

No. 30613

**FINLAND
and
RUSSIAN FEDERATION**

Agreement on the reciprocal transfer of persons sentenced to imprisonment to serve their sentences (with protocol of 29 October 1993). Signed at Helsinki on 8 November 1990

Authentic texts: Finnish and Russian.

Registered by Finland on 23 December 1993.

**FINLANDE
et
FÉDÉRATION DE RUSSIE**

Accord relatif au transfert réciproque des personnes condamnées à l'emprisonnement afin de servir leur peine (avec protocole du 29 octobre 1993). Signé à Helsinki le 8 novembre 1990

Textes authentiques : finnois et russe.

Enregistré par la Finlande le 23 décembre 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF FINLAND AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE RECIPROCAL TRANSFER OF PERSONS SENTENCED TO IMPRISONMENT TO SERVE THEIR SENTENCES

The Republic of Finland and the Union of Soviet Socialist Republics,

Prompted by a desire to develop further their existing relations of mutual trust and cooperation,

Considering that the serving of sentences by convicted persons in the State of which they are nationals or in the territory of their permanent residence would contribute to the more effective attainment of the goals of correcting and re-educating offenders,

Acting in accordance with humane principles,

Have decided to conclude this Agreement and for that purpose have appointed as their plenipotentiaries:

The Republic of Finland: the Minister of Justice of Finland;

The Union of Soviet Socialist Republics: the Minister of Justice of the USSR,

who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1

1. A national of one Contracting State sentenced to imprisonment in the other Contracting State (“the sentencing State”) may, in accordance with the provisions of this Agreement, be transferred to serve his sentence in the State of which he is a national (“the State of service of sentence”).

2. This Agreement applies also to persons having a permanent residence in the territory of the Contracting States, irrespective of their nationality.

3. The provision of paragraph 2 of this article shall not apply to nationals of the sentencing State.

Article 2

1. The proposal for the transfer of a person sentenced to imprisonment may be made by either the sentencing State or the State of service of sentence.

2. An oral or written application for a convicted person to be transferred to serve his sentence may be submitted to either the sentencing State or the State of service of sentence.

¹ Came into force on 28 November 1993, i.e., 30 days after the exchange of the instruments of ratification, which took place at Moscow on 29 October 1993, in accordance with article 17 (1).

Article 3

The transfer of the convicted person may, in accordance with this Agreement, be effected if:

- (1) The sentence has entered into legal force and is due to be served in the sentencing State;
- (2) The convicted person agrees to the transfer;
- (3) The act for which he has been sentenced is an offence according to the laws of the State of service of sentence;
- (4) Agreement on the transfer of the convicted person has been reached between the competent authorities of the Contracting Parties.

Article 4

1. The sentencing State shall inform every convicted person to whom this Agreement might apply of the contents of this Agreement.

2. If an application for transfer in accordance with this Agreement is submitted to the sentencing State by a convicted person, that State shall, on the entry into legal force of the sentence, immediately notify the State of service of sentence to that effect.

3. Such notification must contain the following information:

- (a) The surname, first name, patronymic and date and place of birth of the convicted person and information regarding his nationality;
- (b) The convicted person's address in the State of service of sentence;
- (c) A brief summary of the offences for which the person has been sentenced;
- (d) The length of the sentence and the form of custody imposed, and the date from which the sentence is to be served.

4. If an application for transfer is submitted by a convicted person to the State of service of sentence, the sentencing State shall transmit to the State of service of sentence, at the latter's request, the information referred to in paragraph 3 of this article.

5. The convicted person shall be informed in writing of all measures taken by the sentencing State or the State of service of sentence, on the basis of paragraphs 1 to 4 of this article, as well as of any decision taken by either State in connection with an application for transfer.

Article 5

1. Applications by the Parties regarding transfers and replies to such applications shall be made in writing.

2. Communication on matters arising from this Agreement shall be between the following: for the Republic of Finland, the Ministry of Justice, and for the Union of Soviet Socialist Republics, the Office of the Procurator of the USSR.

3. The State applied to shall immediately notify the State making the application of its agreement to or refusal of the transfer of the convicted person.

Article 6

1. The State of service of sentence shall, at the request of the sentencing State, provide it with:

(a) A document certifying the nationality of the convicted person or his permanent place of residence in that State;

(b) The text of the relevant law showing that the acts for which the person has been sentenced to imprisonment are offences in the State of service of sentence.

2. In the event that the State of service of sentence agrees to accept the convicted person, the sentencing State shall provide the State of service of sentence with the following documents:

(a) Certified copies of the sentence and of relevant decisions by higher courts of justice and certification of the fact that the sentence has entered into legal force;

(b) The text of the law under which the person was sentenced to imprisonment;

(c) Information concerning the portion of the sentence served, any mitigation of the sentence and other circumstances pertaining to the service of the sentence;

(d) Information concerning the explanation given to the convicted person of the contents of this Agreement, together with his application for transfer to serve his sentence in the State of service of sentence.

3. Either of the Contracting States may obtain, on request, the documents referred to in paragraphs 1 and 2 of this article before an application for transfer is made, or a decision to accept the convicted person is reached.

Article 7

1. The sentencing State shall ensure that the application by the convicted person for transfer has been submitted voluntarily and that he knows the legal consequences of such a transfer. The form in which such an application is submitted shall be determined by the sentencing State.

2. The sentencing State shall provide the State of service of sentence with an opportunity to ascertain through a consul or other duly authorized official that the application has been submitted in accordance with the conditions specified in paragraph 1 of this article.

Article 8

1. The serving of the sentence in the sentencing State shall be deemed to have ceased at the moment when the convicted person is taken into custody by the authorities of the State of service of sentence.

2. If the State of service of sentence considers that the sentence has already been served, the sentencing State may not carry out the sentence.

Article 9

The place, date and form of transfer of the convicted person shall be determined by agreement between the competent authorities of the Contracting States.

Article 10

1. The sentence shall be served in the State of service of sentence on the basis of a judicial decision in the sentencing State.

2. The competent authority of the State of service of sentence shall take the decision concerning the serving of the sentence. The convicted person shall serve the sentence for the period specified. The period of imprisonment served in the sentencing State shall be deemed part of the total length of the sentence.

3. If according to the legislation of the State of service of sentence the maximum term of imprisonment for the offence concerned is shorter than the sentence imposed, the sentence shall be served within the limits of the maximum term obtaining in the State of service of sentence.

4. In all other matters relating to the sentence, the law of the State of service of sentence shall be observed, and only that State shall be competent to take the necessary decisions regarding the sentence.

5. If the legislation of the State of service of the sentence does not provide for imprisonment as a punishment for the offence concerned, the courts shall, in accordance with the legislation of that State, impose a punishment corresponding as closely as possible to that specified in the sentence. The punishment should not be more severe than that imposed by the sentencing State and should not exceed the maximum sentence obtaining under the law of the State of service of sentence.

Article 11

A pardon may be granted to the convicted person by either the sentencing State or the State of service of sentence.

Article 12

The sentence of a person transferred to serve a term of imprisonment in the State of service of sentence may be reviewed only by the courts of the sentencing State.

Article 13

The State of service of sentence shall immediately discontinue the serving of the sentence on receipt of notification from the sentencing State of a decision that the sentence need no longer be served.

Article 14

The State of service of sentence shall inform the sentencing State in the following cases:

- (a) When the sentence has been served;
- (b) If the convicted person has escaped before the completion of the sentence;
- (c) When the sentencing State requests information.

Article 15

1. A request for the transfer of a convicted person to serve his sentence and the accompanying documentation provided for under this Agreement shall be drawn up in the Finnish or the Russian language.

2. The expenses connected with the transfer of a convicted person shall be borne by the State of service of sentence, with the exception of expenses incurred in the territory of the sentencing State.

Article 16

The provisions of this Agreement shall not affect the rights and obligations of the Contracting States arising out of other international agreements.

Article 17

1. This Agreement shall be subject to ratification and shall enter into force 30 days after the exchange of the instruments of ratification.

2. This Agreement shall be valid for five years. The Agreement shall be automatically extended for subsequent five-year periods unless one of the Contracting States announces in writing, no later than six months before the expiry of the period in question, its wish to terminate it.

DONE in Helsinki, on 8 November 1990, in duplicate, in the Finnish and Russian languages, both texts being equally authentic.

For the Republic
of Finland:

TARJA HALONEN

For the Union of Soviet
Socialist Republics:

V. F. YAKOVLEV

PROTOCOL ON THE EXCHANGE OF THE INSTRUMENTS OF RATIFICATION OF THE AGREEMENT BETWEEN THE REPUBLIC OF FINLAND AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE RECIPROCAL TRANSFER OF PERSONS SENTENCED TO IMPRISONMENT TO SERVE THEIR SENTENCES

On 29 October 1993, in Moscow, Mr. A. Mansala, Ambassador of the Republic of Finland to the Russian Federation, and Mr. V. I. Churkin, Deputy Minister for Foreign Affairs of the Russian Federation, exchanged the instruments of ratification of the Agreement between the Republic of Finland and the USSR on the reciprocal transfer of persons sentenced to imprisonment to serve their sentences, signed in Helsinki on 8 November 1990 and ratified by the President of the Republic of Finland on 8 March 1991 and by the Supreme Council of the Russian Federation on 2 July 1993. It was noted that the Contracting Parties to the Agreement shall be deemed to be the Republic of Finland and the Russian Federation.

When exchanged, the instruments of ratification were found to be in good and due form.

IN WITNESS WHEREOF, this Protocol has been drawn up and signed in duplicate, in the Finnish and Russian languages.

A. MANSALA
Ambassador of the Republic
of Finland to the Russian Federation

V. CHURKIN
Deputy Minister for Foreign Affairs
of the Russian Federation