

No. 33127

**SPAIN
and
EL SALVADOR**

**Treaty on the transfer of convicted persons. Signed at San
Salvador on 14 February 1995**

Authentic text: Spanish.

Registered by Spain on 30 August 1996.

**ESPAGNE
et
EL SALVADOR**

**Traité relatif au transfèrement des personnes condamnées.
Signé à San Salvador le 14 février 1995**

Texte authentique : espagnol.

Enregistré par l'Espagne le 30 août 1996.

[TRANSLATION — TRADUCTION]

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

The Kingdom of Spain and the Republic of El Salvador,

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 sentences 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 convicted;

(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 the Republic of El Salvador may be served in penal institutions of the Republic of El Salvador or under the supervision of its authorities.

2. Penalties or security measures imposed in the Republic of El Salvador 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 or by the convicted person.

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 offence and the offender's previous criminal record, if any, the state of his health, his

¹ Came into force on 30 June 1996 by the exchange of instruments of ratification at San Salvador, in accordance with article 17.

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 give the reasons therefor.

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, provided that the elements of the offence are the same.

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

7. The convicted person is not domiciled in the sentencing State.

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 requests, 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.

3. The sentencing State shall inform the enforcing State whether it has granted or denied the request for transfer, and shall inform the convicted person of the decision.

If the request is denied, the reasons for the decision shall be given, in particular if it is based on an omission or error in a formal or substantive requirement.