

**No. 32430**

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**SPAIN  
and  
VENEZUELA**

**Agreement on the execution of penal sentences. Signed at  
Caracas on 17 October 1994**

*Authentic text: Spanish.*

*Registered by Spain on 27 December 1995.*

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**ESPAGNE  
et  
VENEZUELA**

**Accord relatif à l'exécution des condamnations pénales. Signé  
à Caracas le 17 octobre 1994**

*Texte authentique : espagnol.*

*Enregistré par l'Espagne le 27 décembre 1995.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF SPAIN AND THE  
REPUBLIC OF VENEZUELA ON THE EXECUTION OF PENAL  
SENTENCES

The Kingdom of Spain and the Republic of Venezuela,

Wishing to improve the administration of justice and facilitate the social reintegration of convicted offenders by allowing them to serve their sentences in the country of which they are nationals,

Have agreed as follows:

*Article I*

SCOPE OF APPLICATION

1. The Parties shall cooperate to the fullest extent in the execution of penal sentences.
2. Sentences or security measures involving deprivation of liberty imposed in the Republic of Venezuela on Spanish nationals may be served in Spain in penal institutions or under the supervision of Spanish authorities, in accordance with the provisions of this Agreement.
3. Sentences or security measures involving deprivation of liberty imposed in Spain on nationals of the Republic of Venezuela may be served in Venezuela in penal institutions or under the supervision of Venezuelan authorities, in accordance with the provisions of this Agreement.

*Article II*

DEFINITIONS

For the purposes of this Agreement:

1. “Sending State” means the Party which imposed the sentence and from which the convicted offender is to be transferred.
2. “Receiving State” means the Party to which the convicted offender is to be transferred to serve the rest of the sentence imposed in the sending State.
3. “Convicted offender” means a person who, in the territory of one of the Parties, has been sentenced, pursuant to a final and enforceable judgement, to a penalty or security measure involving deprivation of liberty, including probation or conditional release.

<sup>1</sup> Came into force on 18 December 1995, i.e., 60 days from the date of the last of the notifications (of 28 April and 19 October 1995) by which the Parties had informed each other of the completion of their internal constitutional and legal requirements, in accordance with article XII (1).

### *Article III*

#### CONDITIONS OF APPLICABILITY

This Agreement shall be applied on the following conditions:

1. That the acts or omissions which gave rise to the penal sentence are also punishable in the receiving State, although they may be characterized differently;
2. That the convicted offender is a national of the receiving State;
3. That the convicted offender requests the transfer or, if the request is made by the sending State or the receiving State, that the convicted offender gives express consent. If the convicted offender is incapable of doing so, his or her legal representative should give consent;
4. That at least six months of the sentence or security measure remain to be served at the time of the request;
5. That the sentence is final and enforceable and that there are no other proceedings pending in the sending State; and
6. That the other terms of the sentence, apart from the deprivation of liberty and including those relating to civil liability, unless the convicted offender has been declared bankrupt, have been fulfilled.

### *Article IV*

#### CENTRAL AUTHORITIES

The Parties shall designate the Ministries of Justice of both States as central authorities to perform the functions specified for in this Agreement.

### *Article V*

#### DUTY TO PROVIDE INFORMATION

1. Any convicted offender to whom this Agreement may be applicable must be informed by the central authorities of the sending and receiving States of the content of this Agreement, as well as of the legal consequences of the transfer.
2. If the convicted offender informs the sending State of a desire to be transferred pursuant to this Agreement, that State shall notify the receiving State of the fact without delay.
3. The information shall include:
  - (a) The convicted offender's name, date of birth and place of birth;
  - (b) Where appropriate, the convicted offender's domicile in the receiving State;
  - (c) An indication of the acts that led to the sentence; and
  - (d) The nature, duration and starting date of the sentence.
4. If the convicted offender informs the receiving State of a desire to be transferred pursuant to this Agreement, the sending State shall communicate to the receiving State, at the latter's request, the information referred to in paragraph 3 above.
5. The convicted offender shall be informed in writing of any action taken by the sending State or the receiving State in application of the preceding paragraphs, as well as of any decision by either of the two States relating to a transfer request.

## Article VI

### APPLICATIONS AND REPLIES

1. Applications for transfer and replies shall be made in writing and addressed to the central authorities designated in this Agreement.
2. The receiving State and the sending State shall have discretionary power to refuse the transfer of the convicted offender and must notify the Party requesting the transfer of its decision. No reason need be given when notifying the other State of a refusal.
3. The petitioned State shall inform the petitioning State without delay of its decision to accept or refuse the requested transfer.

## Article VII

### DOCUMENTARY EVIDENCE

1. The receiving State shall provide the sending State, at the latter's request, with:
  - (a) Documentary proof or a statement that the convicted offender is a national of that State;
  - (b) A copy of the legal provisions of the receiving State under which the acts or omissions which gave rise to the conviction in the sending State are punishable as a criminal offence under the laws of the receiving State or would be punishable as such if committed in its territory.
2. If an application is made for a transfer, the sending State shall provide the receiving State with the following documents, unless one of the States has indicated that it does not agree to the transfer:
  - (a) A certified copy of the final and enforceable judgement and the legal provisions applied;
  - (b) An indication of the length of sentence already served, including information on any pre-trial detention or other circumstances relating to the serving of the sentence;
  - (c) A statement attesting to the convicted person's consent to the transfer; and
  - (d) Where appropriate, any medical or social report on the convicted offender, any information on that person's treatment in the sending State and any recommendations on continuing such treatment in the receiving State.
3. Either the sending State or the receiving State may request any of the documents or statements referred to in paragraphs 1 and 2 above prior to requesting a transfer or deciding whether to agree to or refuse the transfer.

## Article VIII

### COSTS

1. The convicted offender shall be handed over by the authorities of the sending State to the authorities of the receiving State at a place agreed upon by the Parties on a case-by-case basis.

2. The receiving State shall be responsible for the costs of the transfer from the time it assumes custody of the convicted offender.

### *Article IX*

#### EXECUTION OF THE SENTENCE

1. The convicted offender shall continue to serve in the receiving State the sentence or security measure imposed in the sending State, in accordance with the legal system of the receiving State and without the need for an exequatur.

In no event may the nature or duration of the sentence or security measure involving deprivation of liberty pronounced by the sending State be altered.

2. Under no circumstances may the sentence imposed in the sending State be increased in the receiving State.

3. Each of the Parties shall endeavour to take the necessary legislative measures and employ effective administrative procedures to ensure that sentences are served in their respective territories as imposed.

### *Article X*

#### RESERVATION OF JURISDICTION

The sending State, or the receiving State with the consent of the sending State, may grant amnesty, a pardon or commutation of the sentence or security measure, or may take any decision or legal measure entailing a reduction in the sentence or security measure. Requests by the receiving State shall be admissible and examined in a favourable light by the sending State.

Only the sending State may hear the petition or conduct a review.

### *Article XI*

#### “NON BIS IN IDEM”

A convicted offender transferred for the execution of a sentence under this Agreement may not be detained, tried or sentenced in the receiving State for the offence for which the sentence was imposed.

### *Article XII*

#### VALIDITY AND TERMINATION

1. This Agreement shall enter into force sixty days after the final notification by diplomatic note that the Parties have completed their domestic constitutional and legal formalities.

2. Either Party may terminate this Agreement by giving written notice to the other State. The termination shall take effect six months after the date on which notification is sent by the diplomatic channel.

3. This Agreement may be applied to the serving of sentences or security measures involving deprivation of liberty pronounced either before or after this Agreement enters into force.

DONE at Caracas on 17 October 1994 in two equally authentic copies.

For the Kingdom of Spain:  
AURELIO PEREZ GIRALDA  
Ambassador of Spain in Caracas

For the Republic of Venezuela:  
MIGUEL ANGEL BURELLI RIVAS  
Minister for Foreign Affairs

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