شماره ۵۸۰۲۱ /ت۵۳۲۷۶هـ

تاریخ ۱۳۹۵/۵/۱۲

جمهوری اسلامی ایران

رئیس جمهور

تصویب‌نامه هیأت وزیران

بسمه تعالی

"با صلوات بر محمد و آل محمد"

وزارت دادگستری – وزارت امور خارجه

هیئت وزیران در جلسه ۱۳۹۵/۵/۱۳ به پیشنهاد شماره ۹۰۱۷ مورخ ۱۳۹۵/۵/۳وزارت دادگستری و در اجرای ماده (۲) آیین‌نامه چگونگی تنظیم و انعقاد توافق‌های بین‌المللی - مصوب ۱۳۷۱- تصویب کرد:

وزارت دادگستری مجاز است با هماهنگی معاونت حقوقی رییس‌جمهور (امور توافق‌های بین‌المللی) و وزارت امورخارجه نسبت به انجام مذاکره، پیش امضا (پاراف) و امضای موقت موافقتنامه‌های زیر بین دولت جمهوری اسلامی ایران و دولت جمهوری آلبانی در چارچوب متون نمونه معاونت حقوقی رییس‌جمهور ظرف سه سال از تاریخ ابلاغ این تصویب‌نامه اقدام و مراحل قانونی را تا تصویب نهایی پیگیری نماید:

۱- موافقتنامه معاضدت قضایی در امور کیفری (موضوع نامه‌های شماره ۸۲۶۶۳ مورخ ۱۳۸۵/۷/۱۲ و اصلاحیه شماره ۱۶۹۳۵۸ مورخ ۱۳۹۰/۸/۲۸ معاونت حقوقی رییس‌جمهور).

۲- موافقتنامه انتقال محکومین به حبس (موضوع نامه‌های شماره ۲۱۵۱۳ مورخ ۱۳۸۳/۴/۲۷ و اصلاحیه شماره ۱۶۸۸۴۵ مورخ ۱۳۹۰/۸/۲۵ معاونت حقوقی رییس‌جمهور).

۳- موافقتنامه استرداد مجرمین (موضوع ابلاغیه شماره ۶۲۶۶۵ مورخ ۱۳۸۲/۱۱/۹ و اصلاحیه شماره ۱۶۸۷۹۶ مورخ ۱۳۹۰/۸/۲۵ معاونت حقوقی رییس‌جمهور).

اسحاق جهانگیری

معاون اول رییس جمهور

رونوشت به دفتر مقام معظم رهبری، دفتر رییس جمهور، دفتر رییس قوه قضاییه، دفتر معاون اول رییس‌جمهور، دبیرخانه مجمع تشخیص مصلحت نظام، سازمان برنامه و بودجه کشور، سازمان اداری و استخدامی کشور، معاونت حقوقی رییس‌جمهور، معاونت امور مجلس رییس‌جمهور، معاونت اجرایی رییس‌جمهور، دیوان محاسبات کشور، دیوان عدالت اداری، سازمان بازرسی کل کشور، معاونت قوانین مجلس شورای اسلامی، امور تدوین، تنقیح و انتشار قوانین و مقررات، وزارت امور اقتصادی و دارایی، دبیرخانه شورای اطلاع‌رسانی دولت و دفتر هیئت دولت ابلاغ می‌شود.

اداره چاپ و انتشار معاونت تدوین، تنقیح و انتشار قوانین و مقررات

MODEL TEXT OF

AGREEMENT ON THE TRANSFER OF SENTENCED PERSONS BETWEEN THE ISLAMIC REPUBLIC OF IRAN AND.....

Preamble

The Islamic Republic of Iran and....., hereinafter referred to as "the Contracting Parties", considering the bilateral interest to strengthen the effective cooperation in the field of transferring the sentenced persons, based on the principles of national sovereignty and non-intervention in internal affairs of each other, have agreed as follows:

Article 1
Definitions

For the purpose of this Agreement the meaning of the terms are as follows:

1- "Sentencing Party" means the Party in whose territory a court has issued a sentence of imprisonment or other deprivation of liberty punishment against the person who is to be transferred.

2- "Administering Party" means the Party in whose territory enforces the judgment of imprisonment or deprivation of liberty punishment issued against a person of its nationality.

3- "Sentenced person" means a person who has been sentenced under a judgment issued by the courts of one of the Contracting Parties to imprisonment or deprivation of liberty for commitment of a crime.

4- "Relatives of the sentenced person" shall have the meaning as provided in the law of the state of which the sentenced person is a national.

5- "Competent authorities of either Contracting Party" means the bodies that according to the laws of that Party are involved in any way in the transfer of the sentenced persons.

Article 2
Scope of the Agreement

According to the provisions of this Agreement, Contracting Parties shall transfer to the Administering Party the sentenced person(s) who is serving his/her punishment within the territory of the Sentencing Party in order to serve the remaining period of his/her punishment.

Article 3
Conditions for Transfer of the Sentenced Persons

1- A sentenced person may be transferred only on the following conditions:
   a. If the sentenced person is a national of the Administering Party;
   b. If, according to the laws of the Sentencing Party, the judgment is final and binding;
   c. If the act for which a judgment has been made constitutes a crime according to the laws of the Administering Party;
   d. If the remaining period of the punishment subject of the issued judgment is more than 6 months;
   e. If the sentenced person consents with his/her transfer, and/or it is requested by his/her relatives or legal representative and/or by one of the Contracting Parties taking into account his/her physical or mental condition;
   f. If both the Sentencing Party and Administering Party agree with the transfer of the sentenced person.
2- In exceptional cases, the Contracting Parties may agree on the conditions of the transfer of those sentenced persons that the remaining period of their punishment is less than 6 months.

Article 4
Information on Enforcement

1- The Administering Party shall provide Sentencing Party with the following information on the enforcement of the sentence:
   a. If the sentenced person has escaped before completion of the punishment in the territory of the Administering Party;
   b. If the Sentencing Party requests a special report on the status of the sentenced person.
2- The Sentencing Party shall inform the sentenced person in writing of actions or decisions taken by itself and/or the Administering Party concerning the request for transfer.

Article 5
Exchange of Information

The Contracting Parties shall exchange, annually and/or upon request, the information on the sentenced persons who are nationals of each other.

Article 6
Request for Transfer

In case a transfer is requested, the Sentencing Party shall forward the following documents and information to the Administering Party, unless otherwise agreed between the two Contracting Parties:

a. The particulars of the sentenced person: his/her name, surname, father's name, date and place of birth;
b. The documents of the nationality of the sentenced person, if any;
c. The text of legal documents upon which the sentence judgment is based;
d. The request for transfer made by the sentenced person, his/her legal representative or relatives according to paragraph 1(e) of Article 3;
e. A copy of sentence judgment and the decision of the competent authorities on its legal validity;
f. A certificate issued by the Sentencing Party on the period of imprisonment served, the detain period before trial and pardon, amnesty or commutation as well as the remaining period of the punishment;
g. Medical certificate on physical and mental status of the sentenced person.

Article 7
Presentation of Documents

The Administering Party shall provide the following documents upon the request of the Sentencing Party:

a. A document or certificate proving that the sentenced person has the nationality of the Administering Party;
b. A copy of the law of the Administering Party by virtue of which an act or omission leading to the sentence constitutes a crime in the country of the Administering Party.

Article 8
Translation of Documents

The documents attached to the request, shall be drawn up in accordance with the law of the Requesting Contracting Party and shall be accompanied by an official translation thereof into the language of the Requested Contracting Party or English.

Article 9
Examination of Consent to Transfer

1- The Sentencing Party shall ensure that the consent referred to in paragraph 1(e) of Article 3 has been declared under no duress, freely and with full knowledge of consequences thereof.
2- The Administering Party shall be entitled to establish, through its consular authorities or other agreed authority, the consent of the sentenced person to his/her transfer and its conditions which has been declared by the Sentencing Party.

Article 10
Reply to Request for Transfer

The Requested Contracting Party shall decide within one month from the date of receipt of the documents referred to in Article 7 of this Agreement on

acceptance or refusal of the request for transfer and inform in writing, the sentenced person, his/her legal representative or relatives, as the case may be, and the Sentencing Party of its result.

Article 11
Refusal of Transfer

The request for transfer shall be refused if either Contracting Party considers the transfer of the sentenced person disturbing its sovereignty, security, public order and/or contrary to its Constitution.

Article 12
Date, Place and Manner of Transfer

The Contracting Parties shall, as soon as possible, determine the place, date and conditions for transfer of the sentenced person by mutual agreement.

Article 13
Transfer Expenses

All expenses related to the transfer of the sentenced person as of the date he/she is delivered to the Administering Party shall be borne by the Administering Party.

Article 14
Enforcement the Judgment

1. After the transfer of the sentenced person, arrangements for enforcing the judgment and the related matters shall be subject to the laws of the Administering Party.
2. The Administering Party may not intensify the punishment of the sentenced person.
3- The competent authority of the Administering Party shall issue an appropriate writ ordering the binding nature and enforcing of the judgment.
4- In case the maximum punishment for a crime committed in the country of the Administering Party is less than the punishment prescribed in the judgment, the Administering Party shall, through a competent court located in its territory, determine the punishment in accordance with its national laws. However the type of punishment shall not be converted.

Article 15
Amnesty, Pardon and Commutation

Either Contracting Party may in accordance with its national laws grant amnesty, pardon or commutation of the sentence of the sentenced person.

Article 16
Review of Judgment

Only the Sentencing Party shall be entitled to review the judgment issued for the person who is the subject of the transfer.

Article 17
Transit from a Third Country

Either Contracting Party shall, upon the request of the other Contracting Party, assist in transiting a sentenced person from its territory to a third country or from a third country to the other Contracting Party.

Article 18
Retroactivity

Provisions of this Agreement shall also be applicable to the judgments issued by the courts of the Contracting Parties prior to its entry into force.

Article 19
Manner of Communication

In application of the provisions of this Agreement, the competent authorities of the Contracting Parties shall communicate with each other through diplomatic channels.

For the purpose of this Article, for the Islamic Republic of Iran, the competent authority is the Ministry of Justice; and for, the ..... competent authority is the .....

Article 20
Settlement of Dispute

The competent authorities of the Contracting Parties shall settle any dispute arising from the interpretation or application of this Agreement through direct negotiation or diplomatic channels.

Article 21
Amendment of the Agreement

This Agreement may be amended only by consent of the Contracting Parties in written form. Any amendment shall enter into force subject to the provisions of Article 22 of this Agreement.

Article 22
Duration of Validity of the Agreement

This Agreement shall enter into force for a period of ... years from the date of the last notification of either Contracting Party to the other Contracting Party that it has fulfilled necessary measures in accordance with its laws and

regulations for entry into force of this Agreement. After the expiration of the said period, this Agreement shall be extended automatically for one-year periods unless either Contracting Party notifies the other Contracting Party in writing six months prior to termination of the relevant period that it does not intend to extend the Agreement.

Expiration or termination of validity of this Agreement shall not affect the transfer requests which are submitted during its validity.

This Agreement consisting of a preamble and 22 Articles was made in duplicate in Persian, and English languages, at ... on ... corresponding to ... all of which being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

For the Islamic Republic of Iran **For ...**

MODEL TEXT OF
EXTRADITION AGREEMENT
BETWEEN
THE ISLAMIC REPUBLIC OF IRAN
AND ...

Preamble

The Islamic Republic of Iran and ... hereinafter referred to as "the Contracting Parties," in view of their mutual interests in strengthening relations and effective cooperation in the field of extradition based on the principles of national sovereignty, non-intervention in internal affairs of each other and protection of mutual interests, have agreed as follows:

Article 1
Extradition Obligation

Either Contracting Party undertakes to extradite, upon the request of the other Contracting Party and subject to its laws and regulations, any person found in its territory who is under prosecution by competent authorities of the other Contracting Party for committing a crime or enforcement of a sentence.

Article 2
Extradition Cases

Extradition may take place in either of the following cases:

1. If the extradition of a person is sought for committing of an act that constitutes a crime under the laws of both Contracting Parties and is punishable by a maximum penalty of imprisonment for a period not less than one year.
2. If the extradition is sought for a convict whose committed act has the qualifications referred to in paragraph (1) of this Article and the judgment issued against him/her, is a minimum of ... months of imprisonment or any other heavier penalty.

Article 3
Refusal of Extradition

1. The request for extradition shall be refused in the following cases:
   a. When the person sought to be extradited is a national of the Requested Contracting Party at the time of commission of the crime.

b. When the crime for which the extradition has been requested is a political or military crime. The nature of the crime shall be determined by the Requested Contracting Party.
c. When the crime is taken place within the territory of the Requested Contracting Party or if it is taken place outside the territory of the said Contracting Party, its examination shall be fallen within the competence of the courts of the Requested Contracting Party.
d. When under the laws and regulations of one of the Contracting Parties the case is not, due to a legal cause, prosecutable or the judgment is not executable.

2. In the event that the extradition is not accepted, the Requesting Contracting Party shall be informed of the refusal of the extradition request and the relevant reasons.
3. In the case that the extradition request is refused only on the basis of the nationality of the requested person, the Requested Contracting Party shall, upon the request of the Requesting Contracting Party, submit the case to its judicial authorities for examination. The Requesting Contracting Party shall send all of the files, information, instruments and documents related to the crime to the Requested Contracting Party by appropriate means.

Article 4
The Way of Regulating of Extradition Request

The request for extradition shall contain the following information and documents:

1. The name of requesting authority.
2. The text of the laws and regulations of the Requesting Contracting Party under which committing an act is prescribed as a crime and the relevant penalty is ascertained.
3. Name, surname of the person sought to be extradited as well as his/her father's name, date of birth, his/her nationality, residence or domicile, identifying marks, photograph, fingerprint and any other information required, if possible.
4. The details of the crimes for which the extradition has been requested, time and place of commission of the crimes, their legal description and references to the relevant laws and regulations, as far as possible.
5. Final conviction, warrant of arrest or summons or any other evidence with the same effect and the period of the sentence which has already been borne, if any.

If the Requested Contracting Party discerns that it requires any additional clarification, in case the person sought to be extradited is under arrest or under preventive measures, it may request the Requesting Contracting Party to provide the required information and determine a deadline for provision of the said information.

If the supplementary documents are not received in due time, the Requested Contracting Party shall release the person sought to be extradited. Nevertheless, the above shall not preclude further detention of the mentioned person upon receiving the supplementary documents.

Article 5
Translation of Documents

The extradition request and documents attached thereto shall be drawn up in the manner required by the law of the Requesting Contracting Party and shall be accompanied by an official translation thereof into the language of the Requested Contracting Party or English attested by the diplomatic representative or consulate of the Requesting Contracting Party and/or the official translator of the said state or the Requested Contracting Party.

Article 6
Detention of the Person Sought to be Extradited

Upon receiving the request for extradition, except in cases referred to in Article (3), the Requested Contracting Party shall take the necessary measures according to its national laws in order to arrest and detain the sought person.

Article 7
Detention until Receiving Extradition Request

1. In cases of emergency, the competent authorities of the Requesting Contracting Party may request temporary detention of the sought person.
   In such cases, the competent authorities of the Requested Contracting Party shall make a decision on the temporary detention of that person according to their own national law.
2. In temporary detention request, the Requesting Contracting Party shall invoke to the judgment or warrant of arrest while indicating that the extradition of the said person shall be requested and the Requested Contracting Party shall be provided with extradition documents immediately. The time and place of commission of the crime for committing of which, the extradition request is made, an if possible, complementary description of the person sought to be extradited shall also be mentioned in the temporary detention request.
3. The detained person shall be released if the extradition request is not received within one month after the arrest of the said person.
4. Detention period for extradition and/or in relation to a crime for committing, of which the extradition request is made, shall be calculated in the punishment period of the person sought to be extradited.

Article 8
Postponement of Extradition

1. If the person sought to be extradited is under prosecution or trial and/or is serving the punishment for committing a crime other than that for which the extradition has been requested, the Requested Contracting Party may

۳- حقوقی که طرف متعاهد درخواست شونده یا اشخاص ثالث ممکن است نسبت به اشیای مذکور کسب کرده باشند محفوظ خواهد بود. در صورتی که چنین حقوقی وجود داشته باشد اموال مذکور پس از محاکمه به طرف متعاهد درخواست شونده اعاده خواهد شد.

ماده ۱۴

عبور

۱- هر یک از طرفهای متعاهد با رعایت قوانین و مقررات داخلی خود و مفاد این موافقتنامه عبور اشخاصی را که توسط دولت ثالث به طرف متعاهد دیگر یا بالعکس مسترد می‌شوند، از قلمرو خود اجازه خواهد داد.

۲- مراجع صلاحیت دار طرفهای متعاهد در هر مورد نحوه عبور، مسیر و شرایط دیگر را هماهنگ می‌کنند.

ماده ۱۵

هزینه‌ها

هزینه‌های مربوط به استرداد در قلمرو طرف متعاهد درخواست شونده به عهده آن طرف و مخارج عبور به عهده طرف متعاهد درخواست کننده خواهد بود.

ماده ۱۶

چگونگی بر قراری ارتباط

ارتباط بین طرفهای متعاهد در موارد استرداد در جمهوری اسلامی ایران توسط، وزارت دادگستری و در ... توسط .... از طریق مجاری دیپلماتیک صورت خواهد گرفت.

ماده ۱۷

حل و فصل اختلافات

مقامات صلاحیتدارطرفهای متعاهد اختلافهای ناشی از اجرا و تفسیر این موافقتنامه را با مذاکره از طریق مجاری دیپلماتیک حل و فصل خواهند کرد.

ماده ۱۸

اصلاح موافقتنامه

این موافقتنامه تنها با توافق کتبی طرفهای متعاهد می‌تواند اصلاح شود. هرگونه اصلاح با رعایت مفاد ماده (۱۹) این موافقتنامه لازم‌الاجرا خواهد شد.

ماده ۱۹

مدت اعتبار موافقتنامه

این موافقتنامه از تاریخ آخرین اطلاعیه هر یک از طرف‌های متعاهد به طرف متعاهد دیگر مبنی بر اینکه اقدامات لازم را طبق قوانین و مقررات خود درباره لازم‌الاجرا شدن این موافقتنامه به عمل آورده است برای مدت... سال به موقع اجرا گذارده خواهد شد. پس از مدت مزبور این موافقتنامه خود به خود برای دوره‌های یکساله تمدید خواهد شد مگر اینکه یکی از طرفهای متعاهد (۶) ماه قبل از خاتمه دوره مربوط، عدم تمدید آن را کتباً به اطلاع طرف متعاهد دیگر برساند.

postpone the extradition of the said person until the temporary prosecution, trial, serving the punishment or his/her legal release is completed.

2. Instead of postponement of extradition, the Requested Contracting Party may temporarily surrender the requested person to the Requesting Contracting Party based on the terms and conditions agreed upon by both Contracting Parties.

Article 9
Extradition Requested by Several States

If extradition is concurrently requested by more than one state for the same crime or different crimes, considering all the circumstances and particularly seriousness of the crime, the place of commission of the crime, the respective dates of the requests, nationality of the requested person and the possibility of subsequent extradition to another state, the Requested Contracting Party shall make its decision on the case.

Article 10
Criminal Prosecution of Extradited Person

1. The extradited person shall not be subjected to criminal prosecution and execution of a sentence for a crime committed before his/her surrender other than the one for which the extradition is granted, without the consent of the Requested Contracting Party.
   However if the extradited person does not leave the territory of the Requesting Contracting Party within 15 days after termination of criminal prosecution or punishment period or voluntarily returns to that territory after having left it, acquiring the consent of the Requested Contracting Party is no longer required. This period of time shall not include the time during which such person fails to leave the territory of that Contracting Party for justified reasons.
2. If the criminal description of the committed crime changes during the proceedings, the prosecution or execution of the sentence shall be possible only when the new crime taking into account its constituting elements, continues to have the conditions referred in to Article (2).
3. The extradited person shall not be surrendered to a third state due to the crimes that his/her has committed before extradition, without the consent of the Requested Contracting Party.

Article 11
Execution of Extradition

1. The Requested Contracting Party shall inform the Requesting Contracting Party of its decision on the extradition request.

2. If the extradition is agreed upon, the Requested Contracting Party shall inform the Requesting Contracting Party of the place and date of extradition as well as the period of time during which the person sought to be extradited had been detained for this purpose.
3. Subject to paragraph (4) of this Article, if the person sought to be extradited is not taken over on the date agreed upon, he/she may be released after 15 days and in any case the detention period shall not prolong more than 30 days from the agreed extradition date. In such cases, the Requested Contracting Party shall not be bound on its previous decision on the extradition and may reconsider he/she extradition request for the same crime.
4. If either Contracting Party fails to surrender and/or take over the person sought to be extradited due to conditions and circumstances beyond its control, the other Contracting Party shall be informed by the concerned Contracting Party. In such cases, the Contracting Parties shall agree on the new date of extradition. Provisions of paragraph (3) of this Article shall be applied to the new date as well.

Article 12
Re-extradition

If the extradited person returns to the territory of the other Contracting Party prior to the termination of prosecution, proceedings or execution of sentence, he/she may be extradited again based on the request of the Requesting Contracting Party. In such cases, submission of documents mentioned in Article (4) of this Agreement is no longer required.

Article 13
Delivery of Objects

1. Subject to Article (2) of this Agreement, the Requested Contracting Party shall, in accordance with its laws and regulations, hand over all the objects and articles found to be an evidence of the crime or an instrument for committing the crime or obtained therefrom, to the Requesting Contracting Party. The above-mentioned objects, articles and instruments shall be handed over, upon the request, even if the extradition cannot be carried out due to death or escape of the person sought to be extradited or any other reasons.
2. If the Requested Contracting Party needs the objects and articles referred to in paragraph (1) of this Article for an investigation in the same or other criminal proceedings, it may postpone the surrender of them temporarily and/or, may surrender the same objects on the condition of their return.
3. Any possible acquired rights of the Requested Contracting Party or any third person regarding the above-mentioned objects and articles shall be observed and such objects and articles shall, after the trial, be returned to the Requested Contracting Party.

Article 14
Transit from a Third Country

1. Either Contracting Party shall, subject to its laws and regulations and the provisions of this Agreement, authorize transiting from its territory of the persons to be extradited by a third country to the other Contracting Party or vice versa.
2. In any case, the competent authorities of Contracting Parties shall coordinate the method, route and other conditions of the transit.

Article 15
Costs

The costs related to the extradition within the territory of the Requested Contracting Party shall be borne by that Party and transit charges shall be borne by the Requesting Contracting Party.

Article 16
The way of Communication

Any communication between the Contracting Parties regarding extradition cases shall take place via the Ministry of Justice of The Islamic Republic of Iran and ... of ... through diplomatic channels.

Article 17
Settlement of Disputes

The competent authorities of the Contracting Parties shall settle the disputes arising out of the implementation and interpretation of this Agreement by direct negotiation through diplomatic channels.

Article 18
Amendment of the Agreement

This Agreement may be amended only by consent of the Contracting Parties in written form. Any amendment shall enter into force subject to the provisions of Article 19 of this Agreement.

Article 19
Duration of Validity of the Agreement

This Agreement shall enter into force for a period of ... years from the date of the last notification of either Contracting Party to the other Contracting Party

that it has fulfilled necessary measures in accordance with its laws and regulations for entry into force of this Agreement. After the expiration of the said period. this Agreement shall be extended automatically for one-year periods unless either Contracting Party notifies the other Contracting Party in writing six months prior to termination of the relevant period that it does not intend to extend the Agreement.

Expiration or termination of validity of this Agreement shall not affect the extradition requests which are submitted during its validity.

This Agreement consisting of a preamble and 19 Articles was made in duplicate in Persian, and English languages, at ... on ... corresponding to ... all of which being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

For the Islamic Republic of Iran **For ...**

MODEL TEXT OF AGREEMENT ON JUDICIAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE ISLAMIC REPUBLIC OF IRAN AND.....

The Islamic Republic of Iran and ... hereinafter referred to as "the Contracting Parties";

Desiring to strengthen the existing relations between the two States; and

Willing to achieve the most extensive level of judicial cooperation to combat crimes,

Have agreed as follows:

Article 1
Obligation to Cooperation

1. Either Contracting Party shall, upon the request of the other Contracting Party, cooperate with the latter Contracting Party to the extent possible in the affairs of investigation of crimes the punishment of which at the time of request falls within the competence of the judicial authorities of the Requesting Contracting Party.
2. Judicial assistance shall, in particular, include service of judicial documents, providing objects and evidentiary items and taking measures such as taking evidence from persons or statements from experts and executing searches and seizures.

Article 2
Refusal of Judicial Assistance Request

Judicial assistance shall be refused, if

(a) the crime in respect of which, judicial assistance is sought, is regarded by the Requested Contracting Party as being of a political nature;
(b) the crime in respect of which judicial assistance is sought, is merely a breach of military regulations.
(c) the concerned act does not constitute a crime under the laws of the Requested Contracting Party;
(d) the request relates to a crime for commission of which the culprit is subject to prosecution or detention or has been convicted in the territory of the Requested Contracting Party.

Article 3
Deciding the Requests

1. The Requested Contracting Party shall notify the Requesting Contracting Party of any decisions taken in respect of a judicial assistance request.

2. Reasons shall be given for every total or partial refusal of judicial assistance request.

Article 4
Contents of Judicial Assistance Request

Judicial assistance request shall include:
- the name of the authority issuing the document:
- a description of commissioned crime and the text of the relevant penal law;
- the names and particulars of the parties to the case;
- the name and address of the person to be served, where necessary;
- the subject of the request.

Article 5
Execution of Letters Rogatory

Letters rogatory in criminal matters shall be carried out in the territory of either Contracting Party, in the manner provided for by the laws of the same Contracting Party.

Article 6
Refusal of Letters Rogatory

The Requested Contracting Party may refuse to execute letters rogatory, if the execution of which does not fall within the competence of its judicial authority or would prejudice the Requested Contracted Party's sovereignty or public order and security

Article 7
Executive Measures

The Requested Contracting Party shall, upon the request, inform the Requesting Contracting Party in due time of the time and place where the letters rogatory shall be carried out so as to enable the interested persons to attend at the time specified for execution in accordance with the requirements laid down in the laws of the Requested Contracting Party.

Article 8
Letters Rogatory Costs

No costs for execution of letters rogatory shall be borne by the Requesting Contracting Party.

Article 9
Presence of Witnesses and Experts

1. Where during preliminary investigation or prosecution in the territory of either Contracting Party appearance as a witness or an expert of a person residing in the territory of the other Contracting Party is required, the competent authority of the Requesting Contracting Party shall send an invitation letter for appearance of the witness or expert through the Requested Contracting Party.

The invitation letter shall not entail sanctions for the invitee in case of non-compliance.

2. A witness or an expert may decline to give evidence or render an expert opinion where the law of either Contracting Party permits that person to decline to give evidence or render an expert opinion.
   A witness or an expert while presents for giving evidence or rendering an expert opinion shall not be prosecuted, detained, tried and/or punished in respect of any accusations or convictions that preceded the person's departure or affairs that constituted the subject matter of the litigation for which such person has been invited to give evidence or render an expert opinion.
3. The foregoing immunity shall cease to apply if a witness or an expert has not left the Requesting Contracting Party's territory within a period of 15 days after that he/she has been notified by the inviting authority in writing that his/her presence is no longer required or, having left, has voluntarily returned to the territory of the Requesting Contracting Party. Period during which the said person had not been able to leave the Requesting Contracting Party's territory for reasons beyond his/her control shall not be counted as a part of the said period.
4. The foregoing provisions shall not preclude taking testimony of a witness or an expert opinion via audio or visual instruments, the respective costs of which shall be borne by the Requesting Contracting Party, unless otherwise is agreed by the two Contracting Parties.
5. Costs arising from accommodation and travel from the point of departure of a witness or an expert shall, at least, be calculated on the basis of the rates and in accordance with the regulations of the Requesting Contracting Party, and shall be paid fully or partially to the witness or expert by the consular representative or through any other appropriate means.

Article 10
Transfer of Persons in Custody

Persons in custody who are required to give evidence or to face others in the territory of the Requesting Contracting Party shall be transferred to the territory of that Contracting Party, on the condition that such persons shall be returned during the respite to be set by the Requested Contracting Party in accordance with the provisions of Article 9 of this Agreement.

Article 11
Language of Judicial Assistance Requests

Judicial assistance requests, papers and documents shall be prepared in the language of the Requesting Contracting Party and shall be accompanied by translation thereof in the language of the Requested Contracting Party.

Article 12
Exemption from Authentication

Papers and documents supplied in implementation of this Agreement shall not require re-authentication. Nevertheless, these documents shall have been signed and sealed by the competent authority.

Article 13
Mode of Communication

Communication between the contracting parties for judicial assistance shall be effected through diplomatic channels by the Ministry of Justice of the Islamic Republic of Iran on the one part and.... The Republic of .....on the other part.

Article 14
Delivery of Properties

Provided that the rights of third parties are complied with, proceeds of crime that are seized by the Requested Contracting Party may be delivered to the Requesting Contracting Party for confiscation.

Article 15
Costs of Judicial Assistance

Subject to Article 9 of this Agreement, implementation of judicial assistance requests shall not be subject to payment of any costs save the costs of transferring persons in custody in accordance with Article 10 of this Agreement.

Article 16
Exchange of the Judicial Records

Either Contracting Party shall inform the other Contracting Party of the sentences issued by its courts against nationals of the other Contracting Party, as reflected in the respective judicial records.

In the course of criminal prosecution by judicial authorities of either Contracting Party, the respective authority may obtain judicial records of the person under prosecution from competent authorities of the other Contracting Party by appropriate means.

In cases other than criminal prosecution, judicial authorities of either Contracting Party may also request by appropriate means, judicial records from competent authorities of the other Contracting Party to the extent allowed under the laws of the other Contracting Party.

Article 17
Approval of the Agreement

This Agreement shall be approved in accordance with the laws and regulations of either Contracting Party by their competent authorities.

Article 18
Amendment of the Agreement

This Agreement may be amended only by consent of the Contracting Parties in written form. Any amendment shall enter into force subject to the provisions of Article 19 of this Agreement.

Article 19
Entry into Force

This Agreement shall enter into force for an indefinite period of time thirty days after exchange of the Contracting Parties' notifications to the effect that they have fulfilled measures required for entry into force of this Agreement in accordance with their laws and regulations.

Article 20
Denunciation of the Agreement

Either Contracting Party may denounce this Agreement by giving a notice in writing to the other Contracting Party. In such a case the denunciation shall take effect six months following such notification.

This Agreement consisting of a preamble and 20 Articles was made in duplicate in Persian, and English languages, at ... on ... corresponding to ... all of which being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

For
the Islamic Republic of Iran

For .....

انقضاء یا اختتام مدت اعتبار این موافقتنامه نسبت به درخواستهای استردادی که در زمان اعتبار آن انجام گرفته است، تأثیری نخواهد داشت.

این موافقتنامه شامل یک مقدمه و (۱۹) ماده در ..... در تاریخ ..... هجری شمسی برابر با ..... میلادی در دو نسخه به زبانهای فارسی، ..... و انگلیسی تنظیم گردید که تمامی آنها از اعتبار یکسان برخوردار می‌باشد. در صورت بروز هرگونه اختلاف در تفسیر، متن انگلیسی ملاک خواهد بود.

از طرف
جمهوری اسلامی ایران

از طرف

متن نمونه
موافقتنامه انتقال محکومین به حبس
میان
جمهوری اسلامی ایران و ...

مقدمه

جمهوری اسلامی ایران و ... که از این پس «طرفهای متعاهد» نامیده می‌شوند، نظر به علاقه متقابلی که به تحکیم همکاری مؤثر در زمینه انتقال محکومین بر پایه اصول حاکمیت ملی و عدم دخالت در امور داخلی یکدیگر دارند، به شرح زیر توافق نمودند:

ماده ۱

تعاریف

از نظر این موافقتنامه، معانی اصطلاحات به قرار زیر است:

۱- اصطلاح «طرف صادرکننده حکم» به طرفی اطلاق می‌شود که حکم به مجازات حبس یا دیگر مجازاتهای سالب آزادی راجع به شخص مورد انتقال از دادگاه‌های واقع در قلمرو آن صادر شده باشد.

۲- اصطلاح «طرف اجراکننده حکم» به طرفی اطلاق می‌شودکه حکم به مجازات حبس و یا سالب آزادی را که درباره فرد دارای تابعیت او صادر شده در قلمرو خود اجرا می کند.

۳- اصطلاح «محکوم» به شخصی اطلاق می‌شود که به موجب حکم صادر شده از دادگاه‌های یکی از طرفهای متعاهد به علت ارتکاب جرم، به مجازات حبس یا سالب آزادی محکوم شده باشد.

۴- اصطلاح « اقارب شخص محکوم» به مفهومی است که در قانون دولت متبوع محکوم تعریف شده است.

۵- اصطلاح «مراجع صلاحیتدار هر یک ازطرفهای متعاهد» به دستگاه‌هایی اطلاق می‌شود که طبق قوانین آن طرف در امر انتقال محکومین به هر نحو دخالت دارند.

ماده ۲

دامنه شمول موافقتنامه

طرفهای متعاهد طبق مفاد این موافقتنامه محکوم یا محکومینی که مجازات خود را در قلمرو طرف صادرکنندهٔ حکم طی می‌نمایند به منظور تحمل بقیه مجازات به طرف اجراکننده حکم منتقل خواهند کرد.

ماده ۳

شرایط انتقال محکومین

۱- محکوم فقط تحت شرایط زیر می‌تواند منتقل شود:

الف- محکوم دارای تابعیت طرف اجراکننده حکم باشد.

ب- حکم صادره طبق قانون طرف صادرکننده حکم، قطعی و لازم الاجراء باشد.

پ- عملی که درباره آن حکم صادر شده است، طبق قوانین طرف اجراکننده حکم، جرم محسوب شود.

ت- باقی‌مانده مجازات موضوع حکم صادره بیش از ۶ ماه باشد.

ث- محکوم، به انتقال خود رضایت داده و یا با درنظر گرفتن وضعیت جسمانی و روانی او، اقارب یا نماینده قانونی وی و یا یکی از طرفهای متعاهد، انتقال او را درخواست کند.

ج- طرفهای صادرکننده و اجراکننده حکم، با انتقال شخص محکوم موافقت نمایند.

۲- درموارد استثنایی طرفهای متعاهد می‌توانند نسبت به شرایط انتقال اشخاص محکومی که باقیمانده مدت مجازات آنان کمتر از ۶ ماه می‌باشد، توافق نمایند.

ماده ۴

اطلاعات راجع به اجرا

۱- طرف اجراکننده حکم در مورد اجرای حکم اطلاعات زیر را برای طرف صادرکننده حکم ارسال خواهد نمود:

الف- در صورتی که محکوم پیش از اتمام مجازات در طرف اجراکننده حکم، متواری شود.

ب- در صورتی که دولت صادرکننده حکم گزارش خاصی را در مورد وضعیت محکوم درخواست کند.

۲- دولت صادرکننده حکم اقدامات به عمل آمده یا تصمیمات اتخاذ شده توسط خود و یا طرف اجراکننده حکم را در مورد تقاضای انتقال، کتباً به محکوم اعلام خواهد کرد.

ماده ۵

مبادله اطلاعات

طرفهای متعاهد به طور سالیانه و یا بنا به درخواست، اطلاعات راجع به محکومینی که اتباع یکدیگر هستند را مبادله خواهند کرد.

ماده ۶

درخواست انتقال

در صورت درخواست انتقال، طرف صادر کننده حکم، اسناد و اطلاعات زیر را برای طرف اجراکننده حکم ارسال خواهد نمود، مگر آنکه طرفهای متعاهد به نحو دیگری توافق کنند:

۱- مشخصات محکوم: نام، نام خانوادگی، نام پدر، محل و تاریخ تولد.

۲- اسناد تابعیت محکوم در صورت وجود.

۳- متون قانونی مستند صدور حکم محکومیت.
۴- درخواست محکوم یا نماینده قانونی یا اقارب او به انتقال طبق جزء (ث) بند(۱) ماده (۳).
۵- رونوشت حکم محکومیت و تصمیم مراجع صلاحیتدار درباره اعتبار قانونی آن.
۶- گواهی طرف صادرکننده حکم مبنی برمیزان محکومیت تحمل شده، مدت بازداشت قبل از محاکمه و عفو، بخشودگی یا تخفیف و نیز مدت باقیمانده مجازات.
۷- گواهی پزشکی راجع به وضعیت جسمانی و روانی محکوم.

ماده ۷

ارائه اسناد

طرف اجراکننده حکم در صورت درخواست طرف صادرکننده حکم، اسناد زیر را ارائه خواهد نمود:

۱- سند و یا گواهی دال بر اینکه محکوم تابعیت طرف اجراکننده حکم را دارا است.
۲- نسخه‌ای از قانون طرف اجراکننده حکم که به موجب آن فعل یا ترک فعل منتهی به محکومیت را در کشور طرف اجراکننده حکم، جرم شناخته است.

ماده ۸

ترجمه اسناد

اسناد ضمیمه درخواست، مطابق قانون طرف متعاهد درخواست کننده تنظیم خواهد شد و ترجمه رسمی به زبان طرف درخواست شونده یا به زبان انگلیسی را به همراه خواهد داشت.

ماده ۹

بررسی رضایت به انتقال

۱- طرف صادرکننده حکم کسب اطمینان خواهد کرد که رضایت مذکور در جزء (ث) بند(۱) ماده (۳) بدون اکراه، با آزادی و با آگاهی کامل از پیامدهای آن اعلام شده باشد.
۲- طرف اجراکننده حکم حق دارد رضایت شخص محکوم و شرایط آن را که توسط طرف صادرکننده حکم اعلام شده از طریق مقامات کنسولی خود یا مقام مورد توافق دیگر احراز کند.

ماده ۱۰

پاسخ به تقاضای انتقال

طرف متعاهد درخواست شونده ظرف یک ماه از تاریخ وصول اسناد مندرج در ماده (۷) این موافقتنامه، نسبت به رد یا قبول تقاضای انتقال، اتخاذ تصمیم خواهد کرد و نتیجه را حسب مورد به شخص محکوم یا نماینده قانونی یا اقارب او و به طرف صادرکننده حکم کتباً اعلام خواهد نمود.

ماده۱۱

موارد امتناع از انتقال

در صورتی که هر یک از طرفین انتقال محکوم را مخل حاکمیت، امنیت، نظم عمومی و یا مخالف قانون اساسی خود بداند، درخواست انتقال رد خواهد شد.

ماده ۱۲

زمان، مکان و چگونگی انتقال

طرفهای متعاهد در اسرع وقت، محل، تاریخ و شرایط انتقال محکوم را با توافق یکدیگر تعیین خواهند کرد.

ماده ۱۳

هزینه های انتقال

کلیه هزینه های مربوط به انتقال شخص محکوم از زمانی که تحویل طرف اجراکننده حکم می‌شود، به عهده طرف اجراکننده حکم خواهد بود.

ماده ۱۴

ترتیبات اجرای حکم پس از انتقال

۱- ترتیبات اجرای حکم و موضوعات مربوط به آن، پس از انتقال محکوم تابع قوانین طرف اجرا کننده حکم خواهد بود.

۲- طرف اجرا کننده حکم نمی‌تواند مجازات شخص محکوم را تشدید نماید.

۳- مرجع صلاحیتدار طرف اجرا کننده حکم قرار مقتضی دائر بر لازم‌الاجرا بودن و دستور اجرای حکم را صادر می‌کند.

۴- در صورتی که حداکثر مجازات جرم ارتکابی در کشور طرف اجرا کننده حکم، کمتر از مجازات مندرج در حکم باشد، طرف اجرا کننده حکم از طریق دادگاه صلاحیتدار در قلمرو خود، مجازات را طبق قانون داخلی خود تعیین خواهد کرد. در هر حال نوع مجازات نباید تبدیل شود.

ماده ۱۵

عفو، بخشودگی و تخفیف

هر یک از طرفهای متعاهد می تواند مجازات مقرر برای شخص محکوم را طبق قوانین داخلی خود مورد عفو، بخشودگی و تخفیف قرار دهد.

ماده ۱۶

تجدید نظر

فقط دولت صادرکننده حکم حق تجدیدنظر نسبت به حکم محکومیت شخص موضوع انتقال را دارد.

ماده ۱۷

عبور از کشور ثالث

هر یک از طرفهای متعاهد در صورت درخواست طرف متعاهد دیگر در مورد عبور شخص محکوم از قلمرو خود به مقصد کشور ثالث یا از کشور ثالث به مقصد طرف متعاهد دیگر مساعدت لازم را به عمل خواهد آورد.

ماده ۱۸

عطف به ماسبق شدن

مفاد این موافقتنامه نسبت به احکام صادره از دادگاه‌های طرفهای متعاهدکه قبل از اعتبار یافتن آن صادر شده نیز اعمال خواهد شد.

ماده ۱۹

نحوه ارتباط

در اجرای مفاد این موافقتنامه مراجع صلاحیتدار طرفهای متعاهد از طریق مجاری دیپلماتیک با یکدیگر ارتباط برقرار می‌کنند.

از نظر این موافقتنامه، مرجع صلاحیتدار برای جمهوری اسلامی ایران، وزارت دادگستری و برای ..... خواهد بود.

ماده ۲۰

حل و فصل اختلافات

مراجع صلاحیتدار طرفهای متعاهد اختلافهای ناشی از تفسیر و اجرای این موافقتنامه را با مذاکره مستقیم یا از طریق مجاری دیپلماتیک حل و فصل خواهند کرد.

ماده ۲۱

اصلاح موافقتنامه

این موافقتنامه تنها با توافق کتبی طرفهای متعاهد می‌تواند اصلاح شود. هرگونه اصلاح با رعایت مفاد ماده (۲۲) این موافقتنامه لازم‌الاجرا خواهد شد.

ماده ۲۲

مدت اعتبار موافقتنامه

این موافقتنامه از تاریخ آخرین اطلاعیه هر یک از طرفهای متعاهد به طرف متعاهد دیگر مبنی بر اینکه اقدامات لازم را طبق قوانین و مقررات خود درباره لازم‌الاجراء شدن این موافقتنامه به عمل آورده است برای مدت ... سال به موقع اجرا گذارده خواهد شد. پس از مدت مزبور این موافقتنامه خود به خود برای دوره های یکساله تمدید خواهد شد، مگر اینکه یکی از طرفهای متعاهد ۶ ماه قبل از خاتمه دوره مربوط، عدم تمدید آن را کتباً به اطلاع طرف متعاهد دیگر برساند.

انقضاء یا اختتام مدت اعتبار این موافقتنامه نسبت به درخواستهای انتقالی که در زمان اعتبار این موافقتنامه انجام گرفته است، تأثیری نخواهد داشت.

این موافقتنامه شامل یک مقدمه و (۲۲) ماده در ..... در تاریخ ..... هجری شمسی برابر با ..... میلادی در دو نسخه به زبانهای فارسی، ..... و انگلیسی تنظیم گردید که تمامی آنها از اعتبار یکسان برخوردار می‌باشد. در صورت بروز هرگونه اختلاف در تفسیر، متن انگلیسی ملاک خواهد بود.

از طرف
جمهوری اسلامی ایران

از طرف