

No. 24879

**CANADA
and
FRANCE**

Agreement on the transfer of inmates and the supervision of persons under sentence. Signed at Ottawa on 9 February 1979

Authentic texts: English and French.

Registered by Canada on 16 July 1987.

**CANADA
et
FRANCE**

Accord sur le transfèrement des détenus et sur la surveillance de certains condamnés. Signé à Ottawa le 9 février 1979

Textes authentiques : anglais et français.

Enregistré par le Canada le 16 juillet 1987.

AGREEMENT¹ BETWEEN CANADA AND FRANCE ON THE TRANSFER OF INMATES AND THE SUPERVISION OF PER- SONS UNDER SENTENCE

The Government of Canada and the Government of the French Republic,

Desiring to enable persons under sentence, with their consent, to serve their sentence of deprivation of liberty, to benefit from parole or to be under supervision in the country of which they are nationals, in such a way as to favour their reintegration into society,

Have resolved to conclude the present Agreement, which provides, on the one hand, for the transfer of inmates, and on the other hand, for the supervision of persons under sentence.

CHAPTER I. BASIC PRINCIPLES

Article I. For the purpose of this Agreement:

(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 person under sentence is being transferred to serve his sentence;

(c) The term "national" means for France, French nationals, and for Canada, Canadian citizens;

(d) The term "person under sentence" means any person who has been sentenced by a Court of Law in the territory of either Party and who falls into one of the two following categories:

1. A person required to serve, in confinement, a sentence of deprivation of liberty, which is being administered.
2. A person who is subject to obligations and measures of supervision, control and assistance resulting:
 - In the case of France, from a sentence of deprivation of liberty the execution of which has been conditionally suspended by the State, especially one being administered under a system of parole; or from a suspended sentence of deprivation of liberty, especially one with probation;
 - In the case of Canada, from a judgement ordering probation, from the granting of parole or other forms of supervision.

Article II. The application of this Agreement is subject to the following conditions:

(a) The offence which leads to a request under Chapters 2 and 3 of this Agreement is in violation of the law of both Parties;

¹ Came into force on 1 October 1984, i.e., the first day of the second month following the date on which the Contracting Parties had exchanged notifications at Paris confirming the completion of the required constitutional procedures, in accordance with article XXXII (2).

(b) The judicial decision referred to in Article I is a final and enforceable decision;

(c) The person under sentence is a national of the country to which he is to be transferred;

(d) The person under sentence gives his consent.

Article III. This Agreement shall not apply when the offence for which the offender has been sentenced is:

(a) A violation of the laws governing immigration;

(b) A purely military offence.

Article IV. The transfer of the person under sentence or the administration of measures of control, supervision and assistance shall be refused:

(a) If the transfer of the administration of measures of control, supervision and assistance is considered by the Sentencing State to be such as to jeopardize its sovereignty, its security, the basic principles of its judicial system or any other of its essential interests;

(b) If the judicial decision leading to the request is based on facts that have formed the object of a final judgement in the Administering State;

(c) If the penalty is barred by limitation under the law of either Party.

Article V. The transfer, or the administration of the measures of control, supervision and assistance may be refused:

(a) If the competent authorities of the Administering State have decided to abandon, or not to initiate, proceedings based on the same facts;

(b) If the facts justifying the conviction are also the object of proceedings in the Administering State;

(c) If the person under sentence has not paid any sums, fines, court costs, damages or any other pecuniary penalties imposed upon him;

(d) If the offender has been granted amnesty or a pardon in either the Administering State or the Sentencing State.

Article VI. When a penalty imposed by Canada is unknown in French law, or when it is imposed under different conditions, France shall substitute for this penalty, whenever appropriate, that penalty or measure provided in its own law for a similar violation. France shall inform Canada of this before the transfer request is accepted. This penalty or measure shall correspond in nature, as far as possible, to that imposed by the judgement that is to be executed, and it shall not exceed the maximum provided in French law or increase in nature or in duration the penalty imposed in Canada.

Article VII. 1. The competent authorities of the Administering State shall terminate administration upon being informed of a pardon, amnesty or any other decision as a result of which the penalty ceases to be enforceable.

2. The Sentencing State shall inform the Administering State without delay of any decision or procedure made in its territory which terminates the right of execution in accordance with the preceding paragraph.

Article VIII. The Sentencing State has the sole right to decide on any action for review of the sentence.

Article IX. The right to pardon and to amnesty belongs to both States.

Article X. 1. When a suspended sentence of deprivation of liberty is handed down, or the person under sentence is granted a conditional suspension of the execution of his sentence, the Administering State shall have competence to revoke such suspension. If revocation is pronounced, the Administering State shall implement the decision it has made.

2. When a Canadian judgement ordering probation is to be executed in France, and the offender does not fulfil the required obligations, and if this violation does not constitute a breach of French law, the Canadian judgement ordering probation shall be considered equivalent to postponement of sentencing and the French court shall be able to impose the penalty provided by the French law for the offence that was initially committed.

Article XI. The administration of deprivation of liberty and of measures of supervision of persons under sentence is subject to the law of the Administering State, under the conditions provided in the following Articles.

Article XII. Each Sentencing State shall inform inmates of the possibilities open to them under this Agreement.

CHAPTER 2. ADMINISTRATION OF SENTENCES OF DEPRIVATION OF LIBERTY THAT ARE BEING SERVED IN CONFINEMENT

Article XIII. The person incarcerated under sentence shall, at the time he requests a transfer, have at least one year of his sentence left to serve.

Article XIV. 1. The administration of a sentence of deprivation of liberty as defined in Article I (d) 1 is subject to the law of the Administering State.

2. The Administering State has sole competence to make decisions about the person incarcerated under sentence regarding conditional suspension or remission of sentence, and more generally to determine the way the sentence shall be served.

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

CHAPTER 3. ADMINISTRATION OF SUSPENDED SENTENCES OF DEPRIVATION OF LIBERTY, OR OF SENTENCES WHOSE EXECUTION HAS BEEN CONDITIONALLY SUSPENDED BY THE SENTENCING STATE

Article XVI. The person under sentence shall, at the time he requests a transfer, have at least one year of his sentence left to serve.

Article XVII. The Administering State, subject to the conditions provided in the following Articles, has the sole competence to administer a sentence of restricted liberty as defined in Article I (d) (2).

Article XVIII. 1. The Sentencing State shall inform the Administering State of the conditions imposed on the person under sentence, and, if applicable, the measures of supervision to which he is required to conform during his period of probation.

2. France shall, if need be, apply the provisions of Article VI.

Article XIX. If the person under sentence is the subject of a revocation of either a suspension of execution or a suspended sentence, the Administering State shall so inform the Sentencing State.

Article XX. Upon expiry of the period of control, supervision and assistance, the Administering State shall provide the Sentencing State with a succinct account of the administration of the sentence.

Article XXI. 1. The Sentencing State has the sole competence regarding the consequences that may result, under its law, from the administration of the sentence in the Administering State.

2. It shall inform the Administering State of its decision.

Article XXII. Travel costs between the Sentencing State and the Administering State shall be the responsibility of the person under sentence, unless the Administering State assumes them.

CHAPTER 4. PROCEDURE

Article XXIII. A transfer request may be submitted by:

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

Article XXIV. The consent of the person under sentence shall be in writing, and it shall be appended to the request provided for in the following Article.

Article XXV. All requests shall be in writing, and shall indicate:

- (a) The authority from which they come;
- (b) The object of the request;
- (c) The identity of the person under sentence and his address in both the Sentencing State and the Administering State.

Article XXVI. 1. The Sentencing State shall send the Administering State the original or a certified copy of the judgement convicting the offender. It shall certify the enforceability of the judgement or of the measures of supervision ordered, as the case may be, and it shall make as clear as possible the circumstances of the offence, the time and place it was committed as well as its designation in law.

2. In the case where the person under sentence is confined, 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. In the case of a request that measures of supervision be applied, it shall provide full information about their nature and duration, as well as the necessary information about the personality of the person under sentence and his behaviour in the Sentencing State subsequent to and, if possible, prior to, his conviction.

Article XXVII. The request shall be addressed to the French Ministry of Justice, if the requesting State is Canada, and to the Department of the Solicitor General of Canada, if the requesting State is France.

Article XXVIII. If one of the Parties deems the information provided by the other to be insufficient to allow it to implement this Agreement, it shall request the supplementary information required for this purpose.

Article XXIX. All documents produced by either State in accordance with this Agreement may be in French or in English.

Article XXX. Documents transmitted in application of this Agreement shall be exempt from any authentication requirements.

Article XXXI. Cost of administration or supervision incurred in the Administering State shall not be reimbursed.

CHAPTER 5. OTHER PROVISIONS

Article XXXII. 1. Each of the Contracting Parties shall notify the other upon completion of the procedures required by its constitution to allow this Agreement to come into force. Notification of the completion of these procedures shall be exchanged as soon as possible in Paris.

2. This Agreement 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 Agreement 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.

[For the testimonium and signatures, see p. 188 of this volume.]

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in two copies at Ottawa this 9th day of February 1979, in the English and French languages, each text being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé le présent Accord.

FAIT en deux exemplaires à Ottawa ce 9^e jour de février 1979, en français et en anglais, chaque texte faisant également foi.

JEAN-JACQUES BLAIS
For the Government of Canada
Pour le Gouvernement du Canada
[Signed — Signé]

OLIVIER STIRN
For the Government of the French Republic
Pour le Gouvernement de la République Française
[Signed — Signé]