

Ukraine – national procedures for transfer of sentenced persons

Updated 2022

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

<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for the transfer of sentenced persons:</p>	<p>The Ministry of Justice of Ukraine, 13, Horodetskogo street, Kyiv, Ukraine, 01001 Tel: +380 44 2794713 Fax: +380 44 2705453 e-mail: themis@minjust.gov.ua, itex@minjust.gov.ua</p>
<p>If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):</p>	<p>No</p>
<p>If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned (name of the institutions, address, telephone, fax and e-mail where available):</p>	<p>The Department of International Police Co-operation of the National Police of Ukraine (INTERPOL NCB for Ukraine) 10, Bogomoltsa street, Kyiv, 01601, Tel: +380 44 2561253, 254 7344 Fax: +380 44 2262057 e-mail: interpol@police.gov.ua</p> <p>The Department for Execution of Criminal Punishments 81, Illenko str., Kiev, 04050, e-mail: departament@kvs.gov.ua</p> <p>The National Guard of Ukraine 9a, Narodnogo Opolchennya str., Kyiv, 03151 Tel: +38 044 4624722; 4286664 e-mail: smzguvv@ukr.net</p>
<p>Channels of communication for the request for the transfer of sentenced</p>	<p>Requests for transfer shall be made in writing and addressed to the Ministry of Justice of Ukraine directly.</p>

persons (directly, through diplomatic channels or other):	Diplomatic channels also may be used if international treaties provide such communication or in the absence of international treaty.
Means of communication (e.g. by post, fax, e-mail ¹):	<p>By post. Requests received by e-mail are also acceptable and processed if their hard copy (with original signatures and stamps) is provided subsequently.</p> <p>Since March 2020 due to the COVID-19 restrictions the letters of the Ministry of Justice of Ukraine are signed by the electronic signature and sent by e-mails. The hard copies of the requests together with the procedural judicial documents made in paper copy with original signature and stamp are subsequently sent abroad via regular mail.</p>
Language requirements:	<p>Ukraine has not declared in accordance with Art. 17 of the Convention on the Transfer of Sentenced Persons the requirement that requests for transfer and supporting documents should be accompanied by a <u>translation into Ukrainian language</u>.</p> <p>However, in the content of Art. 602, 609 of the Criminal Procedural Code of Ukraine if the request and supporting documents are submitted in a foreign language, the period of their consideration by the Ministry of Justice of Ukraine shall be extended up to three months and more.</p>
Documentation required:	<p>Ukraine requires the documents under Article 6 of the Convention on the Transfer of Sentenced Persons.</p> <p>In meantime, according to Art.606 and 610 of the Criminal Procedural Code of Ukraine it is also required the following information:</p> <ul style="list-style-type: none"> - if the property damage caused by a criminal offense is reimbursed as well as procedural costs, if any; - on the state of health and behaviour of the convicted; - on the enforcement of additional punishment imposed by a foreign state's court sentence; - guarantee that the convicted will not be subjected to torture or other cruel, inhuman or degrading treatment or punishment (in case of the transfer of the convicted to serve his/her sentence from Ukraine to the foreign state).

¹ Please indicate if encryption or electronic signature is required.

<p>Continued enforcement or conversion of the sentence²:</p>	<p>In Ukraine it is mostly settled a practice on conversion of the sentence of a foreign court into a decision of Ukraine through its own judicial procedure before the physical transfer has taken place. But an exclusive jurisdiction to decide which of the procedures of transformation or continued enforcement of the foreign sentence would be applied, as well as the determination of the length of sentence according to the Criminal Code of Ukraine, has only Ukrainian competent court.</p> <p>It should be taken into account that under Para 4-5 of Art.610 of the Criminal Procedural Code of Ukraine when determining the length of sentence of imprisonment to be served based on the sentence of a foreign state's court, the Ukrainian court shall follow the length of the punishment imposed by such sentence, except for the following cases:</p> <ol style="list-style-type: none"> 1) if under the law of Ukraine on criminal responsibility for a criminal offense the maximum term of imprisonment is less than that intended by the sentence of a foreign state's court, the court shall impose the maximum term of imprisonment under the criminal law of Ukraine; 2) if the length of sentence imposed by the sentence of a foreign state's court is less than the minimum period prescribed by the sanction of the Criminal Code of Ukraine for the corresponding criminal offense, the court shall follow the length of punishment specified by the sentence of a foreign state's court. <p>Pursuant to the request of the Ministry of Justice of Ukraine, the court may also consider the issue of enforcement of additional punishment imposed by a foreign state's court sentence. Unenforced additional punishment imposed by a foreign state's court sentence shall be enforceable if such punishment for committing the criminal offense is provided for by the law of Ukraine. It is enforced in the range and in the manner prescribed by the laws of Ukraine.</p>
<p>General rules on early release:</p>	<p>Under Art. 81 of the Criminal Code of Ukraine parole may be applied by the court, if a sentenced person displays decent behaviour and diligence in work as a proof of his (her) reformation, after a sentenced person has actually served:</p> <ol style="list-style-type: none"> 1) not less than <u>half of the term</u> imposed by a court for a misdemeanor or minor crime, except for corruption or related to corruption criminal offences, violation of rules of traffic safety or use of transport by persons who have driven under the influence of alcohol, drugs or other intoxication or have been under the

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

influence of drugs that reduce attention and speed of reaction, as well as for a reckless grave crime;

2) not less than two-thirds of the term imposed by a court for corruption minor crime or related to corruption criminal offence, violation of rules of traffic safety or use of transport by persons who have driven under the influence of alcohol, drugs or other intoxication or have been under the influence of drugs that reduce attention and speed of reaction, intended grave crime or reckless especially grave crime, and also where that person had previously served a sentence of deprivation of liberty imposed for an intentional criminal offence but before the conviction had been cancelled or revoked committed another intentional criminal offence, for which was sentenced to deprivation of liberty;

3) not less than three quarters of the term imposed by a court for an intentional especially grave criminal offence, or of the term imposed upon a person who had been previously paroled but committed another intentional criminal offence during the remaining part of the sentence.

Article 87 of the Criminal Code of Ukraine provides that pardon is granted by the President of Ukraine in respect of an individually determined person. An act of pardon may substitute a life imprisonment, imposed by a court, with imprisonment for a term of not less than twenty-five years. Persons convicted for committing of corruption or related to corruption criminal offenses, violation of rules related to traffic or driving safety by persons in a state of intoxication resulting from the use of alcohol, narcotic, or any other intoxicating substances or under the influence of drugs that reduce attention and slow the reaction, may be released from serving a sentence within the procedure of pardon after they actually serve the term, established by Article 81 Para 3 of this Code.

According to Article 607 Para 5 of the Criminal Procedural Code of Ukraine the surrender of the foreign national convicted by the courts of Ukraine to serve their sentence in foreign countries shall not deprive him/her of the right to raise the issue of his parole, the substitution of the unserved part of the sentence with more lenient within the period envisaged by the Criminal Code of Ukraine and pardon in the manner provided for by the legislation of Ukraine. Any documents or information necessary to consider this issue in Ukraine may be requested from the competent authorities of the administrating state through the Ministry of Justice of Ukraine.

Scope of application with regard to transfer of mentally disordered persons:	<p>Can be applied.</p> <p>According to Para 4 of Art. 514 of the Criminal Procedural Code of Ukraine the extension of compulsory medical measures imposed by a decision of a court in a foreign state to a person transferred to Ukraine for the further serving the sentence in accordance with the procedure provided for by Articles 605 to 611 of the present Code and the international treaties of Ukraine shall be disposed based on the outcomes of court hearings.</p>
Scope of application with regard to nationals and/or residents:	<p>No transfer of residents. Ukraine only accepts requests for transfer of its own nationals.</p>
Other particularly relevant information (such as practice regarding time limits or revocation of consent):	<p>Article 3 par. 1 (c) of the Convention on the Transfer of Sentenced Persons as well as Article 606 par. 1 (3) of the Criminal Procedural Code of Ukraine are applied.</p> <p>As stipulated in Article 609 par. 1 of the CCP of Ukraine a request of the authority of a foreign state on the transfer of a citizen of Ukraine convicted by a court of this state to imprisonment to serve his/her sentence in Ukraine, as well as the motion of the convicted person or his/her legal representative or relative on surrender shall be considered by the Ministry of Justice of Ukraine within a reasonable period of time.</p> <p>Under Para 7 of Art.606 of the CCP of Ukraine the sentenced person, who has given consent to the transfer to a foreign country for further service of the sentence may refuse from such transfer at any time before crossing the state border of Ukraine in accordance with Article 607 hereof. If information on such refusal is received, the Ministry of Justice of Ukraine shall immediately terminate consideration of the surrender or, where appropriate, take action to stop the surrender.</p> <p>A new consideration of the issue to transfer of the sentenced person shall be possible no earlier than three years after the refusal in the transfer or refusal of the convicted from surrender.</p>
Links to national legislation, national guides on procedure:	<p>Chapter IX of the Criminal Procedural Code of Ukraine contains the relevant provisions. https://bit.ly/3GWB70F ; https://bit.ly/3dCRoPB Text of the Convention on the Transfer of Sentenced Persons https://bit.ly/3jvtD6u</p>

	<p>National guide on procedure: the Instruction on the procedure for international cooperation on mutual legal assistance, extradition, transfer (taking over) of sentenced persons, execution of sentences and other issues of international judicial cooperation in criminal matters during court proceedings, approved by the ORDER of the Ministry of Justice of Ukraine from 19/08/2019 № 2599/5, registered at the Ministry of Justice of Ukraine on August 22, 2019 for № 956/33927. https://bit.ly/3t4kXh1</p> <p>Information for citizens on the transfer procedure of Ukrainian citizens sentenced by foreign courts for further serving a sentence in Ukraine. https://bit.ly/3LEDdFZ</p>
<p>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):</p>	<p>If a sentenced person is a citizen of a foreign state-party to the international treaty on the transfer of sentenced persons, the authority charged with the duty of sentence enforcement shall explain the convicted his/her right to address to the Ministry of Justice of Ukraine or the authorized (central) authority of the state of his /her citizenship, with a petition on his/her transfer to serve his/her sentence in this state on the grounds and in the manner prescribed hereby (Art. 607 par.2 of the CCP of Ukraine). In the context of the above mentioned as well as Articles 7, 8, 107, 109 of the Criminal-Executive Code of Ukraine the sentenced persons have the right to obtain information and explanation on the conditions and order of serving the sentence, including the texts of the Convention as well as other legal acts. https://bit.ly/3BEeXiV</p>
<p>For Parties to the Additional Protocol</p>	
<p>Information on the implementation of Article 2 (e.g. interpretation of “by fleeing to”):</p>	<p>Grounds and procedure for enforcement of foreign state’s court sentences provided for by Articles 602 and 603 of the Criminal Procedural Code of Ukraine</p> <p>Foreign state’s court sentences rendered in absentia, i.e. without the participation of a person in criminal proceedings shall not be enforceable in Ukraine - unless the sentenced person was handed a copy of the sentence and provided the opportunity to appeal it. A request for enforcement of the foreign state’s court sentence may be refused if such enforcement contradicts Ukraine's obligations under international treaties of Ukraine.</p> <p>The consent of the sentenced person shall not be required if he/she is on the territory of their citizenship (Art. 606 par. 3 of the CCP of Ukraine).</p>

<p>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>	<p>Art. 3 of the Additional Protocol to the Convention on the Transfer of Sentenced Persons have not being implemented in the Ukrainian legislation. It applies directly, taking into account the requirements concerning the transfer of sentenced person, provided for by the relevant provisions of the CCP of Ukraine as well as particular circumstances of a case.</p>
<p>Documentation required:</p>	<p>Documentation stated in Article 6 par. 2 of the Convention on the Transfer of Sentenced Persons and Article 3 par. 3, and a document showing the fulfilment of the requirements of Article 2 of the Additional Protocol thereto. See abovementioned information on documentation.</p>
<p>Other relevant information:</p>	<p>Ukraine has ratified the Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons (CETS No. 222) and allowed for its provisional application by making a declaration to this effect, as foreseen in Article 5.</p>