

TREATY
BETWEEN
THE SOCIALIST REPUBLIC OF VIETNAM
AND
THE KINGDOM OF THAILAND
ON THE TRANSFER OF SENTENCED PERSONS
AND
ON CO-OPERATION IN THE ENFORCEMENT
OF PENAL SENTENCES

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The Socialist Republic of Vietnam and the Kingdom of Thailand, hereinafter referred to as the "Contracting Parties";

Taking into consideration the laws and regulations of the Contracting Parties in force regarding enforcement of penal sentences;

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

Considering that this co-operation should serve the interests of the administration of justice;

Desiring to facilitate the successful reintegration of sentenced persons into society;

Considering that these objectives can be best fulfilled by giving foreigners who are deprived of their liberty as a result of their commission of a criminal offence the opportunity to serve their sentences within their own society;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Treaty:

- (1) "transferring State" means the Contracting Party from which the sentenced person may be, or has been, transferred;
- (2) "receiving State" means Contracting Party to which the sentenced person may be, or has been, transferred;

- (3) "sentenced person" means a person who is required to be detained in a prison or any other lawful institution in the transferring State by virtue of an order made by a court of that state on account of a criminal offence;
- (4) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court of the transferring State for a limited or unlimited period of time on account of a criminal offence.

Article 2

General Principles

A person sentenced in the territory of one Contracting Party may be transferred to the territory of the other Contracting Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on that person.

Article 3

Central Authorities

- (1) For the purpose of implementing this Treaty, each Contracting Party shall designate a Central Authority.
- (2) The Central Authority for the Kingdom of Thailand shall be the Committee for Consideration of the Transfer of Prisoners. The Central Authority for the Socialist Republic of Vietnam shall be the Ministry of Public Security.
- (3) An official request and reply for transfer by the Central Authority of one Contracting Party shall be transmitted through diplomatic channels to the Central Authority of the other Contracting Party.

Article 4

Conditions for Transfer

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

- (1) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State;

- (2) if the person is a national of the receiving State, and that person is not a national of the transferring State;
- (3) if the sentence imposed on a sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty;
- (4) the sentenced person has served in the transferring State any minimum period of imprisonment, confinement or any other form of deprivation of liberty stipulated by the law of the transferring State;
- (5) if, at the time of receipt of the request for transfer, the sentenced person is still has at least one year of the sentence to serve;
- (6) if the transferring and receiving States and the sentenced person all agree to the transfer; provided that, where in view of that person's age or physical or mental condition either Contracting Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on that person's behalf.

Article 5

Refusal to Transfer

A request for transfer of a sentenced person shall be refused under this Treaty on the following conditions, namely that:

- (1) if a sentenced person was sentenced in respect of an offence under the law of the transferring State:
 - against the internal or external security of the State;
 - against the Head of State or a member of his family; or
 - against the legislation protecting national art treasures;
- (2) if the judgment is not final and other legal proceedings relating to the offence or any other offences are pending in the transferring State;
- (3) if the transfer of a sentenced person may prejudice either Contracting Party's sovereignty, security, public order or other essential interests.

Article 6

Procedure for Transfer

- (1) Both Contracting Parties shall inform the sentenced persons within the scope of this Treaty of the substance of the Treaty.
- (2) Every transfer under this Treaty shall be commenced through diplomatic channels by a written request from the receiving State to the transferring State. The transferring State shall inform the receiving State through the same channels and without delay of its decision on whether to approve or to refuse the request for transfer. If the transferring State approves the request, both Contracting Parties shall take all measures necessary for effectuating the sentenced person's transfer.
- (3) The transferring State shall provide the receiving State with the following information:
 - (a) a statement of the facts upon which the sentence was based;
 - (b) the termination date of the sentence, the length of time already served by the sentenced person and any credits to which he is entitled on account of work done, good behaviour, pretrial confinement or other reasons;
 - (c) a certified copy of all judgments and sentences concerning the sentenced person and of the law on which they are based;
 - (d) any other additional information requested by the receiving State so far as such information may be of significance for the sentenced person's transfer and for the execution of his sentence.
- (4) Either Contracting Party shall, as far as possible, provide the other Contracting Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether or not to agree to the transfer.
- (5) The transferring State shall afford an opportunity to the receiving State, if the receiving State so desires, to verify through an official designated by the receiving State, prior to the transfer, that the necessary consent of the sentenced person or of a person entitled to act on his behalf to the transfer in

accordance with Article 4(6) of this Treaty is given voluntarily and with full knowledge of the legal consequences thereof.

- (6) Delivery of the sentenced person by the authorities of the transferring State to those of the receiving State shall occur on a date at a place within the transferring State agreed upon by both Contracting Parties.

Article 7

Retention of Jurisdiction

- (1) Where sentences are enforced pursuant to this Treaty, the transferring State shall retain exclusive jurisdiction regarding the judgments of its courts, the sentences imposed by them and any procedures for revision, modification or cancellation of those judgments and sentences.
- (2) The transferring State may, in an individual case, make the sentenced person's transfer dependent on the condition that pardons and amnesties in the receiving State shall only be granted with the consent of the transferring State.

Article 8

Procedure for Enforcement of Sentence

- (1) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving State, including those governing conditions for service of imprisonment, confinement or other form of deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other form of deprivation of liberty by parole, conditional release, remission or otherwise.
- (2) Subject to paragraph (3) of this Article, the receiving State shall be bound by the legal nature of the sentence as determined by the transferring State. If under the law of the receiving State, the competent authority of the receiving State has to make a decision or judgment to enforce the sentence imposed on the sentenced person by the court of the transferring State, the transferring State will be informed accordingly together with the request for transfer. In case the duration of the enforcement of the sentence imposed by the court of

the receiving State is less than the remaining duration of the sentence which the sentenced person has to serve, the transferring State has the right to refuse the request.

- (3) No sentence of deprivation of liberty shall be enforced by the receiving State in such a way as to extend it beyond the period specified in the sentence of the court of the transferring State. Such enforcement shall as far as possible correspond with the sentence imposed in the transferring State.
- (4) If the transferring State revises, modifies or cancels the judgment or sentence pursuant to Article 7 of this Treaty or otherwise reduces, commutes or, terminates the sentence, the receiving State shall upon being notified of the decision give effect thereto in accordance with this Article.
- (5) The receiving State may treat under its law relating to juveniles any sentenced person so categorized under its law regardless of his status under the law of the transferring State.
- (6) The receiving State shall provide information to the transferring State concerning the enforcement of the sentence:
 - (a) if the sentenced person is granted conditional release and when he is discharged on completion of the sentence;
 - (b) if the sentenced person has escaped from custody before enforcement of the sentence has been completed; or
 - (c) if the transferring State requests a report.

Article 9

Transit of Sentenced persons

- (1) If either Contracting Party transfers a sentenced person from any third State, the other Contracting Party shall co-operate in facilitating the transit through its territory of such a sentenced person. The Contracting Party intending to make such a transfer shall give advance notice to the other Contracting Party of such transit.
- (2) Either Contracting Party may refuse to grant transit:
 - (a) if a sentenced person is one of its own nationals, or

- (b) if the act for which the sentence was imposed does not constitute a criminal offence under its own law.

Article 10

Expenses

The expenses incurred in the transfer of the sentenced person or in the enforcement of the sentence after transfer shall be borne by the receiving State. The receiving State may, however, seek to recover all or part of the cost of transfer from the sentenced person.

Article 11

Language

Requests for transfer as well as the documents and declarations under Article 6, paragraphs 3 and 4, and under Article 8, paragraph 4, shall be furnished in the language of the transferring State.

Article 12

Temporal Application

This Treaty shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Article 13

Consultations

The Contracting Parties shall consult, at the request of either Contracting Party, concerning the interpretation and the application of this Treaty.

Article 14

Final Provisions

- (1) This Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. This exchange of instruments shall take place at as soon as possible.

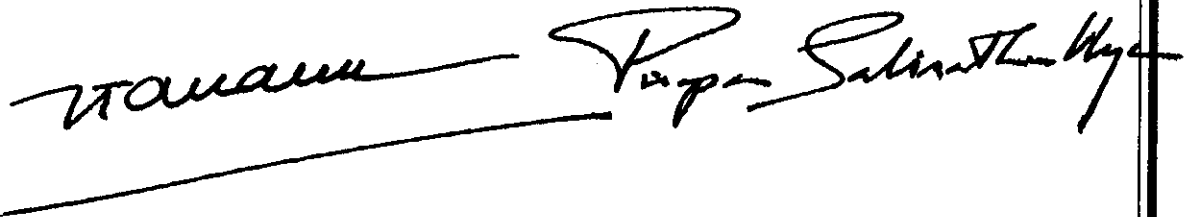
(2) Either Contracting Party may terminate the present Treaty at any time by giving written notice to the other Contracting Party. Such termination shall take effect six months after the date of receipt of the notice.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Treaty.

Done at Bangkok, this 03rd day of March 2010 in duplicate, in the Vietnamese, Thai and English languages, all text being authentic. In case of divergent interpretations of the Vietnamese and Thai texts, the English text shall prevail.

FOR THE SOCIALIST REPUBLIC
OF VIETNAM

FOR THE KINGDOM
OF THAILAND



General Le Hong Anh
Minister of Public Security

Pirapan Salirathavibhaga
Minister of Justice