

No. 25685

**SPAIN
and
THAILAND**

Agreement on co-operation in the execution of penal sentences. Signed at Bangkok on 7 December 1983

Authentic texts: Spanish and Thai.

Registered by Spain on 24 February 1988.

**ESPAGNE
et
THAÏLANDE**

Accord sur la coopération en matière d'exécution des condamnations pénales. Signé à Bangkok le 7 décembre 1983

Textes authentiques : espagnol et thaï.

Enregistré par l'Espagne le 24 février 1988.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF SPAIN AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND ON
CO-OPERATION IN THE EXECUTION OF PENAL SEN-
TENCES

Spain and the Government of the Kingdom of Thailand,

Mindful of the laws and regulations in force with regard to compliance with the law in the territory of the two Parties, and of their desire to strengthen co-operation in the enforcement of the law and the administration of justice; and

Desiring to co-operate in the execution of penal sentences by enabling offenders to serve their prison sentences in the country of which they are nationals in order thereby to facilitate their social rehabilitation;

Have agreed as follows:

Article I. DEFINITIONS

For the purposes of this Agreement,

(a) "Sending State" means the State from which the offender is to be transferred.

(b) "Receiving State" means the State to which the offender is to be transferred.

(c) "Offender" means a person who, in the territory of either Party, has been convicted of an offence and sentenced to imprisonment, irrespective of the modalities for executing the sentence, including parole or any other probationary measure. This term also includes persons subject to detention, custody or supervision under the laws of the sending State pertaining to juvenile offenders.

Article II. SCOPE OF APPLICATION

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

1. That the offence for which the offender was convicted and sentenced is one which would also be considered a crime or offence in the receiving State had it been committed in that State. This condition should not be interpreted as requiring that the crimes or offences defined in the laws of the two Parties be identical on points which are irrelevant to their nature, such as the quantity or value of property or assets stolen or possessed.

2. That the offender to be transferred is a national of the receiving State.

3. That the offender to be transferred has not committed:

(a) An offence against the internal or external security of the State,

(b) An offence against the Head of State or members of his family,

¹ Came into force on 1 December 1987, i.e., the first day of the month following the date of the exchange of the instruments of ratification, which took place at Bangkok on 20 November 1987, in accordance with article VIII (2).

(c) An offence involving the smuggling of ancient objects or treasures of the national artistic heritage.

4. That at least one year of the offender's sentence remains to be served on the date of the request for transfer.

5. That the sentence which the offender is serving is not appealable and that no other legal action against him is pending in the sending State.

6. That, in the case of a sentence to imprisonment or detention, the offender has, at the time of the transfer, served in the sending State the minimal sentence provided by the law of that State.

7. The transfer may be refused:

(a) If the sending State considers that the transfer would jeopardize its sovereignty or its internal or external security;

(b) If the offender is also a national of the sending State.

Article III. TRANSFER PROCEDURE

1. Each Party shall explain the substance of this Agreement to any offender to whom it applies.

2. Every transfer under this Agreement shall be initiated through the diplomatic channel by a written request from the receiving State to the sending State. If the sending State approves the request, it must so inform the receiving State through the diplomatic channel and institute the necessary procedure for the transfer of the offender.

3. In deciding upon the transfer of an offender, each Party shall bear in mind the following factors:

(a) The fact that the transfer of the offender will probably contribute to his social rehabilitation or will in any case be in his interest; and

(b) The nature and gravity of the offence, including its effects in the receiving State and in the sending State, and the extenuating or aggravating circumstances.

4. An offender shall be transferred only:

(a) If he has been sentenced to life imprisonment; or

(b) If the sentence which he is serving has a specified duration or if such a duration has been fixed by the competent authorities; or

(c) If he is subject to detention, custody or supervision under the laws of the sending State pertaining to youthful offenders.

5. The sending State shall furnish the receiving State with a statement showing the offence of which the offender was convicted, the date on which the sentence will be completed, the length of time already served by the offender and any credits to which the offender is entitled on such grounds as work done, good behaviour or pre-trial detention.

6. The sending State shall furnish the receiving State with a certified copy of the proceedings of the trial and the sentence handed down by the competent judicial authority. If the receiving State considers that the documentation received is insufficient, it may request additional information.

7. Delivery of the offender by the authorities of the sending State to those of the receiving State shall occur in the territory of the sending State at a place agreed upon by both Parties. The sending State shall afford the opportunity to the receiving State, if it so desires, of verifying prior to the transfer, through an officer designated by the laws of the receiving State, that the offender's consent to his transfer has been given voluntarily and with full knowledge of the consequences thereof.

Article IV. RETENTION OF JURISDICTION

The sending State shall have exclusive jurisdiction over any petition for review of the judgement. It may also modify the judgement by commuting or reducing the sentence. Upon being advised of the review or modification of such a judgement, the receiving State shall carry out the ensuing decision.

Article V. PROCEDURE FOR EXECUTING THE SENTENCE

1. Except as otherwise provided in this Agreement, a transferred offender's sentence shall be executed according to the laws and regulations of the receiving State, including those governing conditions relating to imprisonment or any other form of confinement, as well as probation and parole, and those regulating reduction of the term of detention, imprisonment or other form of confinement by authorizing probation or parole or by any other means. The sending State shall reserve the right to pardon the offender or commute the sentence, and the receiving State, after notification, shall carry out this decision.

2. The receiving State may apply the regulations established by its laws pertaining to juvenile offenders to any offender belonging to this category under its laws, irrespective of the status of the offender under the laws of the sending State.

3. The receiving State shall not execute any sentence of confinement 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 receiving State shall pay the costs of the transfer and of the execution of the sentence.

5. The authorities of each Party shall, at the request of the other Party, furnish reports indicating the situation of all offenders transferred under this Agreement, including the parole or release of an offender. Either Party may at any time request a special report on the manner in which a particular sentence was being executed.

6. The transfer of an offender under the provisions of this Agreement shall not create any additional disability under the laws of the receiving State beyond those which the fact of his conviction may in and of itself already have created.

Article VI. TRANSIT OF OFFENDERS

If either Contracting Party concludes an agreement with a third State for the transfer of offenders, the other Party shall co-operate with it to facilitate the transit across its territory of the offenders who are transferred under the said agreement.

The Contracting Party which intends to carry out such a transfer shall give advance notice of the transit to the other Party.

Article VII. APPLICATION PROCEDURE

1. For the purposes of this Agreement, each Party may decide on rules of procedure compatible with its own objectives to determine whether or not it should consent to the transfer of an offender.
2. Each Party shall establish rules to ensure that the sentences handed down by the courts of the other Party shall have legal effect in its territory, and each Party shall co-operate with the other in the establishment of such rules.
3. Each Party shall designate an authority to perform the functions provided for in this Agreement.

Article VIII. FINAL PROVISIONS

1. This Agreement shall be subject to ratification. The exchange of instruments of ratification shall take place in Madrid as soon as possible.
2. This Agreement shall enter into force on the first day of the month following the date on which the instruments of ratification were exchanged and shall remain in force for a period of three years from the date of its entry into force. Subsequently, the Agreement shall remain in force until the expiry of a period of 90 days from the date on which either Party notifies the other Party in writing of its intention to terminate the Agreement.

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

DONE at Bangkok in duplicate, in the Thai and Spanish languages, both texts being equally authentic, on 7 December 1983.

For Spain:

[Signed]

NICOLÁS REVENGA DOMÍNGUEZ
Ambassador Extraordinary
and Plenipotentiary to Thailand

For the Government
of the Kingdom of Thailand:

[Signed]

Air Marshal SIDDHI SAVETSILA
Minister for Foreign Affairs