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COMMISSIONER'S DIRECTIVE 704

In Effect: 2013-06-27
Last Review: 2013-06-27
Due for Review: 2015-06-01

International Transfers

PROGRAM ALIGNMENT	Custody
OFFICE(S) OF PRIMARY INTEREST	Correctional Operations and Programs Sector
ONLINE @	<ul style="list-style-type: none"> • http://infonet/cds/cds/704-cd-eng.pdf • http://infonet/cds/cds/704-cd-fra.pdf • http://www.csc-scc.gc.ca/text/plcy/cdshtm/704-cd-eng.shtml • http://www.csc-scc.gc.ca/text/plcy/cdshtm/704-cd-fra.shtml
AUTHORITIES	<ul style="list-style-type: none"> • International Transfer of Offenders Act (ITOA), sections 3, 8, 12, 15, 24, 28, 30, 36.1 and 37 • Corrections and Conditional Release Act (CCRA), subsection 2(1) • Corrections and Conditional Release Regulations (CCRR), paragraph 9(b) • Criminal Code, paragraphs 490.011(1)(a), (c), (c.1), (d) and (e) • Sex Offender Information Registration Act • Relevant conventions and treaties
PURPOSE	<ul style="list-style-type: none"> • To facilitate, through an international transfer program, the repatriation of offenders found guilty of criminal offences
APPLICATION	Applies to all staff involved in processing international transfer applications

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GENERAL STATEMENTS

1. International transfers may be carried out only between Canada and the countries with which a valid offender transfer agreement exists. Exceptions are specified under sections 31 and 32 of the ITOA.
2. The consent of the offender, the sentencing country and the administering country (country of offender's citizenship) is required before effecting a transfer.
3. The International Transfers Unit at National Headquarters is responsible for processing all applications in a timely manner and presenting them to the Minister of Public Safety for decision.
4. The International Transfers Unit will keep the applicant informed of the progress of his/her application.
5. Foreign offenders in Canada benefit from all the rights and amenities afforded to all offenders. In addition, foreign offenders have the right to access the international transfer program, if eligible, and the right to contact their consular representatives who may arrange for legal representation, pursuant to article 36 of the [Vienna Convention on Consular Relations](#), if the inmate's country of citizenship is a signatory to the Vienna Convention (see [CD 705-3 – Immediate Needs Identification and Admission Interviews](#)).
6. An offender may withdraw his/her international transfer application, unless otherwise specified in the relevant international transfer agreement.

ROLES, RESPONSIBILITIES AND PROCEDURES

Transfers from Canada

7. The offender initiates the process by completing and submitting the [Application for an International Transfer to a Foreign State](#) (CSC/SCC 0309) to his/her Parole Officer.
8. The Parole Officer will collect the information and documentation required, as specified in [Annex B](#), and forward the approved package, through the Regional Transfer Coordinator, to the International Transfers Unit at National Headquarters.
9. The International Transfers Unit at National Headquarters will process the application in view of the requirements of the ITOA as well as the relevant transfer agreement; summarize and prepare the applicant's file for the Minister of Public Safety for decision; and simultaneously share the contents of the file with the applicant to allow him/her to make further submissions.
10. The Senior Manager of the International Transfers Unit will advise both the foreign state and the offender of the Minister's decision.
11. If the Minister of Public Safety approves the transfer, the International Transfers Unit will seek a decision from the foreign state, as well as the manner in which it will administer the offender's Canadian sentence through an official request signed by the Director, Institutional Reintegration Operations (IRO).
12. In the event of approvals by Canada and the foreign state, the International Transfers Unit will request that the applicant, having reviewed the consequences of the transfer, reiterate in writing his/her consent to transfer through an official letter signed by the Director, IRO.
13. When all parties have consented to the transfer, the Senior Manager of the International Transfers Unit will oversee the coordination of the transfer operation with the foreign state.

Transfers to Canada

14. The Canadian citizen serving a sentence abroad initiates the international transfer process by submitting to the Minister of Public Safety, through the International Transfers Unit, the duly completed [Request for Transfer to Canada](#) (CSC/SCC 0308), [Information Form in Support of a Request for Transfer to Canada](#) (CSC/SCC 0614) and [Authorization for Release of Personal Information](#) (CSC/SCC 1395).
15. Upon receipt of an application for transfer to Canada, the analysts of the International Transfers Unit will verify the eligibility of the applicant offender, and ensure that the quality and completeness of the application and supporting documentation meet the requirements of the ITOA and the relevant transfer agreements.
16. The analysts of the International Transfers Unit will process the application in view of the requirements of [section 10](#) and other relevant sections of the ITOA and relevant transfer agreements.

17. The Senior Manager of the International Transfers Unit will request and obtain a legal opinion to verify dual criminality pursuant to [section 4](#) of the ITOA; a sentence calculation pursuant to ITOA and CCRA requirements; a Community Assessment; a CSC Security Intelligence verification; a Canadian Security Intelligence Service verification; and a criminal record verification (CPIC).
18. Other steps may be taken or verifications sought by the International Transfers Unit, or at the request of the Minister in view of the ITOA and/or relevant transfer agreements.
19. When an application for transfer has been processed, the International Transfers Unit will prepare a submission to be presented to the Minister of Public Safety for final decision. The following steps will then be completed:
 - a. submissions will be prepared and signed by the analysts of the International Transfers Unit
 - b. submissions will be reviewed and signed by the Senior Manager of the International Transfers Unit
 - c. submissions will be reviewed and signed by the Director, IRO, before submission
 - d. the International Transfers Unit will share the contents of the file with the applicant to allow him/her to make further submissions
20. When the Minister has rendered his/her decision, the Director, IRO, will ensure that the International Transfers Unit will:
 - a. advise the foreign state of Canada's decision and, where appropriate, of the manner in which the applicant's sentence would be administered in Canada
 - b. inform the applicant of Canada's decision and, where appropriate, of the manner in which his/her sentence would be administered in Canada
 - c. request that the offender consent in writing to the transfer
21. If the Minister of Public Safety denies the application, the offender cannot apply again until one year after the date of denial.

Effecting the Transfers

22. Effecting the transfers will be determined by the needs of the receiving and sending countries and of the offender(s). Refer to [CD 710-2 – Transfer of Inmates](#) for details.
23. The Senior Manager of the International Transfers Unit, in conjunction with the respective foreign state, will:
 - a. set the transfer dates

- b. forward to the receiving institution all information available on the offender, including the health care information
 - c. plan and implement the transfer
24. If, at the time of his/her transfer from a foreign country, an offender arrives in a region on a temporary basis while awaiting an interregional transfer to his/her final destination, casework responsibilities will be negotiated by the respective regions.

PAROLE ELIGIBILITY AND STATUTORY RELEASE

25. The ITOA details the manner in which the various types of release are calculated.
26. Under [section 28](#) of the ITOA, the Parole Board of Canada is not required to review the case of a Canadian offender until six months after the day of his/her transfer.

HIGH PROFILE OFFENDERS

27. If the transfer involves a high profile offender, the Senior Manager of the International Transfers Unit will ensure that the information is shared, as required.

SEXUAL OFFENCES

28. Pursuant to [section 36.1](#) of the ITOA, if the offender was convicted and sentenced in a foreign country for an offence that would have been identified in Canada as a "designated offence" defined in paragraph [490.011\(1\)\(a\), \(c\), \(c.1\), \(d\) or \(e\)](#) of the *Criminal Code*, he/she will be required to comply with the [Sex Offender Information Registration Act](#).

ADMINISTRATIVE ARRANGEMENTS

No Treaty in Force

29. Where there is no treaty in force between Canada and a foreign entity on the transfer of offenders, the Minister of Foreign Affairs may, with the consent of the Minister of Public Safety, enter into an administrative arrangement with the foreign entity, on a case-by-case basis, for the transfer of an offender.

ENQUIRIES

30. Strategic Policy Division
National Headquarters
Email: Gen-NHQPolicy-Politi@csc-scc.gc.ca

Commissioner,

Original Signed by:
Don Head

ANNEX A**CROSS-REFERENCES AND DEFINITION****CROSS-REFERENCES**

[CD 568-3 – Identification and Management of Security Threat Groups](#)

[CD 705-3 – Immediate Needs Identification and Admission Interviews](#)

[CD 710-2 – Transfer of Inmates](#)

[CD 715-3 – Community Assessments](#)

Signatory Countries to Transfer Agreements ([See International Transfers Website](#))

Treaties and Agreements ([See International Transfers Website](#))

DEFINITION

High profile offender: an offender whose offence dynamics elicited or have a potential to elicit a community reaction in the form of significant public and/or media interest.

ANNEX B

DOCUMENTATION REQUIREMENTS FOR THE TRANSFER OF FOREIGN OFFENDERS FROM CANADA

BASIC INFORMATION

A transfer application package must include the information (and specific documents where applicable) as set out below:

- a. a completed application for transfer, including the [Application for an International Transfer to a Foreign State](#) (CSC/SCC 0309)
- b. *personal data*: full name (including maiden name), aliases, ethnic origin, appearance (photograph, height, weight, and other identifying features), copy of fingerprints, date and place of birth, address in country of citizenship
- c. *family data*: name, address and relationship of family members and close relatives in the receiving country
- d. *citizenship data*: evidence of foreign citizenship (birth certificate, citizenship certificate and the like), passport number if available
- e. *case history*: family and social background, criminal history (FPS), health summary (including mental health needs), institutional adjustment, security requirements, and future correctional needs
- f. *offence data*: the nature, gravity and circumstances of the offence(s), the name of the investigating police agency, a police report where available (in drug related offences, provide details as to the nature, quantity and value)
- g. *sentence data*: detailed sentence computation using [Sentence Administration Data for Offenders Transferred from Canada](#) (CSC/SCC 0353), reasons for sentencing, where available a statement of the facts upon which the sentence was based, and the name of the court through which the offender was convicted
- h. a certified copy of the warrant(s) of committal
- i. confirmation that the judgement is final, i.e., that the appeal period has expired and that no appeal or other proceedings are pending
- j. confirmation that there are no outstanding charges or any other police interest

ADDITIONAL INFORMATION

In addition to the basic information requirements, a transfer application package must include any information and/or document specifically required by individual countries.