

**TREATY BETWEEN THE RUSSIAN FEDERATION AND
THE SOCIALIST REPUBLIC OF VIET NAM ON
TRANSFER OF SENTENCED PERSONS**

THE RUSSIAN FEDERATION and THE SOCIALIST REPUBLIC OF VIET NAM, hereinafter referred to as the "Parties",

WISHING to further the development of international cooperation in the field of administering of sentences,

ASPIRING to facilitate the process of social rehabilitation of sentenced persons,

HEREBY agree as follows:

Article 1

Scope of the Treaty

1. The Parties shall, in accordance with the terms and conditions of this Treaty, provide each other with the widest measure of assistance in matters related to transfer of sentenced persons.

2. A person sentenced in the territory of one Party may be transferred to the territory of the other Party, in accordance with the provisions of this Treaty, in order to serve the sentence imposed. For that end, such person or his/her legal representative may apply to both sentencing State and administering State for his/her transfer, in accordance with the provisions of this Treaty.

3. The request for transfer may be submitted by both sentencing State and administering State.

Article 2

Definitions

For the purposes of this Treaty, the following definitions are used:

- "judgment" means a final court decision imposing sentence for a committed crime. The term "judgement" shall also include final court decisions imposing death penalty, later substituted for a fixed term of deprivation of liberty or for life imprisonment in sentencing State by an act of amnesty or pardon;

- "sentence" means any punishment imposed by a judgment which includes deprivation of liberty for a fixed term or life imprisonment;

- "sentenced person" means a person serving a sentence in the form of deprivation of liberty, imposed by a judgement;

- "sentencing State" means a State in which a court has sentenced a person that may be transferred or has been transferred;

- "administering State" means a State to which the sentenced person may be transferred or has been transferred in order to serve the sentence;

- "central authorities" mean the authorities duly authorized by the Parties for implementation of the Treaty;

- "competent authorities" mean the authorities duly authorized by each Party for performance of this or that act requested;

- "legal representative" means a person or an institution authorized by the legislation of the Party to act in the interests or on behalf of the sentenced person in the respective bodies of that Party.

Article 3

Conditions for Transfer

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

a) the sentenced person is a national of administering State;

b) the judgement is final, and there are no proceedings pending in respect of this person;

c) at the time of receipt of request for transfer, the part of sentence to be served by the sentenced person is not less than one year. In exceptional cases, the Parties may agree on transfer if the remaining term of sentence is less than that specified above;

d) there is written consent by the sentenced person for his/her transfer for execution of sentence in the territory of the administering State, and in case of his/her inability to freely express his/her will due to age, physical or mental condition a written consent by his/her legal representative. The sentencing State shall provide a consular officer or any other official of the administering State with an opportunity to verify that the consent for transfer or rejection thereof was given voluntary and with understanding of legal consequences of such transfer;

e) the crimes, for which the sentence was imposed, are punishable by deprivation of liberty according to criminal laws of the administering State;

f) sentencing State and administering State have clearly given their consent for transfer;

g) the transfer of the person does not impair sovereignty, security, public order or other essential interests of a Party.

2. The transfer shall be rejected if:

a) the sentenced person has not fulfilled any financial obligations arising from a court judgement, or if, in the opinion of sentencing State, the guarantees of fulfillment of such obligations are insufficient;

b) the sentence cannot be executed in the administering State due to expiration of limitation period or due to other reasons stipulated in the laws of such State.

Article 4

Central Authorities

1. The central authorities authorized to perform this Treaty are:

For the Russian Federation – Ministry of Justice of the Russian Federation, for the Socialist Republic of Viet Nam – Ministry of Public Security of the Socialist Republic of Viet Nam.

2. When implementing this Treaty, the central authorities shall communicate directly.

3. Each Party shall immediately notify the other Party of any changes, connected with its respective central authority, through diplomatic channels.

Article 5

Obligation to Provide Information

1. Any sentenced person, to whom this Treaty may be applied, shall be informed by the sentencing State of the contents of this Treaty, as well as of legal consequences of transfer.

2. If the sentenced person applies to the sentencing State for his transfer, that State shall so promptly inform the administering after the judgement becomes final.

3. Such notice shall include:

a) surname, name (patronymic), date and place of birth, nationality of the sentenced person;

b) permanent place of residence of the sentenced person in the administering State, if known;

c) a Statement of the facts, upon which the sentence was based;

d) the type, duration and date of commencement of the sentence;

e) the text of applicable provisions of the criminal laws.

4. If the sentenced person applies to the administering State for transfer pursuant to the provisions hereof, the sentencing State shall provide the administering State, on request, with the information specified in paragraph 3 of this Article.

5. The sentenced person shall be informed in writing of any actions taken by the administering State or by the sentencing State, under the preceding paragraphs, as well as of any decision taken by either State on request for transfer.

Article 6

Requests and Responses

1. Requests for transfer and responses to them shall be made in writing and directed to the central authorities appointed in accordance with this Treaty.

2. The requested Party shall promptly inform the requesting Party on its decision to allow or reject the request of transfer.

3. After receipt of the motion for transfer, the central authority of the sentencing State shall accompany the request addressed to the central authority of the administering State with:

a) information about the sentenced person (surname, name (patronymic), date and place of birth);

b) documents indicating the nationality of the sentenced person and his/her permanent place of residence;

c) certified copies of the judgment and all relevant court decisions on the case and a document confirming that the judgment had become final;

d) the document indicating the part of sentence served and the part of sentence to be served, as well as the document indicating behavior of the sentenced person while serving the sentence;

e) a document indicating execution of additional punishment, if any;

f) the text of provisions of the criminal law on account of which the person was sentenced;

g) a written consent of the sentenced person or his/her legal representative in case of his/her inability to freely express his/her will due to age, physical or mental conditions for his/her transfer for execution of a sentence in the territory of the administering State;

h) the document indicating financial obligations of the sentenced person under the judgment, if any;

i) information on the State of health of the sentenced person and on the possibility of his/her transportation to the territory of the administering State.

4. After receipt of the motion for transfer, the central authority of the administering State shall accompany the request addressed to the central authority of the sentencing State with the documents mentioned in paragraph 3 points "a" and "b" of this Article.

5. The central authority of the sentencing State shall accompany its response to the said request with the documents mentioned in paragraph 3 points from "c" to "i" of this Article.

6. If the request of the central authority of the sentencing State is allowed, the central authority of the administering State shall accompany its response with:

a) a written agreement for receipt of the sentenced person for execution of the remaining part of the sentence;

b) a certified copy of the decision of the court or other competent authority on acknowledgement and execution of sentence stating the order, the term and conditions of serving the sentence by the sentenced person after his/her transfer;

c) certified extracts from legislation on which the sentenced person will serve the sentence;

d) a document indicating the nationality of the sentenced person.

7. If necessary, the central authorities of the Parties may request any other additional documents or information.

8. Upon rendering the decision of consent or rejection to transfer the sentenced person by the court or other competent authority of the sentencing State, the central authority of the sentencing State after receipt of all necessary documents shall promptly inform the central authority of the administering State of its consent or rejection to transfer the sentenced person subject to the terms and conditions of this Treaty.

9. Place, time and procedure of transfer shall promptly be determined by the competent authorities of the Parties.

Article 7

Expenses

Expenses related to transfer of the sentenced person, including the expenses on transit, shall be borne by the administering State, except agreed by both Parties. Any other expenses arising pertaining to transfer of the sentenced person till the moment of his/her transfer shall be borne by the Party that incurred them.

Article 8

Enforcement of Sentence

1. The administering State shall ensure the continuing of enforcement of sentence in accordance with its laws.

2. The sentence shall be served on account of the judgement of a court of the sentencing State. The court of the administering State, on the basis of that sentence, shall, subject to and in accordance with the laws of its State, impose the same term of imprisonment as that imposed by the judgement.

If, according to the laws of the administering State, the maximum term of imprisonment for the crime committed is less than that imposed by the judgement, the court of the administering State shall impose the maximum term of imprisonment provided for by the laws of the administering State for committing the same crime.

The part of the punishment served in the territory of the sentencing State shall be considered in the total term of the sentence.

3. Decision on enforcing additional punishment imposed by the judgement shall be taken by the court of the administering State, if such punishment for the crime committed is provided for by the laws of such State. Additional punishment shall be enforced as specified in this Article.

Article 9

Pardon, Amnesty, Parole, Substitution of Sentence and Review of Judgement

Either Party may grant pardon, amnesty, parole and substitution of sentence in accordance with its laws.

Only the sentencing State shall have the right to resolution of issues of appeal or review of the judgement.

Article 10

Non bis in idem

After his/her transfer, the sentenced person shall not be prosecuted or proceeded against in the administering State for the same acts as the ones on account of which the sentence was imposed in the sentencing State.

Article 11

Termination of Enforcement

The administering State shall terminate enforcement of the sentence as soon as it is informed by the sentencing State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 12

Change and Remission of Judgement

1. If, after the transfer of the sentenced person for serving the sentence, the judgement is changed by the court of the sentencing State, a copy of the respective judgement and other necessary documents shall be promptly submitted to the central authority of the administering State. The administering State shall resolve the issue of enforcing such decision as specified in Article 8 of this Treaty.

2. If, after the transfer of the sentenced person for serving the sentence, the judgement is remitted, thus dismissing the case in the sentencing State, a copy of the respective decision shall be promptly submitted to the central authority of the administering State.

3. If, after the transfer of the sentenced person for serving the sentence, the judgement is remitted and a new investigation or proceedings is/are to take place, a copy of the respective decision, criminal case documents and other necessary materials shall be promptly submitted to the administering State in order to resolve the issue of prosecution of the sentenced person under the laws of the administering State.

Article 13

Exchange of Information

1. The central authority of the administering State shall inform the central authority of the sentencing State of the court decision taken in order to enforce the sentence, of granting pardon, amnesty, parole or substitution of sentence and in case of his/her escape.

2. The central authority of the administering State, on request of the central authority of the sentencing State, shall provide information on the process of serving the sentence after the sentenced person's transfer.

Article 14

Transit

1. A Party shall, in accordance with its law, satisfy a request for transit of a sentenced person through its territory if such request is made by the other Party, which has agreed with a third State to the transfer of that person.

2. A Party may refuse to permit transit if:
a) the sentenced person is its national;

b) the offence for which the sentence was imposed is not considered as such under its law.

3. The request for transit shall include the information specified in points "a" and "b" of paragraph 3 of Article 6 herein and shall be accompanied by the documents specified in paragraph 1 and points "c" and "f" of paragraph 3 of Article 6 of this Treaty.

4. The Party requested to permit transit may hold the sentenced person in custody only for such time as transit through its territory requires.

5. Such permit is not required, if such transit is carried out by air and no landing in the territory of the other Party is expected. However, that Party has to be notified of any such transit over its territory.

Article 15

Languages

The request and supporting documents, notifications and information shall be drawn up in the language of the requesting Party and shall be accompanied with translation into the language of the requested Party or into the English language and shall not be the subject to legalization .

Article 16

Temporal application

This Treaty shall be applicable to enforcement of sentences imposed both before and after its entry into force.

Article 17

Settlement of Disputes

Any disputes, arising between the Parties from interpretation and implementation of this Agreement, shall be settled through consultations and negotiations.

Article 18

Amendments to the Treaty

1. This Treaty may be amended on the initiative of either Party.
2. Any approved amendments hereto shall take effect in accordance with the procedure specified in paragraph 1 of Article 19 hereof.

Article 19

Final provisions

1. This Treaty is concluded for indefinite period of time and becomes binding upon expiry of 30 days from the date of receipt of the last written notice from the Parties through diplomatic channels of completion of all internal procedures as required for its commencement according to applicable laws thereof.

2. This Treaty terminates upon expiry of 180 days from the date of receipt of the other Party's written notice of its intention to terminate it through diplomatic channels.

3. The termination of this Treaty shall not impede completion of execution of any requests for extradition, received prior to a termination date.

In witness whereof, the undersigned, being duly authorized thereto by the Russian Federation and the Socialist Republic of Viet Nam have signed the present Treaty.

Done in Ha Noi on the 12th of November 2013 in duplicate, each in Russian, Vietnamese and English languages, all texts being equally authentic. In case of interpretation discrepancies, the English text shall be used.

For the Russian Federation



**For the Socialist Republic
of Viet Nam**

