

## International prisoner transfers to and from Mexico

### I. International cooperation program

This legal agreement enables the transfer of prisoners who have been convicted and are serving sentences for crimes in another country **to serve out the rest of the sentence in their home country**. This is done at the express and voluntary request of the interested party, with subsequent authorization from the transferring and receiving governments.

The transfer decision is made at the discretion of the Mexican and foreign governments. Submitting all of the required documentation does not mean that the request will necessarily be approved.

### II. Constitutional basis

Paragraph 7 of Article 18 of the Mexican Constitution says:

*"(...) Mexicans serving sentences in foreign countries may be transferred to Mexico to serve their sentences according to the rehabilitation systems provided for in this article. Foreigners who are serving sentences for federal or common law crimes may be transferred to their countries in accordance with the corresponding international treaty. Transfers can only be done with the express consent of the prisoner."*

Currently, Mexico has signed **16 bilateral and 3 multilateral prisoner transfer treaties**. In order to comply with Mexico's commitments under these treaties, the following procedures must be followed for the transfer to proceed.

### III. Transfer request procedure:

- The prisoner must declare to the prison authorities where (s)he is serving the sentence that (s)he wishes to avail himself/herself of the transfer permitted by the corresponding international treaty.
- The legal counsel appointed by the prison, the consulate or, in the absence thereof, the authorities of the country in which (s)he is serving the sentence, help the prisoner obtain the documentation required by the treaty. This is sent to the authority empowered to decide on the transfer.





- The authority in charge of administering the program in the sentencing country reviews the transfer request and notifies the prisoner and the embassy or consulate of the prisoner's home country of its approval or refusal.
- The embassy verifies the documentation and, if the request has been approved, prepares the file to be sent to the prisoner's home country. For Mexicans, the Foreign Ministry receives the file from Mexico's embassies or consulates abroad and sends it to the Attorney General's Office to be sent on to the area of the Security Ministry responsible for prevention and social rehabilitation, which evaluates whether or not the transfer to Mexico is appropriate.
- In the case of Mexican citizens, the Mexican embassy or consulate accredited in the country in which they are serving their sentence is informed of the list of prisoners approved by the Mexican Government. The foreign authority is then notified, as is the consulate in the region where the Mexican is imprisoned.
- If the transfer request is not approved under the guidelines of the treaty, the Consulate is informed, and the Mexican citizen is notified. The prisoner can request a transfer again, within the time periods established in the corresponding international treaty.

The Mexican consulate is also able to assist Mexican citizens with the transfer process, which **does not require the prisoner to hire a lawyer**, since all communications are conducted between government authorities.

