

**AGREEMENT BETWEEN THE REPUBLIC OF SLOVENIA AND THE INTERNATIONAL
CRIMINAL COURT ON THE ENFORCEMENT OF SENTENCES OF THE INTERNATIONAL
CRIMINAL COURT**

The Republic of Slovenia (hereinafter referred to as "Slovenia") and
The International Criminal Court (hereinafter referred to as "the Court"),

PREAMBLE

RECALLING Article 103(1)(a) of the Rome Statute of the International Criminal Court (hereinafter referred to as "the Rome Statute"), adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries, according to which sentences of imprisonment pronounced by the Court shall be served in a State designated by the Court from a list of States which have indicated their willingness to accept sentenced persons;

RECALLING Rule 200(5) of the Rules of Procedure and Evidence of the Court (hereinafter referred to as "the Rule(s)"), according to which the Court may enter into bilateral arrangements with States with a view to establishing a framework for the acceptance of persons sentenced by the Court, consistent with the Rome Statute;

RECALLING the widely accepted international standards governing the treatment of prisoners including the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) adopted by General Assembly resolution 70/175 of 17 December 2015, the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111 of 14 December 1990;

NOTING the willingness of Slovenia to accept persons sentenced by the Court;

IN ORDER to establish a framework describing the conditions under which such sentences will be enforced in Slovenia;

HAVE AGREED as follows:

Article 1

Purpose and scope of the Agreement

The Agreement shall regulate matters relating to or arising from the enforcement of sentences pronounced by the Court and served in Slovenia.

Article 2

Procedure and information relating to designation

1. After the sentencing of an accused person by the Trial Chamber, the Presidency of the Court (hereinafter referred to as "the Presidency") shall communicate with Slovenia and request Slovenia to provide, within 30 calendar days, an indication of its readiness, as a practical matter, to receive a person convicted by the Court.

2. If Slovenia indicates its readiness, as a practical matter, to receive a person convicted by the Court, the Presidency shall request Slovenia to provide the Court with updated information regarding its national detention regime, including, *inter alia*, recently promulgated legislation and administrative guidelines.
3. If the Presidency designates Slovenia as the State in which the sentenced person shall serve his or her sentence, it shall notify Slovenia of its decision. When notifying Slovenia of its designation as the State of enforcement, the Presidency shall transmit, *inter alia*, the following information and documents:
 - (a) The name, nationality, date and place of birth of the sentenced person;
 - (b) A copy of the final judgment of conviction and of the sentence imposed;
 - (c) The length and commencement date of the sentence, the time remaining to be served and any other measures affecting the length or the conditions of the sentence imposed;
 - (d) The date on which the sentenced person is eligible for review concerning the reduction of his or her sentence;
 - (e) With due respect for medical confidentiality, any necessary information concerning the state of the sentenced person's health (including any psychological reports on the sentenced person), including any medical treatment that he or she is receiving and any recommendations for his or her further treatment in Slovenia;
 - (f) Any information that the Court may have as to whether the convicted person has any ties with Slovenia and any other information relevant to the enforcement of the sentence, including any security aspects.
4. Slovenia shall promptly decide upon the Court's designation and inform the Presidency whether it accepts the designation.

Article 3

Transfer of the sentenced person

1. The sentenced person shall be transferred to Slovenia as soon as possible after Slovenia accepts the designation.
2. The Registrar of the Court (hereinafter "the Registrar") shall ensure the proper transfer of the sentenced person in consultation with Slovenia and the host State.
3. Prior to his or her transfer, the sentenced person shall be informed by the Presidency of the content of this Agreement.

Article 4

Supervision of enforcement of sentence and conditions of imprisonment

1. The enforcement of a sentence of imprisonment shall be subject to the supervision of the Court and shall be consistent with widely accepted international standards governing the treatment of prisoners.

2. In order to supervise the enforcement of sentences of imprisonment, the Presidency shall:
 - (a) When necessary, request any information, report or expert opinion from Slovenia or from any reliable sources;
 - (b) Where appropriate, delegate a judge of the Court or a member of the staff of the Court who will be responsible, after notifying Slovenia, for meeting the sentenced person and hearing his or her views, without the presence of national authorities;
 - (c) Where appropriate, give Slovenia an opportunity to comment on the views expressed by the sentenced person pursuant to sub-paragraph (b).
3. Slovenia shall inform the Presidency of any important event concerning the sentenced person, such as medical treatment or security-related matters.
4. Communications between a sentenced person and the Court shall be unimpeded and confidential. The Presidency, in consultation with Slovenia, shall respect these requirements when establishing appropriate arrangements for the exercise by the sentenced person of his or her right to communicate with the Court about the conditions of imprisonment.
5. The conditions of imprisonment shall be governed by the law of Slovenia and shall be consistent with widely accepted international standards governing the treatment of prisoners. In no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in Slovenia.
6. Slovenia shall notify the Court of any circumstances, including the exercise of any conditions agreed under Article 103(1) of the Rome Statute, which could materially affect the terms or extent of the imprisonment. The Court shall be given at least 45 calendar days' notice of any such known or foreseeable circumstances. During this period, Slovenia shall take no action that might prejudice its obligations under Article 110 of the Rome Statute.
7. Slovenia may at any time withdraw its conditions agreed under Article 103(1) of the Rome Statute. Any amendments or additions to such conditions shall be subject to confirmation by the Presidency.
8. When a sentenced person is granted a prison programme or benefit available under the domestic law of Slovenia which may entail some activity outside the prison facility, Slovenia shall communicate that fact to the Presidency, together with any relevant information or observation, sufficiently in advance of any such activity outside the prison facility taking place, in order to enable the Court to exercise its supervisory function.
9. Slovenia shall allow the inspection of the conditions of imprisonment and treatment of the sentenced person(s) by the International Committee of the Red Cross (hereinafter referred to as "the ICRC") and by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (hereinafter referred to as "the CPT") at any time and on a periodic basis, the frequency of visits to be determined by the ICRC or CPT. After each visit to the enforcement State by the ICRC or CPT:
 - (a) The ICRC or CPT shall submit a confidential report on its findings together with recommendations, as necessary, to Slovenia and to the Presidency.
 - (b) Slovenia and the Presidency shall consult each other on the findings of the report. The Presidency shall thereafter request Slovenia to report any changes in the conditions of imprisonment as a result of the recommendations by the ICRC or CPT.

- (c) Slovenia and the Presidency shall submit a joint response to the ICRC or CPT within 30 calendar days of receiving the report. The joint response shall address the findings of the report and detail measures to implement the recommendations of the report by Slovenia and the Presidency.

Article 5

Appearances before the Court

If, after transfer of the sentenced person to Slovenia, the Court orders that the sentenced person appear before the Court, the sentenced person shall be transferred temporarily to the Court, conditional on his or her return to Slovenia within the period decided by the Court. The time spent in the custody of the Court shall be deducted from the term of the overall sentence remaining to be served in Slovenia.

Article 6

Limitation on prosecution or punishment

1. The sentenced person shall not be tried before a court of Slovenia for a crime referred to in Article 5 of the Rome Statute for which that person has already been convicted or acquitted by the Court.
2. In accordance with Article 108 of the Rome Statute, a sentenced person in the custody of Slovenia shall not be subject to prosecution or punishment or to extradition to another State for any conduct engaged in prior to that person's transfer to Slovenia, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of Slovenia.
 - (a) When Slovenia intends to prosecute or enforce a sentence against the sentenced person for any conduct engaged in prior to the sentenced person's transfer, it shall notify its intention to the Presidency and transmit to it the following documents:
 - (i) A statement of the facts of the case and their legal characterization;
 - (ii) A copy of any applicable legal provisions, including those concerning the statute of limitation and the applicable penalties;
 - (iii) A copy of any sentence, warrant of arrest or other document having the same force, or of any other legal writ which the State intends to enforce;
 - (iv) A protocol containing views of the sentenced person obtained after the person has been informed sufficiently about the proceedings.
 - (b) In the event of a request for extradition made by another State, Slovenia shall transmit the entire request to the Presidency with a protocol containing the views of the sentenced person obtained after informing the person sufficiently about the extradition request.
 - (c) The Presidency may in all cases request any document or additional information from Slovenia or the State requesting the extradition.
 - (d) The Presidency may decide to conduct a hearing.
 - (e) The Presidency shall make a determination as soon as possible. This determination shall be notified to all those who have participated in the proceedings.

- (f) If the request for prosecution, punishment, or extradition to another State concerns the enforcement of a sentence, the sentenced person may serve that sentence in Slovenia or be extradited to another State only after having served the full sentence pronounced by the Court.
 - (g) The Presidency may authorize the temporary extradition of the sentenced person to another State for prosecution only if it has obtained assurances which it deems to be sufficient that the sentenced person will be kept in custody in that State and transferred back to Slovenia, after the prosecution.
- 3. Paragraph 2 of this article shall cease to apply if the sentenced person remains voluntarily for more than 30 calendar days in the territory of Slovenia after having served the full sentence imposed by the Court, or returns to the territory of that State after having left it.
 - 4. Slovenia shall inform the Presidency of any prosecution of the sentenced person for events subsequent to his or her transfer.

Article 7

Appeal, revision, reduction, and extension of sentence

- 1. Subject to the conditions contained in the Agreement, the sentence of imprisonment shall be binding on Slovenia, which shall in no case modify it.
- 2. Slovenia shall not release the person before expiry of the sentence pronounced by the Court. Slovenia shall terminate the enforcement of the sentence as soon as it is informed by the Court of any decision or measure as a result of which the sentence ceases to be enforceable.
- 3. The Court alone shall have the right to decide any application for appeal and revision and Slovenia shall not impede the making of any such application by the sentenced person.
- 4. The Court alone shall have the right to decide any reduction of sentence and shall rule on a reduction of sentence after having heard the person.
- 5. Where the Presidency extends the term of imprisonment pursuant to Rule 146(5), the Presidency may ask for observations from Slovenia.

Article 8

Escape

- 1. If the sentenced person escapes from custody, Slovenia shall, as soon as possible, advise the Registrar by any medium capable of delivering a written record.
- 2. If the sentenced person escapes from custody and flees Slovenia, Slovenia may, after consultation with the Presidency, request the person's extradition or surrender from the State in which the person is located pursuant to any existing bilateral or multilateral arrangements, or may request that the Presidency seek the person's surrender, in accordance with Part 9 of the Rome Statute. It may direct that the person be delivered to Slovenia or to another State designated by the Court.

3. If the State in which the sentenced person is located agrees to surrender him or her to Slovenia, pursuant to either international agreements or its national legislation, Slovenia shall so advise the Registrar in writing. The person shall be surrendered to Slovenia as soon as possible, if necessary in consultation with the Registrar. The Registrar shall provide all necessary assistance, including, if necessary, the presentation of requests for transit to the States concerned, in accordance with Rule 207.
4. If the sentenced person is surrendered to the Court, the Court shall transfer him or her to Slovenia. Nevertheless, the Presidency may, acting on its own motion or at the request of the Prosecutor or of Slovenia, designate another State, including the State to the territory of which the sentenced person has fled.
5. In all cases, the entire period of detention in the territory of the State in which the sentenced person was in custody after his or her escape and, where paragraph 4 of this Article is applicable, the period of detention at the seat of the Court following the surrender of the sentenced person from the State in which he or she was located shall be deducted from the sentence remaining to be served.

Article 9

Change in designation of Slovenia as the State of enforcement

1. The Presidency, acting on its own motion or at the request of Slovenia or the sentenced person or the Prosecutor, may, at any time, decide to transfer a sentenced person to a prison of another State.
2. Before deciding to change the designation of Slovenia as the State of enforcement, the Presidency may:
 - (a) Request views from Slovenia;
 - (b) Consider written or oral presentations of the sentenced person and the Prosecutor;
 - (c) Consider written or oral expert opinion concerning, *inter alia*, the sentenced person;
 - (d) Obtain any other relevant information from any reliable sources.
3. The Presidency shall inform the sentenced person, the Prosecutor, the Registrar and Slovenia of its decision and of the reasons therefor.
4. In addition, the Court shall make appropriate arrangements for the expedited transfer of the sentenced person, as soon as possible, after the notification of Slovenia that further enforcement of a sentence has become impossible due to the conditions of acceptance no longer being met. In such event, Slovenia and the Court shall co-operate to ensure the ongoing enforcement of the sentence in the interim period prior to such transfer.

Article 10

Transfer of the sentenced person upon completion of the sentence

1. Slovenia shall notify the Presidency:
 - (a) 90 calendar days before the scheduled completion of the sentence, that the sentence will be completed;

- (b) 30 calendar days before the scheduled completion of the sentence of the relevant information concerning the intention of Slovenia to authorize the person to remain in its territory or the location where it intends to transfer the person.
2. Following completion of the sentence, a sentenced person who is not a national of Slovenia may, in accordance with the law of Slovenia, be transferred to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into account any wishes of the person to be transferred to that State, unless Slovenia authorizes the person to remain in its territory.
3. Subject to the provisions of Article 6, Slovenia may also, in accordance with its national law, extradite or otherwise surrender the person to a State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

Article 11

Costs

1. The ordinary costs for the enforcement of the sentence in the territory of Slovenia shall be borne by Slovenia.
2. Other costs, including those for the transport of the sentenced person to and from the seat of the Court and to and from Slovenia, shall be borne by the Court.
3. In case of escape, the costs associated with the surrender of the sentenced person shall be borne by the Court if no State assumes responsibility for them.

Article 12

Channels of Communication

1. The channel of communication for Slovenia shall be the Ministry of Justice of the Republic of Slovenia.
2. The channel of communication for the Court shall be the Legal and Enforcement Unit of the Presidency.

Article 13

Entry into force

The Agreement shall enter into force on the first day of the month following the receipt by the Court of the notification of Slovenia that all the internal legal requirements for its entry into force have been fulfilled.

Article 14

Amendments, termination and settlement of disputes

1. The Agreement may be amended, after consultation, by mutual written consent of the parties. Agreed amendments shall enter into force in accordance with the procedure determined in Article 13.

2. The Agreement may be terminated, after consultation, by either party with two months prior written notice. Such termination shall not affect sentences in force at the time of the termination, and the provisions of the Agreement shall continue to apply until such sentences have been completed, terminated or, if applicable, the sentenced person has been transferred in accordance with Article 10 of the Agreement.
3. Any dispute about the interpretation or application of this Agreement shall be resolved by consultations between the Court and Slovenia.

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

Done at The Hague this 7th day of December 2018, in duplicate, in the English language.

FOR THE REPUBLIC OF SLOVENIA

FOR THE COURT



Dominika Švarc Pipan
State Secretary
Ministry of Justice



Judge Robert Fremr
First Vice-President of the International Criminal
Court