

**(Unofficial Translation)**

**Treaty**  
**between**  
**the Kingdom of Thailand**  
**and**  
**the Kingdom of Denmark**  
**on**  
**the Transfer of Offenders and on Co-operation**  
**in the Enforcement of Penal Sentences**

---

The Kingdom Of Thailand and the Kingdom of Denmark;

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; and

Desiring to cooperate in the enforcement of penal sentences by enabling offenders to serve sentences of imprisonment, confinement or other forms of deprivation of liberty in the country of which they are nationals, thereby facilitating their successful reintegration into society;

Have agreed as follows:

**Article 1**  
**Definitions**

For the purposes of this Treaty:

- (a) "transferring State" means the Party from which the offender may be, or has been, transferred;
- (b) "receiving State" means the Party to which the offender may be, or has been, transferred;

(c) "offender" means a person who, in the territory of the transferring State, has been convicted of a crime and sentenced to a term of imprisonment, confinement, or other form of deprivation of liberty, whether or not under conditional release, probation or other form of supervision without confinement. The term shall include a person subject to detention in a hospital or any other institution in the transferring State by virtue of an order made by a court of that state on account of a criminal offence. The term shall also include a person subject to confinement, custody or supervision under the law of the transferring State respecting juvenile offenders.

(d) "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**

An offender 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 on him.

## **Article 3**

### **Scope of Application**

The application of this Treaty shall be subject to the following conditions, namely that:

(a) the acts or omissions on account of which the sentence has been imposed constitute the essential elements of a criminal offence according to the law of the receiving State or would constitute such elements of a criminal offence if committed on its territory;

(b) the offender is a national of the receiving State;

(c) the offender was not sentenced in respect of an offence under the law of Thailand:

- against the internal or external security of the state;
- against the Monarch, his Consort or his sons or daughters; or
- against legislation protecting national art treasures;

(d) the sentence imposed on the offender is one of imprisonment, confinement or any other form of deprivation of liberty:

- for life;

- for an indeterminate period including the deprivation of liberty on account of mental incapacity; or
- for a fixed period of which at least one year remains to be served at the time of the request for transfer;
- (e) an offender may not be transferred unless he 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;
- (f) the judgment is final and no other legal proceedings relating to the offence or any other offence are pending in the transferring State;
- (g) the transferring and receiving States and the offender all agree to the transfer, provided that, where in view of his age or physical or mental condition either Party considers it necessary, the offender's consent may be given by a person entitled to act on his behalf;
- (h) the transfer of the offender does not prejudice either Party's sovereignty, security, order public other essential interests;
- (i) if under the law of the receiving State, the competent court of the receiving State has to make a decision or judgement to enforce the sentence imposed on the offender by the court of the transferring State, the receiving State has to effect the said court decision or judgement prior to the transfer of the offender by the transferring State. 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 offender has to serve, the transferring State has the right to refuse the request.

#### **Article 4**

#### **Prodedure for Transfer**

(1) Both Parties shall endeavour to inform offenders 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 Parties shall take all measures necessary for effectuating the offender's transfer.

(3) In deciding upon the transfer of an offender, each Party shall consider the following factors:

(a) The probability that transfer of the offender will contribute to the social rehabilitation or otherwise be in his best interest; and

(b) The nature and severity of the offence, including the effects of the offence within the transferring and receiving States and any mitigating and aggravating circumstances.

(4) 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 offender 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 judgements and sentences concerning the offender 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 offender's transfer and for the execution of his sentence.

(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 taking a decision on whether or not to agree to the transfer.

(6) 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 offender or of a person entitled to act on his behalf to the transfer in accordance with Article 3 (g) of this Treaty is given voluntarily and with full knowledge of the legal consequences thereof.

(7) Delivery of the offender 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 Parties.

## **Article 5**

### **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 offender'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 6**

### **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 deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other 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.

(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 5 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 offender so categorized under its law regardless of his status under the law of the transferring State. For this purpose, the sentence or conditions of punishment so imposed upon the juvenile offender

shall not be more severe than the sentence or conditions of punishment imposed on the offender in the transferring State.

(6) The authorities of either Party shall at the request of the other Party provide reports indicating the status of all offenders transferred under this Treaty, including in particular, the parole or release of any offender. Either Party may, at any time, request a special report on the status of the enforcement of an individual sentence.

### **Article 7**

#### **Transit of Offenders**

(1) If either Party transfers an offender from any third State, the other Party shall cooperate in facilitating the transit through its territory of such an offender. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

(2) Either Party may refuse to grant transit:

- (a) if the offender 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 8**

#### **Expenses**

The expenses incurred in the transfer of the offender 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 offender.

### **Article 9**

#### **Language**

Requests for transfer as well as the documents and declarations under Article 4, paragraphs 4 and 5, and under Article 6, paragraph 4, shall be furnished in the language of the transferring State.

**Article 10**  
**temporal Application**

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

**Article 11**  
**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 Copenhagen as soon as possible.

(2) This Treaty shall remain in force for five years from the date upon which it enters into force. Thereafter, the Treaty shall continue in force until six months from the date upon which either Party gives written notice to the other Party of its intention to terminate it.

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

DONE at Bangkok, this Twenty-first day of June, Nineteen Ninety-nine in duplicate, in the Thai, Danish and English languages, all three texts being authentic, In case of divergent interpretations of the Thai and Danish texts, the English text shall prevail.

For the Kingdom of Thailand For the Kingdom of Denmark

(M.R. Sukhumbhand Paribatra) (Niels Kaas Dyrland)  
Deputy Minister of Foreign Affairs Ambassador Extraordinary  
and Plenipotentiary