

No. 20442

**MEXICO
and
PANAMA**

**Treaty on the execution of penal sentences. Signed at Mexico
City on 17 August 1979**

Authentic text: Spanish.

Registered by Mexico on 28 October 1981.

**MEXIQUE
et
PANAMA**

**Traité relatif à l'exécution des condamnations pénales. Signé
à Mexico le 17 août 1979**

Texte authentique : espagnol.

Enregistré par le Mexique le 28 octobre 1981.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE UNITED MEXICAN STATES AND THE REPUBLIC OF PANAMA ON THE EXECUTION OF PENAL SENTENCES

Whereas the United Mexican States and the Republic of Panama agree on the need to co-operate mutually in order to fight crime in so far as its impact extends beyond their frontiers and, at the same time, to promote the social rehabilitation of prisoners, they have decided to conclude a Treaty on the execution of penal sentences and, to that end, have designated as their plenipotentiaries:

The President of the United Mexican States: Mr. Alfonso de Rosenzweig Díaz, Under-Secretary for Foreign Affairs, and

The President of the Republic of Panama: Dr. Juan Manuel Castulovich, Deputy Minister for Foreign Affairs,

who have agreed on the following:

Article I. 1. Sentences imposed in the United Mexican States on nationals of the Republic of Panama may be served in penal establishments of the Republic of Panama or under the supervision of its authorities in accordance with the provisions of this Treaty.

2. Sentences imposed in the Republic of Panama on nationals of the United Mexican States may be served in penal establishments of the United Mexican States or under the supervision of its authorities in accordance with the provisions of this Treaty.

Article II. For the purpose of this Treaty,

1. "Sending State" means the Party from which the offender is to be transferred.
2. "Receiving State" means the Party to which the offender is to be transferred.
3. "Offender" means a person who, in the territory of one of the Parties, has been convicted of a crime and sentenced either to imprisonment or to a term of probation, parole, conditional release or any other form of supervision without confinement.
4. A "domiciliary" means a person who has been present in the territory of one of the Parties for at least five years with an intent to remain permanently therein.

Article III. The application of this Treaty shall only be subject to the following conditions:

- (1) That the offence for which the offender was convicted and sentenced is one which would also be punishable as a crime in the Receiving State;
- (2) That the offender is a national of the Receiving State;
- (3) That the offence is not of a political or exclusively military nature;
- (4) That the offender is not a domiciliary of the Sending State;
- (5) That at least six months of the offender's sentence remain to be served at the time of the application for transfer;
- (6) That no proceeding by way of appeal or of collateral attack upon the offender's conviction or sentence is pending in the Sending State and that the prescribed time for appeal of the offender's conviction or sentence has expired.

¹ Came into force on 11 July 1980, i.e., 30 days after the date of the exchange of instruments of ratification, which took place at Panama City on 11 June 1980, in accordance with article XII (1).

Article IV. Each State shall designate an Authority to perform the functions provided in this Treaty.

Article V. 1. Every transfer under the Treaty shall be commenced by the Authority of the Sending State. Nothing in this Treaty shall prevent an offender from submitting a petition to the Sending State to be considered for transfer.

2. In the event that offenders sentenced by courts of the Federal District or of the States of the United Mexican States are at issue, the Authority shall initiate the procedure only at the request of the competent local Authority.

3. If the Authority of the Sending State finds the transfer of an offender appropriate, and if the offender gives his express consent for his transfer, it will transmit an application, through the diplomatic channel, to the Authority of the Receiving State.

4. If the Authority of the Receiving State concurs, it will so inform the Sending State and initiate procedures to effect the transfer of the offender. If it does not concur, it will promptly advise the Authority of the Sending State.

5. In deciding upon the transfer of an offender, the Authority of each Party shall bear in mind all factors bearing upon the probability that the transfer will contribute to the social rehabilitation of the offender, including the nature and severity of his offense and his previous criminal record, if any, his medical condition, the strength of his connections by residence, presence in the territory, family relations and otherwise to the social life of the Sending State and the Receiving State.

6. The Sending State shall furnish the Receiving State a statement showing the offence of which the offender was convicted, the duration of the sentence, the length of time already served by the prisoner and any credits to which the offender is entitled, such as, but not limited to, work done, good behaviour or pre-trial confinement. Such statement shall be duly authenticated. The Sending State shall also furnish additional information that might be useful to the Authority of the Receiving State in determining the treatment of the offender with a view to his social rehabilitation.

7. If the Receiving State considers that the documents supplied by the Sending State do not enable it to implement this Treaty, it may request additional information.

8. Delivery of the offender by the Authorities of the Sending State to those of the Receiving State shall occur at a place agreed upon by both Parties.

9. The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the completion of the offender's sentence.

Article VI. 1. An offender, delivered for execution of a sentence under this Treaty, may not be detained, tried or sentenced in the Receiving State for the same offence upon which the sentence to be executed is based.

2. Except as otherwise provided in this Treaty, the completion of a transferred offender's sentence shall be carried out according to the laws and procedures of the Receiving State, including the application of any provisions for reduction of the term of confinement by parole, conditional release or otherwise. The Sending State shall, however, retain its power to pardon or grant amnesty to the offender and the Receiving State shall, upon being advised of such pardon or amnesty, release the offender.

3. No sentence of confinement shall be enforced by the Receiving State in such a way as to extend its duration beyond the period of confinement imposed by the sentence of the court of the Sending State.

4. The Authorities of either of the Parties may solicit reports on the status of confinement of any offender transferred under this Treaty, including, in particular, parole or release. Either of the Parties may, at any time, solicit a special report on the status of execution of a particular sentence.

Article VII. The Sending State shall have exclusive jurisdiction over any proceedings, regardless of their form, intended to challenge, modify or set aside sentences handed down by its courts. The Receiving State shall, upon being advised by the Sending State of action affecting the sentence, take the appropriate action in accordance with such advice.

Article VIII. 1. This Treaty may also be applicable to persons subject to supervision or other measures under the laws of one of the Parties relating to youthful offenders. The Parties shall, in accordance with their laws, agree to the type of treatment to be accorded such individuals upon transfer. Consent for the transfer shall be obtained from the legally authorized person.

2. Nothing in this Treaty shall be interpreted to limit the ability which the Parties may have, independent of the present Treaty, to grant or accept the transfer of youthful or other offenders.

3. The consent of the offender, or in the case of minors, of their legal representative, must be given voluntarily and with full knowledge of the legal consequences of the transfer. Prior to the transfer, the Sending State shall give the Receiving State the opportunity to verify, through an official appointed in accordance with the laws of the Receiving State, whether consent for the transfer has been given voluntarily.

Article IX. By special agreement between the Parties, persons accused of an offence, who are suffering from a confirmed physical or mental illness, may be transferred in order to receive treatment in institutions of the country of their nationality.

Article X. If either of the Parties concludes an agreement with any other State on the execution of penal sentences, the other Party shall extend its co-operation by facilitating the transit through its territory of offenders being transferred under such an agreement. The Party which plans to carry out such a transfer shall give prior notice to the other Party.

Article XI. Each of the Parties shall take the requisite legislative measures and, where appropriate, shall establish suitable procedures so that, for the purposes of this Treaty, the sentences handed down by the courts of the other Party have legal effect in its territory.

Article XII. 1. This Treaty is subject to ratification and shall enter into force 30 days after the date of the exchange of the instruments of ratification. The exchange of the instruments of ratification shall take place in Panama City.

2. This Treaty shall remain in force for five years from the date of the exchange of the instruments of ratification, and shall be automatically extended for additional five-year periods, unless either of the Parties informs the other of its intention to terminate it at least six months prior to its original expiry or before the expiry of any additional five-year period.

IN WITNESS WHEREOF the duly appointed plenipotentiaries have signed this Treaty in two original copies in the Spanish language, both texts being equally authentic, at Mexico City on 17 August 1979.

For the United Mexican States:

[Signed]

ALFONSO DE ROSENZWEIG DÍAZ
Under-Secretary for Foreign Affairs

For the Republic of Panama:

[Signed]

Dr. JUAN MANUEL CASTULOVICH
Deputy Minister for Foreign Affairs