

Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners

Adopted by the Seventh Crime Congress, Milan, 26 August-6 September 1985, and endorsed by the General Assembly in resolution 40/32

The social resettlement of offenders should be promoted by quickly facilitating the return of persons convicted of crime abroad to their home country to serve their sentence.

Prisoner transfer should take place where the offence in question is punishable by deprivation of liberty in both sending (sentencing) and receiving (administering) countries. A transfer may be requested by either the sentencing or the administering State.

A transfer shall be dependent on the consent of both States and the prisoner as well. The administering State should be given the opportunity to verify the free consent of the prisoner.

At the time of request for a transfer, as a general rule, the prisoner shall have at least six months of the sentence remaining to be served.

The administering State shall either continue enforcement of the sentence or convert the sentence to one prescribed by its law for a corresponding offence.

In the case of continued enforcement, the administering State shall be bound by the sentence determined by the sentencing State. It may, however, adapt the sanction to the punishment prescribed by its own law for the offence, but a sanction involving deprivation of liberty shall not be converted to a pecuniary sanction.

The administering State shall be bound by the findings of the sentencing State, which has the sole competence for review of the sentence.

Costs incurred as a result of a transfer shall be borne by the administering State, unless otherwise decided by both States.

Both the sentencing and administering States shall be competent to grant pardon and amnesty.

Recommendations on the Treatment of Foreign Prisoners

Foreign prisoners should have the same access as national prisoners to education, work and vocational training.

Foreign prisoners should be eligible for alternative measures to imprisonment according to the same principles as nationals.

The religious precepts and customs of foreign prisoners should be respected.

Foreign prisoners should be informed, in a language they understand, of the prison regime and regulations as well as their right to request contact with consular authorities. Proper assistance should be given in dealings with medical or programme staff and concerning such matters as complaints, special diets and religious representation and counselling.

Contacts should be facilitated between foreign prisoners and their families and with humanitarian international organizations.

<http://www.nzdl.org/cgi-bin/library?e=d-00000-00---off-0cdl--00-0---0-10-0---0---0direct-10---4-----0-0l--11-en-50---20-about---00-0-1-00-0-0-11-----0-0-&a=d&c=cdl&cl=CL2.21&d=HASH4068919759b42c6b335ec3.9.8>