

## **The Transfer of Sentenced Persons Agreement**

The Agreement between the Hong Kong Special Administrative Region of the People's Republic of China and the Russian Federation on Transfer of Sentenced Persons will enter into force on 2 February 2023.

AGREEMENT BETWEEN THE HONG KONG SPECIAL  
ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC  
OF CHINA AND THE RUSSIAN FEDERATION ON  
TRANSFER OF SENTENCED PERSONS

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**AGREEMENT BETWEEN  
THE HONG KONG SPECIAL ADMINISTRATIVE REGION  
OF THE PEOPLE'S REPUBLIC OF CHINA AND  
THE RUSSIAN FEDERATION  
ON TRANSFER OF SENTENCED PERSONS**

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The Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been duly authorised to conclude this Agreement with the Russian Federation by the Central People's Government of the People's Republic of China and the Russian Federation, hereinafter referred to as "the Parties",

Considering that legal co-operation between the Parties should promote the ends of justice and the social rehabilitation of sentenced persons,

Desiring to co-operate in the transfer of sentenced persons in order to achieve these goals,

Have agreed as follows:

**ARTICLE 1  
DEFINITIONS**

For the purpose of this Agreement:

- (a) "sentence" means any punishment or measure involving deprivation of liberty imposed by a court for a limited time or life imprisonment on account of a criminal offence;
- (b) "judgment" means a court decision imposing a sentence. In the case of the Russian Federation, this shall include a final judgment imposing a death penalty, later substituted by virtue of an act of amnesty or pardon to deprivation of liberty;
- (c) "sentenced person" means a person serving a sentence involving the deprivation of liberty in an institution by virtue of a judgment in force;
- (d) "sentencing Party" means the Party in which the sentence was imposed on the person who may be, or has been, transferred;

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- (e) "administering Party" means the Party to which the sentenced person may be, or has been, transferred in order to serve his sentence.

**ARTICLE 2  
GENERAL PRINCIPLES**

The Parties undertake to afford each other, according to the provisions of this Agreement, co-operation in respect of the transfer of sentenced persons from the sentencing Party to the administering Party in order to serve the remaining part of their sentences.

**ARTICLE 3  
CENTRAL AUTHORITIES**

1. For the purposes of this Agreement, the Central Authority of the Hong Kong Special Administrative Region is the Secretary for Justice and the Central Authority of the Russian Federation is the Ministry of Justice of the Russian Federation.
2. The Central Authorities shall communicate with each other directly and shall process requests for transfer of sentenced persons in accordance with the provisions of this Agreement.
3. The Parties shall immediately inform each other in case of changing their Central Authorities.

**ARTICLE 4  
GROUNDS FOR REFUSAL**

The transfer of the sentenced person shall not take place unless:

- (a) the judgment is final;
- (b) according to the laws of the administering Party the conduct on account of which the sentence has been imposed in the sentencing Party would constitute a criminal offence punishable by imprisonment if it had been committed within the administering Party;

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- (c) in the case where the Hong Kong Special Administrative Region is the administering Party, the sentenced person is a permanent resident of the Hong Kong Special Administrative Region;
- (d) in the case where the Russian Federation is the administering Party, the sentenced person is a citizen of the Russian Federation;
- (e) the sentenced person consents in writing, or in case he is not in a position to freely express his will in view of his age, physical or mental condition, consent is given by a person who is legally authorized to represent the sentenced person;
- (f) both the sentencing Party and the administering Party agree to the transfer;
- (g) at the time of the receipt of the request for transfer the sentence to be served is more than one year. In exceptional cases, the Parties may agree on the transfer when the remaining part of sentence is less than one year;
- (h) there are no pending criminal or other proceedings in respect of the sentenced person in the sentencing Party;
- (i) the sentenced person has fulfilled any financial obligations imposed by the sentencing court, or the Central Authority of the sentencing Party has received sufficient assurance of the fulfillment of such obligations.

**ARTICLE 5**  
**TRANSFER OF A SENTENCED PERSON**

1. The transfer of a sentenced person may be carried out at the request of the sentencing Party or the administering Party.
2. The Parties shall take necessary measures to inform sentenced persons to whom this Agreement may apply about the provisions of this Agreement.
3. The sentenced person has the right to apply to either the sentencing Party or administering Party for his transfer.

4. The sentenced person shall be informed in writing about the decision taken by the sentencing Party or administering Party.

**ARTICLE 6**  
**REQUEST FOR TRANSFER**

1. The request shall be in writing and shall include the following:
  - (a) full name, date and place of birth of the sentenced person;
  - (b) where the Hong Kong Special Administrative Region is the administering Party, confirmation that the sentenced person is a permanent resident of the Hong Kong Special Administrative Region accompanied by relevant documents;
  - (c) where the Russian Federation is the administering Party, confirmation that the sentenced person is a citizen of the Russian Federation accompanied by relevant documents.
2. The Central Authority of the sentencing Party shall also provide:
  - (a) a certified copy of the judgment together with a document certifying that the judgment is in force, or a copy of the certificate of conviction and sentence, as provided for by the law of the sentencing Party;
  - (b) a statement indicating how much of the sentence has already been served and the remaining term to be served, and any remissions to which he is entitled;
  - (c) a summary of facts upon which the conviction and sentence were based and the provisions of the laws upon which the person was sentenced;
  - (d) the written consent of the sentenced person for his transfer or in view of his age, physical or mental condition, the written consent of his legal representative. At the request of the administering Party, the sentencing Party shall afford an opportunity to an official of the administering Party to verify, prior to the transfer of the sentenced person, that the consent concerned is given voluntarily and with full knowledge of the consequences thereof;

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- (e) as appropriate, any medical or social reports on the sentenced person and information about his treatment in custody.
3. If necessary, the Central Authorities of the Parties may request additional documents or information before making a request for transfer or taking a decision on whether to agree to the transfer.

**ARTICLE 7  
PROCEDURE FOR DELIVERY OF THE SENTENCED PERSON**

1. The Central Authority of the requested Party shall inform the Central Authority of the requesting Party as soon as possible from the date of receiving all necessary documents of its decision on the request for transfer of the sentenced person.
2. The place, time and procedure of delivering the sentenced person shall be determined by mutual agreement of the competent authorities of the Parties.

**ARTICLE 8  
CONTINUED ENFORCEMENT**

1. The administering Party shall be responsible for the continued enforcement of the sentence after the transfer of the sentenced person. The enforcement of the sentence shall be governed by the laws of the administering Party.
2. The administering Party, taking into account the judgment delivered in the sentencing Party, shall impose the same sentence according to its legislation.
3. If the sentence by its nature or duration is inconsistent with the law of the administering Party it may adapt the sentence to a sentence prescribed by its own law for a similar offence. The adapted sentence shall be no severer than that imposed by the sentencing Party. The terms of the sentence that have already been served in the sentencing Party shall be taken into consideration for this purpose.

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4. The administering Party may, if a sentenced person would be a juvenile according to its law, treat the sentenced person as a juvenile regardless of his or her status under the law of the sentencing Party.

5. The sentencing Party as well as the administering Party shall have the right to grant pardon and amnesty in relation to the sentenced person under its constitution and other laws. The sentencing Party only shall have the right to review convictions and sentences imposed by its courts.

6. The sentencing Party shall notify the administering Party of any decision to pardon the sentenced person, or of any other decision of the sentencing Party that results in cancellation or reduction of the sentence. The administering Party shall modify or terminate enforcement of the sentence as soon as it is notified of any such decision of the sentencing Party.

**ARTICLE 9  
INFORMATION ON ENFORCEMENT**

1. The administering Party shall inform the sentencing Party:
  - (a) when the sentenced person is discharged;
  - (b) if the sentenced person is granted conditional release;
  - (c) if the sentenced person has escaped from custody before enforcement of the sentence has been completed.
2. The administering Party shall, if the sentencing Party so requests, provide any information requested in relation to the enforcement of the sentence.

**ARTICLE 10  
LEGAL STATUS OF THE TRANSFERRED PERSON**

1. A sentenced person transferred to the administering Party shall not be prosecuted again there for the same act or omission on account of which the person was sentenced in the sentencing Party.
2. A sentenced person transferred to the administering Party shall have the same rights and bear the same legal consequences as any person sentenced in the administering Party for a similar criminal offence.

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**ARTICLE 11  
TRANSIT OF SENTENCED PERSONS**

If either Party transfers a sentenced person to or from a third party, the other Party shall, subject to its law, co-operate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

**ARTICLE 12  
TRANSLATION AND CERTIFICATION OF DOCUMENTS**

1. All documents submitted by one Party to the other Party in the framework of this Agreement shall be accompanied by a translation into an official language of the latter Party, unless the Parties agree otherwise.
2. Except as provided in subparagraph (a) of paragraph 2 of Article 6 of this Agreement, documents transmitted in the framework of this Agreement need not be certified.

**ARTICLE 13  
EXPENSES RELATED TO TRANSFER**

1. The administering Party shall bear the expenses of :
  - (a) the transfer of the sentenced person, except the expenses incurred exclusively in the sentencing Party;
  - (b) the continued enforcement of the sentence after transfer.
2. The administering Party may seek to recover all or part of the cost of transfer from the sentenced person.

**ARTICLE 14  
RELATIONSHIP TO OTHER AGREEMENTS**

The provisions of this Agreement shall not prevent either of the Parties from cooperating in accordance with the provisions of other applicable international agreements.

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**ARTICLE 15  
CONSULTATIONS AND RESOLUTION OF DISPUTES**

1. The Central Authorities shall upon request consult with each other concerning the interpretation, implementation and application of this Agreement.
2. Any disputes resulting from such consultation shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

**ARTICLE 16  
TEMPORAL APPLICATION**

The provisions of this Agreement shall apply to the persons sentenced before and after this Agreement enters into force.

**ARTICLE 17  
FINAL PROVISIONS**

1. Each Party shall notify the other Party in writing of the completion of its internal procedures required for entry into force of this Agreement. The Agreement shall enter into force thirty (30) days after the date of the receipt of the later notification.
2. Upon the mutual written agreement of the Parties this Agreement may be amended. Such amendment shall enter into force in accordance with the provisions set forth in paragraph 1 of this Article.
3. Either Party may terminate this Agreement at any time by giving notice in writing to the other. In that event, termination shall take effect one hundred and eighty (180) days following the date of the receipt of such notification.
4. Termination of the Agreement shall not affect the processing of requests for transfer received prior to the date of such termination in accordance with the terms of the Agreement.

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Done at Hong Kong and Moscow on the Twenty-first day of September of Two thousand and Twenty-one in duplicate in the Chinese, English and Russian languages, each text being equally authentic. In case of divergence in interpretation, the English text shall prevail.



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**For the Hong Kong Special  
Administrative Region of the  
People's Republic of China**



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**For the Russian Federation**