

**TREATY ON THE TRANSFER OF SENTENCED PERSONS
BETWEEN THE REPUBLIC OF INDIA AND THE REPUBLIC
OF BULGARIA**

The Republic of India and the Republic of Bulgaria hereinafter referred to as the Contracting States;

Desiring to facilitate the social rehabilitation of sentenced persons into their own countries; and

Considering that this objective should be fulfilled by giving their nationals, who have been convicted and sentenced 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 purpose of this Treaty:

- (a) “administering State” means a State to which the sentenced person may be, or has been, transferred in order to serve his sentence;**
- (b) “judgment” means a decision or order of a court or tribunal imposing a sentence;**
- (c) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a determinate period of time or for life imprisonment, in the exercise of its criminal jurisdiction;**
- (d) “sentenced person” means a person undergoing a sentence of imprisonment under an order passed by a criminal court including the courts established under the law for the time being in force in the Contracting States;**

- (e) “sentencing State” means the State in which the sentence was imposed on the person who may be, or has been transferred.

ARTICLE 2

General Principles

1. A person sentenced in the territory of one Contracting State may be transferred to the territory of the other Contracting State in accordance with the provisions of this Treaty in order to serve the sentence imposed on him. To that end, he may express to the sentencing State or the administering State his willingness to be transferred under this Treaty.
2. Transfer may be requested by any sentenced person who is a national of a Contracting State or by any other person who is entitled to act on his behalf in accordance with the law of the Contracting State by making an application to the Contracting State and in the manner prescribed by the Government of that Contracting State.

ARTICLE 3

Conditions for transfer

1. A sentenced person may be transferred under this Treaty only on the following conditions:
 - (a) the person is a national of the administering State;
 - (b) the death penalty has not been imposed on the sentenced person;
 - (c) the judgment is final;

- (d) no inquiry, trial or any other proceeding is pending against the sentenced person in the Sentencing State;
- (e) at the time of receipt of the request for transfer, the sentenced person still has at least twelve months of the sentence to serve or is undergoing a sentence of life imprisonment;
- (f) that the acts or omissions for which that person was sentenced in the Sentencing State are those which are punishable as a crime in the administering State, or would constitute a criminal offence if committed on its territory;
- (g) the sentenced person has not been convicted for an offence under the military law;
- (h) transfer of custody of the sentenced person to the administering State shall not be prejudicial to the sovereignty, security or any other interest of the sentencing State;
- (i) consent to the transfer is given by the sentenced person or, where in view of his age or physical or mental condition either Contracting State considers it necessary, by any other person entitled to act on his behalf in accordance with the law of the contracting State; and
- (j) the sentencing and administering States agree to the transfer.

2. In exceptional cases, the sentencing and administering States may agree to a transfer even if the remaining period to be served by the sentenced person is less than twelve months.

ARTICLE 4

Obligation to furnish information

1. If the sentenced person has expressed an interest to the sentencing State in being transferred under this Treaty, the sentencing State shall send the following information and documents to the administering State unless either the administering or the sentencing State has already decided that it will not agree to the transfer:

- (a) the name and nationality, date and place of birth of the sentenced person;
- (b) his address, if any, in the administering State;
- (c) a statement of the facts upon which the sentence was based;
- (d) the nature, duration and date of commencement of the sentence;
- (e) a certified copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the sentenced person;
- (f) a medical, social or any other report on the sentenced person, where it is relevant for the disposal of his application or for deciding the nature of his confinement;
- (g) any other information which the administering State may specify as required in all cases to enable it to consider the possibility of transfer and to enable it to inform the sentenced person of the full consequences of transfer for him under its law;
- (h) the request of the sentenced person to be transferred or of a person entitled to act on his behalf in accordance with the law of the sentencing State; and

- (i) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, or any other factor relevant to the enforcement of the sentence.

2. For the purposes of enabling a decision to be made on a request under this Treaty, the administering State shall send the following information and documents to the sentencing State unless either the administering or the sentencing State has already decided that it will not agree to the transfer:

- (a) a statement or document indicating that the sentenced person is a national of the administering State;
- (b) a copy of the relevant law of the administering State constituting the acts or omissions, on account of which the sentence has been passed in the sentencing State, as if such acts or omissions were an offence under the law of the administering State or would constitute an offence if committed on its territory;
- (c) a statement of the effect of any law or regulation relating to the duration and enforcement of the sentence in the administering State after the sentenced person's transfer including, if applicable, a statement of the effect of paragraph 2 of Article 8 of this treaty on his transfer;
- (d) the willingness of the administering State to accept the transfer of the sentenced person and an undertaking to administer the remaining part of the sentence of the sentenced person; and
- (e) any other information or document which the sentencing State may consider necessary.

ARTICLE 5

Requests and replies

1. Requests for transfer shall be made in writing in the prescribed proforma, if any, and addressed through the central authorities of the contracting States or through diplomatic channels to the central authorities of the contracting States. Replies shall be communicated through the same channels.
2. For the purpose of paragraph 1 of this Article, the central authority shall be, in relation to India, the Ministry of Home Affairs; and in relation to Bulgaria, it shall be the Ministry of Justice.
3. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

ARTICLE 6

Consent and its verification

1. The sentencing State shall ensure that the person required to give consent to the transfer in accordance with paragraph 1(i) of Article 3 of this Treaty, does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the sentencing State.
2. The sentencing State shall afford an opportunity to the administering State to verify that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE 7

Effect of transfer for the administering State

1. The competent authorities of the administering State shall continue the enforcement of the sentence through a court or administrative order, as may be required under its national law, under the conditions set out in Article 8 of this Treaty.
2. Subject to the provisions of Article 10 of this Treaty, the enforcement of the sentence shall be governed by the law of the administering State and that State alone shall be competent to take all appropriate decisions in this regard.

ARTICLE 8

Continued enforcement of sentence

1. The administering State shall be bound by the legal nature and duration of the sentence as determined by the sentencing State.
2. If, however, the sentence is by its nature or duration or both incompatible with the law of the administering State, or its law so requires, that State may, by court or administrative order, adapt the sentence to a punishment or measure prescribed by its own law. As to its nature and duration the punishment or measure shall, as far as possible, correspond with that imposed by the judgment of the sentencing State. It shall however not aggravate, by its nature or duration, the sentence imposed in the sentencing State.

ARTICLE 9

Effect of completion of sentence for the sentencing State

When the administering State notifies the sentencing State under paragraph 1(a) of Article 12 of this Treaty that the sentence has been

completed, such notification shall have the effect of discharging that sentence in the sentencing State.

ARTICLE 10

Pardon, amnesty or commutation and review of judgment

- (1) The sentencing State alone shall decide on any application for the review of the judgment.
- (2) Either of the Contracting States may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws.

ARTICLE 11

Termination of enforcement of sentence

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

Information on enforcement of sentence

1. The administering State shall notify the sentencing State :
 - (a) when the enforcement of the sentence has been completed; or
 - (b) if the prisoner escapes from custody before enforcement of the sentence has been completed. In such cases the administering State shall make every effort to have the prisoner arrested in its territory so that the prisoner be prosecuted for committing an offence under the relevant law of the administering State on escape of prisoner.

2. The administering State shall furnish a special report concerning the enforcement of the sentence, if so required by the sentencing State.

ARTICLE 13

Transit

If either Contracting State enters into arrangements for the transfer of sentenced persons with any third State, the other Contracting State shall cooperate in facilitating the transit through its territory of the sentenced persons being transferred pursuant to such arrangements, except that it may refuse to grant transit to any sentenced person who is one of its own nationals. The Contracting State intending to make such a transfer shall give advance notice to the other Contracting State of such transit.

ARTICLE 14

Costs

Any costs incurred in the application of this Treaty shall be borne by the administering State, except costs incurred exclusively in the territory of the sentencing State. The administering State may, however, seek to recover all or part of the costs of transfer from the sentenced person or from some other source.

ARTICLE 15

Language

Requests and supporting documents shall be accompanied by a translation into the language or one of the official languages of the requested State or English.

ARTICLE 16

Certification

Except for the document referred to in Article 4(1) (e), all other documents transmitted in application of this Treaty do not require certification.

ARTICLE 17

Scope of application

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

ARTICLE 18

Amendments

Any amendments or modifications to this Treaty agreed by the Contracting States shall come into effect in the same manner as entering into force of this Treaty.

ARTICLE 19

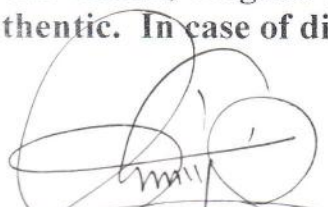
Final provisions

1. This Treaty shall be subject to ratification and shall enter into force on the thirtieth day after which instruments of ratification are exchanged.
2. The Treaty shall continue to remain in force until six months from the date upon which either Contracting State gives written notice to the other Contracting State of its intention to terminate it.

3. 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.


In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

Done in duplicate at New Delhi on the 12th day of September, 2007 in the Hindi, English and Bulgarian languages, all texts being equally authentic. In case of divergence, the English text shall prevail.



12/9/2007

For the Government of
the Republic of India :



For the Government of the
Republic of Bulgaria: