

EXPLANATORY MEMORANDUM ON A TREATY ON THE TRANSFER OF SENTENCED PERSONS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED ARAB EMIRATES

Title of Agreement

Treaty on the transfer of sentenced persons between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Arab Emirates.

Command Paper Number 8604

Subject Matter

This treaty provides for the transfer of sentenced persons between the United Kingdom and the United Arab Emirates. It is based on the provisions of the Council of Europe Convention on the Transfer of Sentenced Persons (1983) and was signed in London, on 24th January 2013.

The treaty provides for the transfer to the United Kingdom, from the United Arab Emirates, of British nationals, and for the transfer to the United Arab Emirates, from the United Kingdom, of nationals of the United Arab Emirates, where those persons have been sentenced to imprisonment by a court of the sentencing state on account of a criminal offence. It applies where the offence on account of which the sentence has been imposed would also constitute a criminal offence in the other jurisdiction; where the judgment is final; and where the person concerned has at least six months of the sentence left to serve. Transfer requires the consent of the prisoner, of the State in which the sentence was imposed and the State to which the prisoner wishes to transfer.

Ministerial Responsibility

The Secretary of State for Foreign and Commonwealth Affairs is responsible for consular relations between the United Kingdom and the United Arab Emirates. The transfer of prisoners under this Agreement to or from England and Wales is the responsibility of the Lord Chancellor and the Secretary of State for Justice; the transfer of prisoners to or from Scotland is the responsibility of the Scottish Minister for Justice; and the transfer of prisoners to or from Northern Ireland is the responsibility of the Justice Minister for Northern Ireland.

Policy Considerations

(i) General

Foreign national prisoners make up approximately 13% of the prison population. Many of those prisoners have no right to settle in this country and others will have forfeited that right by their criminal behaviour. The Government is committed to ensuring that, where appropriate, they should be able to return to serve their sentences in the

country where they will live on release. This will free up prison places and enables prisoners who are transferred to be more effectively integrated into their home communities. To this end it is Government policy to negotiate and conclude prisoner transfer with a wide number of other countries or to encourage other countries to participate in the Council of Europe Convention on the Transfer of Sentenced Persons (1983) or the Commonwealth Scheme for the Transfer of Convicted Offenders (1990, as amended).

Most of the prisoner transfer agreements to which the UK is a party require the consent of the sentenced person concerned, as well as that of both States involved. It is increasingly the case that many foreign national prisoners have no links with the country in which they are detained and will be removed at the end of their sentence by the authorities. As a consequence international prisoner transfer agreements are moving away from the idea that prisoners should have to consent to transfer and therefore exercise an effective veto over transfer. The Government has made it clear that wherever possible it will seek to negotiate bilateral prisoner transfer arrangements on the basis of a "no prisoner consent" agreement. The recent agreement with Albania is an example of this. However, it is not always possible to secure such agreements. Partner countries may be constitutionally prevented from concluding such arrangements, or domestic legislation may make prisoner consent a pre-requisite for transfer. Where a compulsory prisoner transfer arrangement is not possible, a voluntary transfer arrangement will be concluded instead. In line with this policy the prisoner transfer agreement with the United Arab Emirates provides for the transfer of a prisoner only where that person agrees to the transfer.

(ii) Financial

The treaty provides that expenses incurred in the transfer of prisoners (except costs incurred exclusively in the territory of the Sentencing State) and in the continued enforcement of the sentence shall be borne by the Administering State (which is the State receiving the transferred prisoner). The Administering State may seek to recover all or part of the cost of transfer from the prisoner or from some other source.

Implementation

This treaty will enter into force once each State has notified the other of the completion on their respective internal constitutional and legal procedures necessary to allow the treaty to enter into force. No new legislation is required to enable the United Kingdom to implement the treaty.



Jeremy Wright

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Ministry of Justice