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**Peru
and
Poland**

Agreement between the Republic of Peru and the Republic of Poland on the transfer of sentenced persons. Lima, 27 May 2014

Entry into force: *30 March 2016, in accordance with article 19*

Authentic texts: *English, Polish and Spanish*

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**Pérou
et
Pologne**

Accord entre la République du Pérou et la République de Pologne sur le transfèrement des personnes condamnées. Lima, 27 mai 2014

Entrée en vigueur : *30 mars 2016, conformément à l'article 19*

Textes authentiques : *anglais, polonais et espagnol*

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AGREEMENT BETWEEN THE REPUBLIC OF PERU AND THE REPUBLIC OF POLAND ON THE TRANSFER OF SENTENCED PERSONS

The Republic of Peru and the Republic of Poland, hereinafter referred to as "the Parties",

Guided by the desire to develop legal cooperation in criminal matters between the two Parties,

Wishing to facilitate the reintegration of sentenced persons into society,

Recognising that these aims should be pursued by enabling aliens who have been deprived of liberty for committing offences to serve their sentences in their own societies,

Recognising that this aim may best be achieved by transferring a sentenced person to his home country,

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement:

- a) "judgement" means any final decision of a court imposing a sentence,
- b) "sentence" means any enforceable punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offence,
- c) "sentenced person" means a person who has been sentenced in a final judgment in the territory of one of the Parties,
- d) "sentencing State" means the State in which the sentence was imposed on the person who may be, or has been, transferred, in order to serve his sentence,
- e) "the administering State" means the State to which the sentenced person may be, or has been, transferred, in order to serve his sentence.

Article 2

General Principles

1. The Parties undertake to afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Agreement.
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 Agreement, in order to

3. serve the sentence imposed on him. A sentenced person may express his interest to the sentencing State or the administering State in being transferred under this Agreement.
- 4 Both the sentencing State and the administering State may request the transfer of a sentenced person

Article 3

Rights of Sentenced Persons

The sentencing State should provide the sentenced person to whom this Agreement may apply with the information about its contents. Such information should be provided in a language understandable to such sentenced person. This provision does not exclude the possibility of the administering State to furnish such information to the sentenced person.

Article 4

Conditions for Transfer of sentenced persons

- 1 A sentenced person may be transferred under this Agreement only on the following conditions:
 - a) the sentenced person is a national of the administering State,
 - b) the offence which has led to the sentence was not exclusively a military offence,
 - c) at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or if the sentence is indeterminate,
 - d) the judgement is final and enforceable,
 - e) the sentenced person consents to the transfer or, if in view of his age or physical or mental condition and if one of the Parties considers it necessary, such consent shall be granted by the sentenced person's representative,
 - f) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the administering State or would constitute a criminal offence if committed on its territory,
 - g) the sentencing State and the administering State agree to the transfer.
2. The sentencing State may refuse to transfer the sentenced person if such person has failed to pay fines or damages imposed on him in connection with the sentence

3. In exceptional cases, Parties may agree to a transfer even if the time to be served by the sentenced person is less than specified in paragraph 1. c.

Article 5

Obligation to furnish information

1. If the sentenced person has expressed an interest to the sentencing State in being transferred under this Agreement, the State shall so inform the administering State as soon as practicable.
2. The information shall include:
 - a) *the first name and surname, date and place of birth of the sentenced person,*
 - b) *the address of the sentenced person in the administering State,*
 - c) *a statement of the facts upon which the sentence was based,*
 - d) *the nature, duration and date of commencement of the sentence.*
3. If the sentenced person has expressed his interest to the administering State in being transferred under this Agreement, the sentencing State shall, on request, communicate to the State the information referred to in paragraph 2 above.
4. The sentenced person should be informed, in writing, of any action taken by the sentencing State or the administering State under the preceding paragraphs, as well as of any decision taken by either State in respect of the request for transfer.

Article 6

Request for Transfer of the Sentenced Person

1. Requests for transfer shall be made in writing and shall be communicated pursuant to the procedure provided for in Article 14.
2. Means of rapid communication, including fax machines or electronic mail, may be used in urgent cases. At the request of the other Party, the same information shall also be communicated in writing.
3. The Parties shall promptly notify each other of their decision to agree or refuse the transfer and shall provide grounds thereof.
4. The transfer of the sentenced person shall take place at a time and in a place agreed upon by both Parties. The administering State shall be responsible for the transport of the sentenced person.

Article 7

Supporting Documents

- 1 The administering State, if requested by the sentencing State, shall furnish it with:
 - a) a document indicating that the sentenced person is a national of the administering State,
 - b) the text of the relevant law which provides that the acts on account of which the sentence has been imposed constitute a criminal offence according to the law of the administering State, or would constitute a criminal offence if committed on its territory, as well as information about the rules of serving the sentence.
- 2 If the transfer is requested, the sentencing State shall provide the following documents to the administering State:
 - a) a certified copy of the sentencing judgement, confirmed to be final and enforceable,
 - b) the text of the law on which it is based serving as grounds for the sentence,
 - c) information about the date of completion of the sentence, the duration of the sentence that has been served, including information about pre-trial detention and other facts that are relevant to the enforcement of the sentence,
 - d) a document containing the sentenced person's consent to the transfer, and
 - e) whenever appropriate, any medical or social reports on the sentenced person, information about his treatment in the sentencing State and any recommendations for his further treatment in the administering State.
3. If a Party considers that the data and documents provided are insufficient to respond to the request, it shall request the other Party to supplement them, fixing a new time limit. The time limit may be extended in justified cases, upon request. If no supplementary data or documents are provided, the request shall be answered on the basis of existing data and documents.
4. The sentencing State and the administering State may ask to be provided with any of the documents or statements referred to in paragraph 1 and 2 before making a request for transfer or taking a decision on whether or not to agree to the transfer.
5. The request and other documents in accordance with this Agreement shall be exempt from any legalisation formalities.
6. The request and other documents submitted in accordance with this Agreement shall be accompanied by a translation into the official language of the other Party or a translation into the English language.