

TRATAT
ÎNTRU ROMÂNIA ȘI REGATUL THAILANDEI
PRIVIND TRANSFERAREA PERSOANELOR CONDAMNATE ȘI
COOPERAREA ÎN EXECUTAREA PEPDESELOR

România și Regatul Thailandei, denumite în continuare „Părțile”;

Luând în considerare normele și legislația în vigoare a Părților privind executarea pedepselor;

În dorința de cooperare în executarea pedepselor;

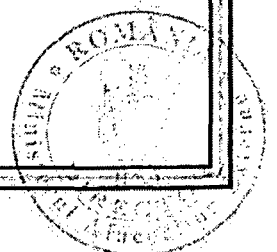
Considerând că această cooperare bilaterală trebuie să servească în interesul administrării justiției și să faciliteze reintegrarea în societate a persoanelor condamnate;

Având în vedere că aceste obiective pot fi îndeplinite în ceea ce privește persoanele condamnate prin crearea oportunității pentru acestea de a-și executa pedeapsa în societatea lor;

Au convenit următoarele:

Articolul 1
Principii generale

- (1) Părțile se obligă să-și ofere reciproc, în condițiile prevăzute de prezentul Tratat, cooperarea cea mai cuprinzătoare în domeniul transferării persoanelor condamnate.
- (2) O persoană condamnată pe teritoriul uneia dintre Părți poate fi transferată pe teritoriul celeilalte Părți, în conformitate cu dispozițiile prezentului Tratat, în scopul executării pedepsei aplicate persoanei în cauză.



Articolul 2

Definiții

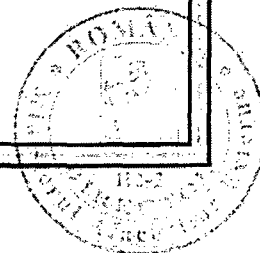
În scopul prezentului Tratat:

- (1) „statul de transferare” înseamnă Partea de pe teritoriul căreia persoana condamnată poate fi sau a fost deja transferată;
- (2) „statul de primire” înseamnă Partea pe teritoriul căreia persoana condamnată poate fi sau a fost transferată pentru a continua executarea pedepsei;
- (3) „persoana condamnată” înseamnă persoana căreia i s-a aplicat o pedeapsă cu închisoarea sau altă formă privativă de libertate, în baza unui ordin sau a unei hotărâri definitive pronunțată de o instanță judecătorească din statul de transferare, ca urmare a săvârșirii unei infracțiuni;
- (4) „pedeapsă” înseamnă orice sancțiune sau măsură care implică privarea de libertate dispusă printr-o hotărâre definitivă de către o instanță judecătorească ca urmare a săvârșirii unei infracțiuni.
- (5) „resortisant” înseamnă pentru România un cetățean român sau o persoană care are drept de rezidență permanentă pe teritoriul României, iar pentru Regatul Thailandei o persoană de naționalitate thailandeză.

Articolul 3

Autoritățile centrale

- (1) În scopul aplicării prezentului Tratat, fiecare dintre Părți va desemna o autoritate centrală.
- (2) Autoritatea centrală pentru România este Ministerul Justiției. Autoritatea Centrală pentru Regatul Thailandei este Comitetul de Examinare privind Transferarea Persoanelor Condamnate.
- (3) O cerere oficială și răspunsul privind transferarea, emise de o autoritate centrală a uneia dintre Părți vor fi transmise, prin canalele diplomatice, autorităților centrale a celeilalte Părți.



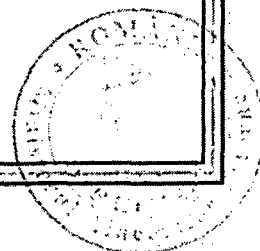
- (4) Alte informații sau documente în susținerea cererii, inclusiv comunicări în cazuri urgente, pot fi comunicate direct între autoritățile centrale, urmând ca ulterior acestea să fie transmise prin canale diplomatice.

Articolul 4

Condiții privind transferarea

Persoana condamnată poate fi transferată, conform dispozițiilor prezentului Tratat, în următoarele condiții:

- (1) acțiunile sau inacțiunile în baza cărora a fost dispusă pedeapsa în statul de transferare constituie infracțiune conform legislației statului de primire; această condiție nu va fi interpretată în sensul că fapta descrisă în legislația celor două Părți trebuie să fie identică dar nu este afectată natura infracțiunii;
- (2) persoana în cauză este resortisant al statului de primire și nu este resortisant al statului de transferare;
- (3) pedeapsa impusă persoanei condamnate în statul de transferare este pedeapsa cu închisoarea sau altă formă privativă de libertate;
- (4) persoana condamnată a executat în statul de transferare o perioadă minimă din pedeapsa cu închisoarea sau altă formă privativă de libertate prevăzută de legislația statului de transferare;
- (5) la momentul primirii cererii de transfer de către statul de transferare din partea statului de primire, persoana condamnată mai are de executat cel puțin un an din pedeapsă;
- (6) statul de transferare și cel de primire, precum și persoana condamnată sunt de acord cu transferul, iar în anumite cazuri determinate de vârstă, starea fizică sau psihică a persoanei, acordul persoanei condamnate va fi exprimat de către persoana îndreptățită să o reprezinte.

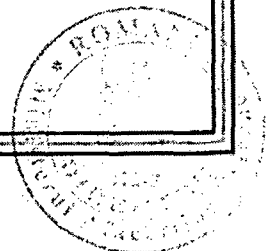


Articolul 5
Refuzul transferării

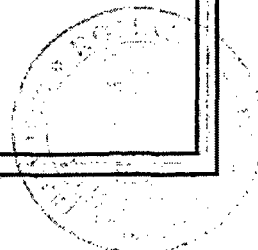
- (1) Cererea de transferare a unei persoane condamnate va fi refuzată în baza prezentului Tratat în următoarele condiții:
- (a) persoana în cauză a fost condamnată pentru săvârșirea unei infracțiuni prevăzută de legea statului de transferare:
 - i. împotriva securității interne sau externe a statului;
 - ii. împotriva șefului statului sau a unui membru al familiei sale; sau
 - iii. împotriva legislației care protejează patrimoniul artistic național;
 - (b) hotărârea nu este definitivă sau alte proceduri judiciare sunt în curs în statul de transferare, care vizează infracțiunea în cauză sau alte infracțiuni;
 - (c) transferarea persoanei condamnate poate prejudicia suveranitatea, securitatea, ordinea publică sau alte interese fundamentale ale oricăreia dintre Părți.
- (2) Cererea de transferare poate fi refuzată dacă persoana condamnată nu a achitat sumele, cheltuielile, compensațiile, daunele, amenzile și sancțiunile financiare de orice fel în legătură cu pedeapsa.

Articolul 6
Procedura de transferare

- (1) Părțile vor informa persoanele condamnate cu privire la conținutul Tratatului.
- (2) Orice transfer efectuat în baza prezentului Tratat va fi inițiat prin canale diplomatice, printr-o cerere scrisă, transmisă statului de transferare de către statul de primire. Statul de transferare va comunica statului de primire, prin aceleași canale diplomatice, fără întârziere, decizia sa cu privire la aprobarea sau respingerea cererii de transferare.



- (3) Statul de transferare va pune la dispoziția statului de primire următoarele informații:
- (a) numele, data și locul nașterii persoanei condamnate;
 - (b) o declarație privind faptele în baza cărora a fost dispusă pedeapsa;
 - (c) data începerii și încheierii pedepsei, perioada de timp executată de către persoana condamnată, precum și orice alte reduceri de pedeapsă la care persoana respectivă este îndreptățită ca urmare a muncii depuse, buneii purtări, reținerii, arestării preventive sau alte motive;
 - (d) o copie certificată a tuturor hotărârilor și documentelor referitoare la pedeapsă, precum și textele de lege în baza cărora au fost dispuse;
 - (e) orice alte informații suplimentare solicitate de către statul de primire, în măsura în care aceste informații sunt relevante pentru transferarea persoanei condamnate și pentru punerea în executare a pedepsei.
- (4) Fiecare parte, pe cât posibil, va furniza la cererea celeilalte Părți, orice informație relevantă, documente sau declarații, înainte de a transmite o cerere de transferare sau înainte de luarea unei decizii cu privire la aprobarea sau respingerea transferării.
- (5) Statul de transferare va da posibilitatea statului de primire, la cererea acestuia, de a verifica anterior transferării, printr-un oficial desemnat de către statul de primire, că acordul persoanei condamnate necesar pentru transferare sau a persoanei îndreptățite să acționeze în numele său, conform Articolului 4 alineatul 6 din prezentul Tratat, este dat în mod voluntar și în cunoștință de cauză cu privire la consecințele juridice ale transferării.
- (6) În cazul în care România este statul de primire va notifica decizia de transfer Regatul Thailandei.
- (7) Dacă statul de transferare aprobă transferarea, ambele Părți vor face aranjamentele necesare pentru transferarea persoanei condamnate. Persoana condamnată va fi predată autorităților statului de primire la data și locul stabilite de ambele Părți, pe teritoriul statului de transferare.

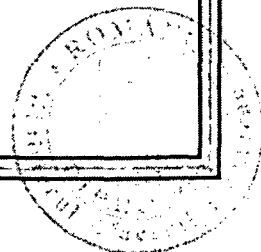


Articolul 7
Păstrarea competenței

- (1) În cazul executării pedepselor în baza prezentului Tratat, statul de transferare își va păstra competența exclusivă privind hotărârile pronunțate de instanțele sale, pedeapsa dispusă de acestea, precum și cu privire la orice proceduri de revizuire, modificare sau anulare a acestor hotărâri și pedepse.
- (2) Dacă statul de transferare dispune revizuirea, modificarea sau anularea hotărârii sau a pedepsei potrivit alineatului 1 al prezentului Articol sau pedeapsa se reduce, comută sau încetează, statul de primire ca urmare a notificării deciziei, va dispune în consecință.

Articolul 8
Procedura de punere în executare a pedepsei

- (1) După transferare, statul de primire va continua executarea pedepsei dispuse în statul de transferare, conform legislației și procedurilor sale, inclusiv cele care guvernează condițiile de executare a pedepsei cu închisoarea sau altă formă de privare de libertate, precum și reducerea perioadei de executare în închisoare sau altă formă de privare de libertate, prin liberare condiționată, suspendarea executării pedepsei sau altele.
- (2) Fiecare Parte poate acorda grațierea, amnistia sau comutarea pedepsei potrivit legislației sale. Cu toate acestea, statul de transferare poate, în cazuri individuale, să condiționeze transferarea persoanei condamnate de acordarea grațierii sau amnistiei în statul de primire doar cu acordul statului de transferare.
- (3) În conformitate cu dispozițiile alineatului 6 din prezentul Articol, statul de primire va fi obligat să respecte natura juridică a pedepsei, astfel cum a fost stabilită în statul de transferare. În cazul în care conform legislației din statul de primire, autoritatea competentă din statul de primire trebuie să pronunțe o decizie sau o hotărâre privind executarea pedepsei stabilite pentru persoana condamnată de către instanța statului de transferare, statul de transferare va fi informat în acest sens.

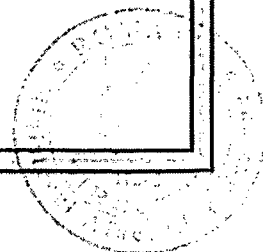


- (4) Atunci când pedeapsa impusă de statul de transferare este incompatibilă în ceea ce privește natura și durata cu legislația statului de primire, autoritățile sale pot adapta pedeapsa în acord cu prevederile din legislația națională privind infracțiunile similare, fără a depăși maximumul pedepsei prevăzută de legislația sa.
- (5) În cazul în care durata pedepsei impusă de statul de primire este mai mică decât durata pedepsei impusă de statul de transferare, acesta din urmă poate refuza cererea.
- (6) Nicio pedeapsă privativă de libertate nu va fi executată de statul de primire, astfel încât să depășească perioada prevăzută în hotărârea instanței din statul de transferare. Executarea pedepsei va corespunde, pe cât posibil, cu pedeapsa stabilită în statul de transferare. Perioada de privare de libertate executată înainte de data transferării va fi dedusă.
- (7) Statul de primire poate aplica conform legislației sale privind minorii, statutul de minor oricărei persoane condamnate, indiferent de statutul aplicat în legislația statului de transferare.
- (8) Statul de primire va notifica statul de transferare în următoarele cazuri:
- (a) persoana condamnată este liberată condiționat sau eliberată ca urmare a executării pedepsei;
 - (b) persoana condamnată a evadat înainte de terminarea executării pedepsei; sau
 - (c) statul de transferare solicită un raport.

Articolul 9

Tranzitul persoanelor condamnate

- (1) În cazul în care oricare dintre Părți transferă o persoană condamnată dintr-un stat terț, cealaltă parte va coopera în vederea facilitării tranzitului persoanei condamnate pe teritoriul său. Partea care intenționează efectuarea unui astfel de transfer va notifica în prealabil cealaltă parte cu privire la tranzit.



- (2) Oricare dintre Părți poate refuza tranzitarea:
- (a) dacă persoana condamnată este resortisant al său, sau
 - (b) dacă fapta pentru care a fost dispusă pedeapsa nu reprezintă o infracțiune potrivit legislației sale.

Articolul 10
Cheltuieli

Cheltuielile ocazionate de aplicarea prezentului Tratat vor fi suportate de către statul de primire cu excepția celor efectuate exclusiv pe teritoriul statului de transferare.

Articolul 11
Limba utilizată

- (1) Cererile de transferare formulate în temeiul Articolului 6 alineatul 2 și decizia de transferare în baza Articolului 6 alineatul 6 vor fi formulate în limba statului de transferare sau în engleză.
- (2) Informațiile, documentele și declarațiile formulate în temeiul Articolul 6 alineatele 3 și 4, precum și notificările în temeiul Articolului 7 alineatul 2 vor fi transmise în limba statului de transferare. La cerere, se va transmite statului de primire un rezumat al informațiilor referitoare la persoana condamnată, în engleză, în forma anexată la prezentul Tratat.
- (3) Comunicările între autoritățile centrale vor avea loc în limba engleză.

Articolul 12
Aplicare în timp

Prezentul Tratat este aplicabil executării pedepselor dispuse înainte sau după intrarea sa în vigoare.

Articolul 13

Consultări

Părțile se vor consulta, la cererea oricăreia dintre Părți, cu privire la interpretarea și aplicarea prezentului Tratat.

Articolul 14

Dispoziții finale

- (1) Prezentul Tratat va intra în vigoare după 30 (treizeci) de zile de la data primirii, prin canale diplomatice, a ultimei notificări privind îndeplinirea procedurilor interne necesare pentru intrarea sa în vigoare.
- (2) Prezentul Tratat poate fi amendat cu consimțământul scris al ambelor Părți. Amendamentul va intra în vigoare potrivit procedurii prevăzute la alineatul 1 al acestui Articol.
- (3) Oricare dintre Părți poate denunța prezentul Tratat oricând prin notificarea în prealabil a celeilalte Părți. Denunțarea își va produce efectele într-un termen de (6) șase luni după primirea notificării.
- (4) Încetarea prezentului Tratat nu va afecta validitatea unei cereri transmise celeilalte Părți înainte de încetarea prezentului Tratat.

PENTRU CONFORMITATE, subsemnații, fiind deplin autorizați în acest sens, semnează prezentul Tratat.

SEMNAT la New York, în data de 25 Septembrie 2019, în dublu exemplar, în limbile română, thailandeză și engleză, ambele texte fiind autentice. În caz de divergențe privind interpretarea, va prevala textul în limba engleză.

PENTRU ROMÂNIA,



Ramona-Nicole Mănescu
Ministrul Afacerilor Externe

PENTRU REGATUL THAILANDEI,



Don Pramudwinai
Ministrul Afacerilor Externe



Copie certificată pentru conformitate cu originalul

Corina Badea, director

Direcția Tratatelor Internaționale, Ministerul Afacerilor Externe

Anexa

Rezumat al informațiilor privind persoana condamnată

Numele persoanei condamnate:

Data nașterii (dacă este disponibilă):

Naționalitate:

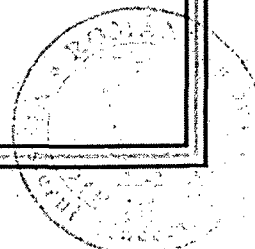
Închisoare

Condamnat (ă) pentru:

Durata pedepsei:

Perioada executată:

Încetare/ Data eliberării



TREATY
BETWEEN ROMANIA AND THE KINGDOM OF THAILAND
ON THE TRANSFER OF SENTENCED PERSONS AND
ON CO-OPERATION IN THE ENFORCEMENT OF PENAL SENTENCES

Romania and the Kingdom of Thailand, hereinafter referred to as the "Parties";

Taking into consideration the laws and regulations of the Parties in force regarding the enforcement of penal sentences;

Desiring to cooperate in the enforcement of penal sentences;

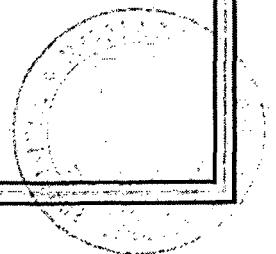
Considering that the bilateral co-operation must serve the interests of good administration of justice and favour the social reintegration of sentenced persons;

Considering that these objectives can be best fulfilled by giving sentenced persons the opportunity to serve their sentences within their own society;

Have agreed as follows:

Article 1
General Principles

- (1) The Parties undertake to mutually grant, in the conditions laid down by this Treaty, the largest possible co-operation in the field of the 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 on that person.



Article 2
Definitions

For the purposes of this Treaty:

- (1) "transferring State" means the Party from which the sentenced person may be, or has been, transferred;
- (2) "receiving State" means the Party to which the sentenced person may be, or has been, transferred in order to further serve the sentence;
- (3) "sentenced person" means a person on whom the sentence of imprisonment or any other form of deprivation of liberty has been imposed by virtue of a final decision or order made by the court of the transferring State on account of a criminal offence;
- (4) "sentence" means any punishment or measure involving deprivation of liberty ordered by a final decision of a court on account of a criminal offence;
- (5) "national" means, for Romania, a Romanian citizen or a person who has a permanent right of residence on the Romanian territory and, for the Kingdom of Thailand, a Thai national.

Article 3
Central Authorities

- (1) For the purpose of implementing this Treaty, each Party shall designate a Central Authority.
- (2) The Central Authority for Romania shall be the Ministry of Justice. The Central Authority for the Kingdom of Thailand shall be the Committee for Consideration of the Transfer of Prisoners.
- (3) An official request and reply for transfer by the Central Authority of one Party shall be transmitted through diplomatic channels to the Central Authority of the other Party

- (4) Other information or supporting documents may be communicated directly between the Central Authorities, including communication in urgent cases, followed by a transmission through diplomatic channels.

Article 4
Conditions for Transfer

A sentenced person may be transferred under this Treaty only on the following conditions:

- (1) the acts or omissions on account of which the sentence has been imposed by the transferring State constitute a criminal offence according to the law of the receiving State; this condition shall not be interpreted as to require that the offences described in the laws of the two Parties be identical in matters not affecting the nature of the crimes;
- (2) that person is a national of the receiving State and not a national of the transferring State;
- (3) the sentence imposed by the transferring State on the sentenced person is imprisonment or any other form of deprivation of liberty;
- (4) the sentenced person has served in the transferring State any minimum period of imprisonment or any other form of deprivation of liberty stipulated by the law of the transferring State;
- (5) at the time the transferring State receives the notification from the receiving State of its decision on the transfer, the sentenced person still has at least one year of the sentence to serve;
- (6) the transferring State, the receiving State and the sentenced person all agree to the transfer; provided that, where in view of that person's age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on that person's behalf.

Article 5
Refusal to Transfer

- (1) A request for transfer of the sentenced person shall be refused under this Treaty on the following conditions:
 - (a) the sentenced person was sentenced in respect of an offence under the law of the transferring State:
 - (i) against the internal or external security of the State;
 - (ii) against the Head of State or a member of his family; or
 - (iii) against the legislation protecting national art treasures;
 - (b) the judgment is not final or other legal proceedings relating to the offence or any other offences are pending in the transferring State;
 - (c) the transfer of the sentenced person may prejudice either Party's sovereignty, security, public order or other essential interests.
- (2) The transfer may be refused if the sentenced person has not paid the amounts, costs, compensation, damages, fines or financial penalty of any kind related to the sentence.

Article 6
Procedure for Transfer

- (1) The Parties shall inform sentenced persons of the substance of the Treaty.
- (2) Every transfer under this Treaty shall be commenced through diplomatic channels by a written request from the receiving State to the transferring State. The transferring State shall inform the receiving State through the same channels and without delay of its decision on whether to approve or to refuse the request for transfer.

- (3) The transferring State shall provide the receiving State with the following information:
- (a) name, date and place of birth of the sentenced person;
 - (b) a statement of the facts upon which the sentence was based;
 - (c) the date of commencement and the date of termination of the sentence, the length of time already served by the sentenced person and any credits to which he is entitled on account of work done, good behavior, period in remand or other reasons;
 - (d) a certified copy of all judgments and documents relating to the sentences and of the law on which they are based;
 - (e) any additional information requested by the receiving State so far as such information may be of significance for the transfer of the sentenced person and for the enforcement of the sentence.
- (4) Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether or not to agree to the transfer.
- (5) The transferring State shall afford an opportunity to the receiving State, if the receiving State so desires, to verify through an official designated by the receiving State, prior to the transfer, that the necessary consent of the sentenced person or of a person entitled to act on his behalf to the transfer in accordance with paragraph 6 of Article 4 is given voluntarily and with full knowledge of the legal consequences thereof.
- (6) In case Romania is the receiving State, it shall notify the Kingdom of Thailand of its decision on the transfer.
- (7) If the transferring State agrees to the transfer, both Parties shall make all necessary arrangements for the transfer of the sentenced person. The sentenced person shall be delivered to the authorities of the receiving State on an agreed date and at a place within the transferring State.

Article 7
Retention of Jurisdiction

- (1) Where sentences are enforced pursuant to this Treaty, the transferring State shall retain exclusive jurisdiction regarding the judgment of its court, the sentence imposed thereby and any procedure for revision, modification or cancellation of the judgment and sentence.
- (2) If the transferring State revises, modifies or cancels the judgment or sentence pursuant to paragraph 1 of this Article or otherwise reduces, commutes or terminates the sentence, the receiving State shall, upon being notified of the decision, give effect thereto.

Article 8
Procedure for Enforcement of Sentence

- (1) The receiving State shall further enforce the sentence of the transferring State after the transfer in accordance with its laws and procedures, including those governing conditions for service of imprisonment or other form of deprivation of liberty and those providing for the reduction of the term of imprisonment or other form of deprivation of liberty by conditional release, remission or otherwise.
- (2) Each Party may grant pardon, amnesty or commutation of the penalty according to its laws. The transferring State may, however, in an individual case, make the transfer of the sentenced person dependent on the condition that pardon and amnesty in the receiving State shall only be granted with the consent of the transferring State.
- (3) Subject to paragraph 6 of this Article, the receiving State shall be bound by the legal nature of the sentence as determined by the transferring State. If under the law of the receiving State, the competent authority of the receiving State has to make a decision or judgment to enforce the sentence imposed on the sentenced person by the court of the transferring State, the transferring State will be informed accordingly.

- (4) Where the sentence imposed by the transferring State is incompatible in terms of its nature or its duration with the law of the receiving State, its authorities may adapt the penalty in accordance with the provisions of its law concerning a similar offence, without exceeding the maximum penalty stipulated by its law.
- (5) In case the duration of the sentence imposed by the receiving State is less than the duration of the sentence imposed by the transferring State, the latter has the right to refuse the request.
- (6) No sentence of deprivation of liberty shall be enforced by the receiving State in such a way as to extend it beyond the period specified in the decision of the court of the transferring State. Such enforcement shall as far as possible correspond with the sentence imposed in the transferring State. The period of deprivation of liberty before the date of transfer shall be deducted.
- (7) The receiving State may treat under its law relating to juveniles any sentenced person so categorized under its law regardless of his status under the law of the transferring State.
- (8) The receiving State shall notify the transferring State in the following cases:
 - (a) the sentenced person is granted conditional release and when he is discharged on completion of the sentence;
 - (b) the sentenced person has escaped from custody before the enforcement of the sentence has been completed; or
 - (c) the transferring State requests a report.

Article 9
Transit of Sentenced Persons

- (1) If either Party transfers a sentenced person from any third State, the other Party shall 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.

(2) Either Party may refuse to grant transit:

- (a) if the sentenced person is one of its own nationals; or
- (b) if the act for which the sentence was imposed does not constitute a criminal offence under its own law.

Article 10

Expenses

The expenses for the application of this Treaty shall be borne by the receiving State, except those occurred exclusively on the territory of the transferring State.

Article 11

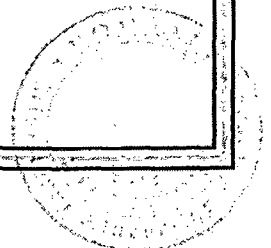
Language

- (1) Requests for transfer under paragraph 2 of Article 6 and the decision on the transfer under paragraph 6 of Article 6 shall be made in the language of the transferring State or in English.
- (2) Information, documents and statements under paragraphs 3 and 4 of Article 6 and notifications under paragraph 2 of Article 7 shall be furnished in the language of the transferring State. Upon request, an English summary of the information regarding the sentenced person in the form annexed to this Treaty shall be furnished to the receiving State.
- (3) Communications between the Central Authorities shall be made in English.

Article 12

Temporal Application

This Treaty shall be applicable to the enforcement of sentences imposed either before or after its entry into force.



Article 13
Consultations

The Parties shall consult, at the request of either Party, concerning the interpretation and the application of this Treaty.

Article 14
Final Provisions

- (1) This Treaty shall enter into force after 30 (thirty) days from the date of receipt of the last notification through diplomatic channels on the completion of the internal procedures necessary for its entry into force.
- (2) This Treaty may be amended by mutual written consent of the Parties. The amendment shall enter into force in accordance with the same procedure prescribed under paragraph 1 of this Article.
- (3) Either Party may terminate this Treaty at any time by giving notification to the other Party. Such termination shall take effect 6 (six) months after the date of receipt of such notification.
- (4) The termination of this Treaty shall not affect the validity of any request submitted to the other Party prior to the termination of this Treaty.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Treaty.

DONE at New York, this 25 day of September 2019, in duplicate, in the Romanian, Thai and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For Romania,

For The Kingdom of Thailand,



Ramona-Nicole Mănescu

Minister of Foreign Affairs



Don Pramudwinai

Minister of Foreign Affairs

Copie certificată pentru conformitate cu originalul

Corina Badea, director

Direcția Tratatelor Internaționale, Ministerul Afacerilor Externe

Summary of the Information regarding the Sentenced Person

Name of sentenced person:

Date of Birth (if available):

Nationality:

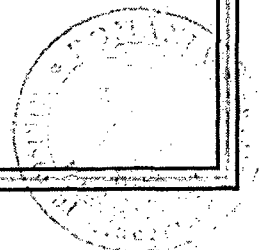
Prison:

Convicted for:

Term of sentence:

Sentence served:

Termination/Release date:



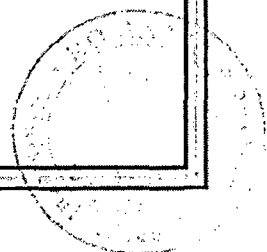
สนธิสัญญา
ระหว่าง
โรมาเนีย
กับ
ราชอาณาจักรไทย
ว่าด้วยการโอนตัวผู้ต้องคำพิพากษาและความร่วมมือ
ในการบังคับให้เป็นไปตามคำพิพากษาในคดีอาญา

โรมาเนียและราชอาณาจักรไทย ซึ่งต่อไปนี้เรียกว่า “คู่ภาคี”
โดยคำนึงถึงกฎหมายและระเบียบข้อบังคับที่ใช้บังคับอยู่ของคู่ภาคีที่
เกี่ยวกับการบังคับการให้เป็นไปตามคำพิพากษาในคดีอาญา
ปรารถนาที่จะร่วมมือในการบังคับให้เป็นไปตามคำพิพากษาในคดีอาญา
โดยพิจารณาว่าความร่วมมือทวิภาคีนี้ ย่อมเป็นการสมประโยชน์ต่อการ
บริหารงานยุติธรรมที่ดี และสนับสนุนให้ผู้ต้องคำพิพากษากลับคืนสู่สังคมได้
คำนึงว่าวัตถุประสงค์เหล่านี้สามารถบรรลุผลได้ดีที่สุดโดยการให้โอกาสผู้
ต้องคำพิพากษาได้ไปรับโทษของตนในสังคมของตนเอง
ได้ตกลงกันดังต่อไปนี้

ข้อ ๑
หลักการทั่วไป

(๑) คู่ภาคีรับและดำเนินการให้ความร่วมมือซึ่งกันและกันภายใต้เงื่อนไขที่
กำหนดไว้โดยสนธิสัญญานี้ อย่างมากที่สุดเท่าที่จะทำได้ในการโอนตัวผู้ต้องคำ
พิพากษา

(๒) ผู้ต้องคำพิพากษาในดินแดนของภาคีฝ่ายหนึ่งอาจได้รับการโอนตัวไป
ยังดินแดนของภาคีอีกฝ่ายหนึ่งตามบทบัญญัติของสนธิสัญญานี้ เพื่อรับโทษที่ตน
ถูกพิพากษา



ข้อ ๒
บทนิยาม

เพื่อความมุ่งประสงค์ของสนธิสัญญานี้

(๑) "รัฐผู้โอน" หมายถึง ภาควิชาที่อาจโอนตัวผู้ต้องคำพิพากษาให้ หรือได้โอนตัวผู้ต้อง

คำพิพากษาให้แล้ว

(๒) "รัฐผู้รับ" หมายถึง ภาควิชาที่อาจได้รับโอนตัวผู้ต้องคำพิพากษา หรือได้รับโอนตัวผู้ต้องคำพิพากษามาเพื่อรับโทษต่อ

(๓) "ผู้ต้องคำพิพากษา" หมายถึง บุคคลที่ต้องคำพิพากษาหรือคำสั่งถึงที่สุดของศาลของรัฐผู้โอนให้จำคุกหรือทำให้ปราศจากอิสรภาพในรูปแบบอื่น อันเป็นผลจากความผิดอาญา

(๔) "โทษ" หมายถึง การลงโทษใดๆ หรือมาตรการใดๆ ที่เกี่ยวข้องกับการทำให้ปราศจากอิสรภาพตามคำพิพากษาเป็นอันที่สุดของศาลอันเป็นผลจากความผิดอาญา

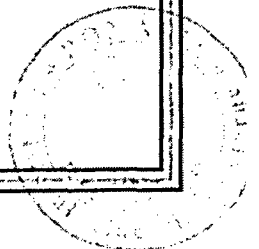
(๕) "คนชาติ" หมายถึง สำหรับโรมาเนีย พลเมืองโรมาเนีย หรือ ผู้มีถิ่นพำนักถาวรในดินแดนโรมาเนีย และสำหรับราชอาณาจักรไทย คนชาติไทย

ข้อ ๓
หน่วยงานกลาง

(๑) เพื่อความมุ่งประสงค์ในการปฏิบัติตามสนธิสัญญานี้ ให้ภาคีแต่ละฝ่ายแต่งตั้งหน่วยงานกลาง

(๒) หน่วยงานกลางสำหรับโรมาเนีย คือ กระทรวงยุติธรรม สำหรับราชอาณาจักรไทย คือ คณะกรรมการพิจารณาการโอนตัวนักโทษ

(๓) คำร้องขอและคำตอบทางการสำหรับการโอนตัวโดยหน่วยงานกลางของภาคีฝ่ายหนึ่งจะต้องจัดส่งผ่านช่องทางทางทูตไปยังหน่วยงานกลางของภาคีอีกฝ่ายหนึ่ง



(๔) หน่วยงานกลางอาจสื่อสารโดยตรงระหว่างกันเกี่ยวกับข้อสนเทศหรือเอกสารประกอบอื่นใด รวมถึงการสื่อสารในกรณีฉุกเฉินโดยจะต้องมีการจัดส่งเอกสารดังกล่าวผ่านช่องทางการทูตตามหลัง

ข้อ ๔
เงื่อนไขสำหรับการอินเทอร์เน็ต

ผู้ต้องคำพิพากษาอาจได้รับการอินเทอร์เน็ตภายใต้สนธิสัญญานี้หากเป็นไปตามเงื่อนไขดังต่อไปนี้

(๑) การกระทำหรือการงดเว้นการกระทำอันเป็นสาเหตุของการมีคำพิพากษาให้ลงโทษโดยรัฐผู้โอน

เป็นความผิดทางอาญาตามกฎหมายของรัฐผู้รับ โดยเงื่อนไขดังนี้ จะต้องไม่ถูกตีความว่าความผิดตามที่บัญญัติไว้ในกฎหมายของคู่ภาคีทั้งสองจะต้องตรงกันในเรื่องที่ไม่กระทบต่อลักษณะของอาชญากรรมนั้น

(๒) บุคคลนั้นเป็นคนชาติของรัฐผู้รับ และมีได้เป็นคนชาติของรัฐผู้โอน

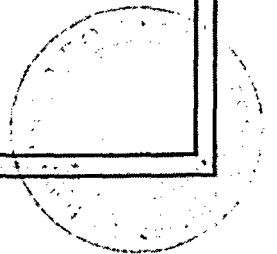
(๓) โทษที่กำหนดโดยรัฐผู้โอนต่อผู้ต้องคำพิพากษา คือ การจำคุก หรือการทำให้ปราศจากอิสรภาพในรูปแบบอื่นใด

(๔) ผู้ต้องคำพิพากษาได้รับโทษจำคุก หรือถูกทำให้ปราศจากอิสรภาพในรูปแบบอื่นใดในรัฐผู้โอนเป็นระยะเวลาขั้นต่ำตามที่บัญญัติไว้ในกฎหมายของรัฐผู้โอนแล้ว

(๕) ในขณะที่รัฐผู้โอนได้รับแจ้งจากรัฐผู้รับถึงการตัดสินใจเกี่ยวกับการรับอินเทอร์เน็ต ผู้ต้อง

คำพิพากษายังคงเหลือระยะเวลาที่จะต้องรับโทษอยู่อย่างน้อยหนึ่งปี

(๖) รัฐผู้โอน รัฐผู้รับ และผู้ต้องคำพิพากษาต่างเห็นชอบต่อการอินเทอร์เน็ต ทั้งนี้ หากภาคีฝ่ายใดฝ่ายหนึ่งเห็นจำเป็น เมื่อคำนึงถึงอายุ หรือ สภาพทางร่างกาย หรือทางจิตใจของผู้ต้องคำพิพากษา ก็อาจให้บุคคลผู้มีสิทธิทำการแทนผู้ต้องคำพิพากษาให้ความยินยอมแทนได้



ข้อ ๕
การปฏิเสธการโอนตัว

(๑) คำร้องขอโอนตัวผู้ต้องคำพิพากษาภายใต้สนธิสัญญานี้จะถูกปฏิเสธตามเงื่อนไขดังต่อไปนี้

(ก) ผู้ต้องคำพิพากษาได้ถูกลงโทษเกี่ยวกับความผิดภายใต้กฎหมายของรัฐผู้โอน

(๑) ต่อความมั่นคงภายในหรือภายนอกของรัฐ

(๒) ต่อประมุขแห่งรัฐ หรือสมาชิกครอบครัวของประมุขแห่งรัฐ หรือ

(๓) ตอกฎหมายที่เกี่ยวข้องกับการคุ้มครองสมบัติที่มีค่าทางศิลปะของชาติ

(ข) คำพิพากษายังไม่ถึงที่สุดหรือมีการดำเนินคดีเกี่ยวกับความผิดนั้นหรือความผิดอื่นใดที่ยังค้าง

พิจารณาอยู่ในรัฐผู้โอน

(ค) การโอนตัวผู้ต้องคำพิพากษาอาจกระทบกระเทือนต่ออธิปไตย ความมั่นคง ความสงบ

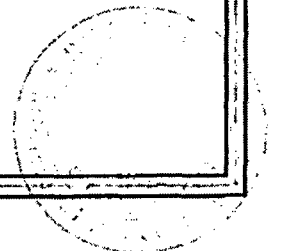
เรียบร้อย หรือผลประโยชน์ที่สำคัญอื่นของภาคีฝ่ายใดฝ่ายหนึ่ง

(๒) อาจปฏิเสธการโอนตัวได้หากผู้ต้องคำพิพากษายังไม่ได้ชำระจำนวนเงิน ค่าใช้จ่าย ค่าชดเชย ค่าเสียหาย ค่าปรับ หรือเบี้ยปรับทางการเงินชนิดอื่นใดที่เกี่ยวข้องกับโทษ

ข้อ ๖
ขั้นตอนการโอนตัว

(๑) คู่ภาคีจะต้องแจ้งให้ผู้ต้องคำพิพากษาทราบถึงสาระสำคัญของสนธิสัญญานี้

(๒) การโอนตัวผู้ต้องคำพิพากษาตามสนธิสัญญานี้ทุกราย จะต้องเริ่มโดยการส่งคำร้องขอเป็นลายลักษณ์อักษรจากรัฐผู้รับ ผ่านช่องทางทางการทูตไปยังรัฐผู้โอน รัฐผู้โอนจะต้องแจ้งรัฐผู้รับผ่านช่องทางเดียวกันและโดยไม่ชักช้า ถึงการตัดสินใจของตนว่าจะเห็นชอบหรือปฏิเสธคำร้องขอให้โอนตัว



(๓) รัฐผู้โอนจะต้องจัดหาข้อสนเทศดังต่อไปนี้ให้แก่รัฐผู้รับ

(ก) ชื่อ วัน และสถานที่เกิดของผู้ต้องคำพิพากษา

(ข) ถ้อยแถลงเกี่ยวกับข้อเท็จจริง อันเป็นพื้นฐานของโทษที่ผู้ต้องคำพิพากษาได้รับ

(ค) กำหนดวันเริ่มโทษและวันสิ้นสุดโทษตามคำพิพากษา ระยะเวลาที่ผู้ต้องคำพิพากษาได้รับโทษมาแล้ว และเหตุผลดย่อนผ่อนโทษอื่นใดที่ผู้ต้องคำพิพากษามีสิทธิได้รับอันเนื่องมาจากการทำงานที่ได้สำเร็จลุลวง ความประพฤติดี ระยะเวลาการคุมขังระหว่างรอการพิจารณาคดี หรือ เหตุผลอื่น ๆ

(ง) สำเนารับรองถูกต้องของบรรดาคำพิพากษา และเอกสารที่เกี่ยวข้องกับโทษที่ผู้ต้องคำพิพากษาได้รับ และกฎหมายอันเป็นพื้นฐานของคำพิพากษาและโทษนั้น

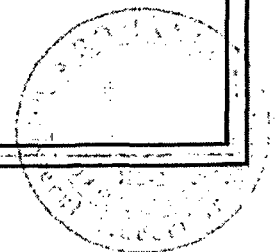
(จ) ข้อสนเทศเพิ่มเติมอื่นใดที่รัฐผู้รับร้องขอ เพียงเท่าที่ข้อสนเทศ เช่นว่านั้นอาจมีความสำคัญต่อการโอนตัวผู้ต้องคำพิพากษานั้น และต่อการบังคับโทษ

(๔) ให้ภาคีฝ่ายหนึ่งจัดหาข้อสนเทศ เอกสาร หรือถ้อยแถลงใด ๆ ที่เกี่ยวข้องให้แก่ภาคีอีกฝ่ายหนึ่งตามที่ภาคีนั้นร้องขอเท่าที่จะกระทำได้ ก่อนที่จะทำการร้องขอให้โอนตัว หรือก่อนการตัดสินใจว่าจะตกลงให้โอนตัวหรือไม่

(๕) หากเป็นความปรารถนาของรัฐผู้รับ ก่อนการโอนตัว รัฐผู้โอนจะต้องเปิดโอกาสให้รัฐผู้รับตรวจสอบผ่านเจ้าหน้าที่ที่ได้รับมอบหมายจากรัฐผู้รับว่า ผู้ต้องคำพิพากษาหรือบุคคลผู้มีสิทธิกระทำการแทนผู้ต้องคำพิพากษามาตามความในข้อ ๔ วรรค ๖ ได้ให้ความยินยอมในการโอนตัวด้วยความสมัครใจและด้วยความรู้อย่างถ่องแท้ถึงผลทางกฎหมายของการโอนตัวนั้น

(๖) ในกรณีโรมาเนียเป็นรัฐผู้รับ โรมาเนียจะต้องแจ้งต่อราชอาณาจักรไทยถึงการตัดสินใจเกี่ยวกับการรับโอนตัว

(๗) หากรัฐผู้โอนตกลงให้โอนตัว คู่ภาคีทั้งสองฝ่ายจะต้องจัดเตรียมการทั้งหมดที่จำเป็นสำหรับการโอนตัวผู้ต้องคำพิพากษา ผู้ต้องคำพิพากษาจะถูกส่งมอบตัวให้แก่เจ้าหน้าที่ของรัฐผู้รับในวันและสถานที่ภายในดินแดนของรัฐผู้โอนตามที่คู่ภาคีตกลงกัน



ข้อ ๓
การคงไว้ซึ่งเขตอำนาจ

(๑) ในการบังคับโทษตามสนธิสัญญาที่ รัฐผู้โอนจะยังคงไว้ซึ่งเขตอำนาจ แต่ผู้เดียวในส่วนที่เกี่ยวกับคำพิพากษาของศาลของตน โทษที่กำหนดโดยศาล เหล่านั้น และขั้นตอนใดๆ ในการแก้ไข เปลี่ยนแปลง หรือยกเลิกคำพิพากษาและ โทษเหล่านั้น

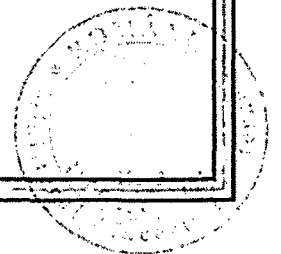
(๒) หากรัฐผู้โอนแก้ไข เปลี่ยนแปลง หรือยกเลิกคำพิพากษาหรือโทษตาม วรค ๑ ของข้อนี้ หรือลดโทษ เปลี่ยนให้โทษจากหนักเป็นเบา หรือยกเลิกโทษ ด้วยประการอื่นใด รัฐผู้รับคำวินิจฉัยนั้น จะต้องดำเนินการให้เกิดผลตามทันทีที่ ได้ได้รับแจ้ง

ข้อ ๔
ขั้นตอนการบังคับโทษ

(๑) การดำเนินการบังคับโทษของรัฐผู้โอนต่อภายหลังการโอนตัว ให้ เป็นไปตามกฎหมายและวิธีการของรัฐผู้รับ รวมทั้งกฎหมายและวิธีการที่ใช้บังคับ กับเงื่อนไขของการรับโทษจำคุก หรือการทำให้ปราศจากอิสรภาพในรูปแบบอื่น และกฎหมายและวิธีการที่เกี่ยวกับการลดระยะเวลาจำคุก หรือการทำให้ปราศจาก อิสรภาพในรูปแบบอื่น โดยการปล่อยตัวอย่างมีเงื่อนไข การบรรเทาโทษ หรืออื่น ๆ

(๒) ภาควิชาแต่ละฝ่ายอาจอภัยโทษ นิรโทษกรรม หรือเปลี่ยนโทษจากหนัก เป็นเบาตามกฎหมายของตน อย่างไรก็ตาม ในบางกรณี รัฐผู้โอนอาจโอนตัวผู้ ต้องคำพิพากษา บนเงื่อนไขว่าการอภัยโทษและนิรโทษกรรมใน รัฐผู้รับจะกระทำได้ต่อเมื่อได้รับความยินยอมจากรัฐผู้โอนเท่านั้น

(๓) ภายใต้บังคับของวรรค ๖ ของข้อนี้ รัฐผู้รับจะถูกผูกมัดโดยลักษณะ ทางกฎหมายของโทษที่ได้กำหนดโดยรัฐผู้โอน หากภายใต้กฎหมายของรัฐผู้รับ เจ้าหน้าที่ผู้มีอำนาจของรัฐผู้รับต้องมีคำวินิจฉัยหรือคำพิพากษาเพื่อบังคับโทษ ตามที่ศาลของรัฐผู้โอน ได้กำหนดต่อผู้ต้องคำพิพากษา รัฐผู้โอนจะต้องได้รับแจ้ง ถึงคำวินิจฉัยหรือคำพิพากษานั้น



(๕) ในกรณีที่โทษที่กำหนดโดยรัฐผู้โอนมีลักษณะหรือระยะเวลาที่ไม่ตรงกับโทษตามกฎหมายของรัฐผู้รับ เจ้าหน้าที่ของรัฐผู้รับอาจปรับบทลงโทษให้เป็นไปตามบทบัญญัติของกฎหมายของตนที่เกี่ยวข้องกับความผิดที่มีลักษณะคล้ายคลึงกัน ทั้งนี้ จะต้องไม่เกินกว่าโทษขั้นสูงตามที่บัญญัติไว้ในกฎหมายของรัฐผู้รับ

(๕) ในกรณีที่ระยะเวลาของโทษที่กำหนดโดยรัฐผู้รับน้อยกว่าระยะเวลาของโทษที่กำหนดโดยรัฐผู้โอน ให้รัฐผู้โอนมีสิทธิปฏิเสธคำร้องขอ

(๖) รัฐผู้รับจะต้องไม่บังคับโทษที่ทำให้ปราศจากอิสรภาพในลักษณะที่จะเป็นการขยายเวลาการลงโทษให้เกินกว่าระยะเวลาที่กำหนดไว้ในคำพิพากษาของศาลของรัฐผู้โอน การบังคับโทษเช่นนั้น จะต้องสอดคล้องกับโทษที่กำหนดโดยรัฐผู้โอนให้มากที่สุดเท่าที่จะเป็นไปได้ ให้หักระยะเวลาของการทำให้ปราศจากอิสรภาพก่อนวันโอนตัวออกจาก การบังคับโทษ

(๗) รัฐผู้รับอาจปฏิบัติตามกฎหมายของตนว่าด้วยการกระทำผิดของเยาวชนต่อผู้ต้องคำพิพากษาใดๆ ที่ตามกฎหมายของตนจัดอยู่ในเกณฑ์ของการเป็นผู้เยาว์ โดยไม่ต้องคำนึงถึงสถานภาพของผู้ต้องคำพิพากษานั้นตามกฎหมายของรัฐผู้โอน

(๘) รัฐผู้รับจะต้องแจ้งรัฐผู้โอนในกรณีดังต่อไปนี้

(ก) ผู้ต้องคำพิพากษาได้รับการปล่อยตัวอย่างมีเงื่อนไข และเวลาที่บุคคลนั้นจะได้รับการปล่อยตัวเมื่อครบกำหนดโทษ

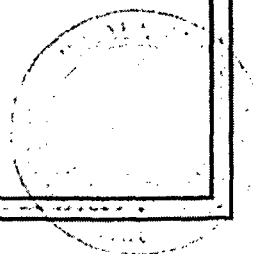
(ข) ผู้ต้องคำพิพากษาหลบหนีจากการคุมขังก่อนการบังคับโทษจะครบกำหนดหรือ

(ค) รัฐผู้โอนร้องขอรายงาน

ข้อ ๙

การเดินทางผ่านของผู้ต้องคำพิพากษา

(๑) หากภาคีฝ่ายหนึ่งโอนตัวผู้ต้องพิพากษาจากรัฐที่สาม ให้ภาคีอีกฝ่ายให้ความร่วมมือในการอำนวยความสะดวกต่อการเดินทางผ่านดินแดนของผู้ต้องคำพิพากษานั้น ให้ภาคีที่ตั้งใจจะทำการโอนตัวเช่นนั้นแจ้งภาคีอีกฝ่ายหนึ่งทราบล่วงหน้าถึงการผ่านแดนเช่นนั้น



- (๒) ภาษีฝ่ายใดฝ่ายหนึ่งอาจปฏิเสธการเดินทางผ่าน
(ก) หากผู้ต้องคำพิพากษาเป็นคนชาติของตน หรือ
(ข) หากการกระทำซึ่งทำให้มีการลงโทษไม่เป็นความผิดอาญาตามกฎหมายของตน

ข้อ ๑๐
ค่าใช้จ่าย

ค่าใช้จ่ายในการใช้บังคับสนธิสัญญานี้ให้เป็นภาระของรัฐผู้รับ เว้นแต่ค่าใช้จ่ายที่เกิดขึ้นเฉพาะภายในดินแดนของรัฐผู้โอน

ข้อ ๑๑
ภาษา

- (๑) คำร้องขอให้โอนตัวตามข้อ ๖ วรรค ๒ และคำวินิจฉัยให้โอนตัวตามข้อ ๖ วรรค ๖ จะต้องทำเป็นภาษาของรัฐผู้โอนหรือภาษาอังกฤษ
(๒) ข้อสนเทศ เอกสาร และถ้อยแถลงตามข้อ ๖ วรรค ๓ และ ๔ และการแจ้งตามข้อ ๗ วรรค ๒ ให้จัดทำเป็นภาษาของรัฐผู้โอน เมื่อได้รับคำร้องขอให้จัดส่งสรุปย่อของข้อสนเทศเกี่ยวกับผู้ต้องคำพิพากษา เป็นภาษาอังกฤษตามรูปแบบในภาคผนวกของสนธิสัญญานี้แก่รัฐผู้รับ
(๓) การสื่อสารระหว่างหน่วยงานกลางจะต้องจัดทำเป็นภาษาอังกฤษ

ข้อ ๑๒
ช่วงเวลาการบังคับใช้

สนธิสัญญานี้จะใช้กับการบังคับโทษไม่ว่าที่มีก่อนหรือหลังสนธิสัญญานี้มีผลบังคับใช้

ข้อ ๑๓
การปรึกษาหารือ

เมื่อภาคีฝ่ายใดฝ่ายหนึ่งร้องขอให้คู่ภาคีปรึกษาหารือกันเกี่ยวกับการตีความและการใช้บังคับสนธิสัญญานี้

ข้อ ๑๔
บทบัญญัติสุดท้าย

(๑) สนธิสัญญานี้จะมีผลใช้บังคับ ๓๐ (สามสิบ) วัน หลังจากวันที่ได้รับการแจ้งครั้งสุดท้ายผ่านช่องทางการทูตว่าได้เสร็จสิ้นกระบวนการภายในที่จำเป็นเพื่อให้สนธิสัญญามีผลใช้บังคับ

(๒) สนธิสัญญานี้อาจได้รับการแก้ไขโดยความยินยอมร่วมกันเป็นลายลักษณ์อักษรของคู่ภาคี การแก้ไขจะมีผลใช้บังคับตามวิธีการในวรรค ๑ ของข้อนี้

(๓) ภาคีฝ่ายหนึ่งอาจบอกเลิกสนธิสัญญานี้เมื่อใดก็ได้ โดยการแจ้งไปยังภาคีอีกฝ่ายหนึ่ง การบอกเลิกดังกล่าวจะมีผล ๖ (หก) เดือนหลังจากวันที่ภาคีอีกฝ่ายได้รับแจ้งการบอกเลิก

(๔) การบอกเลิกสนธิสัญญานี้จะไม่กระทบต่อความสมบูรณ์ของคำร้องขอใดๆ ที่ได้ยื่นเสนอแก่ภาคีอีกฝ่ายหนึ่งก่อนการบอกเลิกสนธิสัญญานี้

เพื่อเป็นพยานแก่การนี้ ผู้ลงนามข้างท้ายซึ่งได้รับมอบอำนาจโดยถูกต้อง ได้ลงนามสนธิสัญญานี้

ทำขึ้น ณ นครนิวยอร์ก เมื่อวันที่ 26 กันยายน ๒๕๖๒ เป็นฉบับ เป็นภาษาโรมาเนีย ภาษาไทย และภาษาอังกฤษ แต่ละฉบับถูกต้องเท่าเทียมกัน ในกรณีที่มีความแตกต่างในการตีความ ให้ใช้ฉบับภาษาอังกฤษเป็นสำคัญ

สำหรับโรมาเนีย

สำหรับราชอาณาจักรไทย

นางราโมนา นิโคล มาเนสกุ

นายดอน ปรมัตถ์วินัย

รัฐมนตรีว่าการกระทรวงการต่างประเทศ

รัฐมนตรีว่าการกระทรวงการต่างประเทศ

Copie certificată pentru conformitate cu originalul

Corina Badea, director

Direcția Tratatelor Internaționale, Ministerul Afacerilor Externe

ภาคผนวก

ข้อมูลโดยสังเขปของผู้ต้องโทษตามคำพิพากษา

ชื่อของผู้ต้องโทษตามคำพิพากษา

.....

วันเดือนปีเกิด (ถ้ามี)

.....

สัญชาติ

.....

สถานที่คุมขัง

.....

ถูกคุมขังในความผิดใด

.....

ระยะเวลาของโทษ

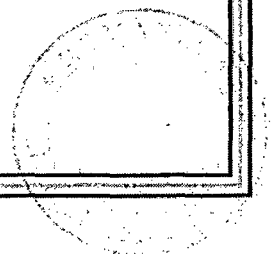
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ระยะเวลาของโทษที่ได้รับมาแล้ว

.....

วันสิ้นสุดของโทษ/วันปล่อยตัว

.....





MINISTERUL JUSTIȚIEI

Nr. 51479 din 21.09.2016

Aprob.

Klaus Werner IOHANNIS

Președintele României

Propun aprobarea,

Dacian Julien CIOLOȘ

Prim-ministru al Guvernului României

MEMORANDUM

De la: Raluca Alexandra PRUNĂ, Ministrul Justiției

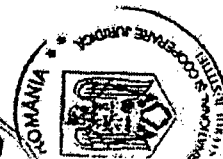
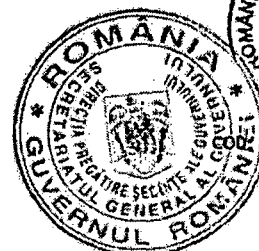
Avizat: Lazăr COMĂNESCU, Ministrul Afacerilor Externe

Tema: Aprobarea semnării Tratatului dintre România și Regatul Thailandei privind transferarea persoanelor condamnate

Elemente de context

Discuții preliminare pe tema încheierii unor tratate bilaterale în materie penală cu Regatul Thailandei în scopul modernizării cadrului juridic bilateral au fost demarate în anul 2013.

În acest context, ambele părți și-au exprimat interesul de a negocia încheierea unor tratate care să reglementeze aspecte de cooperare judiciară în materie penală, respectiv, asistență judiciară, transferul persoanelor condamnate și extrădare.



MINISTERUL JUSTIȚIEI

Pentru România încheierea unui tratat cu Thailanda în domeniul transferării persoanelor condamnate a constituit o prioritate, având în vedere că mai mulți cetățeni români execută pedepse în Thailanda pentru săvârșirea unor infracțiuni¹.

Istoricul negocierilor

În vederea pregătirii negocierilor părțile au efectuat inițial un schimb de proiecte de tratate care reglementează procedura transferării persoanelor condamnate definitiv în vederea executării pedepsei în mediul lor social de origine, favorizând astfel reintegrarea socială a acestora.

Prin Memorandumul nr. 74521/2014, anexat, a fost aprobată negocierea Tratatului dintre România și Regatul Thaiandei privind transferarea persoanelor condamnate.

În perioada 24-26 septembrie 2014 a avut loc la București o prima rundă de consultări asupra proiectului de tratat privind transferarea persoanelor condamnate. Cu această ocazie, Părțile au convenit asupra preambulului și a prevederilor cuprinse în articolele 1-3 din proiect, rămânând în discuție utilizarea unor termeni folosiți în cuprinsul tratatului, cum ar fi: "persoane condamnate" sau "infractori", "stat de transferare" sau "stat de condamnare", "stat de primire" sau "stat de executare" etc.

Având în vedere disponibilitatea părții thailandeze de a încheia tratatul respectiv cât mai curând, situația cetățenilor români condamnați în Thailanda, precum și faptul că Thailanda a încheiat până în prezent tratate cu o serie de alte state, inclusiv state membre ale Uniunii Europene (ex. Franța, Spania, Canada, Italia, SUA, Suedia, Marea Britanie, Finlanda, Germania, Portugalia, Austria, Israel, Polonia, Portugalia, Danemarca, Hong Kong, Regatul Arabiei Saudite, Elveția, Norvegia, Filipine, Estonia, Republica Cehă, Australia, Nigeria, Olanda, Mali etc.), partea română a efectuat demersurile necesare în vederea finalizării negocierilor în cel mai scurt timp.

În perioada 1-3 iulie 2015 a avut loc la Bangkok cea de-a doua rundă de negocieri la tratat, la invitația părții thailandeze. Pentru facilitarea discuțiilor, în urma analizei proiectelor de tratate încheiate de Thailanda cu celelalte state membre UE, delegația română a decis ca discuțiile să se poarte în principal pe baza textului propus de partea thailandeză asupra căruia partea română a formulat o serie de observații și propuneri.

Discuțiile s-au purtat pe articole, ambele Părți manifestând întreaga disponibilitate pentru identificarea soluțiilor legale aplicabile ambelor sisteme de drept. În acest sens, un aspect mai complex în cadrul discuțiilor l-a constituit identificarea procedurilor de transfer ținând cont de faptul că pentru partea română procedura este judiciară (hotărârile judecătorești trebuie recunoscute de instanță, iar aprobarea cererii de transfer se decide de asemenea de către instanță), spre deosebire de Thailanda unde procedura este administrativă și nu este nevoie de recunoașterea hotărârii judecătorești. A fost agreată folosirea termenului de "persoane condamnate", termen care este utilizat în instrumentele internaționale și în legislația română.

¹ Potrivit informațiilor primite de la Ambasada României în Thailanda, în aprilie 2016, 17 cetățeni români se aflau în detenție în Thailanda pentru condamnări între 6 și 50 de ani închisoare cu executare, condiție de penitențiar în această țară fiind extrem de dificilă.

MINISTERUL JUSTIȚIEI

Față de cele de mai sus, în conformitate cu dispozițiile Legii nr. 590/2003 privind tratatele, propunem:

- Aprobarea semnării Tratatului dintre România și Regatul Thailandei în domeniul transferării persoanelor condamnate, la o dată care va fi convenită cu partea thailandeză.
- Tratatul urmează să fie semnat de către de către Ambasadorul României în Regatul Thailandei, urmând a fi eliberate deplinele puteri în acest sens.



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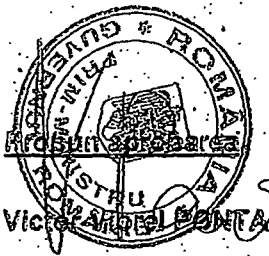
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124.09.2014
001926/24.09.2014

Nr. 74521 din 11 septembrie 2014

Aprob.

Traian BĂSESCU

Președintele României



Prim - Ministru al Guvernului României

MEMORANDUM

De la: Robert-Marius CAZANCIUC, Ministrul Justiției

Avizat: Titus CORLĂȚEAN, Ministrul Afacerilor Externe

Tema: *Aprobarea negocierii Tratatului dintre România și Regatul Thailandei privind transferarea persoanelor condamnate*

În contextul creșterii fenomenului infracțional care dobândește din ce în ce mai mult un caracter transnațional, România este interesată să extindă cadrul juridic privind cooperarea judiciară în materie penală și cu state din afara Uniunii Europene și a Europei. Astfel, unul dintre statele cu care are interes pentru dezvoltarea cooperării judiciare în materie penală este Regatul Thailandei.

La momentul actual, între România și Regatul Thailandei nu există un cadru juridic bilateral în materia cooperării judiciare internaționale în materie penală.

Discuții preliminare pe tema încheierii unor tratate bilaterale cu Regatul Thailandei au demarat de câțiva ani, în contextul în care cetățeni români au fost arestați pentru diverse infracțiuni în Thailanda. În acest context, ambele părți și-au exprimat interesul de a negocia încheierea unor tratate care să reglementeze aspecte de cooperare judiciară în materie penală, respectiv, asistență judiciară în materie penală și extrădare.



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Pe fondul necesității stabilirii coordonatelor de bază care să asigure cooperarea bilaterală în materia transferării persoanelor condamnate, a fost apreciată ca fiind necesară încheierea unui tratat între România și Regatul Thailandei privind transferarea persoanelor condamnate.

În vederea pregătirii negocierii partea thailandeză a transmis un proiect de tratat privind transferul infractorilor și cooperarea în executarea hotărârilor penale (anexa 1).

Partea română a transmis, de asemenea, un contraproiect (anexa 2), care are ca obiect oferirea posibilității persoanelor condamnate definitiv în Regatul Thailandei de a-și executa pedeapsa în mediul lor social de origine, favorizând astfel reintegrarea socială a persoanelor condamnate.

Proiectul de tratat român cuprinde dispoziții referitoare la condițiile în care se poate acorda transferul, documentele necesare precum și efectele transferării atât pentru statul de condamnare cât și pentru statul de executare. Prevederile tratatului sunt armonizate cu legislația în vigoare și obligațiile asumate de România prin Instrumentele Uniunii Europene și tratatele multilaterale la care este parte.

Negocierile urmează să se poarte în baza celor două proiecte, partea română urmând să insiste pentru o formă cât mai apropiată de proiectul român.

Partea thailandeză a solicitat, prin intermediul Ambasadei României în Regatul Thailandei, organizarea unei runde de negocieri, în perioada 24-26 septembrie 2014, la București.

În acest context subliniem urgența prezentului memorandum, având în vedere atât necesitatea creării cadrului juridic cu Regatul Thailandei în această materie în cel mai scurt timp - în prezent există cetățeni români arestați pe teritoriul Thailandei - cât și disponibilitatea părții thailandeze de a veni la București în luna septembrie pentru o primă rundă de negocieri asupra tratatului.

Față de cele de mai sus, în conformitate cu dispozițiile Legii nr. 590/2003 privind tratatele, propunem:

- Aprobarea negocierii Tratatului dintre România și Regatul Thailandei în domeniul transferării persoanelor condamnate.



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L. nr. 590/2003

M. Of. nr. 23/12 ian. 2004

Lege privind tratatele

1 promulgată prin D. nr. 909/2003 M. Of. nr. 23/12 ian. 2004
Decret pentru promulgarea Legii privind tratatele