

TREATY
ON
THE TRANSFER OF SENTENCED PERSONS
BETWEEN
- THE SOCIALIST REPUBLIC OF VIET NAM
AND
THE KINGDOM OF CAMBODIA

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The Socialist Republic of Viet Nam and the Kingdom of Cambodia (hereinafter referred to individually as 'the Party' and collectively as 'the Parties');

Taking into consideration the laws and regulations in force regarding law enforcement of the Parties and the desirability of enhancing their cooperative efforts in law enforcement and the administration of justice;

Desiring to co-operate in the transfer of sentenced persons to facilitate their successful reintegration into society; and

Desiring to co-operate in the enforcement of penal sentences;

Have agreed as follows:

ARTICLE 1
DEFINITIONS

For the purposes of this Treaty:

1. "Judgment" means a decision of a court imposing a sentence;
2. "Transferring Party" means the Party from which the sentenced person may be, or has been transferred;
3. "Receiving Party" means the Party to which the sentenced person may be, or has been transferred;
4. "Sentenced person" means a person who is serving the imprisonment in a prison, a hospital or any other place in the territory of the transferring Party under a sentence imposed by a court of the transferring Party;

5. "Sentence" means imprisonment for a period or life imprisonment ordered by a court;

6. "National" means a person who has nationality of Viet Nam or Cambodia.

ARTICLE 2 PURPOSE OF TREATY

1. The Parties undertake to afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Treaty and the law of each Party.

2. A sentenced person may be transferred from the territory of the transferring Party to the territory of the receiving Party in accordance with the provisions of this Treaty in order to serve the whole or part of the sentence imposed on him or her.

ARTICLE 3 CENTRAL AUTHORITIES

1. For the purpose of implementing this Treaty, each Party shall designate a Central Authority.

2. The Central Authority for the Socialist Republic of Viet Nam is the Ministry of Public Security. The Central Authority for the Kingdom of Cambodia is the Ministry of Justice. Either Party may change its Central Authority in which case it shall notify in writing the other of the change through diplomatic channels as soon as possible.

3. The Central Authorities of the Parties shall process requests for transfer in accordance with the provisions of this Treaty and the law of each Party.

4. The Central Authorities may communicate, co-ordinate directly or through diplomatic channels with each other for the purposes of this Treaty.

ARTICLE 4 CONDITIONS FOR TRANSFER

A sentenced person may be transferred under this Treaty only on the following conditions:

1. The acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving Party, or would constitute such a criminal offence if committed on the territory of the receiving Party. This condition shall not be interpreted to require that the offence described in the laws of both Parties be identical;

2. The sentenced person is a national of the receiving Party;

3. The sentenced person has at least one (01) year remaining to be served at the time of receipt of the request for transfer. In exceptional cases, this requirement may be waived by agreement of the Parties;

4. The judgment is final and no other legal proceedings pending in respect of this person in the territory of the transferring Party; and

5. The transferring and receiving Parties and the sentenced person all consent to the transfer. Where the sentenced person is incapable of giving consent under the law of the transferring Party, consent may be given by a person entitled to act on their behalf.

ARTICLE 5

GROUND FOR REFUSAL OF TRANSFER

Under this Treaty, the Parties shall refuse to transfer a person who is serving a sentence in any of the following circumstances:

1. There are grounds to believe that the sentenced person would be subjected to torture, retaliation, treated or punished brutally and inhumanly in the receiving Party; or

2. The transfer would prejudice sovereignty, national security, public order or other essential interests of the Party.

ARTICLE 6

PROCEDURE FOR TRANSFER

1. The Parties shall endeavour to inform sentenced persons of the substance of this Treaty. If the sentenced person wishes to be transferred, they may express such a wish to the transferring Party or the receiving Party, either of whom must inform the other Party in writing.

2. A request for transfer may be made by the transferring Party or the receiving Party to the other Party and shall be in writing and shall include the following information:

a) The full name, day, month, year and place of birth of the sentenced person;

b) The nationality and residence status of the sentenced person; and

c) The location and current address of the sentenced person.

3. Where a request for transfer has been made, the transferring Party shall provide the receiving Party with the following information:

a) A statement of the facts upon which the conviction and sentence were based and a statement of the applicable law creating the offence;

b) The termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remissions to which they are entitled on account of work done, good behaviour, pre-trial confinement or other reasons;

c) A certified copy of the judgment;

d) Any corrections, medical or social reports on the sentenced person, information about their treatment in the transferring Party, and any recommendation for their further treatment in the receiving Party, if applicable;

e) A copy of passport or identification card or any other personal documents, if applicable, the photo and finger prints (all fingers) of the sentenced person; and

f) Any other additional information requested by the receiving Party.

4. The receiving Party must provide the transferring Party with the following information before transfer, if requested by the transferring Party:

a) A document or statement indicating that the sentenced person complies with the conditions in paragraph 2 of Article 4 of this Treaty;

b) A statement that the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving Party or would constitute such a criminal offence if committed on the territory of the receiving Party;

c) A statement describing how the sentenced person's sentence would be enforced by the receiving Party; and

d) Any other additional information.

5. Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or making a decision on whether or not to agree to a transfer.

ARTICLE 7
CONSENT OF THE SENTENCED PERSON

1. The transferring Party shall ensure that the sentenced person consents to the transfer voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring Party.

2. The transferring Party shall afford an opportunity to the receiving Party, if the receiving Party so desires, to verify through officials designated by the receiving Party, prior to the transfer, that the sentenced person's consent to the transfer in accordance with paragraph 5 of Article 4 of this Treaty is given voluntarily and with full knowledge of the legal consequences thereof.

ARTICLE 8
REVIEW OF JUDGMENT AND PARDON, AMNESTY OR
COMMUTATION

1. The transferring Party alone shall decide on any application for review of the judgment.

2. Either Party may grant pardon, amnesty or commutation of the sentence in accordance with the law of that Party and shall inform other Party of this decision as soon as possible.

ARTICLE 9
EFFECT OF TRANSFER FOR THE RECEIVING PARTY

1. The competent authorities of the receiving Party shall continue the enforcement of the sentence through a court, administrative order, if available, as may be required under its national law, under the conditions set out in Article 10 of this Treaty.

2. Subject to the provisions of Article 8 of this Treaty, the enforcement of the sentence shall be governed by the law of the receiving Party and that Party alone shall be competent to make all appropriate decisions.

ARTICLE 10

CONTINUED ENFORCEMENT OF SENTENCE

1. The receiving Party shall enforce the sentence as imposed by the transferring Party.

2. Notwithstanding the requirements of paragraph 3 of this Article, the continued enforcement of the sentence after transfer shall be governed by the law and procedures of the receiving Party.

3. If the sentence is by its nature or duration incompatible with the law of the receiving Party, the receiving Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offence. When adapting the sentence, the appropriate authorities of the receiving Party shall be bound by the findings of fact, insofar as they appear from any opinion, conviction, judgment, or sentence imposed by the transferring Party. The adapted sentence shall be no more severe than that imposed by the transferring Party in terms of nature or duration. When adapting the sentence, the competent authority of the receiving Party shall not convert an imprisonment punishment to a non-deprivation of liberty sanction.

4. The receiving Party may, if a sentenced person is a juvenile according to its law, treat the sentenced person as a juvenile regardless of their status under the law of the transferring Party.

5. The receiving Party shall modify or terminate enforcement of the sentence as soon as it is informed of any decisions by the transferring Party in accordance with Article 8 of this Treaty.

6. The Parties shall inform the sentenced person in writing of any action or decisions taken by the transferring Party or the receiving Party under paragraphs 2 to 5 of this Article.

ARTICLE 11

EFFECT OF COMPLETION OF SENTENCE FOR THE TRANSFERRING PARTY

When the receiving Party notifies the transferring Party under paragraph 2 of Article 12 of this Treaty that the sentence has been completed, such notification shall have the effect of discharging the sentence in the transferring Party.

ARTICLE 12

INFORMATION ON ENFORCEMENT OF SENTENCE

The receiving Party shall provide information to the transferring Party concerning enforcement of the sentence in one of the followings:

1. The sentenced person is granted conditional release;
2. It considers enforcement of the sentence to have been completed;
3. It adapts the sentence as stipulated in paragraph 3 of Article 10 of this Treaty;
4. The sentenced person has escaped from custody, or if the sentenced person dies, before enforcement of the sentence has been completed; and
5. The transferring Party requests a report.

ARTICLE 13

LANGUAGE

Requests for transfer and accompanying documents shall be accompanied by a translation into an official language of the receiving Party or English.

ARTICLE 14

EXPENSES

1. The receiving Party shall bear the expenses of:
 - a) The transfer of the sentenced person, except the expenses incurred exclusively in the territory of the transferring Party; and
 - b) The continued enforcement of the sentence after transfer.
2. The receiving Party may, however, seek to recover all or part of the cost of transfer from the sentenced person or other sources.

ARTICLE 15

CONSULTATION

The Central Authorities of the Parties may consult with each other to promote the most effective use of this Treaty and to agree upon such practical measures as may be necessary to facilitate the implementation of this Treaty.

ARTICLE 16 SETTLEMENT OF DISPUTES

1. The Parties shall seek to resolve any dispute arising out of the interpretation, application or implementation of this Treaty through the Central Authorities.

2. If the Central Authorities are unable to resolve a dispute as envisaged in paragraph 1 of this Article, the Parties shall seek to resolve the dispute through diplomatic channels.

ARTICLE 17 OBLIGATIONS UNDER INTERNATIONAL TREATIES

This Treaty shall not affect the rights or obligations of the Parties under international treaties or other agreements to which they are a party.

ARTICLE 18 HANDING OVER OF SENTENCED PERSONS

1. The handing over of the sentenced person by the transferring Party to the receiving Party shall occur at a place and time to be agreed upon between the Parties. The receiving Party shall be responsible for the transport of the sentenced person from the transferring Party and shall also be responsible for custody of the sentenced person outside the territory of the transferring Party.

2. The handing over of the sentenced person shall be made in writing, in duplicate, in Vietnamese, Khmer and English languages; all texts being equally authentic. Each Party shall keep one text.

ARTICLE 19 AMENDMENTS

Any amendments or modifications to this Treaty agreed to by the Parties shall come into force in the same manner as stipulated in paragraph 1 of Article 20 of this Treaty.

ARTICLE 20
FINAL PROVISIONS

1. This Treaty shall be subject to ratification. Each Party shall notify the other as soon as possible, in writing, through diplomatic channels, upon the completion of its legal procedures required for the entry into force of this Treaty. The Treaty shall come into force on the first day of the second month from the date of receipt of the last notification.

2. The Treaty shall remain in force for an indefinite period. It may, however, be terminated by either of the Party by giving a written notice of termination to other Party through diplomatic channels. The termination shall take effect after six (06) months from the date of receipt of such a notice.

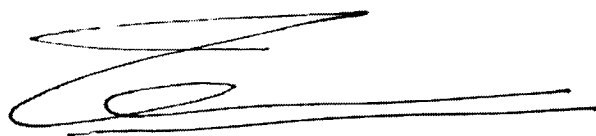
3. Notwithstanding any termination, this Treaty shall continue to apply to the requests for transfer that made previously before the date on which such termination takes effect.

4. This Treaty shall apply to execution of sentences imposed before or after the date of entry into force of this Treaty.

In witness whereof, the undersigned, being duly authorized by the Socialist Republic of Viet Nam and the Kingdom of Cambodia, have signed this Treaty.

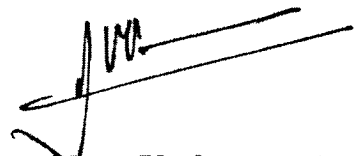
Done in the city of Ha Noi on 20th December 2016, in duplicate, in Vietnamese, Khmer and English languages; all texts being equally authentic. In case of any conflict or different interpretation, the English text shall prevail.

**FOR THE SOCIALIST REPUBLIC
OF VIET NAM**



Le Minh Tri
Prosecutor General of the Supreme
People's Procuracy

**FOR THE KINGDOM
OF CAMBODIA**



Ang Vong Vathana
Minister of Justice