

Transferring a prison sentence abroad

A foreigner sentenced to imprisonment may have a possibility to serve the prison sentence in his or her home country. The goal of the transfer to the sentenced person's home country is to promote his or her reintegration into society.

When the enforcement of a sentence imposed in a foreign state is transferred, it is no longer permissible to investigate whether the person is guilty of the offence for which the sentence was imposed. The procedures linked to the enforcement of a prison sentence, such as release from prison, are always governed by the provisions of the state where the enforcement takes place.

Transferring a prison sentence on the initiative of the sentenced person

If a sentenced person wants to initiate the transfer of the prison sentence to his or her home country, the sentenced person may write a letter to the Prison and Probation Service. The prison staff can send the letter on behalf of the prisoner. Alternatively, a competent authority of the sentenced person's home country may also submit a request to the Ministry of Justice of Finland or the Prison and Probation Service for the transfer of the prison sentence. Hence, the sentenced person may contact the competent authority of his or her home country to initiate the procedure.

Transferring a prison sentence on the initiative of the Prison and Probation Service

The transfer of a prison sentence imposed in Finland to another state may be initiated by the Prison and Probation Service. In that case, the sentenced person will be given an opportunity to express his or her opinion before making any decisions. In general, the sentenced person has the right to appeal against a final transfer decision made in Finland to the Helsinki Administrative Court. A decision made by the authorities of another country may be appealed in accordance with the law of that country.

Transferring a prison sentence between the Nordic countries

A transfer from one Nordic country to another may be possible if, at the time of enforcement, the sentenced person:

- is a national of the Nordic country in question;
- lives permanently in that country; or
- resides in that country during that period even though he or she is not a national or a permanent resident of the country concerned.

In addition, the transfer requires that:

- the sentence is enforceable;
- the transfer of the enforcement can be deemed appropriate considering the circumstances;
- the country, which issued the judgement, consents to the transfer; and
- the country receiving the request for transfer consents to the transfer.

Transferring a prison sentence from Finland to another Nordic country

A prison sentence imposed in Finland may be served in another Nordic country. In practice, the matter may be initiated by the sentenced person or the Prison and Probation Service. The sentenced person is usually heard before forwarding a transfer request to the other Nordic country. The transfer request to the other country is submitted by the Prison and Probation Service. The other Nordic country decides whether it accepts the enforcement of the prison sentence. The appeal procedure is determined based on the legislation of the other Nordic country.

Transferring a prison sentence from another Nordic country to Finland

A prison sentence passed in another Nordic country may be transferred to Finland. The request has to be submitted to the Prison and Probation Service by a competent authority of the other Nordic country. The Prison and Probation Service decides whether it consents to the transfer request. The sentenced person is usually heard before making the transfer decision. If the Prison and Probation Service consents to the transfer requested by the other Nordic country, the decision may be appealed to the Helsinki Administrative Court.

The transfer procedure between EU countries described below is not applied to the transfer of prison sentences between Finland and other Nordic countries.

[Act \(326/1963\) and Decree \(620/1964\) on cooperation between Finland and other Nordic countries in the enforcement of sentences in criminal matters \(finlex.fi, in Finnish\)](#)

Information on the enforcement of prison sentences in the Nordic countries

- [Swedish Prison and Probation Service – Kriminalvården i Sverige \(kriminalvarden.se\)](#)
- [Danish Prison and Probation Service – Direktoratet for Kriminalforsorgen \(kriminalforsorgen.dk\)](#)
- [Norwegian Correctional Service – Kriminalomsorgen i Norge \(kriminalomsorgen.no\)](#)
- [Icelandic Prison and Probation Administration - Fangelsismálastofnun ríkisins \(fangelsi.is\)](#)

Transferring a prison sentence between EU Member States

The EU Framework Decision 2008/909/JHA and the Act on the Implementation of the Framework Decision are applied to the transfer of a prison sentence between the EU Member States.

A sentence may be transferred to one of the following EU Member States:

- the Member State of nationality of the sentenced person in which he or she lives;

- the Member State to which the sentenced person will be deported as a consequence of the judgement; or
- any other Member State, which consents to it.

In addition, the transfer requires that:

- the judgement is final;
- the State, which imposed the judgement, consents to the transfer;
- the State receiving the request for transfer consents to the transfer;
- it promotes the sentenced person's possibilities to reintegrate into society after release; and
- the sentenced person consents to the transfer.

The consent of the sentenced person is not, however, required (Article 6 of the Framework Decision) if the prison sentence is transferred to:

- the Member State of nationality in which the sentenced person lives;
- the Member State to which the sentenced person will be deported as a consequence of the judgement; or
- the Member State to which the sentenced person has fled or otherwise returned in view of the criminal proceedings or a conviction in the issuing State.

Transferring a prison sentence from Finland to another EU Member State

A prison sentence imposed in Finland may be served in another EU Member State. In practice, the matter may be initiated by the sentenced person, the Prison and Probation Service or other EU Member State. The sentenced person is usually heard before forwarding a transfer request to the other EU Member State. The request to transfer a prison sentence to the other Member State is made by the Prison and Probation Service. The other EU Member State decides whether it accepts the enforcement of the prison sentence. In both countries, the appeal procedure is determined based on the national law.

Transferring a prison sentence from another EU Member State to Finland

A prison sentence imposed in another EU Member State may be transferred to Finland. The sentenced person may request the transfer to Finland, the Prison and Probation Service may initiate the matter with the other EU Member State, or the transfer may become pending as part of the other EU Member State's own procedure. The actual request to transfer the prison sentence has to be forwarded to the Prison and Probation Service by a competent authority of the other EU Member State. The Prison and Probation Service decides whether it consents to the request. The sentenced person is usually heard before making the transfer decision. The decision of the Prison and Probation Service may be appealed to the Helsinki Administrative Court.

[Information on the enforcement of prison sentences in different EU Member States \(europris.org\)](http://europris.org)

Transfer of sentenced people, Act on the Implementation of the Framework Decision: [Act on the National Implementation of the Provisions of a Legislative Nature in the Framework Decision on the Transfer of Sentenced Persons within the European Union and on the Application of the Framework Decision 1169/2011 \(finlex.fi, in Finnish\)](#)

Transfer of sentenced people, Framework Decision: [The Framework Decision of the Council of the European Union on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union 2008/909/JHA \(eur-lex.europa.eu\)](#)

Transferring a prison sentence between Finland and other states

The Act (21/1987) and Decree (22/1987) on International Co-operation in the Enforcement of Certain Penal Sanctions are applied to the transfer of prison sentences between Finland and countries other than the Nordic or EU countries. If the states have adopted the Council of Europe Convention on the Transfer of Sentenced Persons (Treaty Series 13/1987) and its Additional Protocol (Treaty Series 42/2001), they are applied to transfers between the states. In other cases, a bilateral agreement on the transfer between the states will be applied or the transfer may be realised via diplomatic negotiations.

According to the Act on International Co-operation in the Enforcement of Certain Penal Sanctions (21/1987), the transfer requires that:

- the sentenced person is a national of the receiving state or is domiciled there or resides there;
- the judgement is final;
- the act, for which the sanction has been imposed, constitutes a criminal offence according to Finnish law or would constitute a criminal offence, if committed in Finland in similar circumstances (the requirement of the so-called double criminality) and vice versa, i.e., the act, for which the sanction has been imposed in Finland, would be punishable also in the state receiving the transfer;
- the state, which imposed the sentence, consents to the transfer;
- the state receiving the request for transfer consents to the transfer; and
- the sentenced person consents to the transfer.

According to the Act on International Co-operation in the Enforcement of Certain Penal Sanctions (21/1987), the consent of the sentenced person is not, however, required if:

- the sentence is transferred to the state to which the sentenced person has fled or otherwise avoids the enforcement of imprisonment there; or
- there is an order to deport the sentenced person from Finland due to the prison sentence in question or the offence that led to it.

Transferring a prison sentence from Finland to another state

The transfer of a prison sentence imposed in Finland to another state may be initiated by the sentenced person, the Prison and Probation Service or the other state. The sentenced person is usually heard regarding the transfer matter. In Finland, the Ministry of Justice decides on the forwarding of the transfer request to the other state, which then decides whether it accepts the enforcement of the prison sentence. In both states, the appeal procedure is determined based on the national law.

Transferring a prison sentence from another state to Finland

If a person is sentenced to imprisonment in another state, the sentenced person may apply to either the state that imposed the prison sentence or the Ministry of Justice of Finland for the transfer of the prison sentence from the other state to Finland. In addition, the Ministry of Justice of Finland may initiate the matter itself or the transfer may become pending as part of the other state's own procedure. The actual request to transfer the sentence has to be forwarded to the Ministry of Justice of Finland by a competent authority of the other state. The Ministry of Justice decides whether it consents to the request. The sentenced person is usually heard before making the transfer decision. The decision of the Ministry of Justice may be appealed to the Helsinki Administrative Court.

[Read more about the transfer of sentenced persons \(oikeusministerio.fi\)](#)

[Act on International Co-operation in the Enforcement of Certain Penal Sanctions \(21/1987\) \(finlex.fi, in Finnish\)](#)

Prisoner's right to a legal counsel

In a transfer matter, the sentenced person has the right to a legal counsel or a defence counsel paid from State funds. If the prisoner does not have a legal counsel, the prison staff will help the prisoner find a legal counsel or a defence counsel. In Finland, the decision on the defence counsel paid from State funds is made by the Ministry of Justice or the Prison and Probation Service at the request of the sentenced person.

A foreign prisoner has the right to be in contact with a diplomatic or consular mission also in other matters than those related to a transfer. The prison staff will help the prisoner to find the contact information of the closest mission. Postal items addressed by a prisoner to a mission have to be forwarded by the prison staff without delay. Prisoners will be provided with interpretation assistance in prison, where possible.

Further information

For more information on the matter, please contact the International Enforcement Team of the Enforcement Unit of the Prison and Probation Service by email kvtp.rise@om.fi.