

(Unofficial Translation)

TREATY¹ ON COOPERATION IN THE EXECUTION OF PENAL SENTENCES BETWEEN THE GOVERNMENT OF THE KINGDOM OF SWEDEN AND THE GOVERNMENT OF THE KINGDOM OF THAILAND

The Government of the Kingdom of Sweden and the Government of the Kingdom of Thailand,

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 execution 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 reintegration into society;

Have agreed as follows:

Article I
Definitions

For the purpose of this Treaty:

1. "Transferring State" means the Party from which the offender may be, or has been, transferred;
2. "Receiving State" means the Party to which the offender may be, or has been, transferred in order to serve his sentence;
3. "Offender" means a person who, in the territory of either Party, has been convicted of a crime and sentenced either to a term of imprisonment, confinement or other form of deprivation of liberty, or to conditional release, probation or other form of supervision

¹ Came into force on 1 June 1990, i.e., the first day of the month following the expiration of a period of three months after the date of the exchange of the instruments of ratification, which took place at Bangkok on 23 February 1990, in accordance with article IX (1).

without confinement. The term shall include a person subject to confinement, custody or supervision under the law of the Transferring State respecting juvenile offenders.

4. "National" means

- a) in respect of the Kingdom of Sweden a person who is a Swedish national;
- b) in respect of the Kingdom of Thailand a person who is a Thai national.

Article II

General principles

1. An offender convicted in the territory of one Party may be transferred to the territory of the other Party in order to serve the sentence imposed on him in accordance with the provisions of this Treaty.

2. An offender may be transferred if:

- a) he is under a sentence of imprisonment for life;
- b) he is serving a sentence with a definite termination date;
- c) he is subject to confinement, custody or supervision under the law of the Transferring State respecting juvenile offenders.

Article III

Scope of application

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

1. That the offence, for which the offender to be transferred was convicted and sentenced, is one which would also be punishable in the Receiving State had the offence been committed in the Receiving State. This condition shall not be interpreted so as to require that the offences described in the laws of the two Parties be identical in matters not affecting the character of the offences.

2. That the offender to be transferred is a national of the Receiving State.

3. That 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 his legal representative.

4. That in relation to Thailand the offender to be transferred did not commit an offence:

- a) against the internal or external security of the State;
- b) against the Monarch, his Consort or his sons or daughters; or
- c) against legislation protecting national art treasures.

5. That no further or other legal proceedings relating to the offence or any other offence are pending in the Transferring State.
6. That, in the case of imprisonment, confinement or other form of deprivation of liberty, the offender shall, at the time of transfer, have served in the Transferring State any minimum period of the sentence stipulated by the law of the Transferring State.
7. That there is at least one year of the offender's sentence remaining to be served at the time of the application for transfer.
8. That the transfer may be refused if:
 - a) it is considered by the Transferring State to jeopardize its sovereignty, its security or its public order; or
 - b) the offender is also a national of the Transferring State.

Article IV
Procedure for transfer

1. Either Party shall endeavour to inform an offender, who is within the scope of the present 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. If the Transferring State approves the request, it shall so inform the Receiving State through diplomatic channels and initiate procedures to effectuate the transfer of the offender.
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 his social rehabilitation or otherwise be in his best interests; and
 - b) The nature and severity of the offence, including the effects of the offence within the Transferring and Receiving States and any mitigating or aggravating circumstances.
4. The Transferring State shall furnish to the Receiving State a statement showing the offence of which the offender was convicted, the termination date of the sentence, the length of time already served by the offender, and any credits to which the offender is entitled i. a. on account of work done, good behaviour or pretrial confinement.
5. The Transferring State shall furnish to the Receiving State a certified copy of all judgments and sentences concerning the offender from the date of his detention in the Transferring

State. When the Receiving State considers such information insufficient, it may request additional information.

6. 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 as agreed upon by both Parties.

7. The Transferring State shall afford an opportunity to the Receiving State, if the Receiving State so desires, to verify, prior to the transfer, that the offender's consent to the transfer is given voluntarily and with full knowledge of the consequences thereof, through an officer designated by the Receiving State.

Article V

Retention of jurisdiction

In respect of sentences to be executed 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 judgments and sentences pronounced by its courts. The Receiving State, upon being informed of any revision, modification or cancellation of such a judgment or sentence, shall put such measure into effect.

Article VI

Procedure for execution of sentence

1. Except as otherwise provided in this Treaty, the completion of a transferred offender's sentence shall be carried out according to the laws and procedures of the Receiving State. The Transferring State shall, in addition, retain a power to pardon the offender or to commute his sentence and the Receiving State shall, upon being notified of such pardon or commutation from the Transferring State, give effect thereto.

2. The Receiving State may treat under its law relating to juvenile offenders any offender so categorized under its law regardless of his status under the law of 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.

4. 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 execution of an individual sentence.

Article VII

Costs

Any costs or expenses incurred in the application of this Treaty shall be borne by the Receiving State except those incurred exclusively in the territory of the Transferring State.

Article VIII

Transit of offenders

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 will give advance notice to the other Party of such transit.

Article IX

Final provisions

1. This Treaty shall be subject to ratification and shall enter into force on the first day of the month following the expiration of a period of three months after the day on which instruments of ratification have been exchanged. The exchange of instruments of ratification shall take place at Bangkok as soon as possible.
2. The Treaty may be terminated by either Party by giving notice of termination to the other Party through the diplomatic channel. The termination shall become effective six months after the date of receipt of such notice.

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

Done at Stockholm this 26th day of September 1989 in duplicate, in the English language, each text being equally authentic.

For the Government
of the Kingdom of Sweden:

PIERRE SCHORI

Under-Secretary of State for Foreign Affairs

For the Government

of the Kingdom of Thailand:

M. R. KASEM S. KASEMSRI

Permanent Secretary for Foreign Affairs

Thailand Law Forum