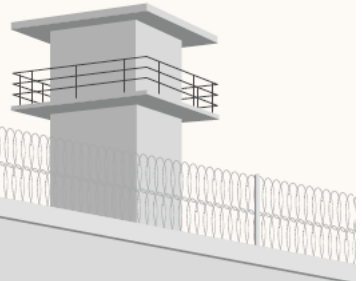




# International Transfer of Prisoners (ITP)



## International Transfer of Prisoners (ITP)

The International Transfer of Prisoners (ITP) represents a good cooperation in international criminal justice system, allowing foreign prisoners serving a sentence of imprisonment in Thailand to apply to transfer to their home country to serve the remainder of their sentence. It is believed that the foreign prisoners shall receive many great benefits, such as access to visits from families, familiarity with language and culture, meaningful rehabilitation and social reintegration, etc. Under the scheme, all processes must be in compliance with the existing bilateral agreements that the Royal Thai government has signed with various countries/jurisdictions, as well as the key domestic law which is the Legislative Procedure for Cooperation between States in the Execution of Penal Sentences B.E.2527 (1984).

Crucially, the ITP cannot be done unless there is a bilateral treaty on prisoner transfer with Thailand. In addition, the mutual consent must be obtained among three parties: sentenced person, receiving state, and Thailand, as a transferring state by the decision of the Committee for Consideration of the Transfer of Prisoners who is responsible for considering all requests of prisoners to be transferred.

According to the Legislative Procedure for Cooperation between States in the Execution of Penal Sentences B.E.2527 (1984), it is indicated that:



### “Receiving State”

*means the country to which the prisoner is transferred from the transferring State.*



### “Foreign Prisoner”

*means an individual not holding Thai nationality who is subject to sentence or final court order of punishment and who is now serving such sentence in the Kingdom.*



### “Punishment”

*means imprisonment or confinement and shall also inclusively mean security measures, probation, and procedures for juvenile offenders, suspended sentence, suspended confinement and reduction in the length of sentence.*

Currently as of 29 July 2021 Thailand has signed 38 bilateral prisoner transfer treaties, alphabetically ordered as follows:

1. Australia	2. Austria	3. Belgium	4. Cambodia	5. Canada
6. China	7. Czech Republic	8. Denmark	9. Estonia	10. Eswatini
11. Finland	12. France	13. Germany	14. Hong Kong S.A.R.	15. India
16. Iran	17. Israel	18. Italy	19. Japan	20. Laos
21. Maldives	22. Mali	23. Netherlands	24. Nigeria	25. Norway
26. Pakistan	27. Peru	28. Philippines	29. Poland	30. Portugal
31. South Korea	32. Spain	33. Sri Lanka	34. Sweden	35. Switzerland
36. U.K.	37. U.S.A.	38. Vietnam		

**Note:** Please check for any updates from Foreign Affairs Sub-division, Penology Division, Department of Corrections

The transfer of foreign prisoners in the Kingdom to continue to serve their sentences abroad shall be subject to the following provisions:

 **YES**

- ✓ Entering into bilateral treaty with Thailand
- ✓ Gaining consent from: (1) prisoner (2) Receiving State (3) Transferring State (Thailand)
- ✓ Either being beneficial to or in the best interest of the prisoner
- ✓ The offence which has been committed by prisoner must be a criminal offence under the law of receiving state\*.
- ✓ *Taking into account severity of the crime and the effect of the criminal situation in both states*

\* It shall not apply in the event that the treaty does not stipulate such provisions or the provisions are not stated otherwise.

 **NO**

- ✗ Not being the subject of an outstanding criminal case on other charges or in the process of a retrial of a criminal case in the Transferring State.
- ✗ Not having fine or compensation for the cost of damages to pay, and not being required to make restitution of property, according to a court's judgment.\*

\* Prisoner must make full payment of the fine, restitution of the property, or compensation for the damages before the Committee shall issue the order approving the transfer.

## Eligibility

The Committee for Consideration of the Transfer of Prisoners shall approve the request of the prisoner eligible for the transfer, in accordance with the Legislative Procedure for Cooperation between States in the Execution of Penal Sentences B.E.2527 (1984).

Not an offence against the person of the Monarch, the Queen, or the Monarch's son or daughter, an offence against national security from within the Kingdom; an offence against national security from outside the Kingdom; or an offence against the laws governing national art treasures.

Has served a prison sentence in Thailand not less than 1/3 of the total sentence imposed or not less than 4 years, whichever period is less.

**or**

Has served a prison sentence in Thailand not less than 8 years for charges of production, distribution, import for distribution or possession for distribution of narcotics, as proscribed by the Narcotic Act, and the sentence imposed to prisoner is life imprisonment.

The remainder of the total sentence imposed or ordered that the foreign prisoner must serve in the Kingdom is not less than 1 year.

The Committee may disapprove the transfer of a foreign prisoner when it appears that the transfer would threaten the national security or stability of the Kingdom or domestic civil order.

## Procedure for the Transfer of Foreign Prisoners from Thailand

### Step 1

The Receiving State (Embassy) submits the request and documents to MFA



### Step 2

MFA forwards the request and documents to Department of Corrections.



### Step 3

The Committee considers the request and makes a decision to approve / disapprove the transfer.



### Step 4

DOC sends the Transfer Order to MFA who shall notify of the order to the Receiving State (Embassy).



### Step 5

DOC & Embassy agree on a date and a place for holding the transfer ceremony to deliver the prisoner.

*DOC verifies the request and its supporting documents, then holds the Committee meeting.*

*DOC makes a report of the Committee's meeting and drafts a transfer order to be signed by Chairman of the Committee.*

*Any changes of the sentence due to the Royal Pardon, if occurred, will be informed to the Receiving State through diplomatic channels.*

## Required Information and Documents

The list of required information and documents shall be based on the relevant Treaty between Thailand and the Receiving State and usually includes the following documents:

- 1 A Diplomatic Note submitting the request for transfer of a sentenced person
- 2 A Consent letter of the Receiving State which includes the following information:
  - 2.1 Declaration that the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the Receiving State (Double Criminality)
  - 2.2 Information on how the sentenced person's remaining sentence will be administered after transfer, including any projected release dates through parole or other forms of early release
- 3 A Consent letter signed by the sentenced person
- 4 A Certificate of Nationality issued by the Receiving State specifying date of birth, identification number, passport number, and/or photocopy of the passport
- 5 A certified copy of all judgments and sentences (copies may be obtained at the Court(s) concerned) (Court of First Instance, Court of Appeals, and Supreme Court)
- 6 Registration of prisoner's conviction history (copies may be obtained at the prison/correctional institution where the person is incarcerated) which includes:
  - 6.1 Copies of all court incarceration orders for all final verdicts
  - 6.2 A copy of all royal pardons
  - 6.3 A copy of all warrants for custody
  - 6.4 A copy of prison progress report (security level, disciplinary reports, prison jobs, program participation, psychological evaluation, current medical conditions)
  - 6.5 Two sets of sentenced person's photograph and fingerprint records
  - 6.6 Details of the punishment, such as the length of time already served by the sentenced person (including pretrial confinement), the commutation/reduction of sentence, pardon, and other measures relating to the punishment as well as the prisoner's class
- 7 In the event that the prisoner does not submit the application by himself, the petitioner must submit evidence showing relation to the prisoner.
- 8 Any other relevant documents such as legal provisions of the Receiving State

**Remarks:** 1) The embassy of the Receiving State shall send the request and prescribed documents to the Department of Consular Affairs, Ministry of Foreign Affairs Thailand (through diplomatic channels).  
2) The embassy of the Receiving State shall send (1) a copy of the request and prescribed documents with (2) a flash drive of scanned documents to the Penology Division, Department of Corrections, Ministry of Justice (Secretariat of the Committee for Consideration of the Transfer of Prisoners).

## FREQUENTLY ASKED QUESTIONS

### Q WHO MUST AUTHORIZE THE TRANSFER OF THE PRISONER?

A The consent of the foreign government and the prisoner is required for each transfer. The decision to transfer a prisoner is a discretionary decision to be made by “the Committee for Consideration of the Transfer of Prisoners” consisting of the Permanent Secretary of Ministry of Justice (Chairman), the Judge Advocate General, the Chief Justice of the Criminal Court, the Chief Justice of the Central Juvenile Court, the Attorney-General, the Director-General of the Royal Thai Police, the Director General of the Department of Corrections, the Director-General of the Treaties and Legal Affairs Department, the Director of the Penology Division of the Department of Corrections and the Director of the Treaty Division of the Treaties and Legal Affairs Department.

### Q HOW OFTEN DOES THE COMMITTEE MEETING TAKE PLACE?

A Normally the meeting of Committee for Consideration of the Transfer of Prisoners is organized three or four times a year, depending on the number of transfer requests.

### Q HOW LONG DOES THE WHOLE PROCESS TAKE FROM SUBMITTING THE REQUEST TO DELIVERING THE PRISONER

#### TO THE RECEIVING STATE? DELIVERING THE PRISONER TO RECEIVING STATE?

A After receiving the request and required documents from foreign government via the embassy and the Department of Consular affairs (MFA), Department of Corrections needs about 2-3 weeks to check the eligibility of prisoner, as well as request further documents from prison authority and relevant agencies, such as the Immigration Bureau, and the Narcotics Suppression Bureau, the Royal Thai Police. Once the Committee has the meeting, the process may take about 1-2 weeks for proposing the Chairman of the Committee to approve the minutes of meeting and sign the transfer order. Then, the Department of Corrections will inform foreign government through the Department of Consular Affairs (MFA). Thus, it should take about 1 month after the meeting of Committee for the foreign embassy to be notified the transfer order. The process after this, especially the transfer ceremony to deliver the prisoner, also depending on the availability of the flight and the arrangement of escort officers. However, the Department of Corrections has to inform relevant authorities about the flight schedule and the delivery at least 2 weeks beforehand.

### Q IS IT POSSIBLE FOR PRISONER UNDER “NEED FOR IMPROVEMENT” OR “NEED FOR EXTRA IMPROVEMENT” CLASS TO BE TRANSFERRED?

A Although the class of prisoner is not mentioned as a requirement in the Legislation Procedure for Cooperation between States in the Execution of Penal Sentences Act B.E. 2527, the foreign prisoner is highly encouraged to be either moderate or upper classes when submitting the transfer request because the Committee members may take the prisoner’s class and behaviour record into consideration upon approving the transfer request.

## Contact information

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