

TREATY
BETWEEN THE PEOPLE'S REPUBLIC OF CHINA
AND THE REPUBLIC OF AZERBAIJAN
ON TRANSFER OF SENTENCED PERSONS

The People's Republic of China and The Republic of Azerbaijan (hereinafter referred to as "the Parties"),

On the basis of mutual respect for sovereignty and equality and mutual benefit,

Desiring to strengthen judicial cooperation in criminal matters between the two countries,

In order to have sentenced persons serve their sentences in their country of nationality to facilitate their reintegration into society,

Have decided to conclude this Treaty and agreed as follows:

ARTICLE 1
DEFINITION

For the purposes of this Treaty:

- (a) "Transferring Party" means the Party which would transfer or has transferred a sentenced person out of its territory;
- (b) "Receiving Party" means the Party which would receive or has received a sentenced person into its territory;
- (c) "Sentenced person" means a person who has been sentenced by an effective court judgment to imprisonment in the Transferring Party.

ARTICLE 2
GENERAL PROVISIONS

The Parties may, in accordance with the provisions of this Treaty, transfer a sentenced person to each other to enforce the sentence imposed against the person by the Transferring Party in the territory of the Receiving Party.

ARTICLE 3

CENTRAL AUTHORITIES

1. For the purpose of implementing this Treaty, the Parties shall communicate with each other through the Central Authorities designated therefore.

2. The Central Authorities referred to in paragraph 1 of this Article shall be the Ministry of Justice for the People's Republic of China, and the Ministry of Justice for the Republic of Azerbaijan. Should either Party change its designated Central Authority, it shall notify the other Party of such change in writing through diplomatic channels.

ARTICLE 4

CONDITIONS FOR TRANSFER

1. A sentenced person may be transferred only if:

- (a) the sentenced person is a national of the Receiving Party;
- (b) the act on account of which the sentence was imposed against the sentenced person also constitutes a crime under the laws of the Receiving Party;
- (c) at the time the request for transfer is received, the judgment imposed against the sentenced person has come into effect, and the period of time to be served by the sentenced person is at least one year;
- (d) the transfer is consented to in writing by the sentenced person, or by the person's legal representative when one of the Parties considers it necessary in view of the person's age, physical or mental conditions; and
- (e) both Parties agree to the transfer.

2. In exceptional cases, the Parties may agree to a transfer even if the period of time to be served by the sentenced person is less than that specified in paragraph 1(c) of this Article.

ARTICLE 5

REFUSAL TO TRANSFER

1. The transfer of the sentenced person may be refused if:

- (a) one Party determines that the transfer would damnify its sovereignty, security or public order, or is contrary to the fundamental principles of domestic laws;
- (b) the sentence against the sentenced person was passed for a crime endangering state security;
- (c) the sentenced person is involved in pending proceedings in the territory of the Transferring Party.

2. Each party may determine whether or not to agree to the transfer requested by the

other Party other than the circumstances provided in Paragraph 1 of this Article.

ARTICLE 6

REQUEST AND REPLY

1. A sentenced person may apply to either Party for a transfer according to this Treaty.

2. A request for transfer may be made by either Party. The requested Party shall promptly inform the requesting Party of its decision whether or not to agree to the requested transfer.

3. Requests for, and replies to, transfer shall be made in writing and transmitted through the channel as provided in Article 3 of this Treaty.

ARTICLE 7

REQUIRED DOCUMENTS

1. When a request for transfer is made, unless it has been refused by either Party, the Transferring Party shall provide the Receiving Party with the following documents:

- (a) a certified copy of the judgment, including the relevant provisions of law on which the judgment is based;
- (b) a statement indicating the category of the penalty, the term of the punishment and the date to count the term;
- (c) a statement describing the behavior of the person during serving the sentence and the period of time to be served, including pre-trial detention, reduction of sentence and other factors relevant to the enforcement of the sentence;
- (d) a written declaration of the consent to the transfer as referred to in paragraph 1(d) of Article 4 of this Treaty; and
- (e) a statement indicating the health conditions of the sentenced person.

2. The Receiving Party shall provide the Transferring Party with the following documents:

- (a) documents or statement certifying that the sentenced person is a national of the Receiving Party;
- (b) articles of the laws of the Receiving Party stipulating that the act for which the sentence was imposed against the sentenced person also constitutes a crime;
- (c) information on the ways and procedures of the Receiving Party, under its domestic law, to enforce the sentence imposed by the Transferring Party.

3. The Parties may request each other to provide supplementary documents and informations when necessary.

ARTICLE 8
NOTIFICATION TO THE SENTENCED PERSON

1. Each Party shall, within its territory, notify sentenced persons, to whom the Treaty is applicable, that he or she may be transferred in accordance with the provisions of this Treaty.

2. Each Party shall inform in writing the sentenced person concerned within its territory of the measures taken or decisions made by the Transferring Party or the Receiving Party upon requests for transfer in accordance with Articles 5 and 6 of this Treaty.

ARTICLE 9
CONSENT OF THE SENTENCED PERSON AND ITS VERIFICATION

1. The Transferring Party shall ensure that the sentenced person or his or her legal representative voluntarily gives consent to the transfer with full knowledge of the legal consequences of the transfer and confirms such knowledge in the declaration indicating consent to the transfer.

2. Where the Receiving Party requests, the Transferring Party shall afford an opportunity to the Receiving Party to verify, through a designated official, that the sentenced person has expressed consent in accordance with the conditions set out in the paragraph above.

ARTICLE 10
DELIVERY OF THE TRANSFERRED PERSON

Where an agreement is reached on a transfer, the Parties shall determine the time, place and procedure for the transfer, through consultation through the channels as provided in Article 3 of the Treaty.

ARTICLE 11
ENFORCEMENT OF THE SENTENCE

1. After receiving the sentenced person, the Receiving Party shall, in accordance with its domestic law, continue to enforce the sentence imposed by the Transferring Party pursuant to the category and the duration of the sentence as determined by the Transferring Party.

2. If the category and the duration of the sentence as determined by the Transferring

Party are incompatible with the laws of the Receiving Party, the Receiving Party may adapt the sentence to the penalty prescribed by its domestic law for a similar crime for enforcement. In case of such an adaptation,

- (a) the Receiving Party shall be bound by the findings of facts indicated in the judgment of the Transferring Party;
- (b) the Receiving Party shall not adapt penalty of deprivation of liberty to a pecuniary sentence;
- (c) the adapted sentence shall, by its nature and as far as possible, correspond with that imposed by the sentence in the Transferring Party;
- (d) the adaptation shall not aggravate the sentence imposed by the Transferring Party, nor exceed the maximum duration of penalty applicable to a similar crime prescribed by the laws of the Receiving Party;
- (e) the adaptation is not bound by the minimum duration of penalty applicable to a similar crime prescribed by the laws of the Receiving Party ; and
- (f) the period of time served in the custody of the Transferring Party by the sentenced person shall be deducted.

3. When adapting sentence in accordance with paragraph 2 of this Article, the Receiving Party shall transmit a copy of the legal document on the adaptation to the Transferring Party.

4. The Receiving Party has a right to apply to the sentenced person reduction of sentence or parole or other measures during enforcement of sentence in accordance with its domestic laws.

ARTICLE 12

RETENTION OF JURISDICTION

1. The Transferring Party shall retain jurisdiction for the modification or cancellation of convictions and sentences imposed by its courts.

2. The Receiving Party shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the Transferring Party in accordance with this Article that results in modification or cancellation of a conviction or sentence imposed by its courts.

ARTICLE 13

INFORMATION ON THE ENFORCEMENT OF THE SENTENCE

The Receiving Party shall timely provide information to the Transferring Party concerning the enforcement of the sentence as:

- (a) the enforcement of the sentence has been completed;
- (b) the sentenced person has escaped from custody or died before the enforcement

- of the penalty has been completed; or
(c) the Transferring Party requests for a specific statement.

ARTICLE 14 TRANSIT

1. When one Party is to implement an agreement with a third country on transfer of sentenced persons through the territory of the other Party, the former shall request the latter for the permission of such transit.

2. Such permission is not required where air transportation is used and no landing in the territory of the other Party is scheduled.

3. The requested Party shall, insofar as not contrary to its domestic law, grant the request for transit made by the requesting Party.

ARTICLE 15 LANGUAGES

For the purpose of this Treaty, the Parties shall communicate in its official language and provide a translation of an official language of the addressed Party or of English.

ARTICLE 16 EXEMPTION FROM LEGALIZATION

For the purpose of this Treaty, any document made by the competent authority of one Party and transmitted through the channels provided for in paragraph 1 of Article 3 of this Treaty, affixed with the signature or seal of this competent authority, may be used in the territory of the other Party without any form of legalization.

ARTICLE 17 COSTS

Costs arising from a transfer of a sentenced person before the transfer shall be borne by the Party where the costs incur. Costs for execution of the transfer and for the enforcement of the penalty after the transfer shall be borne by the Receiving Party.

ARTICLE 18
SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation and application of this Treaty shall be resolved through consultation.

ARTICLE 19
ENTRY INTO FORCE, AMENDMENTS AND TERMINATION

1. This Treaty is subject to ratification and shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.

2. Amendments can be introduced to this Treaty through consultation between the Parties.

3. Either Party may terminate this Treaty at any time by notice in writing to the other party through diplomatic channels. Termination shall take effect on the one hundred and eightieth day after the date on which the notice is given.

4. The Treaty shall also be applicable to the transfer of sentenced persons against whom the judgment was imposed before its entry into force.

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

DONE in duplicate at Beijing, on this 10th day of December 2015, in the Chinese, Azerbaijan and English languages, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the People's Republic of China

For the Republic of Azerbaijan