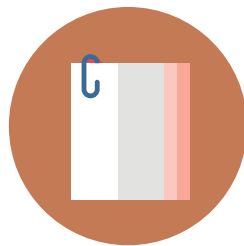





TRANSFER OF SENTENCED PERSONS (REPATRIATIONS)

Is an administrative procedure by means of which a sentenced person and imprisoned abroad can request the benefit of transfer to his country of nationality, to complete the sentence in a prison of his country.



The **Decree 1427 of 2017 authorizes to the Minister of Justice and Law** to decide the transfer requests. This indicates that a Colombian citizen or foreigner can request the transfer to finish his sentence in their country of nationality in accordance with the Treaties signed and ratified by Colombia. In cases where there is no In force Treaty, the application shall be studied with observance of the procedures and complete the legal requirements.

In order for the Minister to decide a transfer request, the case must be previously studied by the **Intersectoral Commission for the Study of Applications for Repatriation of Prisoners**, formed by:

-  1. Minister of Foreign Affairs who may delegate to the Director of Immigration issues, consular and citizen service.
-  2. Vice Minister of Criminal Policy and Restorative Justice of the Ministry of Justice and Law or his delegate, who shall preside
-  3. The Director General of the National Penitentiary and Prison Institute (INPEC) or his delegate.





REPATRIATION WITH TREATY

If a Colombian citizen is sentenced and imprisoned in:



Ecuador

(Convention between Colombia and Ecuador on transit of persons, vehicles, river and sea boats and aircrafts, signed on 18 April 1990 in the city of Esmeraldas)



Panamá

(Law 291 of 1996)



Costa Rica

(Law 404 of 1997)



España

(Law 285 of 1996)



Venezuela

(Law 250 of 1995)

It can request its transfer in accordance with the procedure established by these treaties. If it is a national of the countries mentioned above and is sentenced and imprisoned in Colombia, follows the same procedure.



REPATRIATION WITHOUT TREATY

If a Colombian is sentenced and imprisoned in **a different country to those mentioned**, or a foreign citizen - who is not a national of these countries - is sentenced and imprisoned in Colombia, can request the benefit of transfer, initially to the authorities of the country where the sentence was imposed, following the procedure set by the laws of that country.

Once the Colombian citizen obtains the authorization, approval or consent in front of the request of transfer of the country where he was sentenced, **he may request the benefit expressly and for written** to the Minister of Justice and Law, which must be sent through the Colombian Consulate accredited in the country in which it is located.

For his part, foreign citizens can request the benefit expressly and for written to the Minister of Justice and Law in Colombia, which may be sent directly by the sentenced person, **through its diplomatic representation accredited in the country or through the National Penitentiary and Prison Institute (INPEC).**



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To ensure that applications for the transfer of Colombians abroad and of foreigners in Colombia should be studied by the Intersectoral Commission, **in addition to the complete file**, must comply with the following conditions:

- 1 That the sentence to be fulfilled is not of **perpetual imprisonment or the death penalty**, and that does not conflict with legal provisions of the country towards which it requests the transfer.
- 2 That the crime for which it was sentenced, **is not of political, military type or against humanity**.
- 3 That the conduct for which he was convicted, **also constitutes a crime** in the country to which the requests the transfer.
- 4 That the sentence that condemned him is **enforceable sentence**, without any recourse.
- 5 That **there are no pending processes** in the country in which it was sentenced.
- 6 That the transfer be **previously approved** by the authorities of the country in which is convicted, in the case of Colombian citizens.
- 7 That the country to which the transfer is requested **is committed to continuing the enforcement of the sentence**, not to modify or cancel it. And that its national laws allows the transfer without the existence of a treaty in the matter, when the applicant is a foreign convicted in Colombia.

When the transfer benefit is requested towards Colombia, it must be verified the existence of any of the humanitarian reasons described below

1



Serious, progressive and irreversible state of health due to illness of the person sentenced abroad.

2



Disability situation with severe or complete physical or mental impairment, with severe or maximum total dependence on the sentenced person.

3



Advance age of the sentenced person, from 65 years.

4



Serious, progressive and irreversible state of health due to illness of the parents, children and / or spouse or permanent partner of the sentenced person.

Cases 1 and 2 must be **duly supported with the clinical history of the convicted person and a certification of the state of health**, issued by the competent medical authorities of the country where he was convicted. In case 4, it must be supported with the medical history issued by the entity that provides medical care to the family member of the sentenced person; In this case, if the convicted person is Colombian, National Institute of Legal Medicine and Forensic Sciences of Colombia will assess his family member on the basis of which he will issue a legal medical concept.



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The application file of transfer must contain the following documents duly translated into Spanish:

Document in which the **State of Sentence approve the transfer requested.** ①

Document in which the country to which the transfer is requested is **committed to continuing the enforcement of the sentence**, not to modify or cancel it. (For foreigners). ②

Written statement by the sentenced person has shown its **willingness to be transferred.** ③

Copy of **the condemnatory sentence duly enforceable**, as well as the judgement amending the initial conviction (if any). ④

Copy of the **legal provisions that describe the crime** for which he was convicted. ⑤

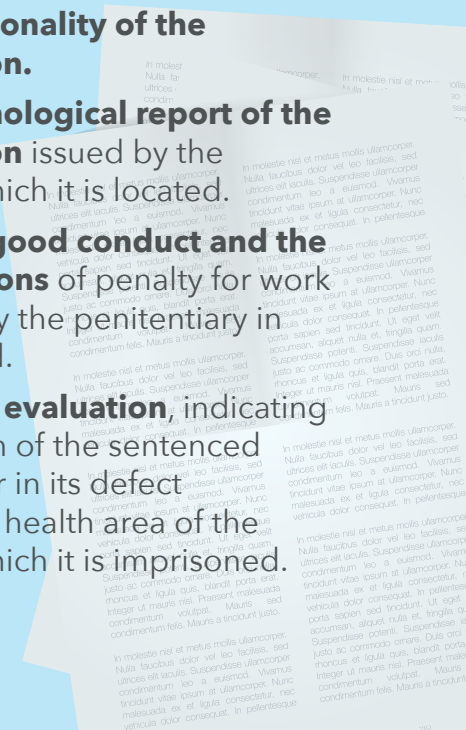
Original of the **ten-print card of the convicted** issued by the penitentiary in which it is located. ⑥

Certificate of **nationality of the sentenced person.** ⑦

Social and psychological report of the sentenced person issued by the penitentiary in which it is located. ⑧

Certification of good conduct and the possible reductions of penalty for work or study issued by the penitentiary in which it is located. ⑨

Original **medical evaluation**, indicating the state of health of the sentenced person, issued (or in its defect endorsed) by the health area of the penitentiary in which it is imprisoned. ⑩



When the transfer is requested towards Colombia, the sentenced person must request the documents above described to the authorities of the country in which he is imprisoned, for which he has the **cooperation of the Colombian consulate in the country in which he is located**. Once the file is complete, should be referred to the Ministry of Justice and Law diplomatic channel (through the Ministry of Foreign Affairs).



When the transfer is requested towards countries with which there is no treaty on the subject, the Direction of International Affairs of the Ministry of Justice and Law as Technical Secretariat of the Intersectoral Commission, **will arrange the relevant** to obtain the documentation that forms the file.



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If the alleged humanitarian reason refers to any of the family members described in No. 4 and the convicted person is a Colombian citizen, **they should send to the Direction of International Affairs of the Ministry of Justice and Law**, the civil registry or the proof of family relationship with the sentenced person, a letter with the brief description of their health status and to report a physical address to where they can be cited by the National Institute of Legal Medicine in order to carry out the medical-legal assessment that will form part of the file.



When the complete file is in the Ministry of Justice and Law, the Direction of International Affairs will review that the documentation is complete and **submit the case to study of the Intersectoral Commission**, to issue a recommendation to the Minister of Justice who finally decide the case.

PLEASE NOTE THAT

The processing of the study of a request for transfer **is free and does not require intermediaries**; without prejudice to the costs stipulated by the law.



The humanitarian criteria must be claimed since was made the request for transfer, and if it corresponds to one of his relatives, must send the documentation referring to the same to **avoid an unfavorable decision** that does not contemplate their real situation.



For the procedure **does not require the intervention of a lawyer**, since all documents that are to be sent from the country of conviction, must be through diplomatic channels.



A request for transfer may be presented **as many times as it may consider necessary**, as long as the reasons for which it was previously denied have changed.



If your transfer was approved, you must continue serving the sentence of custodial condemnation of the freedom imposed on you abroad.



If you were transferred to Colombia, any request for parole, home confinement, transfer from one city to another, medical care, etc., must be processed to the appropriate authorities in the Republic of Colombia. **Never to the Ministry of Justice and Law.**



The submission of the application does not ensure that the same is approved, since under the **respect for the sovereignty and discretion of States**, may refuse the application for reasons of national convenience, in spite of complying with the previous requirements.

