



REPUBLIKA E KOSOVËS – PRESIDENTI  
REPUBLIC OF KOSOVO – THE PRESIDENT  
REPUBLIKA KOSOVA – PREDSEDNIK

**DECREE FOR RATIFICATION OF THE  
INTERNATIONAL AGREEMENT**

Pursuant to Article 18, paragraph 2 of the Constitution of the Republic of Kosovo and Article 4, paragraph 3 of the Law Nr.03/L-004 for the Ministry of Foreign Affairs and Diplomatic Service, I hereby issue the following;

**Decree**

On the ratification of the Agreement on the Transfer of Sentenced Persons, between the Government of the Republic of Kosovo and the Government of the Republic of Macedonia, signed on April 8, 2011, and received by the Office of the President of the Republic of Kosovo on May 6, 2011.

Pursuant to Article 18, paragraph 3 of the Constitution of the Republic of Kosovo, the ratified agreement shall be forwarded to the Parliament of the Republic of Kosovo as a notification.

The ratified agreement shall enter into force on the day of its publication in the Official Gazette.

Decree No: DMN-009-2011

Prishtina, 9 June 2011

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Atifete Jahjaga  
President of the Republic of Kosovo

**AGREEMENT**  
**BETWEEN**  
**THE GOVERNMENT OF THE REPUBLIC OF KOSOVO**  
**AND**  
**THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA**  
**ON**  
**THE TRANSFER OF SENTENCED PERSONS**

**PREAMBLE**

The Government of the Republic of Kosovo and the Government of the Republic of Macedonia; hereinafter referred to as the „Parties”;

In their aspiration for further development and reinforcement of the bilateral relations in the spirit of the existing friendship and co-operation relating to the transfer of sentenced persons between the two countries;

Taking into consideration the desire to participate actively in the European integration cooperation process;

Have agreed as follows:

## Article 1

### Definitions

For the purposes of this Agreement, the expression:

- 1) "sentence" means any punishment or measure involving deprivation of liberty pronounced by a court for a limited or unlimited period of time on account of a criminal offence;
- 2) "judgment" means a decision of a court imposing a sentence;
- 3) "sentencing Party" means the State that imposed the sentence on the person who may be, or has been, transferred; and
- 4) "administering Party" means the State to which the sentenced person may be, or has been, transferred in order to serve his/her sentence.

## Article 2

### General provisions

1. The Parties undertake to afford each other the widest measure of co-operation in respect to the transfer of sentenced persons in accordance with the provisions of this Agreement.
2. A person sentenced in the territory of a Party may be transferred to the territory of the other Party, in accordance with the provisions of this Agreement, in order to serve the sentence imposed on him/her. To that end, he/she may express his/her interest to the sentencing Party or to the administering Party in being transferred under this Agreement.
3. Transfer may be requested by either the sentencing or the administering Party.

## Article 3

### Conditions for transfer

1. A sentenced person may be transferred under this Agreement only on the following conditions:
  - 1) if the sentenced person is a national of the administering State;
  - 2) if the judgment is final;
  - 3) if, 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;
  - 4) where owing to his/her age or his/her mental or physical condition, one of the two Parties considers it necessary that the sentenced person or his/her representative gives consent for transfer;

- 5) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence under the law of the administering Party or would constitute a criminal offence if committed on its territory; and
  - 6) if the sentencing and administering Parties agree to the transfer.
2. In exceptional cases, the Parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified in paragraph 1.3.

#### **Article 4**

##### **Obligation to furnish information**

1. Any sentenced person to whom this Agreement may apply shall be informed by the sentencing Party of the substance of this Agreement.
2. If the sentenced person has expressed an interest to the sentencing Party in being transferred under this Agreement, that Party shall so inform the administering Party as soon as practicable after the judgment becomes final.
3. The information shall include:
  - 1) the name, date and place of birth of the sentenced person;
  - 2) the nationality and ethnicity of the sentenced person;
  - 3) his/her address, if any, in the territory of the administering Party;
  - 4) a statement of the facts upon which the sentence was based; and
  - 5) the nature, duration and date of commencement of the sentence.
4. If the sentenced person has expressed his/her interest to the administering Party, the sentencing Party shall, on request, communicate to the administering Party the information referred to in paragraph 3 above.
5. The sentenced person shall be informed, in writing and in a language which he/she understands, of any action taken by the sentencing Party or by the administering Party under the preceding paragraphs, as well as of any decision taken by either Party on a request for transfer.

#### **Article 5**

##### **Requests and replies**

1. Requests for transfer and replies shall be made in writing.
2. Requests shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party. Replies shall be communicated through the same channels.
3. The requested Party shall promptly inform the requesting Party of its decision whether or not to agree to the requested transfer.

## Article 6

### Supporting documents

1. The administering Party, upon the request of the sentencing Party, shall furnish it with:
  - 1) a document or statement indicating that the sentenced person is a national of that Party;
  - 2) a copy of the legal provisions of the administering Party which provide that the acts or omissions on account of which the sentence has been imposed in the sentencing Party constitute a criminal offence under the law of the administering Party, or would constitute a criminal offence if committed on its territory.
2. If a transfer is requested, the sentencing Party shall provide the following writs to the administering Party, unless either Party has already indicated that it will not agree to the transfer:
  - 1) a certified copy of the judgment and the legal provisions that have been applied;
  - 2) a statement indicating how much of the sentence has already been served, including information on any detention, remission, and any other document for the serving of the sentence, as well as the credits for the work done or good conduct;
  - 3) a declaration containing the consent to the transfer as referred to in Article 3.1.4;
  - 4) whenever necessary, any medical or social reports on the sentenced person, information about his/her treatment in the sentencing Party, and any recommendation for his/her further treatment in the administering Party.
3. Either Party may ask to be provided with any of the documents or statements referred to in paragraphs 1 and 2 above before making a request for transfer or taking a decision on whether or not to agree to the transfer.

## Article 7

### Consent of the sentenced person

1. The sentencing Party shall ensure that the person required to give consent to the transfer in accordance with Article 3.1.4) does so voluntarily and with full knowledge of the legal consequences thereof upon consultation with independent legal counsel.

The sentencing Party shall afford an opportunity to the administering Party to verify through a consular or other official agreed upon with the administering Party that the consent is given in accordance with the conditions set out in this Article.

#### **Article 8**

##### **Effect of transfer for sentencing Party**

1. The taking into charge of the sentenced person by the authorities of the administering Party shall have the effect of suspending the enforcement of the sentence in the sentencing Party.
2. The sentencing Party may no longer enforce the sentence once the administering Party considers the enforcement of the sentence to have been completed.

#### **Article 9**

##### **Effect of transfer for administering Party**

1. The competent authorities of the administering Party shall convert the sentence, through a judicial or administrative procedure, into a decision of that Party, thereby substituting for the sanction imposed in the sentencing Party a sanction prescribed by the law of the administering Party for the same criminal offence, under the conditions set out in Article 10.
2. The enforcement of the sanction shall be governed by the law of the administering Party and that Party alone shall be competent to take all appropriate decisions.
- 3.

#### **Article 10**

##### **Conversion of sentence**

1. In the case of conversion of a sentence, the procedures provided for by the law of the administering Party shall apply, while the competent authority:
  - 1) shall be bound by the findings as to the facts insofar as they appear explicitly or implicitly from the judgment imposed in the sentencing Party;
  - 2) may not convert a sanction involving deprivation of liberty to a pecuniary sanction;
  - 3) shall deduct the full period of deprivation of liberty served by the sentenced person; and
  - 4) shall not aggravate the penal position of the sentenced person, and shall not be bound by any minimum which the law of the administering Party may provide for the offence or offences committed.

**Article 11**

**Pardon, amnesty, commutation**

Each Party may grant pardon, amnesty, or commutation of the sentence in accordance with its Constitution and law.

**Article 12**

**Review of judgment**

The sentencing Party alone shall have the right to decide on any application for review of the judgment.

**Article 13**

**Termination of enforcement**

The administering Party shall terminate enforcement of the sentence as soon as it is informed by the sentencing Party of any decision or measure as a result of which the sentence ceases to be enforceable.

**Article 14**

**Information on enforcement**

The administering Party shall provide information to the sentencing Party concerning the enforcement of the sentence:

- 1) when it considers the enforcement of the sentence to have been completed;
- 2) if the sentenced person has escaped from custody before the enforcement of the sentence has been completed; or
- 3) if the sentencing Party requests a special report.

**Article 15**

**Language and certification**

1. Information under Article 4 paragraph 3, Article 6 paragraph 1 and Article 6 paragraph 2 shall be furnished in the language of the Party to which it is addressed, which means:
  - 1) for the Republic of Kosovo – in the Albanian or Serbian language;
  - 2) for the Republic of Macedonia – in the Macedonian language.
2. Except as provided in Article 6 paragraph 2 item 1, documents transmitted in application of this Agreement need not be certified.

**Article 16**

**Costs**

Any costs incurred in the application of this Agreement shall be borne by the administering Party, except costs incurred exclusively on the territory of the sentencing Party. Costs related to the transportation of the sentenced person shall be borne by the sentencing Party, unless the Parties agree otherwise in a concrete case.

**Article 17**

**Temporal application**

This Agreement shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

**Article 18**

**Settlement of disputes**

When implementing the provisions of this agreement in case of dispute, the same shall be resolved by diplomatic means.

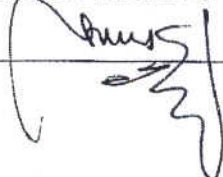
**Article 19**

**Entry into force and termination**

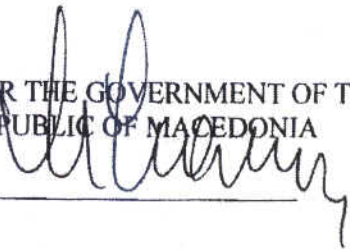
1. This Agreement shall enter into force after the expiration of 30 days from receiving the last of the notes with which the Contracting Parties notify each other about the ratification procedure conducted in accordance with the domestic law.
2. This Agreement shall remain in force for an indefinite period. Each Contracting Party may denounce the Agreement in writing through diplomatic channels. In such a case, the Agreement shall cease to be in force 6 months after the date of such notification.
3. On the date this Agreement enters into force, the Interim Protocol for the Transfer of Sentenced Persons between the Republic of Macedonia and UNMIK, concluded on 12 November 2004, shall cease to be valid.

Done in Prishtine, on 8 April 2011 in two originals, each in the Albanian, Macedonian and English languages, all texts being equally authentic. In case of any differences in the interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE  
REPUBLIC OF KOSOVO

  
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FOR THE GOVERNMENT OF THE  
REPUBLIC OF MACEDONIA

  
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