

(1)      TO      (12)

**TREATY  
BETWEEN THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA  
AND THE RUSSIAN FEDERATION  
ON  
TRANSFER OF SENTENCED PERSONS**

THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA and THE RUSSIAN FEDERATION, hereinafter referred to as the "Parties".

WISHING to further the development of international cooperation in the field of criminal law,

DESIRING to facilitate the process of social rehabilitation of sentenced persons by transferring them to the State of their citizenship,

CONSIDERING that this objective should be fulfilled by giving citizens of a Party who have been convicted and sentenced in the other Party as a result of the commission of a criminal offence, the opportunity to serve the sentence in their own country;

HEREBY agree as follows:

**Article 1  
Scope of the Treaty**

1. The Parties shall, in accordance with the terms and conditions of this Treaty and the legislation of the Parties, provide each other with the widest possible measure of assistance in matters related to transfer of sentenced persons.
2. A person sentenced in the territory of one Party may be transferred to the territory of the other Party, in accordance with the provisions of this Treaty, in order to serve the sentence imposed. For that end, such person or his/her legal representative may apply to the Central authority of either sentencing state or administering state for his/her transfer, in accordance with the laws of the Parties and provisions of this Treaty.
3. The request for transfer may be submitted by either Party.

## **Article 2**

### **Definitions**

For the purposes of this Treaty, the following terms shall mean:

- a) "judgement" – a final court decision imposing sentence for a committed crime. The term "Judgement" shall also include final court decisions imposing death penalty, later substituted for a fixed term of deprivation of liberty or for life imprisonment in sentencing state by an act of amnesty or pardon;
- b) "sentence" – means any punishment imposed by a judgement which includes deprivation of liberty for a fixed term of life imprisonment;
- c) "sentenced person" – a person serving a sentence in the form of deprivation of liberty, imposed by a judgement;
- d) "sentencing state" – the Party in which the judgement was pronounced on the person who may be or has been transferred to the other Party;
- e) "administering state" – a Party to which the sentenced person may be transferred or has been transferred in order to serve the sentence;
- f) "legal representative" means a person or an institution authorized by the legislation of the Party to act in the interests or on behalf of the sentenced person in respective bodies of that Party.

## **Article 3**

### **Conditions for Transfer**

- 1. A sentenced person may be transferred under this Treaty only on the following conditions:
  - a) the sentenced person is a citizen of administering state;
  - b) the judgment is final and is due to be enforced or is being enforced;
  - c) there are no criminal or other proceedings pending in respect of sentenced person;
  - d) at the time of receipt of request for transfer, the part of sentence to be served by the sentenced person is not more than six month;
  - e) there is written consent by the sentenced person for his/her transfer for execution of sentence in the territory of the administering state, and in case of his/her inability to freely express his/her will due to age, physical or mental condition – a written consent by his/her legal representative. The sentencing state shall provide a consular officer or any other official of the administering state with an

- opportunity to verify that the consent for transfer or rejection thereof was given voluntary and with understanding of legal consequences of such transfer;
- f) the crimes, for which the sentence was imposed, are subject to punishment in the form of deprivation of liberty according to criminal laws of the administering state;
  - g) sentencing state and administering state have clearly given their consent for transfer and;
  - h) the sentencing state considers that transfer of the person would impair its sovereignty, security, public order or other essential interests

2. The transfer shall be rejected if;

- a) The sentenced person has not fulfilled any financial obligations arising from a court judgement, or if, in the opinion of the sentencing State, the guarantees of fulfillment of such obligations are insufficient;
- b) the sentence cannot be executed in the administering state due to expiration of limitation period or due to other reasons stipulated in the laws of such state;
- c) the transfer is contrary the laws of the Parties.

#### **Article 4**

##### **Central and Competent Authorities**

1. The central authorities authorized to perform this Treaty are;  
For the Russian Federation – Ministry of Justice of the Russian Federation,  
For the Democratic Socialist Republic of Sri Lanka – Secretary to the Ministry of Justice.
2. When executing this Treaty, the central authorities shall communicate directly.
3. Each Party shall immediately notify the other Party of any changes, connected with its respective central authority, through diplomatic channels.
4. Competent authorities are the authorities duly authorized by each Party for performance of specific acts in implementation of obligations under this Treaty.

**Article 5**  
**Obligation to Provide Information**

1. Any sentenced person, to whom this Treaty may be applied, shall be informed by the sentencing state of the contents of this Treaty, as well as of legal consequences of transfer.
2. If the sentenced person applies to the sentencing state for his transfer, that state shall so promptly inform the administering state.
3. Such notice shall include;
  - a) Surname, name (patronymic), date and place of birth, citizenship of the sentenced person;
  - b) permanent place of residence of the sentenced person in the administering state, if known;
  - c) a statement of the facts, upon which the sentence was based;
  - d) the type, duration and date of commencement of the sentence;
  - e) the text of applicable provisions of the criminal laws.
4. If the sentenced person applies to the administering state for transfer pursuant to the provisions hereof, the sentencing state shall provide the administering state, on request, with the information specified in Paragraph 3 of this Article.
5. The sentenced person shall be informed in writing of any decision taken by either administering state or the sentencing state under the preceding paragraphs as well as of any decision taken by either Party on request for transfer.

**Article 6**  
**Requests and responses**

1. Requests of the central authority of a Party for transfer and responses to them shall be made in writing and directed to the central authority of the other Party in accordance with this Treaty.
2. The Requested Party shall promptly inform the Requesting Party on its decision to allow or reject the request of transfer.
3. After receipt of the motion for transfer, the central authority of the sentencing State shall accompany the request addressed to the central authority of the administering State with;

- a) information about the sentenced person (surname, name (patronymic), date and place of birth);
  - b) documents indicating the citizenship of the sentenced person and his/her permanent place of residence.
  - c) Certified copies of the judgment and all relevant court decisions on the case and a document confirming that the judgment had become final;
  - d) The document indicating the part of sentence served and the part of sentence to be served, as well as the document indicating behavior of the sentenced person while serving the sentence;
  - e) A document indicating execution of additional punishment, if any;
  - f) The text of provisions of the criminal law on account of which the person was sentenced;
  - g) A written consent of the sentenced person or his/her legal representative in case of his/her inability to freely express his/her will due to age, physical or mental conditions for his/her transfer for execution of a sentence in the territory of the administering State;
  - h) The document indicating financial obligations of the sentenced person under the judgment, if any;
  - i) Information on the State of health of the sentenced person and on the possibility of his/her transportation to the territory of the administering State.
4. After receipt of the motion for transfer, the central authority of the administering State shall accompany the request addressed to the central authority of the sentencing State with the documents mentioned in paragraph 3 subparagraph "a" and "b" of this Article.
5. The central authority of the sentencing State shall accompany its response to the said request with the documents mentioned in paragraph 3 subparagraph from "c" to "i" of this Article.
6. If the request of the central authority of the sentencing State is allowed, the central authority of the administering State shall accompany its response with:
- a) A written agreement for receipt of the sentenced person for execution of the remaining part of the sentence;
  - b) A certified copy of the decision of the court or other competent authority on acknowledgement and execution of sentence stating the order, the term and conditions of serving the sentence by the sentenced person after his/her transfer;



- c) Certified extracts from legislation on which the sentenced person will serve the sentence;
  - d) A document indicating the citizenship of the sentenced person
7. If necessary, the central authorities of the Parties may request any other relevant documents or information.
  8. Upon rendering the decision of consent or rejection to transfer the sentenced person by the court or other competent authority of the sentencing State, the central authority of the sentencing State after receipt of all necessary documents shall promptly inform the central authority of the administering State of its consent or rejection to transfer the sentenced person subject to the terms and conditions of this Treaty.

#### **Article 7 Expenses**

Expenses related to transfer of the sentenced person, including the expenses on transit, shall be borne by the administering state except for the expenses incurred in the territory of the sentencing state.

#### **Article 8 Procedure of Transfer**

Upon receipt of the notification of the central authority of the sentencing State of the decision of consent to transfer the sentenced person by court or other competent authority of the sentencing State, the competent authorities of the Parties shall promptly determine place, time and procedure of transfer.

#### **Article 9 Enforcement of Sentence**

1. The administering state shall ensure the continuing of enforcement of sentence in accordance with its laws.

2. The court or a competent authority of the administering state, on the basis of this sentence, shall, subject to and in accordance with the laws of its state, impose the same term of imprisonment as that imposed by the judgement.

If, according to the laws of the administering state, the maximum term of imprisonment for the crime committed is less than that imposed by the judgement, the court of the administering state shall impose the maximum term of imprisonment provided for by the laws of the administering state for committing the same crime.

The part of the punishment served in the territory of the sentencing state shall be considered in the total term of the sentence.

#### **Article 10**

#### **Pardon, Amnesty, Substitution of Sentence and Review of Judgement**

Either Party may grant pardon, amnesty and substitution of sentence in accordance with its laws.

Only the sentencing state shall have the right to resolution of issues of appeal or review of the judgement.

#### **Article 11**

#### **Non bis in idem**

After his/her transfer, the sentenced person shall not be prosecuted or proceeded against in the administering state for the same acts as the ones on account of which the sentence was imposed in the sentencing state.

#### **Article 12**

#### **Alteration and Remission of Judgement**

1. If, after the transfer of the sentenced person for serving the sentence, the judgement is altered by the court of the sentencing state, a copy of the respective judgement and other necessary documents shall be promptly submitted to the central authority of the

administering state. The administrative State shall resolve the issue of enforcing such decision as specified in Article 9 of this Treaty.

2. If, after the transfer of the sentenced person for serving the sentence, the judgement is remitted, thus dismissing the case in the sentencing state, a copy of the respective decision shall be promptly submitted to the central authority of the administering state.

3. If, after the transfer of the sentenced person for serving the sentence, the judgement is remitted and a new investigation or proceedings is/are to take place, a copy of the respective decision, criminal case documents and other necessary materials shall be promptly submitted to the administering state in order to resolve the issue of prosecution of the sentenced person under the laws of the administering state.

### **Article 13**

#### **Termination of Enforcement**

The administering state shall terminate enforcement of the sentence as soon as it is informed by the sentencing state of any decision or measure as a result of which the sentence ceases to be enforceable.

### **Article 14**

#### **Exchange of Information**

1. The central authority of the administering state shall inform the central authority of the sentencing state of the court decision taken in order to enforce the sentence, of granting pardon, amnesty, parole or alteration of sentence and in case of his/her escape.

2. The central authority of the administering state, on request of the central authority of the sentencing state, shall provide information on the process of serving the sentence after the sentenced person's transfer.



## **Article 15**

### **Transit**

A Party shall, in accordance with its law, satisfy a request for transit of a sentenced person through its territory if such request is made by the other Party, which has agreed with a third state to the transfer of that person.

A Party may refuse to permit transit if:

- a) the sentenced person is its citizen;
- b) the offence for which the sentence was imposed is not considered as such under its law.

3. The request for transit shall include the information specified in subparagraphs "a" – "g" of Paragraph 3 of Article 6 herein and shall be accompanied by a copy of the request for transfer and a copy of a document of consent for transfer.

4. Such permission is not required, if such transit is carried out by air and no landing in the territory of the other party is expected. However, that Party has to be notified of any such transit over its territory.

5. The Party requested to permit transit may hold the sentenced person in custody only for such period of time as transit through its territory requires, as decided by the court or a competent authority of this Party.

## **Article 16**

### **Languages**

Request for transfer, its supporting documents and additional information forwarded in accordance with this Treaty shall be accompanied by certified translation into the language of the requested Party, or into English and shall not be the subject to legalization. The same procedure shall be applied to the documents and information forwarded in response to such request.

## **Article 17**

### **Temporal application**

This Treaty shall be applicable to enforcement of sentences imposed both before and after its entry into force.

## Article 18 Consultations and resolutions of disputes

The Central Authorities at the request of either of them shall consult, whenever necessary concerning the interpretation or application of this Treaty, either generally or in relation to a particular request.

2. Disputed issues between the Parties resulting from the interpretation or application of this Treaty, shall be resolved through diplomatic negotiations.

### Final Provisions

1. Upon the mutual agreement of the Parties this Treaty may be amended, and such amendments shall enter into force in accordance with the procedure provided for in Paragraph 2 of this Article.
2. This Treaty shall enter into force 30 days after the last date of which the Parties have notified each other through diplomatic channels that their respective domestic legal requirements for the entry into force of this Treaty have been complied with.
3. The present Treaty shall terminate 180 days after the date either of the Parties has received through diplomatic channels a written notification by the other Party of its intention to terminate it.
4. Termination of this Treaty is without prejudice to the execution of any request for transfer received till the date of its termination.

Done in St. Petersburg this 28<sup>th</sup> day of May 2015 in duplicate, each in the Sinhalese, Russian and English languages, all texts being equally authentic. In case of interpretation, discrepancies, the English text shall prevail.

*Silva de Silva*

**For the Democratic Socialist Republic of  
Sri Lanka**

*[Signature]*  
**For the Russian Federation**