

No. 54886*

**Peru
and
Thailand**

Treaty between the Republic of Peru and the Kingdom of Thailand on the transfer of offenders and co-operation in the enforcement of penal sentences. Bangkok, 5 October 2013

Entry into force: *26 February 2016 by the exchange of the instruments of ratification, in accordance with article 14*

Authentic texts: *English, Spanish and Thai*

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**Pérou
et
Thaïlande**

Traité entre la République du Pérou et le Royaume de Thaïlande concernant le transfèrement des délinquants et la coopération pour l'exécution des sentences pénales. Bangkok, 5 octobre 2013

Entrée en vigueur : *26 février 2016 par l'échange des instruments de ratification, conformément à l'article 14*

Textes authentiques : *anglais, espagnol et thaï*

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY
BETWEEN
THE REPUBLIC OF PERU
AND
THE KINGDOM OF THAILAND
ON THE TRANSFER OF OFFENDERS
AND
CO-OPERATION IN THE ENFORCEMENT
OF PENAL SENTENCES

The Republic of Peru and the Kingdom of Thailand hereinafter referred to as the "Parties";

Taking into consideration the laws and regulations of the Parties in force regarding enforcement of penal sentences;

Desiring to co-operate in the enforcement of penal sentences;

Considering that this co-operation should serve the interests of the administration of justice;

Desiring to facilitate the successful reintegration of offenders into society; and

Considering that these objectives can be best fulfilled by giving foreigners who are deprived of their liberty as a result of their commission of a criminal offence the opportunity to serve their sentences in their own society;

Have agreed as follows:

Article 1

Definitions

For purposes of this Treaty:

(a) "Transferring State" means the Party from which the Offender may be or has been transferred,

(b) "Receiving State" means the Party to which the Offender may be or has been transferred;

(c) "Offender" means a person who is serving a sentence in the Transferring State,

(d) "Sentence" means any punishment or measure involving deprivation of liberty in a prison or any other lawful institutions in the Transferring State made by a Court of the Transferring State in its judgment for a limited or unlimited period of time on account of a criminal offence

Article 2

General Principles

An Offender in the territory of a Party may be transferred to the territory of the other Party in order to serve the remainder of the sentence imposed on that person, pursuant to the provisions of this Treaty

Article 3

Conditions for Transfer

An Offender may be transferred under this Treaty only on the following conditions:

- (1) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the Receiving State;
- (2) if that person is a national of the Receiving State and is not a national of the Transferring State,
- (3) if the judgment is final and no other legal proceedings relating to the offence or any other criminal offence are pending in the Transferring State,
- (4) if the sentence imposed on an Offender is one of imprisonment, confinement, or any other form of deprivation of liberty;
- (5) if the law of the Transferring State requires any minimum period of imprisonment, confinement or any other form of deprivation of liberty, the Offender has served in the Transferring State such minimum period required,
- (6) if, at the time of receipt of the request for transfer, the remaining sentence to be served by the Offender complies with the law of the Transferring State,
- (7) if the Transferring and Receiving States and the Offender all agree to the transfer. The Offender shall give consent to the transfer or may do so through that person's representative when by reason of that person's age or physical or mental conditions, if so requires

Article 4

Refusal to Transfer

The request for transfer shall be refused by the Kingdom of Thailand under this Treaty following conditions, namely that:

- (1) if the Offender was sentenced in respect of an offence under the Thai laws:
 - against the internal or external security of the State;
 - against the Head of State or a member of his family; or
 - against the legislation protecting national art treasures;
- (2) if it affects its sovereignty, security, public order or other essential interests.

The request for transfer shall be refused by the Republic of Peru under this Treaty if it affects its sovereignty, security, public order or other essential interests of the Peruvian State, or is prohibited by the Peruvian laws.

Article 5

Procedure for Transfer

- (1) Both Parties shall inform the offenders within the scope of the Treaty on the substance of the Treaty.
- (2) Every transfer under this Treaty shall be commenced through diplomatic channels by a written request from the Receiving State to the Transferring State. The Transferring State shall inform the Receiving State through the same channels and without delay on its decision on whether to approve or refuse the request for transfer. If the Transferring State approves the request, the Parties shall take all necessary measures to effect the transfer of the Offender.
- (3) The Transferring State shall provide the Receiving State with the following information:
 - (a) a statement of the facts upon which the sentence was based;
 - (b) the termination date of the sentence, the length of time already served by the Offender and any prison benefits to which that person is entitled in the Transferring State;
 - (c) a certified copy of all judgments and sentences concerning the Offender and of the law on which they are based;
 - (d) any other additional information requested by the Receiving State so far as such information may be of significance for transfer of the Offender and for the execution of that person's sentence.
- (4) Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a

request for transfer or taking a decision on whether or not to agree to the transfer

- (5) The Transferring State shall afford an opportunity to the Receiving State, if the Receiving State so desires, to verify through an official designated by the Receiving State, prior to the transfer, that the necessary consent of the Offender or of a representative of that person in accordance with Article 3(7) of this Treaty is given voluntarily and with full knowledge of the legal consequences thereof.
- (6) Delivery of the Offender by the authorities of the Transferring State to those of the Receiving State shall occur on a date and at a place within the Transferring State agreed upon by both Parties.

Article 6

Retention of Jurisdiction

- (1) The Transferring State shall retain exclusive jurisdiction regarding the judgments of its courts, the sentences imposed by them and any procedures for revision, modification or cancellation of those judgments and sentences
- (2) The Transferring State shall also retain the power to pardon or grant amnesty. The Receiving State upon notice from the Transferring State of any decision, shall take appropriate action.

Article 7

Procedure for Enforcement of Sentence

- (1) The enforcement of the sentence in the Receiving State shall be governed by its laws and procedures, including the conditions governing the service of imprisonment, confinement or other form of deprivation of liberty, and those providing for the reduction of the period of imprisonment, confinement or other deprivation of liberty by parole, remission or otherwise.
- (2) Subject to paragraph (3) of this Article, the Receiving State shall be bound by the legal nature of the sentence as determined by the Transferring State. If, under the law of the Receiving State, regarding the maximum duration of the enforcement of the sentence, the Receiving State enforces the sentence ordered by a Court of the Transferring State in such a manner that the duration of the continued enforcement of the sentence in the Receiving State is less than the remaining duration of the sentence which the Offender has to serve, the Transferring State shall be informed together with the request for the transfer and the relevant laws. In such case, the Transferring State has the right to refuse the request.
- (3) No sentence of deprivation of liberty shall be enforced by the Receiving State in such a way that extends beyond the period specified in the sentence of the Court of the Transferring State