



Philippines No. 1 (2024)

# Treaty

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

Manila, 26 October 2023

[The Agreement is not in force]

*Presented to Parliament  
by the Secretary of State for Foreign, Commonwealth and Development Affairs  
by Command of His Majesty  
January 2024*

CP 1012



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**TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES ON THE  
TRANSFER OF SENTENCED PERSONS**

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "United Kingdom") and the Government of the Republic of the Philippines (hereinafter referred to as the "Philippines"), together the "Contracting States";

Taking into consideration developments in international prisoner transfer arrangements;

Recognising the social rehabilitation of sentenced persons by giving them the opportunity to serve their sentences in their own countries;

Desiring to cooperate in the transfer of sentenced persons to facilitate their rehabilitation and reintegration into society;

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 Treaty:

- (a) "administering State" means the State to which the sentenced person may be, or has been, transferred;
- (b) "judgment" means a decision or order of a court imposing a sentence;
- (c) "national" means:
  - (i) in relation to the Philippines, a citizen of the Philippines;
  - (ii) in relation to the United Kingdom, a British national or any person with the right to reside in the United Kingdom.
- (d) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court of the sentencing State for a limited or unlimited period of time on account of a criminal offence;

- (e) “sentenced person” means a person who is required to be detained in a prison or any other institution in the sentencing State by virtue of a judgment made by a court of the sentencing State on account of a criminal offence; and
- (f) "sentencing State" means the Contracting State from which the sentenced person may be, or has been, transferred.

## ARTICLE 2

### **Central Authorities**

1. Each Contracting State shall designate a Central Authority to send and receive applications for transfer.
2. The Central Authority for the Philippines is the Department of Justice.
3. The Central Authorities for the United Kingdom are:
  - (a) in relation to England and Wales, His Majesty’s Prison and Probation Service;
  - (b) in relation to Scotland, the Scottish Prison Service; and
  - (c) in relation to Northern Ireland, the Northern Ireland Prison Service.
4. Either Contracting State may change its Central Authority in which case it shall notify the other Contracting State of the change.
5. The Contracting States may, at any time, designate any other authority as a Central Authority for the purposes of this Treaty. Notification of such a designation shall take place by exchange of notes.

## ARTICLE 3

### **Conditions for Transfer**

Sentenced persons may only be transferred under this Treaty if the following conditions are met:

- (a) the sentenced person is a national of the administering State for the purposes of this Treaty;
- (b) the sentenced person consents in writing to the transfer, or where the sentenced person, in view of age or physical or mental condition cannot

consent, a person authorised to act for the sentenced person in accordance with the law of the sentencing State gives such consent;

- (c) the sentencing and administering States both consent to the transfer;
- (d) the judgment is final and no other criminal proceedings involving the sentenced person are pending in the sentencing State;
- (e) the acts or omissions for which the sentence has been imposed constitute a criminal offence according to the law of the administering State or would constitute a criminal offence if committed on its territory;
- (f) the sentence still to be served at the time of receipt of the request is at least one (1) year. In exceptional cases, as determined by the Contracting States, a request may be accepted even if the sentence remaining is less than one (1) year;
- (g) The sentenced person has satisfied payment of fines, court costs, civil indemnities and/or pecuniary sanctions of all kinds for which the sentenced person is liable under the terms of the sentence, or has provided sufficient security to ensure payment thereof to the satisfaction of the sentencing State, unless the sentenced person has been declared insolvent.

#### ARTICLE 4

##### **Rights of Sentenced Persons**

1. A sentenced person shall be informed by the sentencing State of the substance of this Treaty.
2. A sentenced person may express to either the sentencing State or the administering State an interest in being transferred under this Treaty and shall have the terms of the transfer and its legal consequences explained in writing by the sentencing State.

#### ARTICLE 5

##### **Procedures for Transfer**

1. Requests for transfer can be made by either the sentencing or administering State and any requests and responses shall be made in writing through the diplomatic channels.
2. The Contracting State requesting the transfer of a sentenced person shall provide, with a written request for transfer, the following information:

- (a) the name, date and place of birth of the sentenced person;
- (b) confirmation of nationality of the sentenced person, such as a copy of their passport;
- (c) the location of the sentenced person;
- (d) where known, the last known address of the sentenced person in the administering State;
- (e) where known, details of family ties of the sentenced person to the administering State, including full names and relationships;
- (f) where known, details of last employment of the sentenced person; and
- (g) verification that the sentenced person voluntarily consents to the transfer.

3. Where the sentencing State:

- (a) is making the request for the transfer, it shall inform the administering State in writing and shall provide the following information:
  - (i) a statement of the facts upon which the conviction and sentence were based;
  - (ii) the nature, duration and date of commencement of the sentence, the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remission to which the sentenced person is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;
  - (iii) a copy of the judgment and information about the law on which it is based; and
  - (iv) if available, any other additional 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.
- (b) has received a request to transfer under paragraph 1 of this Article, it shall inform in writing the administering State of its preliminary evaluation of the transfer request based on available information. If all the conditions for transfer provided under Article 3 are present in this Treaty, it shall provide the information under paragraph 3(a) (i) to (iv) of this Article as soon as practicable.

4. If the administering State, having considered the information which the sentencing State has provided under paragraph 3 of this Article, is willing to proceed with the transfer, it shall inform the sentencing State in writing as soon as practicable, and provide the following information:

- (a) a statement indicating that the sentenced person is a national of the administering State;
- (b) a copy of the relevant law of the administering State which provides that the acts or omissions on account of which the sentence has been imposed in the sentencing State constitute a criminal offence according to the law of the administering State, or would constitute a criminal offence if committed on its territory;
- (c) a statement of the effect, in relation to the sentenced person, of any law or regulation relating to that person's detention in the administering State after that person's transfer, including a statement, if applicable, of any proposed adaptation under Article 8(2) of this Treaty upon that person's transfer; and
- (d) a statement of any outstanding charges, convictions or criminal investigations in respect of the sentenced person.

5. If the sentencing State is willing to proceed with the transfer, it shall provide the administering State with its written agreement to the terms of the transfer, including any adaptation under Article 8(2) of this Treaty within thirty (30) working days from the date the information under paragraph 4 of this Article is received by the sentencing State's Central Authority.

6. Where the Contracting States have consented to the transfer, they shall agree on the arrangements for the transfer of the sentenced person.

7. The sentenced person shall be transferred to the administering State at a time agreed between the Central Authorities of the Contracting States, and no later than thirty (30) working days after the final decision of the sentencing State under paragraph 5 of this Article.

8. All requests, supporting documents and any communication made pursuant to this Treaty shall be in the English language.

9. The administering State shall bear the expenses related to the transfer of the sentenced person and the continued enforcement of the sentence.

## ARTICLE 6

### **Effect of Transfer for Sentencing State**

1. The transfer of the sentenced person shall have the effect of the administering State taking over the enforcement of the sentence from the authorities in the sentencing State.
2. The sentencing State shall consider the sentence served if the administering State considers enforcement of the sentence to have been completed.

## ARTICLE 7

### **Retention of Jurisdiction**

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

## ARTICLE 8

### **Continued Enforcement of Sentence**

1. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the administering State as if the sentence had been imposed in the administering State.
2. Where the sentence is by its nature or duration incompatible with the law of the administering State, or its law so requires, that State may, with the consent of the sentencing State, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. As to its nature, the punishment or measure shall, as far as possible, correspond with that imposed by the sentence to be enforced. It shall not aggravate, by its nature or duration, the sanction imposed in the sentencing State, nor exceed the maximum prescribed by the law of the administering State.
3. The administering State shall modify or terminate enforcement of the sentence in accordance with any decision by the sentencing State which results in the cancellation or reduction of the sentence.
4. The administering State shall provide the following information to the sentencing 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;
- (d) a report on the sentenced person, if requested by the sentencing State.

## ARTICLE 9

### **Treatment of Sentenced Persons**

All sentenced persons transferred under this Treaty shall be treated in accordance with international obligations applicable to each Contracting State, particularly the right to life and the prohibition against torture and cruel, inhuman or degrading treatment.

## ARTICLE 10

### **Transit of Sentenced Persons**

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

## ARTICLE 11

### **Prosecution for other Offences**

1. A sentenced person transferred under the provisions of this Treaty 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 personal freedom of the sentenced person be restricted for any other reason, except:

- (a) when the sentencing State so authorises in accordance with paragraph 2 of this Article; or
- (b) the sentenced person consents in writing.

2. Under subparagraph 1(a) of this Article, a request for authorisation shall be submitted by the administering State to the sentencing 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 sentencing State when the offence for which it is requested would itself be subject to extradition under the law of the sentencing State.

## ARTICLE 12

### **Territorial Application**

This Treaty shall apply:

- (a) to the territory of the Republic of the Philippines; and
- (b) to the territory of the United Kingdom and to any other territory for whose international relations the United Kingdom is responsible and to which this Treaty shall have been extended by mutual agreement between the Contracting States by exchange of notes.

## ARTICLE 13

### **Temporal Application**

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

## ARTICLE 14

### **Settlement of Disputes**

Any dispute between the Contracting States arising out of or in connection with this Treaty shall be resolved through diplomatic channels.

## ARTICLE 15

### **Final Provisions**

1. This Treaty shall enter into force on the date of the latter written notification by the Contracting States, through diplomatic channels, indicating that the domestic requirements for its entry into force have been complied with.
2. Any amendment or revision to the text of this Treaty shall be done by mutual consent of the Contracting States. Such amendment or revision shall enter into force in accordance with paragraph 1 of this Article.
3. This Treaty shall remain in full force and effect unless either Contracting State terminates or suspends this Treaty at any time by written notification to the other Contracting State through diplomatic channels. Such termination shall become

effective on the expiration of a six-month period after the date of receipt of notification.

4. Notwithstanding any termination or suspension, this Treaty, 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 Treaty before the date on which such termination or suspension takes effect.

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

DONE at Manila in duplicate, on this twenty-sixth day of October in the year of 2023, in the English language.

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

**LAURE BEAUFILS**

**For the Government of the  
Republic of the Philippines:**

**JESUS REMULLA**

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