

**TREATY**

**BETWEEN**

**THE CZECH REPUBLIC**

**AND**

**THE SOCIALIST REPUBLIC OF VIET NAM**

**ON THE TRANSFER OF SENTENCED PERSONS**

THE CZECH REPUBLIC AND THE SOCIALIST REPUBLIC OF VIET NAM,  
hereinafter referred to as the "Parties",

TAKING into consideration the laws and regulations of the Parties in force regarding enforcement of penal sentences,

DESIROUS of further developing mutual co-operation in the field of criminal law, and

PROMOTING transfers of sentenced persons, which will give these persons the opportunity to serve imposed sentences in their home country and will contribute to their social rehabilitation,

HAVE AGREED AS FOLLOWS:

## **Article 1** **Definitions**

For the purposes of this Treaty:

a) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offence,

b) "judgment" means a decision of a court imposing a sentence,

c) "Transferring State" means the Party in whose territory the sentence was imposed on the person who may be, or has been, transferred,

d) "Receiving State" means the Party to whose territory the sentenced person may be, or has been, transferred in order to serve the sentence,

e) "sentenced person" means a person who is required to be detained in a prison or any other institution by virtue of a judgment made by a court of the Transferring State on account of a criminal offence.

## **Article 2** **General Principles**

1. The Parties undertake to afford each other the widest measure of co-operation in respect of the transfer of sentenced persons in accordance with the provisions of this Treaty.

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 on him or her.

3. A sentenced person to whom this Treaty may apply shall be informed of the substance hereof by the Transferring State before his or her transfer takes place in order to serve the sentence.

4. A person sentenced in the territory of one Party or his or her legal representative may express interest in transfer under this Treaty to the Transferring State or to the Receiving State.

5. Transfer may be requested by either the Transferring State or the Receiving State.

6. A sentenced person shall be informed in writing of decisions taken by the Transferring State or the Receiving State in accordance with this Treaty.

### **Article 3** **Central Authorities**

1. For the purposes of application of this Treaty, each Party shall designate a Central Authority.

2. The Central Authority for the Czech Republic shall be the Ministry of Justice. The Central Authority for the Socialist Republic of Viet Nam shall be the Ministry of Public Security.

3. The Central Authorities may communicate directly with each other for the purposes of this Treaty. Communication through diplomatic channels is not excluded thereby.

4. Either Party may change its Central Authority, in which case it shall notify the other of the change through diplomatic channels.

### **Article 4** **Requests and Replies**

1. Requests for transfer and replies shall be made in writing.

2. Requests shall be communicated directly between the Central Authorities. Communication of a request through diplomatic channels is not excluded thereby. Replies shall be communicated through the same channels.

3. The Requested State shall promptly inform the Requesting State of its decision whether or not to agree to the requested transfer. In case of rejection of the request, the Requested State shall give reasons for its decision.

## **Article 5**

### **Conditions for Transfer**

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

a) the person is a national of the Receiving State,

b) the judgment is final and enforceable,

c) at the time of receipt of the request for transfer, the sentenced person still has at least one year of the sentence to serve,

d) the transfer is consented to by the sentenced person or, where in view of his or her age, physical or mental condition one of the Parties considers it necessary, by his or her legal representative; form of expression of the consent shall be governed by the law of the Transferring State,

e) the act or omission on account of which the sentence was imposed constitutes a criminal offence according to the law of the Receiving State, or would constitute a criminal offence if committed on its territory, and

f) the Transferring State and the Receiving State agree to the transfer.

2. In exceptional cases, the Parties may agree to the transfer even if the time to be served by the sentenced person is at least six months.

## **Article 6**

### **Verification of Consent**

If necessary, the Receiving State may verify through its consular official or other representative agreed upon with the Transferring State that the sentenced person has given consent voluntarily and with full knowledge of the legal consequences thereof. The Transferring State shall enable contact between the consular official of the Receiving State or other representative of the Receiving State agreed upon with the Transferring State and the sentenced person or his or her legal representative.

## **Article 7**

### **Supporting Documents**

1. The Receiving State shall enclose to the request for transfer or to the reply to the request submitted by the Transferring State the following:

a) a document or statement certifying that the sentenced person is a national of that State,

b) a certified copy of the relevant provisions of the law of the Receiving State which provide that the acts or omissions on account of which the sentence was imposed in the Transferring State constitute a criminal offence also according to the law of the Receiving State, or would constitute a criminal offence if committed on its territory,

c) a statement containing the information on the manner of serving the remainder of the sentence,

d) a document in which the sentenced person or his or her legal representative expresses interest in the transfer or consent to the transfer as referred to in Article 5.1.d, if such a document is at the Receiving State's disposal.

2. The Transferring State shall enclose to the request for transfer or to the reply to the request submitted by the Receiving State the following:

a) the name, date, and if available place of birth and permanent address of the sentenced person in the Receiving State,

b) a certified copy of the judgment, with indication of the date on which the judgment became final, and a certified copy of the relevant provisions of the law of the Transferring State on which the judgment is based,

c) a document stating how much of the sentence has already been served, including information on duration of custody, remission and any other factors relevant to the enforcement of the sentence,

d) a document in which the sentenced person or his or her legal representative expresses interest in the transfer or consent to the transfer as referred to in Article 5.1.d, if such a document is at the Transferring State's disposal.

3. Either State may ask to be provided with any of the documents or statements referred to in paragraphs 1 or 2 above before making a request for transfer or taking a decision on whether or not to agree to the transfer.

4. Documents provided by the Parties under this Treaty shall be exempt from legalisation.

## **Article 8**

### **Effect of Transfer for Transferring State**

1. Taking into charge of the sentenced person by the authorities of the Receiving State shall have the effect of suspending the enforcement of the sentence in the Transferring State.

2. If the sentenced person avoids the enforcement of the sentence in the territory of the Receiving State, that State shall immediately inform of it the Transferring State. If the sentenced person is afterwards detained in the territory of the Transferring State, that State may order the remainder of the sentence to be enforced.

3. The Transferring State may no longer enforce the sentence if the Receiving State considers the enforcement of the sentence to have been completed.

## **Article 9**

### **Effect of Transfer for Receiving State**

1. The competent authorities of the Receiving State shall continue the enforcement of the sentence under the conditions set out in paragraph 2. The enforcement of the sentence shall be governed by the law of the Receiving State and, with the exception of this Article and Article 10, the Receiving State alone shall be competent to take all appropriate decisions.

2. The Receiving State shall be bound by the kind and duration of the sentence, as determined by the Transferring State. If, however, this sentence is by its kind and duration incompatible with the law of the Receiving State, or its law so requires, that State may, by a court or administrative decision, adapt the sentence to the punishment prescribed by its own law for a similar offence. If maximum length of punishment prescribed by the law of the Receiving State is shorter than length of the sentence imposed in the Transferring State, the Receiving State shall order the enforcement of the punishment with maximum possible length allowed by its law. As to its kind, the punishment shall correspond, as far as possible, with that imposed by the sentence to be enforced. It shall not aggravate, by its kind or duration, the sentence imposed in the Transferring State, nor exceed the maximum prescribed by the law of the Receiving State.

3. The competent authority of the Receiving State shall not convert a sanction involving deprivation of liberty to a pecuniary sanction.

4. The part of the sentence, including custody, already served by the sentenced person in the Transferring State shall be completely included into the total duration of the sentence.

5. The Receiving State shall provide the Transferring State with a copy of the decision by which the enforcement of the sentence in the territory of the Receiving State is ordered.

## **Article 10**

### **Pardon, Amnesty, Commutation**

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

## **Article 11**

### **Review of Judgment**

The Transferring State alone shall have the right to decide on applications for review of the judgment.

## **Article 12**

### **Termination of Enforcement of Sentence**

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

## **Article 13**

### **Information on Enforcement of Sentence**

The Receiving State shall provide the Transferring State with information concerning the enforcement of the sentence if:

- a) it considers the enforcement of the sentence to have been completed,
- b) the sentenced person has escaped before the enforcement of the sentence has been completed,
- c) the sentenced person died, or
- d) the Transferring State requests a special report.

## **Article 14**

### **Transit**

1. In accordance with its law, a Party shall grant a request for transit of a sentenced person through its territory if such a request is made by the other Party and that Party has agreed with a third state to the transfer of the sentenced person to or from its territory.

2. A Party may refuse to grant transit if:

- a) the sentenced person is its national, or
- b) the offence for which the sentence was imposed is not a criminal offence under its law.

3. Requests for transit and replies shall be communicated in the way referred to in Article 4.1 and 4.2. The Requesting State shall enclose to the request the information referred to in Article 7.2.a.

4. No request for transit shall be required if transport over the territory of the other Party is by air and no landing there is scheduled.

### **Article 15** **Language and Costs**

1. Requests, replies and all documents shall be furnished with translation into the language of the Requested State or English.

2. Any costs incurred in relation to the transfer of the sentenced person or the enforcement of the sentence after transfer shall be borne by the Receiving State, except costs incurred by the Transferring State exclusively within its territory.

### **Article 16** **Final Provisions**

1. This Treaty does not affect the rights and undertakings derived from other treaties binding on the Parties.

2. This Treaty also applies to judgments pronounced before its entry into force.

3. Contentious issues arising from application of this Treaty shall be resolved by negotiation between the Central Authorities or eventually through diplomatic channels.

4. This Treaty may be changed and amended by virtue of written agreement of the Parties. Changes and amendments shall enter into force in accordance with paragraph 7 of this Article.

5. This Treaty is concluded for an indefinite time. Either Party may denounce this Treaty by means of a notification through diplomatic channels. The Treaty shall expire one year after the date of receipt of the notification by the other Party.

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

7. This Treaty is subject to ratification and shall enter into force sixty days after the date of exchange of the ratification instruments. The ratification instruments shall be exchanged as soon as possible.



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

Done at Hanoi on 7. June 2017 in duplicate originals, in Czech, Vietnamese and English languages, all texts being equally authentic. In case of different interpretation, the English text shall prevail.

For the Czech Republic

Robert Pelikán  
Minister of Justice

For the Socialist Republic of Viet Nam

To Lam  
Minister of Public Security