



Treaty Series No. 27 (2003)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Bolivarian Republic of Venezuela

on the Transfer of Sentenced Persons

Caracas, 12 June 2002

[The Agreement entered into force on 15 April 2003]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 2003*

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AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE BOLIVARIAN REPUBLIC OF VENEZUELA ON THE TRANSFER OF SENTENCED PERSONS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Bolivarian Republic of Venezuela (hereinafter the “Parties”):

Desiring to encourage the social rehabilitation of sentenced persons by giving them the opportunity to serve their sentence in their own country;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement:

- (a) “sentencing State” means the State in which the sentence was imposed on the person who may be or has been transferred;
- (b) “complying State” means the State to which the person may be or has been transferred in order to serve his sentence;
- (c) “sentenced person” means a person who must be detained in a prison, a hospital, or any other institution in the sentencing State pursuant to an order issued by a court in the course of the exercise of its jurisdiction in criminal matters;
- (d) “sentence” means any punishment or measure involving the deprivation of liberty ordered by a court for a limited or unlimited period in the course of the exercise of its jurisdiction in criminal matters;
- (e) “judgment” means a decision or order of a court which imposes a sentence;
- (f) “national” means:
 - (i) in relation to the United Kingdom, a British citizen or any person whose transfer the Government of the United Kingdom considers appropriate taking into account any close link which that person has with the United Kingdom;
 - (ii) in relation to the Bolivarian Republic of Venezuela, a Venezuelan national is a person who, in accordance with the Constitution of the Bolivarian Republic of Venezuela, has that condition.

ARTICLE 2

General principles

2.1 The Parties undertake to provide to each other the highest possible level of co-operation in respect of the transfer of sentenced persons.

2.2 A person sentenced in the territory of one of the Parties may be transferred, in accordance with the provisions of this Agreement, to the territory of the other Party in order to serve the sentence which has been imposed on him. To that end, he may express to the sentencing State or to the complying State his interest in being transferred in accordance with this Agreement.

2.3 Transfer may be requested by the sentencing State or by the complying State.

ARTICLE 3

Conditions of transfer

A person may be transferred in accordance with this Agreement only if the following conditions are satisfied:

- (a) the sentenced person is a national of the complying State for the purposes of this Agreement;
- (b) the judgment is final and enforceable and no other legal proceedings relating to the offence or to any other offence are pending in the sentencing State;
- (c) at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve;
- (d) the sentenced person himself consents to the transfer or, where in view of his age or his physical or mental condition one of the Parties considers it necessary, his legal representative does so on his behalf;
- (e) the acts or omissions which have given rise to the imposition of the sentence constitute a criminal offence in accordance with the law of the complying State or would constitute a criminal offence if they were committed in its territory; and
- (f) the sentencing and complying States agree to the transfer.

ARTICLE 4

Procedure for transfer

4.1 Any person to whom this Agreement may apply shall be informed of its substance by the sentencing State.

4.2 If the sentenced person has indicated to the sentencing State his wish to be transferred in accordance with this Agreement, the said State shall inform the complying State. This information shall include the following:

- (a) name, date and place of birth of the sentenced person;
- (b) the nature, duration and date of commencement of the sentence that has been imposed;
- (c) a statement of the facts on which the sentence was based;
- (d) a statement indicating what period of the sentence has already been served, including information on any pre-trial detention, remission and any other factor relevant to the enforcement of the sentence;
- (e) a certified copy of the final and enforceable judgment and the law on which it was based;
- (f) a medical or social report on the person, information about his treatment in the sentencing State and any recommendation relating to his additional treatment in the complying State;
- (g) a written statement to the effect that the sentenced person has given his consent to the transfer in accordance with paragraph (d) of Article 3 of this Agreement.

4.3 If the complying State, after having considered the information which the sentencing State has provided, is willing to consent to the transfer of the sentenced person, it shall supply to the sentencing State the following information:

- (a) a statement specifying that the person is a national of that State for the purposes of this Agreement;

- (b) a copy of the relevant laws of the complying State which provide that the acts or omissions which have given rise to the sentence in the sentencing State constitute a criminal offence in accordance with the laws of the complying State, or would constitute a criminal offence if they had been committed in its territory;
- (c) a statement relating to the consequences of the transfer and the procedures which the complying State will apply to the sentenced person, including a statement, if applicable, as to the effect of paragraph 2 of Article 8 of this Agreement.

4.4 Transfer of the sentenced person from the custody of the authorities of the sentencing State to the custody of the authorities of the complying State shall take place in the territory of the sentencing State.

4.5 The sentenced person shall be informed in writing of any measure taken by the sentencing State or by the complying State in relation to compliance with the preceding paragraphs as well as of any decision taken by either of the Parties as regards the request for transfer.

ARTICLE 5

Requests and replies

5.1 Any request for transfer and the reply shall be made in writing.

5.2 Except in exceptional cases, the request shall be made, in relation to the Bolivarian Republic of Venezuela, by the Ministry of the Interior and Justice and, in relation to the United Kingdom, by the appropriate Prison Service.

5.3 The complying State shall notify the sentencing State without delay of its decision on whether or not to grant the requested transfer.

ARTICLE 6

Consent and verification

6.1 The sentencing State shall ensure that the sentenced person who consents to the transfer in accordance with paragraph (d) of Article 3 of this Agreement does so voluntarily and with full knowledge of the legal consequences thereof. The procedure relating to the grant of consent shall be governed by the law of the sentencing State.

6.2 The sentencing State shall afford to the complying State the opportunity to verify, through a consul or other official agreed with the complying State, that consent has been given in accordance with the conditions laid down in the preceding paragraph.

ARTICLE 7

Effect of transfer for the sentencing State

7.1 The taking into charge of the sentenced person by the authorities of the complying State shall have the effect of suspending the enforcement of the sentence in the sentencing State.

7.2 The sentencing State may no longer enforce the sentence if the complying State considers enforcement of the sentence to have been completed.

ARTICLE 8

Procedure for enforcement of the sentence

8.1 The uninterrupted enforcement of the sentence after transfer shall be governed by the law of the complying State and that State alone shall have competence to take all appropriate decisions.

8.2 The complying State shall be bound by the legal nature and the duration of the sentence as determined by the sentencing State. However, if the sentence is, by its nature or duration, incompatible with the law of the complying State, that State may adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. Adaptation of the sanction shall not aggravate, by its nature or duration, the sanction imposed by the sentencing State.

ARTICLE 9

Pardon, amnesty, commutation

Each Party may grant a pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws.

ARTICLE 10

Review of the judgment

10.1 The sentencing State alone shall have the right to take a decision with respect to any request for review of the judgment.

10.2 If the sentencing State revises, modifies or overturns the judgment in accordance with the preceding paragraph or otherwise reduces, commutes or terminates the sentence, the complying State, upon being notified of the decision in writing, shall give effect to it in accordance with this paragraph.

ARTICLE 11

Transit

11.1 Should either Party reach an agreement on the transfer of sentenced persons with a third State, the other Party shall co-operate in facilitating the transit through its territory of the sentenced persons who are transferred in accordance with the said agreement, except that the latter Party may refuse to grant permission for transit to any sentenced person who is one of its nationals, or if the offence for which the sentence was imposed is not an offence under its own law. The Party which attempts to make such a transfer shall notify the other Party of the transit in advance.

11.2 The Party requested to grant transit shall ensure that the sentenced person is not being pursued in the transit territory for acts prior to his departure from the territory of the sentencing State.

ARTICLE 12

Costs of transfer

The costs incurred by the application of this Agreement shall be payable by the complying State, with the exception of costs incurred in the territory of the sentencing State. In accordance with its laws, the complying State may seek to recover from the sentenced person or from some other source, other than the sentencing State, all or part of the costs incurred by the complying State for the transfer.

ARTICLE 13

Territorial application

This Agreement shall apply:

- (a) in relation to the United Kingdom, to Great Britain, Northern Ireland and the Isle of Man; and to any other territory for the international relations of which the United Kingdom is responsible and to which the Agreement has been extended by mutual consent between the Parties by exchanges of notes through diplomatic channels;
- (b) in relation to the Bolivarian Republic of Venezuela, to all the national territory as stipulated in the Constitution of the Bolivarian Republic of Venezuela.

ARTICLE 14

Settlement of disputes

In the event of disputes arising from the interpretation or application of this Agreement, these shall be resolved by joint agreement between the Parties.

ARTICLE 15

Temporal application

This Agreement shall apply to the serving of sentences imposed before or after its entry into force.

ARTICLE 16

Final provisions

16.1 This Agreement shall enter into force on the date of the latter notification by which the Parties communicate to each other in writing and through diplomatic channels the fulfilment of their respective internal constitutional and legal requirements.

16.2 Either of the parties may terminate this Agreement at any time by means of written notification to the other Party through diplomatic channels.

16.3 Such termination shall become effective following the expiration of a six month period after the date of receipt of the notification.

16.4 During the six month period referred to in paragraph 3 of this Article, no further request for transfer may be made under this Agreement.

16.5 Notwithstanding any termination, this Agreement shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred under this Agreement before the date in which such termination takes effect.

In witness whereof, the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Caracas on this 12th day of June 2002, in the English and Spanish languages, each text being equally authentic.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

For the Government of the Bolivarian
Republic of Venezuela:

JOHN HUGHES

ROY CHADERTON MATOS



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