

No. 32429

**SPAIN
and
PARAGUAY**

Treaty on the transfer of convicted persons. Signed at Asunción on 7 September 1994

Authentic text: Spanish.

Registered by Spain on 27 December 1995.

**ESPAGNE
et
PARAGUAY**

**Traité relatif au transfèrement des personnes condamnées.
Signé à Asunción le 7 septembre 1994**

Texte authentique : espagnol.

Enregistré par l'Espagne le 27 décembre 1995.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF PARAGUAY ON THE TRANSFER OF CONVICTED PERSONS

The Kingdom of Spain and the Republic of Paraguay,

Bearing in mind that the aim of punishment is the social rehabilitation of convicted persons;

Considering that in order to achieve that aim it would be beneficial to afford nationals who have been deprived of their liberty abroad for committing an offence the opportunity to serve their sentence in their country of nationality;

Have agreed as follows:

Article 1

For the purposes of this Treaty:

(a) Sentencing State shall mean the State in which the person who may be transferred is sentenced;

(b) Enforcing State shall mean the State to which the convicted person may be or has already been transferred;

(c) Convicted person shall mean the person who, in the sentencing State, has been sentenced to a penalty or security measure for an offence.

Article 2

1. Penalties or security measures imposed in Spain on nationals of Paraguay may be served in penal institutions of Paraguay or under the supervision of its authorities.

2. Penalties or security measures imposed in Paraguay on nationals of Spain may be served in penal institutions of Spain or under the supervision of its authorities.

3. The transfer may be requested by the sentencing State or by the enforcing State.

Article 3

1. Requests for transfers and replies to such requests shall be made in writing.

2. Each State shall designate, through the diplomatic channel, an authority to perform the functions provided for in this Treaty.

3. In making the decision concerning the transfer of a convicted person, all relevant factors, and the likelihood that the transfer will contribute to his social rehabilitation, shall be taken into account, including the type and seriousness of the crime and the offender's previous criminal record, if any, the state of his health, his

¹ Came into force on 12 September 1995, the date on which the Parties notified each other (on 14 June and 12 September 1995) of the completion of their internal legal requirements, in accordance with article 18.

age and the ties that he may have with the society of the enforcing State through his residence, presence in its territory, family connections or other reasons.

4. The decisions taken by a State pursuant to this Treaty shall be communicated without delay to the other State without any requirement to state the reasons thereof.

Article 4

This Treaty shall apply only on condition that:

1. The acts or omissions which resulted in the sentence are also punishable in the enforcing State, whether or not they are characterized in the same manner.

2. The convicted person is a national of the enforcing State at the time of the request for a transfer.

3. The sentence is final.

4. The convicted person agrees to the transfer or, should he be unable to give his consent, such consent is given by his legal representative.

5. At least one year of the penalty or security measure remains to be served at the time of submission of the request referred to in article 9. In exceptional cases, the Parties may agree to accept a request even when less than one year of the penalty or security measure remains to be served.

6. The solvent convicted person has paid or guaranteed payment, to the satisfaction of the sentencing State, of the fines, legal expenses, civil damages or pecuniary penalties of any kind for which he is liable under the terms of the sentence.

Article 5

1. The competent authorities of the Parties shall inform all convicted persons who are nationals of the other Party of the option available to them under this Treaty and of the possible legal consequences of such a transfer.

2. The convicted person shall expressly indicate his desire to be transferred. The sentencing State shall ensure that, if the enforcing State so desires, it can verify that the convicted person is aware of the legal consequences of such a transfer and that he voluntarily agrees to it.

3. Consent shall be given in accordance with the laws of the sentencing State.

Article 6

1. The convicted person may submit his request for a transfer either to the sentencing State or to the enforcing State.

2. Either State receiving a request from the convicted person for a transfer shall inform the other State as soon as possible.

Article 7

The sentencing State shall inform the enforcing State of:

(a) The convicted person's name, date and place of birth;

(b) The acts that led to the sentence;

(c) The duration and starting and ending dates of the penalty or security measure imposed.