

No. 50318

**Latvia
and
Norway**

Agreement on recognition and enforcement of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty between the Government of the Republic of Latvia and the Government of the Kingdom of Norway (with annexes). Cèsis, 28 April 2011

Entry into force: *28 March 2012, in accordance with article 29*

Authentic texts: *English, Latvian and Norwegian*

Registration with the Secretariat of the United Nations: *Latvia, 20 December 2012*

**Lettonie
et
Norvège**

Accord entre le Gouvernement de la République de Lettonie et le Gouvernement du Royaume de Norvège sur la reconnaissance et l'exécution des jugements en matière pénale instituant des peines ou des mesures impliquant la privation de liberté (avec annexes). Cesis, 28 avril 2011

Entrée en vigueur : *28 mars 2012, conformément à l'article 29*

Textes authentiques : *anglais, letton et norvégien*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Lettonie, 20 décembre 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement on recognition and enforcement of judgments in criminal
matters imposing custodial sentences or measures involving deprivation of
liberty between
the Government of the Republic of Latvia
and
the Government of the Kingdom of Norway**

THE GOVERNMENT OF THE REPUBLIC OF LATVIA AND THE
GOVERNMENT OF THE KINGDOM OF NORWAY, hereinafter referred to as
the “Contracting Parties”,

Taking into consideration the laws and regulations in force regarding law
enforcement of the Contracting Parties and the desirability of enhancing their
cooperative efforts in law enforcement and the administration of justice,

Desiring to facilitate the social rehabilitation of sentenced persons into their own
society,

Considering that this aim can best be achieved by having sentenced persons
transferred to the country where they live,

Considering the need for modern mechanisms for the mutual recognition of final
sentences involving deprivation of liberty, and for extended application of the
principle of the transfer of sentenced persons,

Whereas:

(1) Both Contracting Parties have ratified the Council of Europe Convention on
the Transfer of Sentenced Persons of 21 March 1983. Under that Convention,
sentenced persons may be transferred to serve the remainder of their sentence
only to their State of nationality and only with their consent and that of the States
involved. The Additional Protocol to that Convention of 18 December 1997,
which allows transfer without the person’s consent, subject to certain conditions,
has also been ratified by both Contracting Parties. Neither instrument imposes
any basic duty to recognise the judgment and enforce the sentence imposed by
the other Contracting Party.

(2) A further development of the cooperation provided for in the Council of
Europe instruments concerning the enforcement of criminal judgments should be
envisaged, in particular where citizens of the Contracting Parties were the subject
of a criminal judgment and were sentenced to a custodial sentence or a measure
involving deprivation of liberty in another Contracting Party. Notwithstanding
the need to provide the sentenced person with adequate safeguards, his or her
involvement in the proceedings should no longer be dominant by requiring in all
cases his or her consent to the forwarding of a judgment to the other Contracting
Party for the purpose of its recognition and enforcement of the sentence imposed.

- (3) This Agreement should be implemented and applied in a manner which allows general principles of equality, fairness and reasonableness to be respected.
- (4) Enforcement of the sentence in the executing State should enhance the possibility of social rehabilitation of the sentenced person. In the context of satisfying itself that the enforcement of the sentence by the executing State will serve the purpose of facilitating the social rehabilitation of the sentenced person, the competent authority of the issuing State should take into account such elements as, for example, the person's attachment to the executing State, whether he or she considers it the place of family, linguistic, cultural, social or economic and other links to the executing State.
- (5) Nothing in this Agreement should be interpreted as prohibiting refusal to execute a decision when there are objective reasons to believe that the sentence was imposed for the purpose of punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced on any one of those grounds,
- (6) This Agreement should not prevent any Contracting Party from applying its constitutional rules relating to due process, freedom of association, freedom of the press and freedom of expression in other media.

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement:

- (a) 'judgment' shall mean a final decision or order of a court of the issuing State imposing a sentence on a natural person;
- (b) 'sentence' shall mean any custodial sentence or any measure involving deprivation of liberty imposed for a limited or unlimited period of time on account of a criminal offence on the basis of criminal proceedings;
- (c) 'issuing State' shall mean the State in which a judgment is delivered;
- (d) 'executing State' shall mean the State to which a judgment is forwarded for the purpose of its recognition and enforcement;
- (e) the State in which the sentenced person 'lives', indicates the place to which that person is attached based on habitual residence and on elements such as family, social or professional ties;
- (f) 'nationality' shall mean for Latvia, citizenship of Latvia and persons who are subject of the Law "On the Status of Former USSR Citizens who are not Citizens of Latvia or any other State" and, for Norway, citizenship of Norway.

Article 2

Determination of the competent authorities

The Contracting Parties shall without undue delay inform each other which authority or authorities, under its national law, are competent in accordance with this Agreement, when that Contracting Party is the issuing State or the executing State.

Article 3

Purpose and scope

1. The purpose of this Agreement is to establish the rules under which a Contracting Party, with a view to facilitating the social rehabilitation of the sentenced person, is to recognise a judgment and enforce the sentence.

2. This Agreement shall apply where the sentenced person is in the issuing State or in the executing State.

3. This Agreement shall apply only to the recognition of judgments and the enforcement of sentences within the meaning of this Agreement. The fact that, in addition to the sentence, a fine and/or a confiscation order has been imposed, which has not yet been paid, recovered or enforced, shall not prevent a judgment from being forwarded.

4. This Agreement shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in the European Convention for the Protection on Human Rights and Fundamental Freedoms of 4 November 1950.

Article 4

Criteria for forwarding a judgment and a certificate

1. Provided that the sentenced person is in the issuing State or in the executing State, and provided that this person has given his or her consent where required under Article 6, a judgment, together with the certificate for which the standard form is given in Annex I, may be forwarded to the other Contracting Party when.

(a) the other Contracting Party is the State of nationality of the sentenced person in which he or she lives; or

(b) the other Contracting Party is the State of nationality, to which, while not being the State where he or she lives, the sentenced person will be deported, once he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment.

(c) the other Contracting Party is the State, of which, while not being the State of nationality, the sentenced person has such close ties to, that a transfer is deemed

appropriate, and the competent authority of that Contracting Party consents to the forwarding of the judgment and the certificate. In case close ties of the sentenced person are based on habitual residence, he or she shall have been legally residing in the other Contracting Party continuously for at least five years and shall retain a permanent right of residence there.

2. The forwarding of the judgment and the certificate may take place where the competent authority of the issuing State, where appropriate after consultations between the competent authorities of the issuing and the executing States, is satisfied that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person.

3. Before forwarding the judgment and the certificate, the competent authority of the issuing State may consult, by any appropriate means, the competent authority of the executing State. Consultation shall be obligatory in the cases referred to in paragraph 1(c). In such cases the competent authority of the executing State shall promptly inform the issuing State of its decision whether or not to consent to the forwarding of the judgment.

4. During such consultation, the competent authority of the executing State may present the competent authority of the issuing State with a reasoned opinion, that enforcement of the sentence in the executing State would not serve the purpose of facilitating the social rehabilitation and successful reintegration of the sentenced person into society.

Where there has been no consultation, such an opinion may be presented without delay after the transmission of the judgment and the certificate. The competent authority of the issuing State shall consider such opinion and decide whether to withdraw the certificate or not.

5. The executing State may, on its own initiative, request the issuing State to forward the judgment together with the certificate. The sentenced person may also request the competent authorities of the issuing State or of the executing State to initiate a procedure for forwarding the judgment and the certificate under this Agreement. Requests made under this paragraph shall not create an obligation of the issuing State to forward the judgment together with the certificate.

6. In cases where the sentenced person could be transferred to a Contracting Party and to a third state under national law or international instruments, the competent authorities of the issuing and executing States should, in consultations, consider whether enforcement in the executing State would enhance the aim of social rehabilitation better than enforcement in the third country.