgoing requests.

MALTA / MALTE

1. Mental health

- g. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?
- h. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?
- i. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

2. Costs

- g. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

Practical information on requests and/or transfers is done via police cooperation channels i.e., the INTERPOL channel, and in supporting local prison officials (if required/requested) whilst at the Airport is conducted

- h. Who would be expected to cover any additional costs arising after the transfer?
- i. How and when do you deal with the issue of damages caused by the crime in question?

3. Conditions and time frames required to process transfer requests

- m. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

As we follow that which is stipulated in the Convention on the Transfer of Sentenced Persons and its Additional Protocol, there is no specific timeframe set up on deciding transfer cases within a specific time. The Convention and its Additional Protocol imply a sense of “reasonably timed” processing of such transfer requests, yet however it must also be noted that the length of such decisions on transfer requests and cases varies on a subjective case-to-case basis, depending on the technicalities and all circumstance of each individual case. Thus, such a

reasonable time remains to be highly subjective depending on all factors present per each transfer case.

- n. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

The Convention and its Additional Protocol and their provisions, wherefrom it is aimed that all required information is provided immediately and at first instance to ensure that the procedure is followed properly and in a timely manner. To this however, one must also note that administering States may require additional information specific to a particular case or face unexpected circumstances that would require such additional, to which these should not be excluded to ensure a proper transfer occurring.

- o. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

As we follow the Convention and the ensuing Additional Protocol, this is not directly stipulated and thus remains to be a subjective answer dependent on a case-by-case basis, where it must always be ensured that all the required conditions are met to permit for a reconsideration.

- p. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

We have not encountered this issue yet in recent years. However, we do always proceed with transfer of sentenced person requests if the sentenced person requests and consents to one, and where all the circumstances and facts present allow for one and always follows that which is stipulated in the Convention and its Additional Protocol to which we ratified and are party to, and above all this remains dependant on all the factors and matters present based on each individual case.

- q. Do you allow for the withdrawal of consent by the sentenced person?

We base our processing of transfer requests on the consent of the sentenced person themselves, and proceed with such requests when their consent is given. If this is withdrawn, the transfer request would not proceed any further.

- r. Have you ever had to deal with conflicting requests regarding transfer and extradition?

This does not seem to have occurred yet in our case in recent years.

4. Translation

- e. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

Malta requests information to be submitted in English, being one of Malta's official languages. To this, as a per a reservation made by the Maltese State to the Convention, requests for transfer and supporting documents, unless in English, should be accompanied by a translation thereof into English. Thus, if this is not the case, Malta will request the sentencing state to kindly provide a translation of said document in English to further process such a request.

- f. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

As the Convention is followed, it is ensured that such information is provided in English, which is also one of Malta's two official language, and if this is the judgement is in Malta, it is ensured that a translation of such judgement into English is included when sending out such required information to the administering State.

5. Prison conditions

- e. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

A guarantee can always be sought or issued through the relevant diplomatic channels. Guarantees have been sought and recognized in previous cases to ensure that human rights will be respected, and decent conditions are ensured.

- f. Do you issue/accept guarantees relating to prison conditions?

Guarantees are both accepted and issued in relation to this, albeit these are to always be done through the relevant legitimate diplomatic channels.

6. Rights and legal remedies

- g. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
- for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

The Additional Protocol is abided by, including where an opinion of the sentenced person is still required in the case of a deportation order. To this, in any such case, the Explanatory Report on both the Convention and that on the Additional Protocol is reverted to for guidance as the Convention and Protocol are fully abided by.

- for the victims in the sentencing country?
- h. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

This is not the case domestically, as the domestic criminal procedure follows a typical ex officio procedure, and thus local criminal cases do not require the complaint or consent of a victim to be prosecuted and convicted (except for certain minor contraventions or exceptional cases).

- i. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

It must be noted that Malta applies the Continued Enforcement of Sentenced Method, wherein the enforcement of the prison sentence is ensured, yet one that also includes any possible remission. This is further stipulated in a reservation made by the Maltese State that totally excludes the application of the conversion procedure provided in Article 9.1.b. of the Convention.

7. Prospects for the execution of the sentence

- i. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

This is indeed done prior to the completion of the transfer request to ensure that the allotted prison sentence, including any increased prison time due to a failure of payment of a fine or any remission whatsoever, will be properly and wholly followed in the administering State wherefrom the domestic judgement will be adhered to, respected, and followed.

- j. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

It must be noted that Malta applies the Continued Enforcement of Sentenced Method, where this is further stipulated in a reservation made by the Maltese State that totally excludes the application of the conversion procedure provided in Article 9.1.b. of the Convention.

- k. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

As per the procedures laid out in the Convention and its Additional Protocol, this is done, ensuring that updates are provided on the successful transfer, that required prison sentence was and is being followed, and that all the procedure was followed.

- l. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

The application by the sentenced person for a transfer request is only permitted after the full res judicata conviction of that same person. As per national criminal procedure, the prison sentence commences from the day the person is fully convicted res judicata, and thus it is not possible to have persons who have a definitive prison sentence that would need to still be enforced by the time that they request their transfer.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

On average, Malta processes approximately 1 outgoing transfer per year under the Council of Europe Convention on the Transfer of Sentenced Persons. Data on incoming transfers is not available at this time.

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

1. Mental health

- j. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?
- k. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?
- l. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

Answer: *We did not have any practice on this matter.*

2. Costs

- j. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

Answer:

In accordance with Article 17 of the Convention and Article 85 of the Law on International Legal Assistance in Criminal Matters of the Republic of Moldova (No. 371 of 01.12.2006) the costs related to the procedure of transfer of sentenced persons shall be borne by the executing State, with the exception of costs related exclusively to the stay in the sentencing State.

The costs of transfer of sentenced persons from/to the Republic of Moldova shall be covered from the funds provided annually in the state budget for financing the activity of the penitentiary administration system.

The convicted person, his/her legal representatives, lawyer, spouse, close relatives, brothers or sisters may apply to the Minister of Justice for permission to transport the convicted person on his/her own, bearing all transportation expenses, without the right to claim reimbursement from the State. Such requests must be reasoned. The Minister of Justice may accept such requests in situations where urgent transportation of the sentenced person is required owing to the unsatisfactory state of his or her health, the deplorable conditions of detention in the sentencing State, the danger to life or health posed by the delay in transportation, or in other similar cases.

- k. Who would be expected to cover any additional costs arising after the transfer?

Answer:

In national legislation there are no specific provisions that would refer to this, but practically the above-mentioned could be applied.

- l. How and when do you deal with the issue of damages caused by the crime in question?

Answer:

Based on the Article 96, paragraph (3), (Law No. 371 of 01.12.2006) when the Republic of Moldova is an executing State, the Ministry of Justice of the Republic of Moldova shall request from the sentencing State the information on the damage caused by the commission of the offense and on the reparation of such damage.

Moreover, in accordance with Article 91, letter d) of same Law, it is provided as a ground for refusal of transfer that "the sentenced person has not repaired the damage caused by the commission of the offense and has not paid or guaranteed the damages and expenses to which he/she has been obliged by the sentence pronounced by the court of the Republic of Moldova".

3. Conditions and time frames required to process transfer requests

- s. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within "a reasonable time"?

Answer: *the law does not specify deadlines for the transfer process, such as the maximum time for taking a final decision on the transfer or for coordinating with the executing State in order to effectively surrender the sentenced person.*

- t. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

Answer: *The “one-letter model” would streamline transfers of sentenced persons by centralizing information in one standardized package, aligning the procedure with EU standards and reducing administrative delays.*

- u. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

Answer: *According to the legislation of the Republic of Moldova, Article 89(6) provides that after the obstacles justifying the refusal of the transfer have been removed, the transfer request may be submitted again and shall be processed in accordance with the procedure established by law. Therefore, the legislation of the Republic of Moldova does not provide for a specific time limit after which a new application may be submitted. A new application may be made as soon as the original reasons for refusal cease to apply.*

- v. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

Answer: *We did not have such cases.*

At the same time, it appears that there are no restrictions on the transfer of individuals who hold dual citizenship, since Article 3 of the Convention indicates that the primary requirement is for the individual to be a national of the administering State.

The national legislation, in Article 552 of the Criminal Procedure Code, provides that the transfer may take place if the sentenced person is a national of the administering State or is permanently domiciled in that State

- w. Do you allow for the withdrawal of consent by the sentenced person?

Answer: *According to Article 93, paragraph (2) of the Law no. 371 of 01.12.2006, the convicted person has the right to withdraw his/her consent to the transfer, and the withdrawal of consent leads to the closure of the transfer procedure.*

- x. Have you ever had to deal with conflicting requests regarding transfer and extradition?

Answer: *We have not faced any cases of such nature.*

4. Translation

- g. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

Answer: *As per the declaration made with the instrument of ratification deposited on May 12, 2004, the Republic of Moldova, in accordance with Article 17, paragraph 4, of the Convention, requires that requests for transfers and all supporting documents be accompanied by a translation in either the Moldavian language or one of the official languages of the Council of Europe.*

- h. Are the judgments of all instances attached to the request for transfer and these judgments are translated? Or are only excerpts of the judgments transmitted?

Answer: *Yes, the judgments of all instances attached to the request for transfer and these judgments are translated.*

5. Prison conditions

- g. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

Answer: *The Republic of Moldova, as the sentencing state, ensures adequate prison conditions in the potential administering state primarily through Article 91(f) of the Law no. 371 of 01.12.2006 and Article 552 paragraph (1) let, f) of the Criminal Procedure Code, which allows for refusal of transfer if there's a risk of degrading or inhuman treatment. This is reinforced by the possibility of requesting on-site inspections and gathering information from the administering state.*

- h. Do you issue/accept guarantees relating to prison conditions?

Answer: *We have not had any cases where such guarantees have been required or ordered by the court.*

6. Rights and legal remedies

- j. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:

- for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

Answer: *We have not had any such cases.*

The national legislation of the Republic of Moldova provides for the following legal remedies against a decision to transfer a sentenced person without their consent under the Additional Protocol:

- *Article 92 of the Law on International Legal Assistance in Criminal Matters, provides that any decision to refuse or approve the transfer may be challenged by the convicted person through an administrative appeal procedure. This also applies to transfers initiated without consent.*
- *Article 93 para.(1) of the Law no. 371 of 01.12.2006, allows the transfer procedure to be suspended in the event of circumstances preventing a final decision.*
- *Article 95 of the same law, states that only the Republic of Moldova, as the sentencing State, has the right to establish any form of appeal for review of the judgment, which can be requested by the sentenced person even after the transfer.*

- for the victims in the sentencing country?

Answer:

- *Under Article 91(d) of the Law on International Legal Assistance in Criminal Matters, a transfer can be refused if the sentenced person has not compensated or guaranteed damages and expenses ordered by the Moldovan court.*
- *Article 91(a) of the same law, allows for refusal if the crime has negatively impacted public opinion in Moldova. This provides a degree of indirect influence, as public sentiment related to victims could factor into the decision.*

- k. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

Answer: *there is no such provision in the national law.*

- l. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

Answer: *there is no specific provisions on this.*

7. Prospects for the execution of the sentence

- m. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

Answer: *No.*

- n. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

Answer: *There have been no such cases.*

- o. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Answer: No.

- p. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

Answer: No.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

Answer: around 30-40 proceedings per year.

MONTENEGRO

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

We do not have particular relevant information on the problems or limitations.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

We do not face such requests, so far we have not had a transfer of persons when a measure of deprivation of liberty was imposed that should be carried in an adapted facility.

- c. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?

Yes, the Convention also applies to persons involuntarily placed in a mental health facility. No such case has been recorder.

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

The usual practice is that the requesting State covers the travel and transit costs, but agreements can be made for the enforcing State or the sentenced person to bear part of the costs.

- b. Who would be expected to cover any additional costs arising after the transfer?

Additional costs, such as legal support or medical care after the transfer, are usually covered by the receiving State, unless otherwise agreed.

- c. How and when do you deal with the issue of damages caused by the crime in question?

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within "a reasonable time"?

There is no fixed time frame, but "reasonable time" is usually the standard. The obligation to decide within a certain period would speed up the procedure.

Introducing mandatory time limits (e.g. 6 months) would help speed up the process and increase legal certainty.

- b. Would it be helpful to amend the Convention or issue guidance to allow for a "one-letter model", in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

The "one-letter model" would be of great help, as it would reduce the administrative burden and speed up the exchange of information.

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

The minimum time for reconsideration is usually 6 months to a year, depending on the reasons for the initial rejection.

- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

Law on Montenegrin Nationality does not allow a person to have two or more citizenships. We have not had a request for transfer when a person has multiple citizenships.

In countries where this is permitted, we believe it is advisable to consult the countries concerned, in order to avoid conflicts of interest and ensure the best solutions for the convicted person.

- e. Do you allow for the withdrawal of consent by the sentenced person?

Yes, the sentenced person can withdraw consent before the transfer is carried out.

- f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

There have been registered several cases where there was parallel proceedings of transfer and extradition. It was successfully resolved in accordance with relevant conventions.

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

As the administering State, we insist that all key information, especially that relating to Article 17(1) and (3) of the Convention (such as the court decision, judgment, and sentence conditions), be translated into our official language or another language we accept. For other non-key information, we may accept the original, with an informal translation if necessary for understanding.

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

Judgments of all instances are usually submitted with the transfer request, but most often we receive only excerpts in translation that are relevant to the execution of the sentence. Complete judgments are rarely translated, unless they are of particular importance for the specific case.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

As the sentencing State, we verify that prison conditions in the administering State comply with the European Prison Rules. In that context, we may examine relevant COE reports and seek additional information.

- b. Do you issue/accept guarantees relating to prison conditions?

Yes, we accept and issue guarantees regarding prison conditions, especially when there is a concern that conditions in the administering State may not be in accordance with our standards or the standards of the Convention.

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
- for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?
 - for the victims in the sentencing country?

As the sentencing State, the sentenced person has the right to appeal against the transfer decision, especially if the transfer is carried out without their consent in accordance with the Additional Protocol. Victims may also have the right to challenge the transfer if they believe it will affect their rights or safety.

- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

Victims are informed of the transfer at the stage when the decision is being considered, but before the final decision is made. Their opinion is taken into account, especially if there is a risk that the transfer will affect their safety or rights.

- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

Yes, we take into account the existence of non-custodial sentences when making the decision on the transfer, especially if such a sentence may be more appropriate or if the administering State offers alternative forms of punishment in accordance with their legal system.

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

As the sentencing State, we often request additional information on the actual execution of the sentence in the administering State particularly regarding the duration of the sentence, the possibility of parole, and other measures such as amnesties or pardons.

If the information is not satisfactory or it is assessed that the sentence will not be executed appropriately, the transfer may be refused or postponed.

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

When the sentence is modified after the transfer, guarantees may be sent or accepted on behalf of the competent authority, ensuring that all changes are in accordance with the relevant legislation of both States.

- c. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Yes, we monitor the status of the sentenced person after the transfer, including decisions on pardon, amnesty, and parole, to ensure that the sentence is executed in accordance with the agreed conditions.

- d. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

Yes, the Convention also applies to persons who have been sentenced to a final prison sentence, but which has not yet begun to be enforced, provided that all other criteria for transfer are met.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?
On average, our State processes 20 outgoing and incoming transfers per year.

NETHERLANDS / PAYS-BAS

1. Mental health

- a. The main limitations and problems arise in case the sentenced person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility, see the answer under 1. b).
- b. Yes. The measure of deprivation under Dutch criminal law is the hospital order (in Dutch: tbs-maatregel). This is an order pertaining to criminal law which has the objective of promoting the safety and the security of society against sentenced persons who are dangerously mentally disturbed. This order is executed in a closed and a secured institution and it consists of medical and psychiatric treatment aiming for re-socialization and preventing recidivism. In practice, it is not always possible to transfer such a measure because the other country does not have a similar measure or does not have a similar closed and secured institution. Furthermore, according to Dutch law it is possible to impose a prison sentence and a hospital order in one criminal judgment. This happens when the person has been declared partially insane. The hospital order is served after his prison sentence. A transfer of such a combined sentence is not always possible.
- c. The above described hospital order is a measure that can involve involuntary placement in a mental health hospital. This measure can be transferred. Other measures pertaining to involuntary placement in a mental health hospital are not criminal legal measures and are therefore not transferred.

2. Costs

- a. The State Party covers the costs of travel and transit.
- b. The State Party covers the costs of the execution of the sentence after the transfer.

- c. When a crime has caused damages and a compensation measure has been ordered as part of the criminal procedure, we aim to ensure that this is paid or a payment arrangement is made before the transfer.

3. Conditions and time frames required to process transfer requests

- a. No, we don't have a fixed time frame to decide on transfer cases. With regards to sending out reminders to the authorities of other countries regarding pending requests, it could be helpful to have a timeframe in which a decision on the transfer has to be made.
- b. Yes, in our opinion this would be helpful. From time to time we see that there is ambiguity about the documents and information that is required to process the transfer requests.
- c. That depends on the case and the reasons for the initial rejection.
- d. Yes, if the transfer contributes to the resocialisation of the person concerned we transfer our own nationals with a dual nationality. If a person has multiple nationalities, we consult all the States Parties concerned, unless it is evident that the person concerned has no ties with one of the States Parties (other than his nationality).
- e. Yes, we do allow for the withdrawal of consent by the sentenced person.
- f. Yes.

4. Translation

- a. The Netherlands require a translation of all information and communication addressed to our authorities. In case information covered by article 17(1) has not been translated, we always ask the sending State to provide a translation. In case other information is not translated, we will assess whether a translation is needed and if so, ask for a translation. There is an exception if specific agreements have been made with a particular country in this regard (in general or in a individual case).
- b. Yes, in principle, the judgments of all instances are attached to the request for transfer in the Dutch language. The relevant parts of the judgements are translated into a by the administering State accepted language.

5. Prison conditions

- a. If there is an indication to do so, if available, we consult the country report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), we consult the Dutch Ministry of foreign affairs or the Dutch authority in charge of extradition procedures from the Netherlands to another non-EU member country (AIRS). If needed we ask the administering State for a guarantee relating the prison conditions.
- b. It has never been needed to issue a guarantee relating to the prison conditions in case The Netherlands was the administering State. We accept guarantees in case The Netherlands is the sentencing State.

6. Rights and legal remedies

- a. For sentenced persons: In case the sentenced person does not consent to his transfer, it is possible for him to appeal to the intended decision to transfer the sentence. This appeal can be submitted to the Court of conviction. The sentenced person has a right to legal counsel for these proceedings. If he does not have a lawyer, a lawyer will be appointed. In case the sentenced person does consent to his transfer, he will be heard by a delegated judge to verify his consent before the actual transfer.
For victims: Under Dutch law, the victims do not have any legal remedies against a decision to transfer a sentenced person.
- b. It is not standard procedure that the victims are informed of the transfer, but in particular cases it happens. The opinion of the victims are not always sought,

however, the Dutch Public Prosecutor issues a reasoned opinion on the transfer. In this opinion the interests of the victims can be taken into account.

- c. Yes, the existence of non-custodial punishments is taken into account for the decision on transfer.

7. Prospects for the execution of the sentence

- a. If the information on the actual execution is not provided in the first place, we request for additional information before giving a final consent to the transfer.
- b. The question is understood to refer to guarantees regarding the conversion procedure. We do not send/request guarantees regarding the conversion procedure. However, we do inform the competent authority of the legislation applicable to the corresponding criminal offence under Dutch law.
- c. If not provided, we ask the administering State for information on the enforcement of the sentence. After receiving this information, we do not monitor the status actively.
- d. No, only under the additional protocol or other conventions, for example: the European Convention on the international validity of criminal judgments.

8. Statistics

Over the past three years (2022, 2023 and 2024) there have been 2 outgoing transfers and 11 incoming transfers on average per year on the basis of the Convention on the Transfer of Sentenced Persons.

NORWAY / NORVEGE

1. Mental Health

- a. As stated in our response to question c, we have limited experience with cases where a person is sentenced to involuntary mental health care. We are not aware of any general limitations or issues, apart from the challenges described below.
- b. We have very limited experience with cases where the sanction ought to be executed in an adapted facility.
- c. Yes, we do apply the Convention to persons who have been involuntarily placed in a mental health facility. However, apart from a few transfers (mostly to and from other Nordic countries), we have limited experience with cases involving involuntary mental health care, both outgoing and incoming transfers. As sentencing state, we do not have a routine procedure for initiating a request for transfer. But, if the sentenced person expresses a desire to be transferred, we may submit a request. A potential difficulty that may arise - both as sentencing state and administering state - is that the two states involved may have such a different view on the criminal responsibility of the sentenced person, which makes a conversion of the sentence (and then transfer) difficult.

2. Costs

- a. Regardless of what's decided in article 17, we normally carry the travel costs when being the sentencing state. In some cases, we also carry the travel costs as administering state.

We believe that the states (we prefer the sentencing state) shall carry the costs, not the sentenced person or his or her relatives. We have not experienced any transit costs.

- b. After the transfer, the administering states are expected to cover the costs.

- c. We have no experience with the issue of damages caused by the crime in question.

3. Conditions and time frames required to process transfer requests

- a. Transfer cases are prioritized in Norway, and we have certain fixed time frames outlined in our national guidelines for handling such cases. We would find it helpful if the Convention established a fixed time frame for making decisions, rather than relying on the more flexible concept of “reasonable time.” This would facilitate faster processing and more efficient communication.

- b. We believe that amending the Convention or issuing guidance to allow for a “one-letter model” could improve communication and reduce processing times in transfer cases.

- c. Whether we reconsider a rejected request depends on the reason for the initial rejection. Normally, we do not outright reject a request due to insufficient information; instead, we ask for the missing documentation. A rejection is typically based on a finding that the conditions set out in Article 3 of the Convention have not been met.

- d. As sentencing state, we do not initiate transfer requests for Norwegian nationals with dual citizenship. Any such request would have to be initiated by the convicted person and require their consent. However, we have no experience with such cases.

- e. We allow sentenced persons to withdraw their consent to transfer. In some cases, we submit a new request under the Additional Protocol, if applicable. Since we frequently experience withdrawals of consent, we sometimes base our initial request on the Additional Protocol from the outset, even in cases where consent is initially given.

- f. Yes, we have experienced conflicting requests regarding transfer and extradition. Before submitting a transfer request and before making a decision on a transfer, we routinely investigate whether the sentenced person is subject to an extradition request. If an extradition request is pending, we will either refrain from submitting or withdraw the transfer request. However, if the administering state in the transfer case is the same state that has requested extradition, we may proceed with both the transfer and extradition.

4. Translation

- a. Norway has declared a requirement for translation under Article 17(3). How we handle untranslated communication and documents depends on the circumstances. If the request and supporting documents are not translated at all, we normally ask the sentencing state to provide a translation. If we receive additional documents or information later in the process that are not translated, we usually translate them ourselves, without distinguishing between Articles 17(1) and 17(3). If the additional document is one mentioned in Article 6, we may request the sentencing state to provide a translation, depending on the document’s length and whether such a request would

cause undue delay. Unfortunately, we have experienced cases where some states fail to provide translations of the request and supporting documents, even when explicitly asked to do so.

b. Full copies of the judgments are attached. If a full rehearing was conducted in the appellate court, we normally attach only the appellate court's judgment.

5. Prison conditions

a. We rely primarily on CPT reports as our main source of information on prison conditions in the potential administering state. We also review judgments from the European Court of Human Rights (ECtHR).

b. We routinely request guarantees regarding prison conditions from two European countries. Additionally, in cases where the sentenced person receives comprehensive healthcare in a Norwegian prison, we have raised this issue with the administering state. We have as administering state yet not received any requests for guarantee from other states.

6. Rights and legal remedies

a. Legal remedies against a decision to transfer a sentenced person:

- For sentenced persons in cases of transfer without consent under the Additional Protocol: Transfer decisions are made at the administrative level by the South West Region of the Norwegian Correctional Service. This decision may be appealed to the Directorate of the Norwegian Correctional Service.
- For victims in the sentencing country: There are no legal remedies available for victims in relation to transfer cases.

b. Victims of the crime are not currently informed about the transfer of the sentenced person, nor are they asked for an opinion. However, we are considering changes to domestic legislation that would allow for the victims to be informed.

c. For sentenced persons eligible for sentence transfer, a non-custodial sentence will typically be a fine. In some cases, the sentenced person must either pay the fine or serve a substitute prison sentence before the transfer can take place.

7. Prospects for the execution of the sentence

a. In our transfer request, we routinely request information regarding the execution of the sentence. Normally, such information is provided by the administering state in its response. Information regarding conditional release or probation is usually given in general terms, with references to the applicable domestic legislation. We have not refused or postponed transfers based on this issue.

b. If we understand the question correctly, it concerns whether we receive or provide guarantees regarding the outcome of sentence conversion, specifically the length of the imposed sanction. As the administering state, we inform the sentencing state about the applicable legislation, the statutory penalty range, and relevant case law on sentencing before the transfer. However, under

our legislation, sentence conversion is decided by the court, meaning we cannot provide any guarantees regarding the specific outcome. For your information, as administering state, we normally convert the sentence before the transfer takes place.

c. We have established routines for notifying the sentencing state about the transferred person's release and for requesting such information from states to which we have transferred sentenced persons.

d. We have no experience applying the Convention itself to persons who have not yet commenced serving their sentence. However, we have had some cases applying Article 2 of the Additional Protocol to persons who have been sentenced to a definitive prison term that has not yet been enforced.

8. Statistics

The number of outgoing and incoming transfers processed has decreased in the years after the COVID-19 pandemic. The last three years, we have processed between 30-35 new outgoing transfers, of which 10-12 transfers have taken place. Regarding incoming transfers the numbers are around 10 incoming cases per year, of which 2-5 transfers has taken place. The discrepancy between the number of cases processed and those effectuated is primarily due to the sentenced person being released before the transfer is finalized, either because the sentence is relatively short or because we are awaiting an expulsion decision in cases that are not based on consent.

SWITZERLAND / SUISSE

1. La santé mentale

- a. Quelles sont les principales limites et les principaux problèmes découlant de l'application de la Convention aux personnes condamnées souffrant de problèmes de santé mentale ? Pas de transfèrements possibles avec certains Etats. A titre d'exemple, la mesure d'internement ou mesure thérapeutique institutionnelle n'a pas d'équivalent en droit français.
- b. Rencontrez-vous des difficultés, en tant qu'Etat de condamnation ou d'exécution, lorsque la personne fait l'objet d'une mesure de privation de liberté qui devrait être exécutée dans un établissement adapté ? Oui, en tant qu'Etat de condamnation la Suisse rencontre des difficultés étant donné que certains Etats ne reconnaissent pas les mesures prononcées en Suisse.
- c. La Convention s'applique-t-elle aux personnes qui ont été placées dans un hôpital psychiatrique de façon involontaire ? A notre avis oui. Cela crée-t-il des difficultés pour le transfèrement ? Oui. La Suisse se trouve souvent confronté à un refus de l'étranger pour un transfèrement relatif à une mesure.

2. Coûts

- a. En cas d'accord sur le transfèrement, qui doit prendre en charge les frais de voyage et de transit (l'État partie, la personne condamnée ou ses proches) ? En général, l'État partie. Certains Etats prévoient la prise en charge par le condamné ou les proches (Turquie). Le Kosovo prévoit la prise en charge par l'Etat de condamnation.
- b. Qui devrait prendre en charge les coûts supplémentaires survenant après le transfèrement ? S'il s'agit de coûts relatifs à l'exécution de la peine, nous sommes d'avis qu'ils doivent être pris en charge par l'Etat d'exécution.
- c. Comment et quand traiter la question des dommages causés par le crime en question ? Lorsqu'il s'agit d'un transfèrement de la Suisse vers l'étranger, la question des dommages causés par le crime est réglée en Suisse par les autorités cantonales compétentes sur la base de la législation suisse. Le règlement des dommages n'est pas une condition au transfèrement.

3. Conditions et délais pour le traitement des demandes de transfèrement

- a. Disposez-vous d'un délai fixe pour statuer sur les affaires de transfèrement ? La Suisse n'a pas de délai fixe pour statuer. Pensez-vous qu'il serait utile, en termes d'accélération des procédures de transfèrement, qu'il y ait une obligation de statuer sur les affaires de transfèrement dans un délai fixe (xx mois) ou dans un "délai raisonnable" ? Oui.
- b. Serait-il utile d'amender la Convention ou de publier des directives pour permettre un modèle d'une « lettre unique », dans lequel l'Etat de condamnation fournirait en une seule fois toutes les informations dont l'Etat d'exécution a besoin pour réagir à la demande ? La Suisse dispose déjà de modèles de lettre standard, mais n'est pas opposée à l'idée d'un modèle de lettre unique.
- c. Quel est le délai minimum nécessaire pour réexaminer une demande de transfèrement initialement rejetée ? Au plus tôt, dans un délai de 12 mois.
- d. Transférez-vous vos propres ressortissants s'ils ont la double nationalité ? Oui. Lorsque vous transférez une personne ayant plusieurs nationalités, consultez-vous tous les Etats parties concernés ? Non, la personne condamnée doit indiquer dans quel Etat elle souhaite être transférée.
- e. Permettez-vous à la personne condamnée de retirer son consentement ? Oui, jusqu'au moment où elle a signé la « déclaration » relative au transfèrement.
- f. Avez-vous déjà eu à traiter des demandes contradictoires en matière de transfèrement et d'extradition ? Oui.

4. Traduction

- a. Comment traitez-vous, en tant qu'Etat d'exécution, les informations et les communications qui n'ont pas été traduites dans votre langue (ou dans une autre langue que vous acceptez) ? Une traduction est demandée. A cet égard, dans quelle mesure faites-vous la distinction entre les informations et communications couvertes par les paragraphes 1 et 3 de l'article 17 de la Convention et les autres informations et communications ? La Suisse demande à l'Etat de condamnation de fournir une traduction des documents prévus à l'art. 6 al. 2 de la Convention.

- b. Les jugements de toutes les instances sont-ils joints à la demande de transfèrement et traduits ? Ou bien seuls des extraits des jugements sont-ils transmis ? En général, les jugements de toutes les instances sont joints à la demande et traduits.

5. Conditions de détention

- a. En tant qu'État de condamnation, comment vous assurez-vous que les conditions carcérales (au sens large, tel qu'il est défini dans les règles pénitentiaires européennes) dans l'État d'exécution potentiel sont adéquates pour un transfèrement (en contactant des autorités spécifiques, en effectuant des inspections sur place, etc.) ? En contactant des autorités spécifiques (DFAE).
- b. Délivrez-vous/acceptez-vous des garanties relatives aux conditions de détention ? Non.

6. Droits et recours juridiques

- a. En tant qu'État de condamnation, quels sont les recours juridiques contre une décision de transfèrement d'une personne condamnée ?
 - pour les personnes condamnées, en cas de transfèrement sans leur consentement en vertu du protocole additionnel ? Un recours au Tribunal pénal fédéral puis au Tribunal fédéral est possible.
 - pour les victimes dans le pays de condamnation ? Pas de recours possible.
- b. Les victimes du crime sont-elles informées du transfèrement et, dans l'affirmative, à quel moment de la procédure ? L'avis des victimes est-il pris en compte dans la décision de transfèrement ? Non.
- c. En tant qu'État de condamnation, l'existence de peines non privatives de liberté est-elle prise en compte dans la décision de transfèrement ? Non. Ces peines non privatives de liberté doivent être converties en peine privative de liberté avant un transfèrement.

7. Perspectives d'exécution de la peine

- a. En tant qu'Etat de condamnation, demandez-vous souvent des informations supplémentaires sur l'exécution effective de la peine dans l'Etat d'exécution (durée, libération conditionnelle, probation, etc.) ? Oui. Refusez-vous ou reportez-vous souvent le transfèrement pour cette raison ? Parfois.
- b. Lorsque la peine sera convertie après le transfèrement, est-il possible d'envoyer/accepter des garanties au nom de l'autorité compétente, accompagnées de la législation applicable ? Oui, il est possible d'envoyer/accepter des garanties. Cependant, nous précisons que dans le cadre d'un transfèrement de l'étranger vers la Suisse, les autorités suisses rendent une décision d'exequatur avant un transfèrement. A l'inverse, en cas de transfèrement de la Suisse vers l'Etranger, la Suisse demeure dans l'attente d'une décision d'exequatur étrangère avant d'accepter un transfèrement.
- c. Suivez-vous le statut de la personne condamnée après le transfèrement (grâce, amnistie, libération conditionnelle) ? Oui.
- d. Appliquez-vous la Convention aux personnes qui ont été condamnées à une peine d'emprisonnement définitive dont l'exécution n'a pas encore commencée ? Non.

8. Les statistiques

Combien de transfèrements sortants et entrants sont traités par votre État en moyenne par an ?

(en moyenne, sur les dix dernières années)

- Transfèrements à l'étranger
 - Sur demande de la personne condamnée : 50
 - Basé sur le Protocole additionnel : 2

- Transfèrements à la Suisse
 - Sur demande de la personne condamnée : environ 15
 - Basé sur le Protocole additionnel : 1

TURKIYE

1. Mental health

- a. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?

We do not have any examples of practice on this issue.

- b. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?

We do not have any examples of practice on this issue.

Do you apply the Convention to persons who were involuntarily placed in a mental health hospital?
Does that create difficulties for the transfer?

We do not have any examples of practice on this issue.

2. Costs

- a. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?

Where Türkiye is an administering state, in accordance with the Article 34/3 of Law No. 6706; the expenses for the transfer of the sentenced person from the State of location to Türkiye shall be borne by the sentenced person. These expenses shall be deposited by the sentenced person or by another person in his/her name to an account opened for this purpose by the Ministry of Justice. If it is determined that the sentenced person is unable to afford the expenses, the transfer expenses may be paid from the allowance in budget of the Ministry of Justice, taking into account the nature of the offence, its benefits to the public, the prison conditions in the State of location of the sentenced person and the remaining time to be served in prison.

- b. Who would be expected to cover any additional costs arising after the transfer?

The explanations for question 2.a are valid.

- c. How and when do you deal with the issue of damages caused by the crime in question?

We do not have any examples of practice on this issue.

3. Conditions and time frames required to process transfer requests

- a. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?

In our domestic law, there is no regulation on the obligation to complete the process of transfer of sentenced persons within a certain period of time. The time required to obtain the documents for transfer and to complete the procedural actions related to the transfer varies in each country. Therefore, instead of a fixed time frame, it is more realistic to have an obligation to decide on the transfer request within a reasonable time. On the other hand, the obligation to fulfil the requests of the addressee state for transfer documents within a certain period of time will accelerate the transfer processes.

- b. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?

In transfer processes, since it takes time to collect the documents for the transfer, it would be useful to prepare guidelines on the transmission of all documents by the sentencing State to the administering State with the “one-letter model”.

- c. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?

It is considered that a separate evaluation should be made on a case-by-case basis.

- d. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?

The transfer of Turkish citizens with dual nationality to a foreign country is possible, if they have the citizenship of the state to which they will be transferred or have strong social ties with that state. Since the transfer is carried out with the consent of the sentenced person, it is not consulted with the other states of which the person is a citizen.

- e. Do you allow for the withdrawal of consent by the sentenced person?

Yes.

- f. Have you ever had to deal with conflicting requests regarding transfer and extradition?

Yes.

4. Translation

- a. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?

In accordance with our declaration on the Article 17 of the Convention, the requests for transfer and supporting documents will be accompanied by a translation into Turkish.

- b. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?

All judgments confirming the conviction of the sentenced person must be translated.

5. Prison conditions

- a. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?

In cases where there is any doubt about prison conditions in the administering State, additional information may be requested pursuant to the Article 3/1-b of the Law No. 6706, or a guarantee that certain conditions will be met may be requested pursuant to the Article 3/3 of the Law No. 6706 from the administering State.

- b. Do you issue/accept guarantees relating to prison conditions?

Yes.

6. Rights and legal remedies

- a. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:
 - for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?

In accordance with our country's declaration on the Article 3 of the Additional Protocol, Türkiye shall not take over the execution of sentences under the circumstances described in Article 3.

- for the victims in the sentencing country?

There is no specific regulation in our domestic law on this issue.

- b. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?

There is no specific regulation in our domestic law on this issue.

- c. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?

In accordance with the Article 32/4 of the Law No. 6706, if the sentenced person has a fine imposed on him/her in addition to his/her imprisonment sentence, the fine must be paid off in

order for the transfer to be granted. If the fine remains outstanding, the remaining amount shall be converted into days in prison. The part of the imprisonment sentence that the sentenced person served in Türkiye shall be added to the days in prison, converted from the fine. If the duration which the sentenced person has spent in prison fails to correspond to the duration of imprisonment converted from the fine, it shall be added to the imprisonment term. The duration of the imprisonment thus calculated shall be communicated to the foreign State and, if approved by that State, transfer may be granted.

7. Prospects for the execution of the sentence

- a. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?

Yes.

- b. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?

In accordance with the Article 3/4 of the Law No. 6706, the Central Authority may, except the issues that fall within the competence of the judiciary, accept the conditions stipulated by the States or grant the guarantee requested.

Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?

Yes.

- c. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?

In accordance with the Article 32/1 of the Law No. 6706, the sentenced persons, who has been sentenced by a Turkish court and who is currently in prison, may be transferred to a foreign State for the execution of the sentence.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

Incoming Transfers ¹		Outgoing Transfers ²	

CHILE / CHILI

1. Mental health

- c. What are the main limitations and problems arising from the application of the Convention to sentenced persons with mental health problems?**

The main limitations and problems are in regards to communicating and transmitting the provisions of the Convention, so they can be known and applied by people with mental health issues.

- d. Do you face difficulties, as sentencing or administering state, when the person is subject to a measure of deprivation of liberty that ought to be executed in an adapted facility?**

There is no record of a request with those characteristics.

- e. Do you apply the Convention to persons who were involuntarily placed in a mental health hospital? Does that create difficulties for the transfer?**

There is no record of the Convention being applied to persons who were involuntarily placed in a mental health hospital.

2. Costs

- d. When transfer is agreed, who should cover the travel and transit costs (State Party, the sentenced person or their relatives)?**

Travel expenses, such as airfare, are covered by the sentenced person. Transit costs are covered by the sentencing State, until the person is placed under the care of the administering State.

- e. Who would be expected to cover any additional costs arising after the transfer?**

Additional costs will be covered by the sentencing State, until the person is under the care of agents from the administering State.

- f. How and when do you deal with the issue of damages caused by the crime in question?**

Courts are in charge of determining the damages caused by a crime, and ordering the corresponding compensations.

3. Conditions and time frames required to process transfer requests

- g. Do you have a fixed time frame to decide on transfer cases? Do you consider that it would be helpful, in terms of speeding up transfer proceedings, if there was an obligation to decide on transfer cases within a fixed time frame (xx months) or within “a reasonable time”?**

Our time frame for making a decision depends exclusively on the availability of all the information required by the Convention in order to accept or deny a transfer request.

- h. Would it be helpful to amend the Convention or issue guidance to allow for a “one-letter model”, in which the sentencing State would provide in one package all the information needed by the administering State to react upon the request?**

It would be very convenient to standardize information models, and to send everything in one package, in order to avoid extending proceedings with unnecessary iterations.

- i. What is the minimum time you would require to reconsider a request for transfer that was initially rejected?**

There is no minimum timeframe to reconsider a request for transfer; reconsideration depends on a change of whatever circumstances led to the initial rejection.

- j. Do you transfer your own nationals if they have dual nationality? When you transfer a person with multiple nationality, do you consult all the States Parties concerned?**

There is no record of a request with those characteristics, however there would be no reason to reject a request based only on the multiple nationalities of the applicant. If the person has multiple nationalities, we would only ask the administering State.

- k. Do you allow for the withdrawal of consent by the sentenced person?**

Yes, we allow it.

- l. Have you ever had to deal with conflicting requests regarding transfer and extradition?**

Yes, and in that case the extradition request takes precedence over the transfer request.

4. Translation

- c. How do you, as administering State, deal with information and communication that has not been translated into your language (or another language you accept)? In this regard, to what extent do you distinguish between information and communication covered by article 17(1) and (3) of the Convention and other information and communication?**

Communications that are sent via consular offices are usually translated by our Ministry of Foreign Affairs, or by the transmitting Central Authorities. If translations are not provided, we ask the requesting State to do so. In this matter, we make the distinction between information and communications covered by article 17 (1) and (3). Information must always be translated, in order to make a decision regarding a transfer request.

- d. Are the judgments of all instances attached to the request for transfer and are these judgments translated? Or are only excerpts of the judgments transmitted?**

Judgements are sent along with the request for transfer. Translations are provided for the whole judgement or an excerpt, depending on the length of the judgement and our budgetary restrictions.

5. Prison conditions

- c. As sentencing State, how do you ensure that the prison conditions (in the wider sense as regulated in the European Prison Rules) in the potential administering State are adequate for a transfer (contacting specific authorities, making on-site inspections, etc.)?**

Unless a specific concern is raised by the parties, as sentencing State we assume that prison conditions are adequate in the administering State.

- d. Do you issue/accept guarantees relating to prison conditions?**

If the administering State requests specific information regarding prison conditions, it will be provided.

6. Rights and legal remedies

- d. As sentencing State, what are the legal remedies against a decision to transfer a sentenced person:**

- **for the sentenced persons, in case of a transfer without their consent under the Additional Protocol?**

- **for the victims in the sentencing country?**

Victims do not have legal remedies against a decision to transfer a sentenced person.

- e. Are the victims of the crime informed of the transfer, and if so, at what point during the procedure? Is the opinion of the victims taken into account for the decision concerning transfer?**

Victims of the crime are not informed of the transfer.

- f. As sentencing State, is the existence of non-custodial punishments taken into account for the decision on transfer?**

Yes, it is taken into account.

7. Prospects for the execution of the sentence

- d. As sentencing State, do you often request additional information on the actual execution of the sentence in the administering State (duration, conditional release, probation, etc.)? Do you often refuse or postpone transfer on that basis?**

We practically never request additional information on the actual execution of the sentence in the administering State. It is not common to refuse or postpone transfer on that basis.

- e. When the sentence will be converted after the transfer, is it possible to send/accept guarantees on behalf of the competent authority with the legislation applicable?**

We request that sentences are converted prior to accepting or refusing the transfer, by the administering State. In Chile there is no regulated process to adapt sentences from other States.

- f. Do you monitor the status of the sentenced person after the transfer (pardon, amnesty, release on parole)?**

No, unless the parties make a request.

- g. Do you apply the Convention to persons who have been convicted to a definitive prison sentence that has yet to be enforced?**

No.

8. Statistics

How many outgoing and incoming transfers are processed by your State on average per year?

On average, we send 50 and receive 15 requests, per year.