

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Group: 3

Program: 1.2

Question No. SBE15/056

Senator Leyonhjelm asked the following question at the hearing on 20 October 2015:

1. What are the benefits and costs, if any, to Australia from: a country signing or acceding to the Council of Europe Convention on the Transfer of Sentenced Persons; or having an international transfer of prisoners treaty with the country?
2. What are the benefits and costs, if any, to Australia, from: Taiwan signing or acceding to the Council of Europe Convention on the Transfer of Sentenced Persons; or having an international transfer of prisoners treaty with Taiwan?
3. Is Taiwan permitted to sign or accede to the Council of Europe Convention on the Transfer of Sentenced Persons?
 - a. If not, what can the Government do to extend such permission to Taiwan?
 - b. Has the Government done this?
 - c. Will the Government do this? If not, why not?
4. Has the Government sought an international transfer of prisoners treaty with Taiwan?
 - a. If so, in what way?
 - b. If not, will the Government do so? If not, why not?

The answer to the honourable senator's question is as follows:

1. Australia is able to undertake prisoner transfers with over sixty countries through the *Council of Europe Convention on the Transfer of Sentenced Persons* (CoE Convention) and a number of bilateral treaties. Australia has participated in the International Transfer of Prisoners (ITP) scheme since 2002. The scheme allows prisoners serving a sentence of imprisonment in a foreign country to apply to transfer to their home country to serve the remainder of their sentence.

The ITP scheme is a humanitarian scheme which promotes the successful rehabilitation and reintegration into society of the prisoner, while preserving the sentence imposed by the sentencing country as far as possible. The scheme contributes to community safety by ensuring that prisoners' convictions are recorded in their home country and that their reintegration into that country's community is able to be appropriately supported, monitored and supervised.

Under the CoE Convention and Australia's bilateral ITP treaties, the receiving country bears the cost of transferring the prisoner and the continued enforcement of the sentence after transfer. Countries are permitted to recover all or part of the cost of transfer from the prisoner.

2. See response to question 1.
3. This is a matter for the Council of Europe and Taiwan.

4. Australia's longstanding policy is to keep details of bilateral treaty negotiations and discussions confidential between the parties, in accordance with international practice.

By way of general information, whether Australia engages in any treaty negotiation with a particular country is a matter for the Government. A wide range of factors would be considered, including the benefits to Australia in entering into such a treaty.