



**Cour  
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**International  
Criminal  
Court**

**AGREEMENT BETWEEN THE FRENCH REPUBLIC  
AND THE INTERNATIONAL CRIMINAL COURT  
ON THE ENFORCEMENT OF SENTENCES OF THE  
INTERNATIONAL CRIMINAL COURT**

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**AGREEMENT BETWEEN THE INTERNATIONAL CRIMINAL COURT AND  
THE GOVERNMENT OF THE FRENCH REPUBLIC ON THE ENFORCEMENT OF SENTENCES  
OF THE INTERNATIONAL CRIMINAL COURT**

The International Criminal Court (hereinafter referred to as the “Court”), and  
The Government of the French Republic (hereinafter referred to as “France”),

**PREAMBLE**

**RECALLING** article 103(1)(a) of the Rome Statute of the International Criminal Court (hereinafter referred to as the “Rome Statute”), adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries, according to which sentences of imprisonment pronounced by the Court shall be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons;

**RECALLING** rule 200(5) of the Rules of Procedure and Evidence of the Court, according to which the Court may enter into bilateral arrangements with States with a view to establishing a framework for the acceptance of persons sentenced by the Court, provided that such arrangements are consistent with the Rome Statute;

**RECALLING** the widely accepted international standards governing the treatment of prisoners, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) adopted by United Nations General Assembly resolution 70/175 of 17 December 2015, the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988, the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111 of 14 December 1990, and the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome on 4 November 1950;

**NOTING** the willingness of France to enforce on its territory sentences pronounced by the Court;

**IN ORDER** to establish a framework for the acceptance of prisoners sentenced by the Court and set the conditions of enforcement of their sentences of imprisonment in France;

**HAVE AGREED** as follows:

**Article 1**

*Purpose and scope of the Agreement*

This Agreement (hereinafter referred to as the “Agreement”) shall regulate matters relating to the enforcement of sentences of imprisonment pronounced by the Court and enforced at prison facilities designated by France for that purpose.

**Article 2**

*Procedure and information relating to designation*

1. After the sentencing of an accused person by the Trial Chamber, the Presidency of the Court (hereinafter referred to as the “Presidency”) shall communicate with France and request it to provide, within 2 months, an indication of its readiness, as a practical matter, to receive the person convicted by the Court.

2. During that time France may seek from the Court any relevant information about the convicted person and the sentence to be enforced.
3. If France makes known to the Presidency its readiness, as a practical matter, to receive the person convicted by the Court, and the Presidency formally designates France as the State in which the person is to serve his or her sentence, the Presidency shall notify France of its decision.
4. When notifying France of its designation as the State of enforcement of the sentence, the Presidency shall transmit, *inter alia*, the following information and documents:
  - (a) The name, nationality, date and place of birth of the sentenced person;
  - (b) A certified copy of the final judgment of conviction and of the sentence imposed;
  - (c) The length and commencement date of the sentence and the time remaining to be served, including information on any pre-trial detention in the Court's custody or any other measure affecting the length or the conditions of the sentence imposed;
  - (d) The date on which the sentenced person is eligible for review of his or her sentence;
  - (e) With due respect for medical confidentiality, any necessary information concerning the state of the sentenced person's health, including any medical treatment that he or she is receiving and any psychological report or information concerning his or her mental health;
  - (f) If known to the Court, information on any family or other ties which the sentenced person has to France.
5. France shall take a decision on its designation by the Court and shall promptly inform the Court whether it accepts the Court's designation.

### Article 3

#### *Transfer of the sentenced person*

1. The Registrar of the Court (hereinafter referred to as the "Registrar") shall make the necessary arrangements with France for the transfer of the sentenced person from the Court to the competent French authorities.
2. The Presidency shall, before transfer of the sentenced person, give the person notice of the contents of this Agreement. The transfer shall take place as soon as possible after acceptance of the designation, on a date and at a place to be agreed between France and the Registrar.
3. The Registrar shall ensure the proper conduct of the transfer of the person in consultation with France and the host State.

#### Article 4

##### *Supervision of enforcement of sentences and conditions of imprisonment*

1. The enforcement of a sentence of imprisonment shall be subject to the supervision of the Court and shall be consistent with widely accepted international standards governing the treatment of prisoners. Unless otherwise provided by the Rome Statute, the Rules of Procedure and Evidence, the Regulations of the Court or this Agreement, the domestic law of France shall apply to the enforcement of sentences.
2. In order to carry out such supervision in the prison facility designated for enforcement of the sentence, the Presidency shall:
  - (a) When necessary, request any information, report or expert opinion from France or from any reliable sources;
  - (b) Where appropriate, delegate a judge of the Court or a member of the staff of the Court who will be responsible, after notifying France, for meeting the sentenced person and hearing his or her views, without the presence of national authorities;
  - (c) Where appropriate, give France an opportunity to comment on the views expressed by the sentenced person under subparagraph (b) above.
3. When, in the course of the enforcement of his or her sentence, a sentenced person is eligible, under the domestic law of France and subject to his or her age, abilities and character, for an activity or benefit which may be implemented outside the prison facility, France shall communicate that fact to the Presidency together with any relevant information or observation, sufficiently in advance to enable the Court to exercise its supervisory function. Accompanied or unaccompanied temporary release shall constitute such a benefit.
4. France shall promptly inform the Presidency of any important event concerning the sentenced person. Such events shall include, *inter alia*, those involving escorted temporary release, the sentenced person's state of health or any change of regime of imprisonment, where those events significantly affect the conditions of his or her imprisonment.
5. The conditions of imprisonment shall be governed by the law of France and shall be consistent with widely accepted international standards governing treatment of prisoners. In no case shall such conditions be less favourable than those available to prisoners convicted of similar offences in France.
6. The Presidency and France shall take the necessary steps to enable the sentenced person to exercise his or her right to communicate with the Court about the conditions of imprisonment. Communications between the sentenced person and the Court shall be unimpeded and confidential.

**Article 5**  
***Inspection***

The competent authorities of France shall allow the International Committee of the Red Cross (hereinafter referred to as the "ICRC") to perform unscheduled and periodic inspections of the conditions of imprisonment and treatment of persons sentenced by the Court. The frequency of inspections shall be determined by the ICRC, which shall submit a confidential report on its findings to France and to the Presidency.

**Article 6**  
***Transmission of information between France and the Court on developments regarding imprisonment***

France shall notify the Court of any circumstances, including the exercise of any conditions agreed under article 103(1) of the Rome Statute, which could materially affect the terms or extent of the imprisonment. The Court shall be given at least 45 days' notice of any such known or foreseeable circumstances. During this period, France shall take no action that might prejudice its obligations under article 110 of the Rome Statute.

**Article 7**  
***Appearances before the Court***

If, after transfer of the sentenced person to France, the Court orders that the sentenced person appear before the Court, the sentenced person shall be transferred temporarily to the Court, on the condition that he or she returns to France within the period decided by the Court. Time spent in the custody of the Court shall be deducted from the term of the overall sentence remaining to be served in France.

**Article 8**  
***Limitation on prosecution or punishment***

1. The sentenced person shall not be tried before a French court for a crime referred to in article 5 of the Rome Statute for which that person has already been convicted or acquitted by the Court.
2. The sentenced person in the custody of France shall not be subject to prosecution or punishment or to extradition to a third State for any conduct engaged in prior to that person's transfer to France, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of France.
  - (a) If France intends to prosecute or enforce a sentence against the sentenced person for any conduct engaged in prior to that person's transfer, it shall notify its intention to the Presidency and transmit to it the following documents:
    - (i) A statement of the facts of the case and their legal characterization;
    - (ii) A copy of any applicable legal provisions, including those concerning the statute of limitation and the applicable penalties;
    - (iii) A copy of any sentence, warrant of arrest or other document having the same force, or of any other legal writ which the State intends to enforce;
    - (iv) A protocol containing views of the sentenced person obtained after the person has been informed sufficiently about the proceedings.

- (b) In the event of a request for extradition made by a third State, France shall transmit the entire request to the Presidency with a protocol containing the views of the sentenced person obtained after informing the person sufficiently about the extradition request.
  - (c) The Presidency may in all cases request any document or additional information from France or the State requesting the extradition.
  - (d) The Presidency may decide to conduct a hearing.
  - (e) The Presidency shall make a determination as soon as possible. This determination shall be notified to all those who participated in the proceedings.
  - (f) If the request for prosecution, punishment, or extradition to a third State concerns the enforcement of a sentence, the sentenced person may serve that sentence in France or be extradited to a third State only after having served the full sentence pronounced by the Court.
  - (g) The Presidency may authorize the temporary extradition of the sentenced person to a third State for prosecution only if it has obtained assurances, which it deems to be sufficient, that the sentenced person will be kept in custody in the third State and transferred back to France, after prosecution.
3. Paragraph 2 of this article shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of France after having served the full sentence imposed by the Court, or returns to the territory of that State after having left it.

#### **Article 9**

##### *Appeal, revision, reduction of sentence, early release and extension of the term of imprisonment*

1. Subject to the conditions contained in the Agreement, the sentence of imprisonment shall be binding on France, which shall in no case modify it.
2. France shall not release the person before expiry of the sentence pronounced by the Court. France shall terminate the enforcement of the sentence as soon as it is informed by the Court of any decision or measure as a result of which the sentence ceases to be enforceable.
3. The Court alone shall have the right to decide an application for appeal or revision, and France shall not impede the making of any such application by the sentenced person.
4. The Court alone shall have the right to decide any reduction of sentence or early release and shall rule on the matter after having heard the sentenced person. Such mechanisms as they exist under French law for the reduction of sentence and early release shall not apply to the sentenced person.
5. Any application for reduction of sentence or early release made to France by the sentenced person shall be transmitted to the Court for consideration in accordance with the provisions of the Rome Statute, the Rules of Procedure and Evidence and the Regulations of the Court. The Court alone shall decide, acting in accordance with paragraph 4, whether to grant the application.
6. Where the Presidency extends the term of imprisonment pursuant to rule 146(5) of the Rules of Procedure and Evidence, it shall immediately inform France and shall ask for observations from France pursuant to regulation 118(1) of the Regulations of the Court.

## Article 10

### *Escape*

1. If the sentenced person escapes, France shall, as soon as possible, advise the Registrar by any medium capable of delivering a written record.
2. If the sentenced person escapes from custody and flees, France may, after advising the Presidency, request the person's extradition or surrender from the State in which the person is located pursuant to existing bilateral or multilateral arrangements, or may request that the Presidency seek the person's surrender pursuant to Part 9 of the Rome Statute. It may direct that the person be delivered to France or to another State designated by the Court.
3. If the State in which the sentenced person is located agrees to surrender him or her to France, pursuant to either international agreements or its domestic legislation, France shall so advise the Registrar in writing. The person shall be surrendered to France as soon as possible, if necessary in consultation with the Registrar. The Registrar shall provide all necessary assistance, including, if necessary, the presentation of requests for transit to the States concerned, in accordance with rule 207 of the Rules of Procedure and Evidence.
4. If the sentenced person is surrendered to the Court, the Court shall transfer him or her to France. Nevertheless, the Presidency may, acting on its own motion or at the request of the Prosecutor or of France, designate another State, including the State to the territory of which the sentenced person has fled.
5. In all cases, the entire period of detention in the territory of the State in which the sentenced person was in custody after his or her escape and, where paragraph 4 of this article is applicable, the period of detention at the seat of the Court following the surrender of the sentenced person shall be fully deducted from the sentence remaining to be served.

## Article 11

### *Designation of a State other than France as the State of enforcement*

1. The Presidency, acting on its own motion or at the request of France, the sentenced person or the Prosecutor, may, at any time, decide to transfer the sentenced person to a prison of another State.
2. Before deciding to designate a State other than France as the State of enforcement, the Presidency may:
  - (a) Request views from France;
  - (b) Consider written or oral presentations of the sentenced person and the Prosecutor;
  - (c) Consider written or oral expert opinion concerning, *inter alia*, the sentenced person;
  - (d) Obtain any other relevant information from any reliable sources.
3. The Presidency shall, as soon as possible, inform the sentenced person, the Prosecutor, the Registrar and France of its decision and of the reasons therefor.

## Article 12

### *Transfer of the sentenced person upon completion of the sentence*

1. France shall notify the Presidency:
  - (a) 6 months before the scheduled completion of the sentence, that the sentence will soon be completed;
  - (b) 2 months before the scheduled completion of the sentence, of the relevant information concerning its intention to authorize the person to remain in its territory or the location where it intends to transfer the person.
2. Following completion of the sentence, a sentenced person who is not a national of France may, in accordance with the law of France, be transferred to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into account any wishes of the person to be transferred to that State, unless France authorizes the person to remain in its territory.
3. Subject to the provisions of article 8, France may also, in accordance with its domestic law, extradite or otherwise surrender the person to a State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

## Article 13

### *Termination of sentence enforcement*

1. Enforcement of the sentence in France shall cease:
  - (a) When the sentence pronounced by the Court has been completed;
  - (b) Upon the death of the sentenced person;
  - (c) Following a decision of the Court to transfer the sentenced person to another State in accordance with the Rome Statute and the Rules of Procedure and Evidence;
  - (d) Upon release of the sentenced person following proceedings under article 9 of this Agreement.
2. France shall terminate the enforcement of the sentence as soon as it is informed by the Court of any decision or measure as a result of which the sentence ceases to be enforceable.
3. If, at any time after France has taken the decision to enforce a sentence, further enforcement has, for any legal or practical reasons beyond its control, become impossible, it shall promptly inform the Presidency. France and the Court shall then enter into a dialogue on the conditions and arrangements for transfer of the sentenced person.



#### **Article 14**

##### ***Costs***

1. The ordinary costs for the enforcement of the sentence in the territory of France shall be borne by France.
2. Other costs, including those for the transfer of the sentenced person to and from France, shall be borne by the Court.
3. In the event of escape, the costs associated with the surrender of the sentenced person shall be borne by the Court if no State assumes responsibility for them.

#### **Article 15**

##### ***Channels of communication***

1. The channel of communication for France shall be the diplomatic channel.
2. The channel of communication for the Court shall be the Legal and Enforcement Unit of the Presidency.

#### **Article 16**

##### ***Amendments and termination***

1. The Agreement may be amended, after consultation, by mutual consent of the parties.
2. France may at any time withdraw its conditions of acceptance of the inclusion in the list of States of enforcement. Any amendments or additions to such conditions shall be subject to confirmation by the Presidency.
3. Either party may, after consultation, terminate this Agreement at any time by written notification transmitted through diplomatic channels. In that case, the Agreement shall cease to be valid 6 months after the date of receipt of the notification. Such termination shall not affect sentences in force at the time of termination, and the provisions of the Agreement shall continue to apply until such sentences have been completed, terminated or, if applicable, until the sentenced person has been transferred in accordance with article 11 of the Agreement.

#### **Article 17**

##### ***Entry into force***

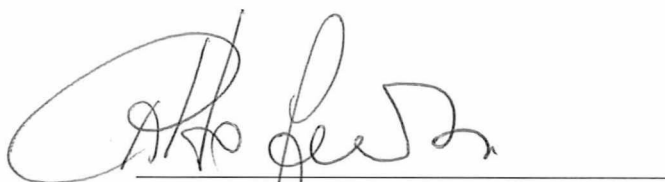
Each Party shall notify the other of the completion of its internal procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the date of receipt of the second notification.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed the Agreement.

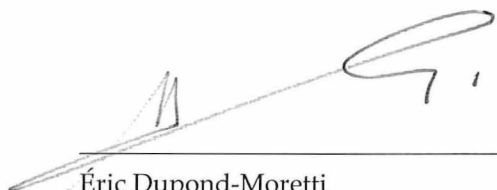
Done at The Hague this eleventh day of October 2021, in duplicate, in English and in French, both versions being equally authoritative.

FOR THE INTERNATIONAL CRIMINAL COURT

FOR THE GOVERNMENT OF THE  
FRENCH REPUBLIC



Judge Piotr Hofmański  
President of the International Criminal Court



Éric Dupond-Moretti  
Keeper of the Seals  
Minister of Justice