

No. 24224

**MEXICO
and
BOLIVIA**

**Treaty on the execution of penal sentences. Signed at La Paz
on 9 December 1985**

Authentic text: Spanish.

Registered by Mexico 11 June 1986.

**MEXIQUE
et
BOLIVIE**

**Traité sur l'exécution des sentences pénales. Signé à La Paz
le 9 décembre 1985**

Texte authentique : espagnol.

Enregistré par le Mexique le 11 juin 1986.

[TRANSLATION — TRADUCTION]

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

The United Mexican States and the Republic of Bolivia,

Desiring to strengthen their ties of co-operation in the administration of justice, and

Bearing in mind that this co-operation reflects the desire of both Governments to make the social rehabilitation of those who have broken the basic rules of society more effective by allowing it to take place in the country of which they are nationals,

Have agreed as follows:

Article I. Sentences imposed in the United Mexican States on nationals of the Republic of Bolivia may be served in penal institutions of Bolivia, or under the supervision of the authorities thereof, in accordance with the provisions of this Treaty.

Sentences imposed in the Republic of Bolivia on nationals of the United Mexican States may be served in penal institutions of the United Mexican States, or under the supervision of the authorities thereof, in accordance with the provisions of this Treaty.

Article II. For the purposes of this Treaty:

(1) “Transferring 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 conditional release or other form of supervision without confinement.

(4) “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. This Treaty shall apply only under the following conditions:

- (1) That the offence for which the offender was convicted and sentenced is one which would also be punishable in the Receiving State “even though not characterized in identical terms by the laws of both States”;
- (2) That the offender is a national of the Receiving State and is not a domiciliary of the Transferring State;

¹ Came into force on 10 April 1986 by the exchange of the instruments of ratification, which took place at Mexico City, in accordance with article X (1).

- (3) That the offender has not been sentenced to the death penalty, that the offence is not an offence subject to military law and that the Receiving State shall not try the offender once transferred, for previous acts which constitute political offences;
- (4) That the part of the offender's sentence remaining to be served at the time of the petition referred to in article V is at least six months;
- (5) That the sentence is final, that no proceeding by way of appeal or collateral attack is pending in the Transferring State and that the prescribed time for appeal of the conviction or sentence has expired when this Treaty is invoked;
- (6) That any provisions of the sentence other than deprivation of liberty have been satisfied.

Article IV. The Parties shall designate authorities to perform the functions provided in this Treaty.

Article V. 1. Each Party shall explain the substance of the present Treaty to any offender who is within the Treaty's scope.

2. Every transfer of offenders shall be initiated by the authority of the Transferring State. Nothing in this Treaty shall prevent an offender from submitting a petition to the Transferring State for the consideration of his transfer.

3. If the Authority of the Transferring State finds the transfer of an offender appropriate, and if the offender gives his express consent for his transfer, the authority shall transmit a request for transfer, through the diplomatic channel, to the authority of the Receiving State. The decision of the Receiving State concerning the request shall be communicated without delay to the Transferring State, through the diplomatic channel, so that, once the domestic formalities have been completed, the transfer of the offender may be effected at a mutually agreed location.

4. From the moment it receives the offender, the Receiving State shall be responsible for his custody and his conveyance to the prison or place where he is to serve his sentence in its territory; it must on each occasion request the necessary co-operation of third countries for transit through their territories.

5. In determining whether to transfer an offender, and bearing in mind that such transfer should contribute effectively to his social rehabilitation, the authority of each Party shall consider such factors as the nature and severity of the offence, any previous criminal record of the offender, his medical condition and any ties he may have with the social life of the Transferring State and the Receiving State.

6. If a Bolivian offender was sentenced by a state of the United Mexican States, the approval of both the authorities of that state and the federal authorities shall be required.

7. The Transferring State shall furnish the Receiving State with 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. The Transferring State shall also furnish the Receiving State with a certified copy of the sentence handed down by the competent judicial authority and any modifications thereof. It shall also furnish addi-

tional 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.

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

9. The Transferring State shall permit the Receiving State, if the latter so desires, to verify, prior to the transfer, that the offender's consent to the transfer is given voluntarily and with full knowledge of the legal consequences thereof, through the officer designated by the laws of the Receiving State.

10. The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the custody and transfer of the offender or in the completion of his 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 imposed in the Transferring State 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 Transferring 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 Transferring State. At the request of the Transferring State, the Receiving State shall provide a report on the execution of the sentence, including information on parole or release.

4. The fact that an offender has been transferred under the provisions of this Treaty shall not cause any additional prejudice to his civil rights in the Receiving State beyond that which the fact of his conviction in the Transferring State causes under the laws of the Receiving State.

Article VII. The Transferring 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. Consequently, the Receiving State shall have no jurisdiction over such proceedings. The Receiving State shall, upon being advised by the Transferring State of action affecting the sentence, take the appropriate action in accordance with such advice.

Article VIII. 1. This Treaty shall 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 this Treaty, to grant or accept the transfer of youthful or other offenders.

Article IX. In order to carry out the provisions of this Treaty, each of the signatory Parties shall adopt the requisite legislative measures and shall establish suitable procedures to give legal effect within their respective territories to the sentences imposed.

Article X. 1. This Treaty is subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged.

2. The exchange of instruments of ratification shall take place at Mexico City, D.F.

3. This Treaty shall remain in force for three years and shall be renewed automatically for additional periods of three years unless one of the Parties gives written notice to the other of its intention to terminate the Treaty at least six months prior to the expiration of any three-year period.

DONE at La Paz, Bolivia, on 9 December 1985 in duplicate in the Spanish language, both texts being equally authentic.

For the United Mexican
States:

[Signed]

RICARDO GALÁN
Ambassador

For the Republic
of Bolivia:

[Signed]

VALENTÍN ABECIA
Minister for Foreign Affairs
and Worship