



Albania No.3 (2021)

Agreement

between the United Kingdom of Great Britain and Northern Ireland and the Republic
of Albania on the Transfer of Sentenced Persons

London, 26 July 2021

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign, Commonwealth and Development Affairs
by Command of Her Majesty
October 2021*



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**AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF
ALBANIA ON THE TRANSFER OF SENTENCED PERSONS**

The United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "United Kingdom") and the Republic of Albania (hereinafter referred to as "Albania"), together the "Parties";

Taking into consideration developments in international prisoner transfer arrangements;

Desiring to ensure that wherever possible foreign national prisoners should serve their sentences in their own country;

Reaffirming that sentenced persons shall be treated with respect for their human rights;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement:

- (a) "transferring State" means the State from which the sentenced person may be, or has been, transferred;
- (b) "receiving State" means the State to which the sentenced person may be, or has been, transferred;
- (c) "sentenced person" means a person who is required to be detained in a prison or any other institution in the transferring State by virtue of a judgment made by a court of the transferring State on account of a criminal offence;
- (d) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court of the transferring State for a limited or unlimited period of time on account of a criminal offence;
- (e) "judgment" means a decision or order of a court imposing a sentence;
and
- (f) "national" means:

- (i) in relation to the United Kingdom, a British National or any person whose transfer the Government of the United Kingdom considers appropriate having regard to any close ties which that person has with the United Kingdom;
- (ii) in relation to Albania, a person who has the nationality of Albania.

ARTICLE 2

General Principles

1. The Parties shall afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Agreement.
2. As between the Parties, this Agreement shall prevail over any multilateral Agreements governing the transfer of sentenced persons to which both Parties may be party.
3. Where both Parties agree and in accordance with the provisions of this Agreement, a sentenced person may be transferred from the territory of the transferring State to the territory of the receiving State with the consent of the sentenced person or without the sentenced person's consent where an order for deportation, expulsion or removal is in place, in order for the sentenced person to continue serving the sentence imposed by the transferring State.
4. The transfer of sentenced persons may be requested by either the transferring State or the receiving State.
5. The Parties may enter into a Memorandum of Understanding governing the implementation of this Agreement.

ARTICLE 3

Conditions for Transfer

Sentenced persons may be transferred under this Agreement only on the following conditions:

- (a) the sentenced person is a national of the receiving State for the purposes of this Agreement;
- (b) the sentenced person consents to the transfer or is subject to an order for expulsion, deportation or removal from the transferring State;

- (c) the judgment is final and no other legal proceedings relating to the offence or any other offence committed by the sentenced person are pending in the transferring State;
- (d) the acts or omissions for which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
- (e) the sentenced person has still at least 6 months of the sentence to serve at the time the request for transfer is received; in exceptional cases, the Parties may agree to a transfer even if the sentenced person has less than 6 months of the sentence to serve; and
- (f) the transferring and receiving States both agree to the transfer.

ARTICLE 4

Procedures for Transfer

1. Requests for transfer and replies shall be made in writing between the relevant authorities.
2. If the receiving State requests the transfer of a sentenced person, it shall provide the following information, where available, to the transferring State with the written request for transfer:
 - (a) the name, date and place of birth of the sentenced person;
 - (b) the location of the sentenced person; and
 - (c) the permanent address of the sentenced person in the receiving State.
3. If the transferring State requests the transfer of a sentenced person or, having received a request to transfer under paragraph 2 of this article, is prepared, in principle, to consider the request for transfer of a sentenced person, it shall inform the receiving State in writing, and provide the following information (where available):
 - (a) the name, date and place of birth, and photograph of the sentenced person;
 - (b) the name and surname of the sentenced person's mother and father;
 - (c) the permanent and current address of the sentenced person in the receiving State;

- (d) Identification Documentation;
- (e) the location of the sentenced person in the transferring State;
- (f) information concerning the enforcement of the sentence, nature, duration, date of sentence commencement, date of sentence termination, the length of time served by the sentenced person (including pre-trial detention), any remission earned, and the conditional release date;
- (g) a copy of the indictment and the judge's sentencing remarks and information about the law on which it is based;
- (h) a copy of the order imposing the sentence;
- (i) where appropriate, a copy of the application for transfer of the sentenced person, or a copy of the deportation or removal order;
- (j) any other information, including medical or social reports on the sentenced person, which may be of significance for the sentenced person's transfer and for the continued enforcement of the sentence;
- (k) a copy of any written opinion made by the sentenced person in accordance with paragraph 2 (c) of Article 8 of this Agreement.

4. Translation of the file is the responsibility of the transferring State.

5. If the receiving State, having considered the information which the transferring State has provided, is willing to proceed with the transfer, it shall inform the transferring State in writing, and provide the following information:

- (a) a statement indicating that the sentenced person is a national of the receiving State for the purposes of this Agreement;
- (b) a statement confirming the effect of any adaptation of the sentence in accordance with Article 7 of this Agreement;
- (c) where recognition of the sentence is ordered by the court, a copy of the court judgment recognising the sentence;
- (d) a copy of the relevant law of the receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State, or would constitute a criminal offence if committed on its territory;

- (e) a statement of any outstanding charges, convictions or criminal investigations in respect of the sentenced person;
6. If the transferring State is willing to proceed with the transfer, it shall provide the receiving State with its written agreement to the terms of the transfer.
7. Where the Parties have agreed to the transfer, they shall make arrangements for the transfer of the sentenced person.
8. Delivery of the sentenced person by the authorities of the transferring State to those of the receiving State shall occur on a date and at a place agreed upon by both Parties.
9. If either Party decides not to continue with or agree to the transfer, it shall inform the other Party of its decision in writing as soon as possible.

ARTICLE 5

Effect of Transfer for Transferring State

1. The taking into charge of the sentenced person by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence by the authorities in the transferring State.
2. The transferring State shall not enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

ARTICLE 6

Retention of Jurisdiction

The transferring State shall retain exclusive jurisdiction for the review of the judgment and sentence.

ARTICLE 7

Continued Enforcement of Sentence

1. Where the sentence imposed by the transferring State is compatible with the laws of receiving State, the receiving State, after recognizing the judgment, shall enforce the sentence as if the sentence had been imposed in the receiving State.
2. The receiving State shall not convert the sentence to a new sentence, but may, with the agreement of the transferring State, adapt the sentence as follows;

- (a) where the sentence exceeds the maximum sentence prescribed in the receiving State for a similar offence, the receiving State may, reduce the sentence to the maximum sentence provided in the law of the receiving State for that criminal offence.
 - (b) where a sentence is not one of life imprisonment and the enforcement of the sentence in the receiving State results in a later conditional release date, the receiving State may adapt the overall sentence to closer align the conditional release date to that of the transferring State;
 - (c) where a sentence of life imprisonment has been imposed by the sentencing court in the transferring State and that court has specified a period which must be served in custody before that person can be considered for conditional release, then the Receiving State may adapt the sentence to sentence of such a length to ensure the conditional release date in the receiving State is not less than the specified custodial period set in court by the transferring State.
3. The transferring State retains the right to withdraw the request to transfer if it is not satisfied with the proposed adaptation of sentence in any case.
4. The sentence to be enforced in the receiving State shall not aggravate, by its nature or duration, the sanction imposed in the transferring State.
5. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving State, including those governing conditions of imprisonment, confinement or other deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release, remission or otherwise.
6. The receiving State shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the transferring State to pardon the sentenced person, or of any other decision or measure of the transferring State that results in cancellation or reduction of the sentence.
7. The receiving State shall provide the following information to the transferring State in relation to the continued enforcement of the sentence:
- (a) when the sentence has been completed;
 - (b) if the sentenced person has escaped from custody before the sentence has been completed;
 - (c) if the sentenced person is unable to complete the sentence for any reason;
or
 - (d) a special report, if requested by the transferring State.

ARTICLE 8

Rights of Sentenced Persons

1. A sentenced person may express to either the transferring State or the receiving State an interest in being transferred under this Agreement.
2. A sentenced person whose transfer is requested under this Agreement shall:
 - (a) be informed by the transferring State of the substance of this Agreement;
 - (b) have the terms of the transfer explained in writing in the sentenced person's own language;
 - (c) be given the opportunity to submit a written opinion to the authorities of the transferring State before the transferring State provides its written agreement to the terms of the transfer within the meaning of paragraph 6 of Article 4.

ARTICLE 9

Treatment of Sentenced Persons

Each Party shall treat all sentenced persons transferred under this Agreement in accordance with applicable international human rights obligations, particularly regarding the right to life and the prohibition against torture and cruel, inhuman or degrading treatment or punishment.

ARTICLE 10

Prosecution for Other Offences

1. A sentenced person transferred under the provisions of this Agreement shall not be proceeded against, sentenced or detained with a view to carrying out a sentence or detention order for any offence committed prior to transfer, other than that for which the sentence to be enforced was imposed; nor shall the sentenced person for any other reason be restricted in their personal freedom, except in the following circumstances:
 - (a) when the transferring State so authorises, in accordance with paragraph 2 of this Article; or
 - (b) when the sentenced person, having had an opportunity to leave the territory of the receiving State, has not done so within 45 days of the final discharge of the sentence, or if the sentenced person has returned to the receiving State after leaving it.

2. Under subparagraph 1(a) of this Article, a request for authorisation shall be submitted by the receiving State to the transferring State. The request for authorisation shall be accompanied by all relevant documents and a legal record of any statement made by the sentenced person. Authorisation may be given by the transferring State when the offence for which it is requested would itself be subject to extradition under the law of the transferring State or when extradition would be excluded only by reason of the length of punishment.

ARTICLE 11

Transit of Sentenced Persons

If either Party transfers a sentenced person to or from any third State, the other Party shall co-operate in facilitating the transit of such a sentenced person through its territory. The Party intending to make such a transfer shall give advance notice to the other Party of such transit. This Article is without prejudice to the right of either Party to refuse to grant transit in a particular case.

ARTICLE 12

Territorial Application

This Agreement shall apply:

- (a) in relation to the United Kingdom, to the territory the United Kingdom of Great Britain and Northern Ireland and the Isle of Man; and to any other territory for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended by mutual agreement between the Parties by exchange of notes; and
- (b) in relation to Albania, to the territory of the Republic of Albania.

ARTICLE 13

Temporal Application

This Agreement shall be applicable to the transfer of sentenced persons who have been sentenced either before or after the entry into force of this Agreement.

ARTICLE 14

Settlement of Disputes

Any dispute between the Parties arising out of or in connection with this Agreement shall be resolved through diplomatic channels.

ARTICLE 15

Final Provisions

1. Each of the Parties shall notify the other upon completion of their respective internal constitutional and legal procedures required to allow this Agreement to enter into force.

2. This Agreement shall enter into force on the date of the latter notification referred to in paragraph 1 of this Article.

3. Either Party may terminate this Agreement at any time by written notification to the other Party. Such termination shall become effective on the expiration of a six month period after the date of receipt of notification.

4. Notwithstanding any termination, this Agreement, and any assurances or undertakings given pursuant to it, shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred under this Agreement before the date on which such termination takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at London in duplicate, on this 26th day of July in the year of 2021, in the English and Albanian languages, each text being equally authentic.

**For the United Kingdom of Great
Britain and Northern Ireland:**

For the Republic of Albania:

CHRIS PHILP

ETILDA GJONAJ

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