



United Nations
Nations Unies



International
Criminal Tribunal
for the former Yugoslavia

Tribunal
Pénal International
pour l'ex-Yougoslavie

**AGREEMENT BETWEEN
THE UNITED NATIONS
AND
THE FEDERAL GOVERNMENT OF AUSTRIA
ON THE ENFORCEMENT OF SENTENCES
OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER
YUGOSLAVIA**

The United Nations, acting through the International Criminal Tribunal for the former Yugoslavia, hereinafter called "the International Tribunal", and

The Federal Government of Austria, hereinafter called the "requested State",

RECALLING Article 27 of the Statute of the International Tribunal adopted by Security Council resolution 827 (1993) of 25 May 1993, according to which imprisonment of persons sentenced by the International Tribunal shall be served in a State designated by the International Tribunal from a list of States which have indicated to the Security Council their willingness to accept convicted persons;

NOTING the willingness of the requested State to enforce sentences imposed by the International Tribunal;

IN ORDER to give effect to the judgements and sentences of the International Tribunal;

HAVE AGREED as follows:

Article 1

Purpose and Scope of the Agreement

This Agreement shall regulate matters relating to or arising out of all requests to the requested State to enforce sentences imposed by the International Tribunal.

Article 2

Procedure

1. A request to the Federal Government of Austria to enforce a sentence shall be made by the Registrar of the International Tribunal (hereinafter: "the Registrar"), with the approval of the President of the International Tribunal.

International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991.
Tribunal Pénal International Chargé de Poursuivre les Personnes Présomées Responsables de Violations Graves du Droit International Humanitaire Commises sur le Territoire de l'ex-Yougoslavie depuis 1991.

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2. The Registrar shall provide the following documents to the requested State when making the request:

- a) a certified copy of the judgement;
- b) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention;
- c) when appropriate, any medical or psychological reports on the convicted person, any recommendation for his or her further treatment in the requested State and any other factor relevant to the enforcement of the sentence.

3. The requested State shall submit the request to the competent national authorities, in accordance with the national law of the requested State.

4. The competent national authorities of the requested State shall promptly decide upon the request of the Registrar, in accordance with national law.

Article 3

Enforcement

1. In enforcing the sentence pronounced by the International Tribunal, the competent national authorities of the requested State shall be bound by the duration of the sentence.

2. The conditions of imprisonment shall be governed by the law of the requested State, subject to the supervision of the International Tribunal, as provided for in Articles 6 to 8 and paragraphs 2 to 4 of Article 9 below.

3. The conditions of imprisonment shall be equivalent to those applicable to prisoners serving sentences under Austrian law and shall be in accordance with relevant human rights standards.

Article 4

Transfer of the convicted person

The Registrar shall make appropriate arrangements for the transfer of the convicted person from the International Tribunal to the competent authorities of the requested State. Prior to his or her transfer, the convicted person will be informed by the Registrar of the contents of this Agreement.

Article 5

Rule of Speciality

1. A convicted person transferred to the requested State pursuant to the terms of this Agreement shall not be prosecuted or proceeded against in the requested State for any act or conduct committed prior to his or her transfer to the requested State, unless:

a) the convicted person stays on the territory of the requested State for more than 45 days after his or her release, despite the fact that he or she could leave the requested State; or

b) the convicted person leaves the requested State and:

(i) returns voluntarily; or

(ii) is lawfully brought back by another State.

2. The provisions of this Article are without prejudice to Article 10 of the Statute of the International Tribunal.

Article 6

Monitoring

1. The competent authorities of the requested State shall allow visits of the prisoner(s) by the International Tribunal, or an entity designated by it, in accordance with Article 27 of the Statute of the International Tribunal and, subject to the Statute, with Austrian law. The competent authorities shall allow visits at any time and on a periodic basis, the frequency of visits to be determined by the International Tribunal. Reports on the conditions of detention and the treatment of the prisoner(s), based on the findings of the visits, will be issued, as appropriate.

2. The requested State and the President of the International Tribunal shall consult each other on the findings of the reports referred to in paragraph 1. The President of the International Tribunal may thereafter request the requested State to report to him or her any changes in the conditions of detention suggested in the reports.

Article 7

Information

1. The requested State shall immediately notify the Registrar:
 - a) two months prior to the completion of the sentence;
 - b) if the convicted person has escaped from custody before the sentence has been completed;
 - c) if the convicted person has deceased.
2. Notwithstanding the previous paragraph, the Registrar and the requested State shall consult each other on all matters relating to the enforcement of the sentence upon the request of either party.

Article 8

Early release, pardon and commutation of sentences

1. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for early release, pardon or commutation of the sentence, the requested State shall notify the Registrar accordingly.
2. The requested State shall inform the Registrar of all circumstances pertaining to the eligibility for early release, pardon or commutation of the sentence.
3. The President of the International Tribunal shall determine, in consultation with the Judges of the International Tribunal, whether any early release, pardon or commutation of the sentence is appropriate. The Registrar shall inform the requested State of the President's determination. If the President determines that an early release, pardon or commutation of the sentence is not appropriate, the requested State shall act accordingly.

Article 9

Termination of enforcement

1. The enforcement of the sentence shall cease:
 - a) when the sentence has been completed;
 - b) upon the demise of the convicted;
 - c) upon the pardon of the convicted;
 - d) following a decision of the International Tribunal as referred to in paragraph 2.

2. The International Tribunal may at any time decide to request the termination of the enforcement in the requested State and transfer the convicted person to another State or to the International Tribunal.

3. The competent authorities of the requested State shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.

4. The provisions of this Agreement shall be without prejudice to the right of the requested State to deport the convicted person after the completion of his or her sentence enforced pursuant to this Agreement, unless the International Tribunal notifies the requested State of the willingness of another State to accept the convicted person.

Article 10

Impossibility to enforce sentence

If, at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, the requested State shall promptly inform the Registrar. The Registrar shall make the appropriate arrangements for the transfer of the convicted person. The competent authorities of the requested State shall allow for at least sixty days following the notification of the Registrar before taking other measures on the matter.

Article 11

Costs

The International Tribunal shall bear the expenses related to the transfer of the convicted person to and from the requested State, unless the parties agree otherwise. The requested State shall pay all other expenses incurred by the enforcement of the sentence.

Article 12

Entry into force

This Agreement shall enter into force 30 days after the signature.

Article 13

Duration of the Agreement

1. Upon consultation, either party may terminate this Agreement, with two months prior notice. This Agreement shall not be terminated before the sentences to which this Agreement applies have been completed or terminated and, if applicable, before the transfer of the convicted as provided for in Article 10 has been effected.

2. Notwithstanding paragraph 1 of this Article, this Agreement shall be applicable as long as the requested State has notified its willingness to enforce sentences of the International Tribunal in accordance with Article 27 of the Statute of the International Tribunal.

3. Articles 3 and 5 to 11 shall remain applicable as long as sentences of the International Tribunal are being enforced by the requested State under the terms and conditions of this Agreement.

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

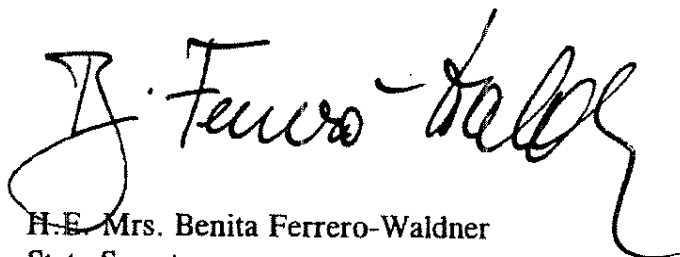
Done at Vienna this twenty-third day of July 1999, in duplicate, in the English language.

FOR THE UNITED NATIONS

**FOR THE FEDERAL
GOVERNMENT OF AUSTRIA**



Dorothee de Sampayo Garrido-Nijgh
Registrar
International Criminal Tribunal
for the former Yugoslavia



H.E. Mrs. Benita Ferrero-Waldner
State Secretary
Federal Ministry for Foreign Affairs