

**REPUBLIC OF SERBIA**

**National Procedures for Transfer of sentenced persons**

**Updated on 15/01/2021**

The information contained in this table should be updated on a yearly basis.

The Central Authority responsible for the transfer of sentenced persons	Name of the institution Ministry of Justice of the Republic of Serbia Sector for mutual legal assistance Department for Mutual Legal Assistance 22-26 Nemanjina Street, 11000 Belgrade  Tel +381 11 3622 355 Fax +381 11 3622 355, +381 11 3622 352 E-mail <a href="mailto:mlacriminal@mpravde.gov.rs">mlacriminal@mpravde.gov.rs</a>
If different from the Central Authority, the authority to which the request should be sent:	Name of the institution Address Telephone Fax E-mail
If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned:	Name of the institution Ministry of Interior General Police Directorate Directorate for international operational police cooperation Department for INTERPOL affairs 41 Terazije Street, 11000 Belgrade  Tel +381 3345 254 Fax +381 11 3346 822 E-mail: <a href="mailto:interpolbeograd@mup.gov.rs">interpolbeograd@mup.gov.rs</a>
Channels of communication for the request for the transfer of sentenced persons: (directly, through diplomatic channels or other)	According to Article 6 of the Serbian Law on mutual legal assistance in criminal matters („Official Gazette of the RS”, No.20/2009) letters rogatory and supporting documents shall be transmitted to the national judicial authority through the Ministry of Justice, and vice versa. At the request of the requesting state, letter rogatory and other documents shall be submitted through diplomatic channels.
Means of communication (eg. by post, fax, e-mail <sup>1</sup> ):	By post.  In the urgent cases it is possible to submit documentation by fax

<sup>1</sup> Please indicate if encryption or electronic signature is required.

	and e-mail (no encryption or electronic signature is required), provided that the competent authority of the requesting State is obliged to subsequently submit the documentation (original) in the regular manner (by post).
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Language requirements:	According to the Article 5 of the Law on mutual legal assistance in criminal matters, letters rogatory and requests for extradition shall be submitted and accompanied by translations into the language of the requested state or translated into English. A copy of translation shall be certified.
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Documentation required:	A letter rogatory shall be accompanied by a certified transcript of the foreign criminal judgement and a statement of consent to transfer provided by the convict.
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Continued enforcement or conversion of the sentence <sup>2</sup> :	<p>Conversion of the sentence.</p> <p>If the court accepts a letter rogatory, the court shall pronounce a criminal sanction in accordance with the criminal legislation of the Republic of Serbia. The issued sanction may not be stricter than the sanction pronounced in the foreign criminal judgement.</p> <p>Transfer of the sentenced person or transfer of enforcement of penal sanction of a foreign criminal court is only possible when it comes to penalties of imprisonment or other measure entailing deprivation of liberty.</p>
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General rules on early release:	<p>According to Article 46 paragraph 1 of the Criminal Code of the Republic of Serbia (Official Gazette of the RS, No.85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012 and 104/13, 108/2014, 94/2016 and 35/2019), the court shall release on parole a convicted person who has served two thirds of the prison sentence if in the course of serving the prison sentence he has improved so that it is reasonable to assume that he will behave well while at liberty and particularly that he will refrain from committing a new criminal offence until the end of the imposed prison sentence. In deliberating whether to release the convicted person on parole, consideration shall be given to his conduct during serving of the sentence, performance of work tasks relative to his work abilities, and other circumstances indicating that the convicted person will not commit a new criminal offence during release on parole. A convicted person who was given two sanctions for serious disciplinary offences or whose awarded benefits that have been withdrawn shall not be released on parole.</p> <p>If requirements specified in paragraph 1 of this Article are met the</p>
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<sup>2</sup> In case the sentence is converted, please specify whether this is done before or after the transfer has taken place.

	<p>court may release on parole a convicted person:</p> <ul style="list-style-type: none"> <li>- convicted to life sentence, but who has served twenty-seven years;</li> <li>- convicted for crimes against humanity and other right protected by international law (Articles 370 through 393a), for sexual criminal offences (Article 178 through 185b), criminal offence of domestic violence (Article 194 paragraphs 2 through 4), criminal offence of unlawful production and circulation of narcotics (Article 246 paragraph 5), criminal offence against the constitutional order and security of the Republic of Serbia (Article 305 through 321), criminal offence of taking bribe (Article 367) and criminal offence of giving bribe (Article 368);</li> <li>- convicted by special departments of competent courts, in proceedings administered in line with the competence defined by the law, governing the organization and competence of state authorities in combating organized crime, corruption and terrorism;</li> <li>- finally convicted more than three times to an imprisonment but none of the convictions were deleted or the requirements for the deletion were not met.</li> </ul>
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Scope of application with regard to transfer of mentally disordered persons:	It is possible to transfer a mentally disordered offender, when he/she has been imposed a security measure of compulsory psychiatric care and treatment in a medical institution.
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Scope of application with regard to nationals and/or residents:	<p>According to Article 58 of the Law on mutual legal assistance in criminal matters, in addition to conditions listed in Article 7 of this law, foreign criminal sanction issued by the competent court of the requesting party can be executed if one of the following conditions is met:</p> <ol style="list-style-type: none"> <li>1) if the convict is a citizen of Serbia;</li> <li>2) if the convict is a resident of or possesses a resident permit in the Republic of Serbia;</li> <li>3) if the convict is serving a criminal sanction in form of a prison sentence for a prior conviction.</li> </ol> <p>According to Article 65 of the Law on mutual legal assistance in criminal matters, a citizen of the Republic of Serbia who is serving a criminal prison sanction in a foreign country may be transferred to the Republic of Serbia for the purpose of serving the sanction. Minister with the Justice Portfolio shall grant permission for the transfer of the convict. Agreement shall not be granted if, at the moment of submission of request, the convict has less than six months until the completion of his/her prison sanction.</p>
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Other relevant information: (such as practice regarding time limits or revocation of consent)	<p>In general, there are no timeframes predicted for providing mutual legal assistance. However, this is considered urgent by its nature. The length of course depends on the form of legal assistance requested in concrete case.</p> <p>Serbian Law on mutual legal assistance in criminal matters does not contain the provisions on revocation of consent.</p>
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Links to national legislation, national guides on procedure:	<p>Relevant national legislation in English can be found at <a href="https://www.mpravde.gov.rs/en/tekst/1701/criminal-matter.php">https://www.mpravde.gov.rs/en/tekst/1701/criminal-matter.php</a></p>
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Link to information about the Convention (according to Article 4) in the official language(s) of the State Party (see also Rec. R (84) 11 of the Committee of Ministers concerning information about ETS°112 and PC-OC INF 12):	
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## For Parties to the Additional Protocol

Information on the implementation of Article 2: (e.g. interpretation of “by fleeing to”)	<p>Serbia interprets „by fleeing to” in a broad sense in order to allow the enforcement of a sentence imposed abroad in the country of nationality.</p>
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Information on the implementation of Article 3 (e.g. interpretation of the requirement of a consequential link between the decision on expulsion and the sentence)	<p>According to Article 88 of the Criminal Code of the Republic of Serbia, the court may order expulsion from the territory of Serbia of a foreigner who committed a criminal offence for a period of one to ten years. The court shall take into consideration the time and gravity of a committed offence, motives for committing of the offence, manner of commission and other circumstances for declaring the foreigner <i>a persona non grata</i> in Serbia. The period of expulsion commences on the day the decision becomes effective, and the time spent in prison shall not be credited to the term of this measure. The expulsion shall not be ordered against an offender enjoying protection pursuant to the ratified international treaties.</p>
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Documentation required:	
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Other relevant information:	
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