



**Agreement between the International Criminal Court and the  
Government of the Republic of Finland on the Enforcement  
of Sentences of the International Criminal Court**

**ICC-PRES/07-01-11**

**Date of entry into force: 24 April 2011  
Official Journal Publication**

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

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

**RECALLING** Article 103 of the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries (hereinafter referred to as “the Rome Statute”), 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 their willingness to accept sentenced persons;

**RECALLING** Rule 200 of the Rules of Procedure and Evidence of the Court (hereinafter referred to as the “Rule(s)”), 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, consistent with the Rome Statute;

**RECALLING** the widely accepted international standards governing the treatment of prisoners including the Standard Minimum Rules for the Treatment of Prisoners approved by ECOSOC resolutions 663 C (XXIV) of 31 July 1957 and 2067 (LXII) of 13 May 1977, 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 Recommendation Rec(2006)2 of the Council of Europe Committee of Ministers to member states on the European Prison Rules;

**NOTING** the willingness of Finland to accept persons sentenced by the Court;

**IN ORDER** to establish a framework for the acceptance of persons sentenced by the Court and to provide for conditions under which the sentences will be enforced in the territory of Finland;

**HAVE AGREED** as follows:

## Article 1

### *Purpose and scope of the Agreement*

This Agreement shall regulate matters relating to or arising out of the enforcement of sentences imposed by the Court in prison facilities made available by Finland.

## Article 2

### *Procedure*

1. The Presidency of the Court (hereinafter referred to as "the Presidency"), when notifying Finland of its designation to enforce a sentence in a particular case, shall transmit to Finland, *inter alia*, the following information and documents:
  - a) the name, nationality, date and place of birth of the sentenced person as well as certified copies of identification papers of the sentenced person in the possession of the Court;
  - b) a copy of the final judgment of conviction and the sentence imposed;
  - c) the length and commencement date of the sentence, including information on any pre-trial detention, and the time remaining to be served;
  - d) when appropriate, and after having heard the views of the sentenced person, any necessary information concerning the state of his or her health, including medical or psychological reports on the sentenced person, any recommendation for his or her further treatment and any other factor relevant to the enforcement of the sentence.
2. Finland shall submit the notification of the designation to the competent national authorities.
3. The competent national authorities of Finland shall promptly decide whether to accept the Court's designation, in accordance with its national law, and inform the Presidency accordingly.
4. Finland may at any time inform the Registrar of its withdrawal from the list of States that have indicated their willingness to accept sentenced persons or of conditions of such acceptance. Such conditions as well as any amendments or additions thereto shall be subject to confirmation by the Presidency. Withdrawal from the list of States of enforcement or new or amended conditions shall not affect the enforcement of the sentences in respect of persons that Finland has already accepted.

### **Article 3**

#### ***Delivery***

The Registrar of the Court, in consultation with the competent national authorities of Finland, shall make appropriate arrangements for the proper conduct of delivery of the sentenced person from the Court to the territory of Finland.

### **Article 4**

#### ***Enforcement***

1. Subject to the conditions contained in this Agreement, the sentence of imprisonment shall be binding on Finland, which shall in no case modify it.
2. 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 treatment of prisoners.
3. If, after delivery of the sentenced person to the territory of Finland, the Court, in accordance with the Rome Statute and the Rules, orders that the sentenced person appears for a hearing before the Court, the sentenced person shall be transferred temporarily to the Court, conditional on his/her return to the territory of Finland within the period decided by the Court. The duration of the temporary transfer shall be deducted from the overall sentence to be served in Finland.
4. The Court shall transmit the order for the temporary transfer of the sentenced person to Finland. The Registrar of the Court, in consultation with the competent national authorities of Finland, shall make appropriate arrangements for the proper conduct of transfer of the sentenced person from Finland to the Court and back to Finland for the continued imprisonment after the expiration of the period of temporary transfer decided by the Court.

### **Article 5**

#### ***Supervision of enforcement***

In order to supervise the enforcement of sentences of imprisonment, the Presidency may, *inter alia*:

- a) when necessary, request any information, report or expert opinion from Finland;
- b) where appropriate, delegate a judge of the Court or a member of the staff of the Court who will be responsible, after notifying Finland, for meeting the sentenced person and hearing his or her views, without the presence of national authorities of Finland;

c) where appropriate, give Finland an opportunity to comment on the views expressed by the sentenced person under paragraph (b) of this article.

## **Article 6**

### ***Conditions of imprisonment***

1. The conditions of imprisonment shall be governed by the law of Finland and shall be consistent with widely accepted international standards governing treatment of prisoners; in no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in Finland.
2. Finland shall notify the Presidency of any circumstances which could materially affect the terms or extent of the imprisonment. The Presidency shall be given at least 45 days' notice of any such known or foreseeable circumstances. During this period, Finland shall take no action that might prejudice its obligations. Where the Presidency can not agree to the aforementioned circumstances, it shall inform Finland and transfer the sentenced person to a prison of another State.
3. When a sentenced person is eligible for a prison programme or benefit available under the national law of Finland which may entail some activity outside the prison facilities, Finland shall communicate that fact to the Presidency, together with any relevant information or observation, to enable the Court to exercise its supervisory function.

## **Article 7**

### ***Inspection***

1. The competent national authorities of Finland shall allow the inspection of the conditions of imprisonment and treatment of the sentenced person(s) by the International Committee of the Red Cross (hereinafter referred to as "the ICRC") at any time and on a periodic basis, the frequency of visits to be determined by the ICRC. The ICRC will submit a confidential report based on the findings of these inspections to Finland and to the Presidency.
2. Finland and the Presidency shall consult each other on the findings of the reports referred to in paragraph 1 of this article. The Presidency may thereafter request Finland to report to it any changes in the conditions of imprisonment suggested by the ICRC.

## **Article 8**

### ***Communication***

Communications between a sentenced person and the Court shall be unimpeded and confidential.

## **Article 9**

### ***Ne bis in idem***

The sentenced person shall not be tried before a court of Finland with respect to conduct which formed the basis of crimes for which the person has already been convicted or acquitted by the Court.

## **Article 10**

### ***Rule of speciality***

1. The sentenced person in the custody of Finland shall not be subject to prosecution, punishment or to extradition to a third State for any conduct engaged in prior to that person's transfer to the territory of Finland, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of Finland.
2. When Finland intends to prosecute or enforce a sentence against the sentenced person, it shall notify its intention to the Presidency and transmit the following documents:
  - a) A statement of the facts of the case and their legal characterization;
  - b) A copy of any applicable legal provisions, including those concerning the statute of limitation and the applicable penalties;
  - c) A copy of any sentence, warrant of arrest or other document having the same force, or of any other legal writ which Finland (or, where applicable, the third State) intends to enforce;
  - d) A protocol containing views of the sentenced person obtained after the person has been informed sufficiently about the proceedings.
3. In the event of a request for extradition made by a third State, Finland 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.
4. The Presidency may, in relation to paragraphs 2 and 3 of this article, request any document or additional information from Finland or the third State requesting the extradition.
5. The Presidency shall make a determination as soon as possible. This determination shall be notified to Finland and, where appropriate, to the third State. If the request submitted under paragraphs 2 and 3 of this article concerns the enforcement of a sentence, the sentenced person may serve that sentence in Finland or be extradited to a third State only after the enforcement of the sentence pronounced by the Court has been terminated.

6. 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 Finland after the prosecution.
7. Paragraph 1 of this article shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of Finland after the enforcement of the sentence imposed by the Court has been terminated, or returns to the territory of Finland after having left it.

#### **Article 11**

##### *Appeal, revision and reduction of sentence*

1. The Court alone shall have the right to decide on any application for appeal and revision. Finland shall not impede the making of any such application by the sentenced person.
2. Finland shall not release the person before expiry of the sentence pronounced by the Court.
3. The Court alone shall have the right to decide any reduction of sentence, and shall rule on the matter after having heard the person.

#### **Article 12**

##### *Escape*

1. If the sentenced person has escaped, Finland 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 the territory of Finland, Finland may, after consultation with the Presidency, request the person's extradition or surrender from the State in which the person is located pursuant to any existing bilateral or multilateral arrangements, or may request that the Presidency seek the person's surrender, in accordance with Part 9 of the Rome Statute.
3. If the State in which the sentenced person is located, agrees to extradite or surrender him or her to Finland, pursuant to either international agreements or its national legislation, Finland shall so advise the Registrar in writing. The person shall be extradited or surrendered to Finland as soon as possible, if necessary in consultation with the Registrar, pursuant to Rule 225.
4. If the sentenced person is surrendered to the Court, then the Court shall transfer him or her to Finland. Nevertheless, the Presidency may, acting on its own motion or at the request of the Prosecutor or of Finland, 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/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 from the State in which he/she was located shall be deducted from the sentence remaining to be served.

### **Article 13**

#### ***Change in designation of State of enforcement***

1. The Presidency, acting on its own motion or at the request of the sentenced person or the Prosecutor, may, at any time, decide to transfer a sentenced person to a prison of another State. In such a case, the Presidency shall notify the sentenced person, the Prosecutor, the Registrar and Finland.
2. A sentenced person shall be entitled, at any time, to apply to the Presidency to be transferred from Finland.
3. If the Presidency decides not to change Finland as State of enforcement, it shall notify the sentenced person, the Prosecutor, the Registrar and Finland.

### **Article 14**

#### ***Termination of enforcement***

1. The enforcement of the sentence shall cease:
  - a) when the Court's sentence has been completed;
  - b) upon the demise 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;
  - d) upon release following proceedings under Article 11.
2. The competent national authorities of Finland shall terminate the enforcement of the sentence as soon as they are informed by the Court of any decision or measure as a result of which the sentence ceases to be enforceable.
3. Upon the termination of the enforcement of a sentence, for reasons other than the completion of the sentence as referred to in paragraph 1 (a) of this article, the Registrar shall, in consultation with Finland, make the appropriate arrangements for the transfer of the sentenced person from Finland, or in the case of death, the repatriation of the sentenced person's body.

## **Article 15**

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

1. Following completion of the sentence, the person who is not a national of Finland may, in accordance with the law of Finland, 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 Finland authorizes the person to remain in its territory.
2. Subject to the provisions of Article 10, Finland may also, in accordance with its national 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 16**

### ***Impossibility to enforce sentences***

1. If, at any time after the decision has been taken to enforce a sentence, further enforcement has, for any legal or practical reasons and beyond the control of the competent national authorities, become impossible, Finland shall promptly inform the Presidency.
2. The Court shall make appropriate arrangements for the transfer of the sentenced person.
3. The competent national authorities of Finland shall allow at least sixty days following the notification of transfer by the Presidency before taking other measures on the matter.

## **Article 17**

### ***Information***

1. Finland shall immediately notify the Presidency of the following:
  - a) the completion of the sentence by the sentenced person, two months prior to the completion of the sentence;
  - b) if the sentenced person has escaped;
  - c) if the sentenced person has deceased; and
  - d) a request of extradition of the sentenced person, including the documents and information referred to in Article 10, paragraph 2.
2. Finland shall notify the Presidency, 30 days before the scheduled completion of sentence served by the sentenced person, the relevant information concerning the intention of Finland to authorize the person to remain in its territory or the location where it intends to transfer the person.

3. Finland shall notify the Presidency of any important event concerning the sentenced person, and of any prosecution of that person for events subsequent to his/her transfer.
4. For purposes of extension of the term of imprisonment in accordance with Rule 146, sub-rule 5 of the Rules, the Presidency may ask for observations from Finland.

## **Article 18**

### ***Costs***

1. The ordinary costs for the enforcement of the sentence in the territory of Finland shall be borne by Finland.
2. Other costs, including those for the transport of the sentenced person from and to the seat of the Court and to and from the territory of Finland, shall be borne by the Court.
3. In case 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 19**

### ***General cooperation***

1. The competent national authorities of Finland shall take all necessary measures to ensure the efficient execution of this Agreement and to ensure the appropriate security, safety and protection of the sentenced persons.
2. The ultimate responsibility for the fulfilment of obligations provided in this Agreement shall rest with Finland.
3. The Court and Finland shall designate a focal point to facilitate the implementation of this Agreement.

## **Article 20**

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

This Agreement shall enter into force on the 30th day following receipt by the Court of the notification of Finland that it has completed its constitutional requirements for the entry into force of this Agreement.

## **Article 21**

### ***Amendments***

This Agreement may be amended, after consultation, by mutual consent of the parties.

**Article 22**

***Termination of the Agreement***

Upon consultation, either party may terminate this Agreement, with two months prior written notice. Such termination shall not affect sentences in force at the time of the termination, and the provisions of this Agreement shall continue to apply until such sentences have been completed, terminated or, if applicable, the sentenced person has been transferred in accordance with Article 13 of this Agreement.

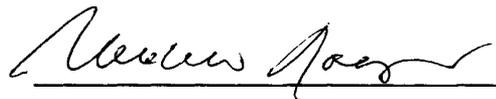
IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

Done at Kampala..... this ..<sup>th</sup>..... day of June., 2010, in duplicate, in the English language.

**FOR THE COURT**

**FOR THE GOVERNMENT OF  
FINLAND**

  
\_\_\_\_\_  
Judge Sang-Hyun Song  
President of the International Criminal Court

  
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JAAKKO LAAJAVA  
UNDERSECRETARY OF STATE