

[STATES PART TO THE STRASBOURG CONVENTION]

Albania, Germany, Andorra, Armenia, Austria, Australia, Azerbaijan, Bahamas, Belgium, Bolivia, Bosnia and Herzegovina, Bulgaria, Canada, Costa Rica, Croatia, Chile, Cyprus, Denmark, Ecuador, Slovenia, Spain, United States, Estonia, North Macedonia, Russian Federation, Finland, France, Georgia, Greece, Honduras, Hungary, Ireland, Iceland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritania, Mexico, Mongolia, Montenegro, Norway, Netherlands, Panama, Poland, Portugal, United Kingdom, Republic of Korea, Republic of Moldova, Czech Republic, Slovak Republic, Romania, San Marino, Serbia, Sweden, Switzerland, Tonga, Trinidad and Tobago, Turkey, Ukraine, Venezuela.

[STATES PART TO THE INTER-AMERICAN CONVENTION]

Belize, Brazil; Canada; Chile; Costa Rica; Ecuador; El Salvador; USA; Guatemala; Mexico; Nicaragua; Panama; Paraguay; Uruguay and Venezuela.

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Ministry of Justice and Human Rights of Chile, Moneda 1155, Santiago de Chile.

Information, complaints, and suggestions office
1st. FLOOR | Tel: (56) 2 26743499

REQUEST

IN ORDER TO PREPARE YOUR REQUEST, PLEASE USE THIS MODEL.

I, _____, with Passport/Identity Document Number _____, born in/at _____ on ____/____/____, son/daughter of _____ and _____, serving a sentence ordered by _____ consisting of a sentence of _____ for the crime of _____.

I request transfer to my country of origin to serve the rest of the sentence in my social environment, for which I express my consent to said transfer.

In _____ / ____ / ____

Requestor's signature _____

name and surname

Place

Date

Court and case number

Time of sentence

Place

Date

Requestor's signature



TRANSFER OF SENTENCED PERSONS TO THEIR COUNTRY OF ORIGIN

STRASBOURG CONVENTION: TRANSFER OF CONVICTED PERSONS

Supreme Decree No. 1,317 of 1998 of the Ministry of Foreign Affairs of Chile.

INTER-AMERICAN CONVENTION: COMPLIANCE WITH CRIMINAL CONVICTIONS ABROAD

Supreme Decree No. 1,859 of 1998 of the Ministry of Foreign Affairs of Chile.

TREATY WITH BRAZIL: TRANSFER OF CONVICTED PRISONERS

Supreme Decree No. 225 of 1999 of the Ministry of Foreign Affairs of Chile.

TREATY WITH BOLIVIA: TRANSFER OF CONVICTED PERSONS

Supreme Decree No. 227 of 2004 of the Ministry of Foreign Affairs of Chile.

TREATY WITH ARGENTINA: TRANSFER OF CONVICTED NATIONALS AND COMPLIANCE WITH CRIMINAL SENTENCES

Supreme Decree No. 55 of 2005 of the Ministry of Foreign Affairs of Chile.

TREATY WITH PERU: TRANSFER OF CONVICTED PERSONS

Supreme Decree No. 80 of 2012 of the Ministry of Foreign Affairs of Chile.

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1. WHAT DOES THE TRANSFER OF A CONDEMNED PERSON CONSIST OF?

The transfer is a procedure in which a foreign person can request to be transferred to their country of origin to serve a sentence imposed by the Chilean courts of justice.

2. WHAT BENEFITS ARE THERE IN COMPLETING THE SENTENCE IN THE COUNTRY OF NATIONALITY?

The transfer to the country of origin allows serving the sentence close to the family and the people with whom the language, culture, traditions and customs are shared.

It favors the process of social reintegration.

It allows the future interaction with society to be prepared in better conditions at the end of the sentence.

3. WHAT REQUIREMENTS MUST BE MET TO REQUEST A TRANSFER TO THE COUNTRY OF ORIGIN?

» **To have the nationality** of the countries that maintain a **treaty with Chile**, or that are part of the **Inter-American Convention** for the Compliance of Criminal Convictions Abroad, or that are part of the **Strasbourg Convention** on the Transfer of Convicted Persons.

» **To be incarcerated** as a convicted person; or serving a type sentence, according to the corresponding agreement or treaty:

- Probation regime.
- With a security measure imposed due

to a crime.

- Supervised probatory regime.
- Conditional execution sentence.
- Other forms of supervision without detention.

» **The conviction must be firm or enforceable**, that is, there must be no pending appeal that can modify it.

» At the time of submitting the application, **there must be at least six months pending** to fully serve the sentence.

» **To not have** other causes in force in Chile.

» **To expressly manifest the will to transfer** to the country of origin. In case of disability, the legal representative must grant consent.

4. WHERE TO SUBMIT THE TRANSFER REQUEST?

The request is submitted to the penal unit in which the sentence is served. The authorities of said precinct will refer the request to the Ministry of Justice and Human Rights of Chile.

It can also be sent directly to the **Ministry of Justice and Human Rights of Chile, Moneda 1155, 1st. FLOOR, Santiago de Chile. Information, complaints, and suggestions office. Tel: (56) 2 26743499.**

5. IS IT NECESSARY TO HAVE A LAWYER TO SUBMIT THE TRANSFER REQUEST?

No. For the application and transfer procedure, a lawyer is not required. In addition, the procedure is free.

The intervention of a lawyer does not imply a

faster processing and does not guarantee the acceptance of the transfer request by Chile and/or the country of origin.

6. WHAT LEGAL CONSEQUENCES DOES THE TRANSFER TO THE COUNTRY OF ORIGIN PRODUCE?

The transfer results in the suspension of compliance with the sentence in Chile. The sentence continues to be served in the country of origin in accordance with the regulations of that country's prison system.

The transferring State, Chile, will maintain exclusive jurisdiction over the sentence imposed and any other procedure that provides for the review or modification of the sentences handed down by its courts. The transferring State may grant pardon, amnesty or commutation of the sentence imposed in accordance with its legislation.

In the case of the treaty with Brazil: the receiving State may request the granting of pardon or the commutation of the sentence by means of a reasoned request that will be examined by the sending State.

7. WHAT PROCEDURE DOES A TRANSFER REQUEST FOLLOW?

1 The Ministry of Justice and Human Rights receives the transfer request and verifies compliance with the requirements indicated in point 3 of this booklet.

2 Submits the application and other information that the Convention contemplates to the country of origin.

Requests the country of origin:

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- a) to prove the nationality of the person requesting the transfer.
 - b) to report whether the acts for which he was convicted in Chile are also criminally punished in that country.
 - c) to issue its decision regarding the transfer request.

With this information, the Ministry of Justice and Human Rights of Chile can adopt a decision on the transfer request.

In the case of the Strasbourg Convention, the receiving State must inform Chile of the procedure it would adopt - according to the alternative contemplated in the Convention - for the fulfillment of the sentence if the transfer is carried out, it shall:

- a) Continue with the execution of the sentence immediately in which case it is linked by the legal nature and duration of the sentence or,
- b) Convert the sentence by substituting the penalty imposed by Chile for one prescribed by the law of that State for the same crime.

IT SHOULD BE CONSIDERED THAT THE TRANSFER IS NOT AUTOMATICALLY GRANTED.

When deciding on an application, each State may consider various elements: criminal history; health condition; age; family ties and relationships in the country of origin; the type of crime and its severity.