

# CONVENTION<sup>1</sup> BETWEEN THE REPUBLIC OF FRANCE AND THE UNITED STATES OF AMERICA ON THE TRANSFER OF SENTENCED PERSONS

The Government of the Republic of France and the Government of the United States of America,

Desiring to enable persons under sentence, with their consent, to serve their sentences of deprivation of liberty in the country of which they are nationals in such a way as to facilitate their reintegration into society,

Have resolved to conclude the present Convention.

## CHAPTER I. BASIC PRINCIPLES

*Article 1.* For the purposes of this Convention:

(a) The expression "Sentencing State" means the State in which the offender has been sentenced and from which he is being transferred.

(b) The expression "Administering State" means the State to which the sentenced person is being transferred to serve his sentence.

(c) The term "sentenced person" means any person who has been sentenced by a court of law in the territory of either State and required to serve, in confinement, a sentence involving deprivation of liberty.

*Article 2.* The application of this Convention is subject to the following conditions:

(a) The offense which leads to a request for transfer would be punishable as a crime under the law of both States;

(b) The sentenced person is a national of the country to which he is to be transferred;

(c) The sentenced person gives his consent;

(d) The sentence referred to in Article 1 is a final and enforceable one; and

(e) At the time of the request for transfer the sentenced person has left to serve a period of at least one year.

*Article 3.* This Convention shall not apply when the offense for which the offender has been sentenced is a purely military offense.

*Article 4.* The transfer of a sentenced person shall be refused:

(a) If the sentence leading to the request is based on facts that have formed the object of a final judgment in the Administering State;

(b) If enforcement of the sentence is barred by limitation under the law of either State.

<sup>1</sup> Came into force on 1 February 1985, i.e., the first day of the second month following the date of the exchange of the notifications (which took place at Paris on 31 January 1984 and 5 December 1984) by which the Contracting Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 21 (2).

*Article 5.* The transfer may be refused:

- (a) If the transfer is considered by the Sentencing State or the Administering State to be such as to jeopardize its sovereignty, its security, its public policy, the basic principles relating to the organization of criminal jurisdiction under its legal system or any other of its essential interests;
- (b) If the competent authorities of the Administering State have decided to abandon, or not to initiate, proceedings based on the same facts;
- (c) If the facts upon which the conviction is based are also the object of proceedings in the Administering State;
- (d) If the sentenced person has not paid any sums, fines, court costs, damages or any other pecuniary penalties imposed upon him by the judgment.

*Article 6.* 1. The Sentencing State shall inform the Administering State without delay of any decision or action taken in its territory which terminates the right of enforcement.

2. The competent authorities of the Administering State shall terminate administration upon being informed of any decision or action as a result of which the sentence ceases to be enforceable.

*Article 7.* The Sentencing State has the sole right to decide on any action for review of the conviction or sentence.

*Article 8.* The Sentencing State shall inform sentenced persons of the possibilities open to them under this Convention.

## CHAPTER II. ADMINISTRATION OF SENTENCES INVOLVING DEPRIVATION OF LIBERTY

*Article 9.* 1. The sentence imposed by the Sentencing State shall be directly enforceable in the Administering State.

2. The enforcement of the sentence in the Administering State shall be in accordance with the law of that State.

3. If need be under the law, the Administering State may substitute for the penalty imposed by the Sentencing State the penalty or measure provided by its own law for a similar offense. The nature of this penalty or measure shall correspond insofar as possible to that imposed in the sentence to be enforced. The sentence may not aggravate by its nature or duration the penalty imposed by the Sentencing State nor exceed the maximum prescribed by the law of the Administering State.

4. The Administering State alone is competent to take with respect to the sentenced person decisions on the manner of the execution of the sentence, including decisions on the length of the period of incarceration. However, it shall take account of any information furnished by the Sentencing State pursuant to Article 13 of this Convention.

*Article 10.* The costs of transfer and detention subsequent to transfer are the responsibility of the Administering State.

## CHAPTER III. PROCEDURE

*Article 11.* A transfer request may be submitted by:

- (a) The person under sentence himself, who submits a request to this effect to one of the States;
- (b) The Sentencing State; or
- (c) The Administering State.

*Article 12.* 1. Every request shall be in writing. It shall indicate the identity of the sentenced person and his address in both the Sentencing State and the Administering State.

2. The request shall be completed prior to transfer by a statement taken by a consul of the Administering State acknowledging that the sentenced person's consent was given voluntarily and with full knowledge of the consequences of the transfer.

*Article 13.* 1. The Sentencing State shall send the Administering State the original or a certified copy of the judgment convicting the offender. It shall certify the enforceability of the judgment, and it shall make as clear as possible the circumstances of the offence, the time and place it was committed and its designation in law.

2. The Sentencing State shall provide full information about the length of the sentence remaining to be served, about the periods spent in pre-trial and post-trial custody, as well as remissions of sentence granted or earned.

*Article 14.* The request shall be addressed to the French Ministry of Justice, if the requesting State is the United States of America, and to the Department of Justice of the United States of America, if the requesting State is France.

*Article 15.* If one of the States deems the information provided by the other to be insufficient to allow it to implement this Convention, it shall request the supplementary information required for this purpose.

*Article 16.* Either State shall furnish to the other State upon request at any time a complete report on the status of the execution of the penalty of the sentenced person transferred under this Convention.

*Article 17.* All documents produced by either State in accordance with this Convention may be in French or in English.

*Article 18.* Documents transmitted by one Contracting State to the other in connection with the application of this Convention shall require no further certification, authentication or other legalization to be admissible in any proceeding relating to the application of the Convention in the State receiving such documents.

*Article 19.* Costs of administration incurred in the Administering State shall not be reimbursed.

*Article 20.* 1. Both States shall cooperate in facilitating the transit through their territory of sentenced persons transferred from a third State.

2. The transit shall be subject to the conditions established for transfer by Articles 2(a), (b), (d) and (e), 3 and 4 of this Convention. Its duration shall not exceed 24 hours. The State which intends to carry out such a transit shall give advance notice to the other State together with all necessary information. No

notice shall be required if transport is by air over the territory of the other State and no landing there is scheduled.

#### CHAPTER IV. FINAL PROVISIONS

*Article 21.* 1. Each of the Contracting Parties shall notify the other upon the completion of the constitutional procedures required to allow this Convention to come into force. Notification of the completion of these procedures shall be exchanged as soon as possible at Paris.

2. This Convention shall come into force on the first day of the second month after the day such exchange is effected.

3. Each of the Contracting Parties may terminate this Convention at any time by sending the other, through diplomatic channels, written notice of termination. In this case, termination shall take effect one year after the date the said notice is received.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention and hereunto affixed their seals.

DONE in duplicate at Washington in the French and English languages, both equally authentic, this twenty-fifth day of January, 1983.

For the Government  
of the Republic of France:

[Signed]<sup>1</sup>

For the Government  
of the United States of America:

[Signed]<sup>2</sup>

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<sup>1</sup> Signed by Robert Badinter.

<sup>2</sup> Signed by William Freinth Smith.