

No. 25661

**FRANCE
and
MOROCCO**

Convention on assistance to detained persons and the transfer of persons under sentence. Signed at Rabat on 10 August 1981

Authentic texts: French and Arabic.

Registered by France on 23 February 1988.

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et
MAROC**

Convention sur l'assistance aux personnes détenues et sur le transfèrement des condamnés. Signée à Rabat le 10 août 1981

Textes authentiques : français et arabe.

Enregistrée par la France le 23 février 1988.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO ON ASSISTANCE TO DETAINED PERSONS AND THE TRANSFER OF PERSONS UNDER SENTENCE

The Government of the French Republic and
The Government of the Kingdom of Morocco,

Seeking to increase assistance to their nationals who are detained in one of the two States,

Desiring to enable persons under sentence to serve their sentence of deprivation of liberty in the country of which they are nationals in order to facilitate their reintegration into society,

Have agreed as follows:

SECTION I. CONSULAR ASSISTANCE TO DETAINED PERSONS*Article 1*

Unless the person concerned is expressly opposed, the competent authorities of each State shall directly inform the competent consul of the arrest, imprisonment or any other detention of a national of the other State and of the charges against him and the legal provisions on which the prosecution is based. This information must be provided as soon as possible and, at the latest, within six days from the date on which the national has been arrested, imprisoned or otherwise detained.

Unless the person concerned is expressly opposed, the consul shall be entitled to visit any one of his nationals who has been arrested, imprisoned or otherwise detained or who is serving a sentence of deprivation of liberty in the State of residence, to converse and correspond with him and to arrange for his representation in court. The right to visit this national shall be granted to the consul as soon as possible, and no later than eight days from the date on which the person concerned has been arrested, imprisoned or otherwise detained. The visits shall be granted periodically and at reasonable intervals.

The competent authorities shall transmit to the consul, without delay, the correspondence and communications of a national of the other State who has been arrested, imprisoned or otherwise detained or who is serving a sentence of deprivation of liberty in the State of residence.

Article 2

If a national of one of the two States is arrested for an offence committed unintentionally in the other State, the competent authorities shall make every

¹ Came into force on 1 October 1985, i.e. the first day of the second month following the date of receipt (2 August 1985) of the last of the notifications by which the Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 22.

effort, within the framework of their legislation, to take the necessary measures, in particular judicial control of measures or application for bail on which the person concerned can be released. The competent consul shall be informed of any measures taken with regard to the national.

SECTION II. TRANSFER OF DETAINED PERSONS UNDER SENTENCE

Chapter I. GENERAL PRINCIPLES

Article 3

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 person under sentence is being transferred to serve his sentence.

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

Article 4

The application of this Convention shall be subject to the following conditions:

(a) The offence which gives rise to the request is in violation of the law of both States;

(b) The judicial decision referred to in article 3 is a final and enforceable decision;

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

(d) The detained person under sentence gives his consent.

Article 5

The competent authorities of the sentencing State shall inform any national of the other State whose sentence is final that he has the option, pursuant to this Convention, of being transferred to his country of origin in order to serve his sentence.

Article 6

The transfer of the person under sentence shall be refused:

(a) If the transfer is considered by the requested State to be such as to jeopardize its sovereignty, its security, its public policy, the basic principles of its judicial system or any other of its vital interests;

(b) If the penalty is barred by limitation under the law of either State;

(c) If the person under sentence is a national of the sentencing State.

Article 7

The transfer may be refused:

(a) If the offence consists solely of a violation of military obligations;

- (b) If the judicial decision leading to the request is based on facts which have formed the object of a final judgement in the administering State;
- (c) If the competent authorities of the administering State have decided to abandon, or not to initiate proceedings on the basis of the same facts;
- (d) If the facts justifying the conviction are also the object of proceedings in the administering State;
- (e) If the person under sentence has not paid any sums, fines, court costs, damages or any other pecuniary penalties imposed upon him.

Article 8

The administering State shall substitute, where appropriate, for the penalty imposed by the sentencing State, the penalty or measure stipulated in its own law for a similar offence. It shall so inform the sentencing State, where possible, 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. It shall not increase in nature or in duration the penalty imposed in the sentencing State nor exceed the maximum provided for by the law of the administering State.

Article 9

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.

The competent authorities of the administering State shall terminate administration of the penalty upon being informed of any decision or measure as a result of which the penalty ceases to be enforceable.

Article 10

The sentencing State shall have the sole right to decide on any appeal for review of the sentence.

Article 11

The administration of sentences of deprivation of liberty shall be subject to the law of the administering State, under the conditions provided for in the following articles.

Article 12

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

Article 13

The administration of a sentence of deprivation of liberty, as defined in article 3 (c), shall be subject to the law of the administering State.

The administering State shall have sole competence to make decisions about the person under sentence regarding remission of sentence and, more generally, to determine the way in which the sentence shall be served.

Article 14

Unless otherwise decided by an exchange of letters, the costs of transfer shall be the responsibility of the administering State. The State which assumes the costs of transfer shall provide the escort.

*Chapter II. PROCEDURE**Article 15*

A transfer request may be submitted by:

- (a) The person under sentence himself, who shall submit a request to this effect to one of the States;
- (b) The sentencing State;
- (c) The administering State.

Article 16

All requests shall be in writing. They shall indicate the identity of the person under sentence and his address in both the sentencing State and the administering State. They shall be accompanied by a statement taken down by a judge indicating that the person under sentence has consented.

Article 17

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 and it shall specify as clearly as possible the circumstances of the offence, the time and place at which it was committed as well as its designation in law and the term of the sentence to be administered. It shall provide all the necessary information about the personality of the person under sentence and his behaviour in the sentencing State prior to and subsequent to his conviction.

If one of the two 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 18

Except in exceptional cases, requests shall be addressed every three months by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State. Replies shall be transmitted through the same channels as soon as possible.

Article 19

Each of the two States may reserve the right to require that the requests and accompanying documents be sent to it accompanied by a translation into its own language.

Article 20

Documents transmitted pursuant to this Convention shall be exempt from any authentication requirements.

Article 21

The administering State may in no case claim reimbursement for the costs which it has incurred for the administration of the sentence and the supervision of the person under sentence.

SECTION III. FINAL PROVISIONS

Article 22

Each of the two States shall notify the other of the completion of the procedures required by its Constitution for the entry into force of this Convention. Notifications of the completion of these procedures shall be exchanged as soon as possible.

This Convention shall come into force on the first day of the second month after the date on which the last such notification is received.

Each of the two States may terminate this Convention at any time by sending the other, through the diplomatic channel, written notice of termination. In this case, termination shall take effect one year after the date on which the said notice is received.

IN WITNESS WHEREOF, the representatives of the two Governments, being duly authorized thereto, have signed this Convention and affixed their seals thereto.

DONE at Rabat on 10 August 1981, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

CLAUDE CHEYSSON
Minister
for Foreign Affairs

For the Government
of the Kingdom of Morocco:

[Signed]

M. M'HAMMED BOUCETTA
Minister of State
responsible for Foreign Affairs
and Co-operation