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PROCEDURAL AND LEGAL REGULATION OF THE TRANSFER OF SENTENCED PERSONS IN THE REPUBLIC OF UZBEKISTAN: LEGAL GAPS AND DIRECTIONS FOR REFORM

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Abstract
This article examines the procedural and legal framework governing the transfer of sentenced persons to another State for the continued enforcement of imprisonment sentences, with particular reference to the Republic of Uzbekistan. It analyses the constitutional foundation of international cooperation, the introduction of Chapter 66 into the Criminal Procedure Code in December 2024, and the division of responsibilities among prosecutorial, judicial, diplomatic and penitentiary authorities. The central argument is that codification of transfer procedures, while an important institutional advance, does not by itself resolve the coordination problems arising when transfer proceedings overlap with domestic sentence-enforcement measures. Particular attention is paid to the simultaneous consideration of transfer requests and early-release applications, the adaptation of foreign sentences, the verification of a sentenced person's voluntary consent, and the exchange of documents between competent institutions. Drawing on doctrinal and normative analysis, the author proposes a coordinated procedural rule for parallel proceedings, a standardized approach to the recognition and adaptation of foreign judgments, and independent safeguards for consent. The article also argues for secure interagency information exchange, subject to confidentiality and personal-data protection requirements.

Keywords: Transfer of sentenced persons; international cooperation in criminal matters; Criminal Procedure Code; sentence enforcement; recognition of foreign judgments; voluntary consent; early release; procedural safeguards; Uzbekistan.

Introduction

The transfer of a sentenced person to a State of nationality or habitual residence for the continued enforcement of a custodial sentence is an institution situated at the intersection of international law, criminal procedure and penitentiary law. It is not equivalent to extradition. The latter generally concerns the surrender of an individual for prosecution or punishment, whereas the former presupposes an existing conviction and addresses the State in which an imposed sentence will continue to be served. The distinction is important because the recognition of a judgment, the calculation of the unserved term and the protection of the individual's procedural rights require their own legal architecture.

In Uzbekistan, the legal architecture has developed significantly following amendments to the Criminal Procedure Code in 2024. Nevertheless, questions of coordination arise whenever multiple authorities and two legal systems participate in one transfer procedure. Domestic rules on the enforcement or adjustment of sentences may continue to operate while a cross-border request remains pending. A theoretically sound transfer framework must therefore answer not

only whether transfer is permissible, but also how its proceedings interact with the ordinary legal position of a sentenced person.

The purpose of this study is to identify the main procedural characteristics of the Uzbek mechanism and formulate targeted proposals for overcoming the gaps identified in the underlying research. The analysis proceeds from the constitutional and statutory framework to the institutional sequence of transfer and, finally, to issues of concurrent proceedings, foreign sentence adaptation, independent consent verification and administrative cooperation. The article uses legal-doctrinal interpretation and systemic comparison of procedural and sentence-enforcement rules. Claims concerning actual administrative delays and differences in judicial practice require additional empirical evidence and are therefore treated as issues for further verification rather than established nationwide findings.

Constitutional and statutory foundations of transfer: The Constitution of the Republic of Uzbekistan provides the foundational framework for the exercise of public authority in this area. Article 15 recognizes the place of international treaties within the national legal system. Within the scope of Uzbekistan's treaty commitments, this principle is relevant to transfer agreements concluded with other States, while domestic legislation specifies the authorities and procedural steps through which cooperation is carried out. Constitutional guarantees relating to human dignity, personal integrity and protection against ill-treatment also inform the assessment of whether a particular transfer can be lawfully implemented. Such guarantees should not be reduced to formal declarations: they require meaningful examination of the circumstances in which the person will continue serving a sentence.

The adoption of Law No. ZRU-1009 of 4 December 2024, which the source chapter identifies as taking effect on 5 December 2024, added Chapter 66 to the Criminal Procedure Code. As described in the source material, the chapter contains 13 provisions addressing the transfer and reception of persons sentenced to imprisonment for continued enforcement and related issues of transferring persons subject to compulsory treatment. It sets out statutory grounds, conditions, refusal issues and court involvement. This development moves the principal procedural questions from dispersed institutional practice into a code-based framework. [1, 2]

A distinction must nonetheless be drawn between the functions of the Criminal Procedure Code and the Penal Enforcement Code. The former regulates the procedural path leading to a decision on transfer, including the involvement of competent authorities and courts. The latter governs the prisoner's status and conditions of serving the sentence. These spheres are complementary, but they can become difficult to synchronize when rights that arise during imprisonment must be determined before a transfer request has been resolved.

Competent authorities and the sequence of proceedings: The institutional model analysed in the source chapter is multilayered. The Prosecutor General's Office acts as a central coordinating authority for incoming and outgoing requests. Courts provide the jurisdictional examination required in the relevant procedures, including the recognition and enforcement of foreign judgments in inbound cases. Diplomatic and consular channels are involved in communications with foreign authorities, while penitentiary and escort institutions handle the preparation and physical execution of transfers. These functions should be viewed as distinct

rather than interchangeable: diplomatic transmission cannot replace judicial scrutiny, and administrative coordination cannot substitute for the sentenced person's procedural rights.

On the account set out in the source chapter, the process can be understood through five linked stages. First, transfer may be initiated through a request by the sentenced individual, an authorized representative or family member, or by a competent State authority within the applicable legal framework. Second, the competent institutions assemble and assess the materials relating to nationality, the finality of the judgment, the underlying conduct, the unserved part of the sentence and the person's consent. The source identifies dual criminality, an ordinarily relevant remaining term of at least six months and written consent as conditions requiring assessment under the applicable rules and agreements. These criteria must always be checked against the precise treaty and statutory provision controlling a given case. [2]

Third, the competent public authority takes the relevant administrative decision and, where necessary, submits materials for judicial examination. Fourth, the court reviews the legal basis and conditions of transfer or recognition of a foreign judgment. The procedural configuration differs depending on whether Uzbekistan is receiving one of its citizens from abroad or transferring a foreign national out of its territory. During judicial consideration, access to legal assistance, interpretation where required, the opportunity to be heard and review of a decision are safeguards of practical importance. Fifth, after a decision becomes enforceable, the authorities responsible for sentence enforcement arrange the actual handover to the receiving State. [2]

Although this staged model improves conceptual clarity, each stage depends on information produced by other institutions. In particular, the current status of the sentence may change during consideration of a request. A process designed around a static dossier therefore risks treating information as current even after an early-release decision, a recalculation of the sentence or a change in the prisoner's legal situation.

A central procedural problem: transfer proceedings and early release: The interaction between transfer proceedings and conditional early release illustrates a structural coordination problem. The Penal Enforcement Code, as discussed in the source material, protects the rights of prisoners to receive information and submit applications, and addresses measures connected with serving a sentence. Chapter 66 of the Criminal Procedure Code, by contrast, establishes an international procedure requiring communication with another State. A transfer request may accordingly remain under consideration at the very moment when a person becomes eligible to seek early release or another legally permitted change in the enforcement of the sentence.

Consider a hypothetical situation. A foreign national serving a sentence in Uzbekistan submits a transfer request. The Prosecutor General's Office begins preparing the file and contacting the prospective receiving State. Before the authorities reach a final decision, the prisoner completes the portion of the sentence necessary to apply for conditional early release. A domestic court may then be asked to determine early release while a separate transfer procedure continues to advance. If early release is granted, the need or legal basis for transfer to serve the remaining custodial sentence may change. Conversely, if the international transfer is completed first, the prisoner's prospects of release may depend on the law and the decisions of the administering State.

The source chapter proposes a procedural mechanism for coordinating these two tracks, including possible temporary suspension of the consideration of certain sentence-enforcement benefits while transfer is being resolved. This proposal identifies a genuine question of legal certainty, but automatic suspension of an early-release application would itself require careful human-rights scrutiny. A person should not lose an otherwise available legal avenue merely because the administrative processing of a cross-border request is slow. Nor should a pending transfer be used to extend incarceration beyond the period lawfully justified by a sentence and applicable release provisions.

In our view, the more defensible solution is a statutory coordination rule rather than a categorical priority for either procedure. Upon the registration of a transfer request, the competent authorities should exchange information regarding any pending or foreseeable sentence-enforcement applications. A court assessing early release should be informed of the transfer proceedings; the authorities processing transfer should be notified without delay of any change in the prisoner's status. Where suspension is legally necessary, it should be narrowly defined, subject to a time limit and reasoned review, and should not remove access to a judicial remedy. This approach preserves the main insight of the source proposal avoiding contradictory decisions while preventing coordination from becoming a ground for unjustified restrictions.

Recognition and adaptation of foreign sentences: A second problem arises when an Uzbek court is asked to recognize a foreign criminal judgment and determine how the remaining sentence is to be enforced domestically. Differences between the sentencing systems of the two States may concern the type of penalty, its duration or the domestic legal classification of the conduct. It would be an error to assume that recognition always means mechanical reproduction of a foreign sentence without regard to the limits imposed by the receiving State's law and the applicable treaty.

The source chapter argues for a unified approach and proposes what it calls an "Assimilated Penalty Rule." Under that suggested framework, the reviewing court would identify the corresponding domestic offense and permissible sanction, avoid aggravating the sentenced person's position and state clearly how the remaining term is to be calculated. The source further proposes guidance from the Plenum of the Supreme Court to reduce variations in application. These are authorial proposals, not descriptions of a formally enacted institution.

We support the need for a transparent and reasoned method of adaptation. Yet a general rule that always reduces a foreign sentence to the domestic maximum must be formulated with reference to the particular international instrument governing the transfer, because treaties may distinguish between continued enforcement and conversion of a sentence. A well-designed provision should therefore specify the applicable procedure, the limits of judicial adaptation, credit for time already served, the prohibition of aggravating the person's legal situation to the extent provided by governing law, and a reasoned judicial determination open to appropriate review.

The theoretical importance of this proposal is not simply uniformity. Adaptation has direct consequences for foreseeability and legal certainty. A sentenced person considering transfer should be able to understand, before consenting, whether the sentence will remain unchanged

or may be adapted under the receiving State's law. Without this information, even a formally written statement of consent may fail to reflect a genuinely informed choice.

Voluntary consent and independent safeguards: The source chapter identifies voluntary consent as a core condition of the transfer mechanism and questions whether the institutional arrangements for verifying it are sufficiently developed. In prison conditions, a written statement alone does not necessarily demonstrate that an individual understood the consequences of transfer or acted free from coercion. Language difficulties, uncertainty about the future sentence and dependence on the penitentiary administration can affect the reality of consent.

The proposed institutional response is to involve the Commissioner of the Oliy Majlis for Human Rights (Ombudsman), or authorized independent representatives, in the verification process. The source envisages a confidential interview and an independent observation or confirmation of the consent procedure, supported by amendments to the Criminal Procedure Code and the legislation governing the Ombudsman. This is a reform proposal rather than a procedural duty shown to exist under current law.

In our assessment, the substance of this recommendation is persuasive if participation is designed to complement, rather than displace, access to counsel and judicial scrutiny. The verification record should confirm the person's understanding of the receiving State, the possible legal consequences for the sentence, the availability of interpretation and the absence of apparent pressure. Any independent official participating in the process must be given clearly limited powers and confidentiality obligations. A prisoner should also have a defined route for challenging consent obtained through pressure or material misinformation before transfer is executed.

Interagency information exchange and procedural accountability: A further theme of the source chapter concerns delays and fragmented exchange of documents between prosecutors, diplomatic institutions, courts and penitentiary authorities. The underlying chapter describes lengthy processing times and the limited integration of secure electronic systems. However, some supporting footnotes contain editorial placeholders instead of verified statistics or case records. Accordingly, the precise durations and the claimed frequency of such delays cannot responsibly be treated here as established empirical findings.

Even without a verified national dataset, the procedural problem can be stated more precisely: transfer proceedings are vulnerable when each authority maintains a separate dossier, when changes to the unserved term are not promptly communicated, or when the receiving State cannot determine whether a document is authentic and current. A proposed electronic cooperation mechanism could require standardized data fields, authenticated exchange between designated authorities, confirmation of receipt and auditable records of each procedural action.

Digitalization must not be understood as unrestricted sharing of criminal and medical records. Those records contain sensitive personal information and should be transmitted only where legally necessary, to identified competent authorities, with access restrictions and safeguards against unauthorized disclosure. Moreover, electronic communication should supplement—not eliminate—formal channels or original-document requirements wherever a treaty or domestic

rule specifically demands them. The appropriate reform is therefore a secure, legally authorized and interoperable workflow, rather than the mere substitution of electronic copies for paper.

Authorial position and proposed normative improvements: The analysis supports a model that may be described as coordinated rights-based transfer procedure. Its distinctive feature is the treatment of a transfer request as a changing legal process rather than a single file forwarded from one institution to another. The prisoner's legal status, consent, remaining sentence and access to domestic remedies must be reassessed at legally significant moments before the final handover.

First, Chapter 66 of the Criminal Procedure Code and the relevant sentence-enforcement provisions should be supplemented with an express rule requiring communication and coordination where transfer proceedings overlap with early-release or sentence-modification applications. The rule should identify the coordinating authority, specify notification duties and ensure that any stay affecting the individual's rights is justified, proportionate and subject to review. This refines the coordination proposal advanced in the source chapter.

Second, the procedures for recognizing and adapting foreign criminal judgments should be standardized through appropriate legislation and judicial guidance. The proposed "Assimilated Penalty Rule" should operate only within the parameters of the applicable transfer treaty and should provide a reasoned calculation of the remaining sentence, transparency concerning domestic sentencing limits and meaningful opportunities for review.

Third, independent verification of informed and voluntary consent should be strengthened. Legislative provisions could establish the conditions under which an Ombudsman representative or another independent participant may conduct a confidential interview and document potential indications of pressure. Such a mechanism should function alongside legal representation and judicial oversight.

Fourth, competent authorities should adopt a secure interagency information-exchange protocol. Procedural milestones, changes in sentence status, decisions affecting release and the status of the receiving State's response should be recorded and communicated to the institutions concerned. Any such system requires a clear legal basis, strict access controls and safeguards for sensitive records.

Conclusion:

The incorporation of Chapter 66 into Uzbekistan's Criminal Procedure Code marks a significant development in the domestic regulation of transfers of sentenced persons for continued enforcement of imprisonment sentences. It places the main procedural framework within codified law and clarifies the participation of prosecutorial, judicial and executive authorities. Nonetheless, formal codification cannot by itself resolve difficulties arising from the intersection of transfer proceedings with ordinary sentence enforcement.

The principal issue identified in this study is coordination: a pending international transfer must not make a sentenced person's domestic legal position uncertain or remove access to lawful release procedures. A statutory notification and coordination mechanism, an appropriately treaty-sensitive method of adapting foreign sentences, independent safeguards for informed consent and secure institutional information exchange offer a coherent direction for reform.

Such measures would pursue administrative efficiency without treating procedural rights as an obstacle to cooperation. The proposed solutions remain normative recommendations requiring further examination against the exact provisions of applicable treaties, the full current text of national legislation and documented judicial practice.

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