

CONVENTION WITH FRANCE ON THE TRANSFER
OF SENTENCED PERSONS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FRANCE ON THE TRANSFER OF SENTENCED PERSONS, SIGNED AT WASHINGTON ON JANUARY 25, 1983



MARCH 1, 1984.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *March 1, 1984.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention Between the United States of America and France on the Transfer of Sentenced Persons, which was signed at Washington on January 25, 1983.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the treaty.

The Convention would permit citizens of either nation who had been convicted in the courts of the other country to serve their sentences in their home country; in each case the consent of the offender as well as the approval of the authorities of the two Governments would be required.

This Convention is significant because it represents an attempt to resolve a situation which has inflicted substantial hardships on a number of citizens of each country and has caused concern to both Governments. The treaty is similar to those currently in force with Bolivia, Canada, Mexico, Panama, Peru and Turkey. I recommend that the Senate give favorable consideration to this Convention at an early date.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 15, 1984.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit a Convention Between the United States of America and the Republic of France on the Transfer of Sentenced Persons which was signed at Washington on January 25, 1983. I recommend that the Convention be transmitted to the Senate for its advice and consent to ratification.

The Convention is similar to those currently in force with Bolivia, Canada, Mexico, Panama, Peru and Turkey and consistent with a treaty with Thailand which you recently transmitted to the Senate. It would permit citizens of either nation who had been convicted in the courts of the other country to serve their sentences in their home country; in each case the consent of the offender as well as the approval of the authorities of the two Governments would be required.

The treaty is intended to relieve the special hardships on prisoners incarcerated far from home, to improve the prospects for rehabilitation of offenders, and also to relieve the strains that can arise in diplomatic and law enforcement relations between the two countries because of the imprisonment of a number of each country's nationals in the institutions of the other. It constitutes part of an ongoing effort to improve relations between the two countries.

The basic terms of the Convention are as follows: The treaty generally applies to a prisoner who has been convicted and sentenced for an offense punishable as a crime in both the Sentencing State and the Administering State (the country to which the offender is to be transferred) provided that the prisoner is a national of the latter, the sentence is final, no appeal is pending, the sentenced person has at least one year left to serve at the time of the request, and the provisions of the sentence, other than the period of detention, have been complied with. The Convention does not apply to purely military offenses. Requests for transfer must be refused if the sentence leading to the request is based on facts that have formed the object of a final judgment in the Administering State or if enforcement of the sentence is barred by limitation under the law of either State.

Each transfer requires the consent of the prisoner. Article 5 lists the circumstances under which the country which imposed the sentence or the country to which the prisoner is to be transferred may refuse a transfer. The reference in paragraph (a) of that Article to "the basic principles relating to the organization of criminal jurisdiction under its legal system" is designed to permit the United States to continue the policy it has developed under existing treaties of affording to the

authorities of a state of the United States which has sentenced a foreign national to incarceration an opportunity to refuse transfer of that national. (*See, e.g.*, Article IV para 5 of the Mexican Treaty, TIAS 8718.)

When a prisoner has been transferred the following procedures govern his treatment: The original sentence is directly enforceable in the Administering States. Deductions for good behavior in prison and during pre-trial confinement are preserved. The Sentencing State retains the power to grant pardon or amnesty. With these exceptions, the execution of the sentence is to be carried out according to the rules and practices prevailing in the Administering State (Article 9). Any collateral attack on the sentence must proceed through the courts of the country which imposed the sentence (Article 7).

The Treaty may be implemented under Public Law 94-144; no new legislation will be proposed.

Respectfully submitted.

GEORGE P. SHULTZ.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FRANCE ON THE TRANSFER OF SENTENCED PERSONS

The Government of the United States of America and the Government of the Republic of France,

Desiring to enable persons under sentence, with their consent, to serve their sentences of deprivation of liberty in the country of which they are nationals in such a way as to facilitate their reintegration into society,

Have resolved to conclude the present Convention.

CHAPTER I

BASIC PRINCIPLES

Article 1

For the purposes of this Convention :

(a) the expression "Sentencing State" means the State in which the offender has been sentenced and from which he is being transferred ;

(b) the expression "Administering State" means the State to which the sentenced person is being transferred to serve his sentence ;

(c) the term "sentenced person" means any person who has been sentenced by a court of law in the territory of either State and required to serve, in confinement, a sentence involving deprivation of liberty.

Article 2

The application of this Convention is subject to the following conditions :

(a) the offense which leads to a request for transfer would be punishable as a crime under the law of both States ;

(b) the sentenced person is a national of the country to which he is to be transferred ;

(c) the sentenced person gives his consent ;

(d) the sentence referred to in Article 1 is a final and enforceable one ; and

(e) at the time of the request for transfer the sentenced person has left to serve a period of at least one year.

Article 3

This Convention shall not apply when the offense for which the offender has been sentenced is a purely military offense.

Article 4

The transfer of a sentenced person shall be refused :

- (a) if the sentence leading to the request is based on facts that have formed the object of a final judgment in the Administering State ;
- (b) if enforcement of the sentence is barred by limitation under the law of either State.

Article 5

The transfer may be refused :

- (a) if the transfer is considered by the Sentencing State or the Administering State to be such as to jeopardize its sovereignty, its security, its public policy, the basic principles relating to the organization of criminal jurisdiction under its legal system or any other of its essential interests ;
- (b) if the competent authorities of the Administering State have decided to abandon, or not to initiate, proceedings based on the same facts ;
- (c) if the facts upon which the conviction is based are also the object of proceedings in the Administering State ;
- (d) if the sentenced person has not paid any sums, fines, court costs, damages or any other pecuniary penalties imposed upon him by the judgment.

Article 6

1. The Sentencing State shall inform the Administering State without delay of any decision or action taken in its territory which terminates the right of enforcement.

2. The competent authorities of the Administering State shall terminate administration upon being informed of any decision or action as a result of which the sentence ceases to be enforceable.

Article 7

The Sentencing State has the sole right to decide on any action for review of the conviction or sentence.

Article 8

The Sentencing State shall inform sentenced persons of the possibilities open to them under this Convention.

CHAPTER II**ADMINISTRATION OF SENTENCES INVOLVING DEPRIVATION OF LIBERTY***Article 9*

1. The sentence imposed by the Sentencing State shall be directly enforceable in the Administering State.

2. The enforcement of the sentence in the Administering State shall be in accordance with the law of that state.

3. If need be under the law, the Administering State may substitute for the penalty imposed by the Sentencing State the penalty or measure provided by its own law for a similar offense. The nature of this penalty or measure shall correspond insofar as possible to that imposed in the sentence to be enforced. The sentence may not aggravate by its nature or duration the penalty imposed by the Sentencing State nor exceed the maximum prescribed by the law of the Administering State.

4. The Administering State alone is competent to take with respect to the sentenced person decisions on the manner of the execution of the sentence, including decisions on the length of the period of incarceration. However, it shall take account of any information furnished by the Sentencing State pursuant to Article 13 of this Convention.

Article 10

The costs of transfer and detention subsequent to transfer are the responsibility of the Administering State.

CHAPTER III

PROCEDURE

Article 11

A transfer request may be submitted by :

- (a) the person under sentence himself, who submits a request to this effect to one of the States;
- (b) the Sentencing State; or
- (c) the Administering State.

Article 12

1. Every request shall be in writing. It shall indicate the identity of the sentenced person and his address in both the Sentencing State and the Administering State.

2. The request shall be completed prior to transfer by a statement taken by a consul of the Administering State acknowledging that the sentenced person's consent was given voluntarily and with full knowledge of the consequences of the transfer.

Article 13

1. The Sentencing State shall send the Administering State the original or a certified copy of the judgment convicting the offender. It shall certify the enforceability of the judgment, and it shall make as clear as possible the circumstances of the offense, the time and place it was committed and its designation in law.

2. The Sentencing State shall provide full information about the length of the sentence remaining to be served, about the periods spent in pre-trial and post-trial custody, as well as remissions of sentence granted or earned.

Article 14

The request shall be addressed to the French Ministry of Justice, if the requesting State is the United States of America, and to the Department of Justice of the United States of America if the requesting State is France.

Article 15

If one of the States deems the information provided by the other to be insufficient to allow it to implement this Convention, it shall request the supplementary information required for this purpose.

Article 16

Either State shall furnish to the other State upon request at any time a complete report on the status of the execution of the penalty of the sentenced person transferred under this Convention.

Article 17

All documents produced by either State in accordance with this Convention may be in English or in French.

Article 18

Documents transmitted by one Contracting State to the other in connection with the application of this Convention shall require no further certification, authentication or other legalization to be admissible in any proceeding relating to the application of the Convention in the State receiving such documents.

Article 19

Costs of administration incurred in the Administering State shall not be reimbursed.

Article 20

1. Both States shall cooperate in facilitating the transit through their territory of sentenced persons transferred from a third State.

2. The transit shall be subject to the conditions established for transfer by Articles 2 (a), (b), (d) and (e), 3 and 4 of this Convention. Its duration shall not exceed 24 hours. The State which intends to carry out such a transit shall give advance notice to the other State together with all necessary information. No notice shall be required if transport is by air over the territory of the other State and no landing there is scheduled.

CHAPTER IV

FINAL PROVISIONS

Article 21

1. Each of the Contracting Parties shall notify the other upon the completion of the constitutional procedures required to allow this Convention to come into force. Notification of the completion of these procedures shall be exchanged as soon as possible at Paris.

2. This Convention shall come into force on the first day of the second month after the day such exchange is effected.

3. Each of the Contracting Parties may terminate this Convention at any time by sending the other, through diplomatic channels, written notice of termination. In this case, termination shall take effect one year after the date the said notice is received.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention and hereunto affixed their seals.

DONE in duplicate at Washington in the English and French languages, both equally authentic, this twenty-fifth day of January, 1983.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
THE REPUBLIC OF FRANCE:


