

No. 33706

**SPAIN
and
ECUADOR**

**Agreement on the serving of criminal sentences. Signed at
Quito on 25 August 1995**

Authentic text: Spanish.

Registered by Spain on 18 April 1997.

**ESPAGNE
et
ÉQUATEUR**

**Convention pour l'accomplissement des condamnations
pénales. Signé à Quito le 25 août 1995**

Texte authentique : espagnol.

Enregistré par l'Espagne le 18 avril 1997.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF ECUADOR ON THE SERVING OF CRIMINAL SENTENCES

The Kingdom of Spain and the Republic of Ecuador, hereinafter called the Parties, motivated by their historical ties;

Desiring to promote and improve their mutual cooperation with respect to the administration of justice;

Inspired by the wish to contribute to the full social rehabilitation of sentenced offenders,

Have agreed as follows:

Article I

DEFINITIONS

For the purposes of this Agreement,

1. Sending State: the Party from which the sentenced person is to be transferred.
2. Receiving State: the Party to which the sentenced person is to be transferred.
3. Sentence: the final judgement imposed on a person as punishment for the commission of an offence. A judgement is understood to be firm and final when no appeal is pending against it or when the time limit set for such an appeal has lapsed.
4. Sentenced person: the person who, in the territory of one of the Parties, will serve or is serving a sentence.

Article II

GENERAL PRINCIPLES

In conformity with the provisions of this Agreement:

(a) Sentences or security measures involving deprivation of liberty imposed in one of the Parties on nationals of the other may be served by the sentenced person in the State of which he is a national; and

(b) The Parties undertake to extend to each other the broadest possible cooperation with respect to the transfer of sentenced persons.

¹ Came into force on 10 March 1997 by the exchange of the instruments of ratification, which took place at Madrid, in accordance with article XI.

Article III

CONDITIONS FOR THE APPLICATION OF THE AGREEMENT

This Agreement shall be applied solely under the following conditions:

1. That there exists a firm and final judgement as defined under article I, paragraph 3, of this Agreement.
2. That the sentenced person expressly gives his consent to the transfer, having been previously informed of the legal consequences thereof.
3. That the act for which the person has been sentenced is also an offence in the receiving State. In this regard, nominal differences or differences that do not affect the nature of the offence shall not be taken into consideration.
4. That the sentenced person is a national of the receiving State.
5. That at the time of the request for transfer the duration of the sentence to be served is at least one year.
6. That the enforcement of the sentence does not contravene the internal legal order of the receiving State.
7. That the sentenced person has complied with the terms of the sentence other than the deprivation of liberty and including civil liability, unless he has been declared insolvent.

Article IV

PROVISION OF INFORMATION

1. Each of the Parties shall explain the substance of this Agreement to any sentenced person who stands to benefit from its provisions.
2. The Parties shall keep the sentenced person informed of any proceedings relating to his transfer.

Article V

TRANSFER PROCEDURE

The transfer of the sentenced person from one State to the other shall be subject to the following provisions:

1. The procedure may be initiated by the sending State or by the receiving State. In both cases, the sentenced person must have given his consent or formulated the request for transfer, as the case may be.
2. The request for transfer shall be handled by the central authorities indicated in article X.
3. The request for transfer shall supply the pertinent information confirming that the conditions established in article III have been met.
4. Before the transfer is carried out, the sending State shall permit the receiving State to verify, if it so wishes and through an official designated by the latter State, that the sentenced person has given his consent with full knowledge of the legal consequences thereof.