

AGREEMENT
ON THE TRANSFER OF SENTENCED PERSONS
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF ITALY
AND
THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA

The Government of the Republic of Italy and the Government of the Federal Republic of Nigeria hereinafter referred to as "the Parties";

DESIRING to promote an effective cooperation between their two Countries on the transfer of sentenced persons for the purpose of facilitating their rehabilitation and social reintegration,

CONSIDERING that this purpose can be achieved through the conclusion of a bilateral agreement establishing that foreign nationals who are deprived of their liberty as a consequence of a criminal conviction may serve their sentence in their own Countries;

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

- a) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court of competent jurisdiction, for a determinate period or for life imprisonment in the exercise of its criminal jurisdiction, as a consequence of the commission of a criminal offence;
- b) "judgement" means a final decision of a competent court, no longer subject to appeal;
- c) "sentenced person" means a person in respect of whom a final judgment of conviction has been given and is being enforced;
- d) "Sentencing State" means the State in which the sentence was imposed on the person who may be, or has already been, transferred;
- e) "Administering State" means the State to which the sentenced person may be, or has already been, transferred in order to serve the remainder of the sentence.



Article 2

General Principles

1. The Parties, in compliance with the provisions of this Agreement, undertake to afford each other the widest measure of cooperation in respect of the transfer of sentenced persons.
2. In accordance with the provisions of this Agreement, a person sentenced in the territory of the Sentencing State may be transferred to the territory of the Administering State, in order to serve the sentence imposed on him or her by a final judgement.

Article 3

Central Authorities

1. For the purposes of this Agreement, the Central Authorities designated by the Parties shall transmit the requests for transfer of sentenced persons and communicate directly with one another.
2. The Central Authority for the Republic of Italy shall be the Ministry of Justice and for the Federal Republic of Nigeria shall be the Attorney General of the Federation and Minister of Justice.
3. Either Party shall notify the other, through diplomatic channels, of any change of its Central Authority.

Article 4

Conditions for Transfer

Transfer may take place if all the following conditions are met:

- a) the sentenced person is a national of the Administering State;
- b) the judgement is final;
- c) at the time of receipt of the request for transfer, the length of the sentence left to be served by the sentenced person is of at least one year or the sentence is indeterminate.



In exceptional cases the two States may agree to a transfer even if the length of the sentence remaining to be served is less than one year;

- d) the sentenced person consents to the transfer;
- e) in the event of the sentenced person's incapacity due to age, physical or mental conditions – his or her legal representative consents to the transfer;
- f) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence also according to the law of the Administering State;
- g) the Sentencing State and the Administering State agree to the transfer.

Article 5

Obligation to Furnish Information

1. Any sentenced person to whom this Agreement may apply shall be informed by the Sentencing State of the substance of this Agreement and of the legal consequences resulting from the transfer. The sentenced person shall also be informed that he or she may be prosecuted, put on trial or detained in the Administering State with a view to enforcing a sentence or a precautionary measure, and be subjected to any other restriction of his or her personal liberty, for any offence committed prior to his or her transfer other than that for which the transfer has been made.
2. The sentenced person must, if he or she so requests, be informed in writing of every step taken by the Sentencing State or by the Administering State with respect to his or her request for transfer, and he or she shall be informed of the decision taken by either State.

Article 6

Request for Transfer

1. Transfer may be requested:
 - a) by the Sentencing State;
 - b) by the Administering State;
 - c) by the sentenced person, or by third parties who are entitled under the law of either State to act on behalf of the sentenced person, by means of a written statement



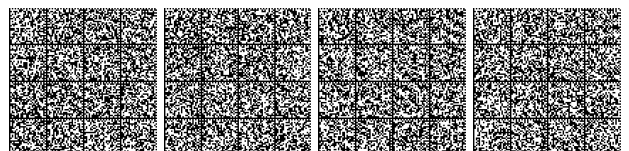
addressed to the Sentencing State or to the Administering State expressing the sentenced person's will to be transferred pursuant to this Agreement.

2. Requests and replies shall be made in writing and addressed to the Central Authorities designated pursuant to Article 3 above.

Article 7

Exchange of Information and Supporting Documents

1. Each State shall transmit to the other State any request for transfer made or received and shall also forward the information and documents specified below.
2. The Sentencing State shall transmit:
 - a) information on the personal details of the sentenced person (name, date and place of birth) and, whenever possible, a copy of a valid identity document of such a person and his or her fingerprints;
 - b) information on the place of residence or address of the sentenced person in the Administering State, if available;
 - c) a statement of the facts upon which the sentence was based;
 - d) information on the nature, duration and date of commencement of enforcement of the sentence;
 - e) information on any pre-trial detention, remission or reduction of sentence, or any other factor relevant to the enforcement of the sentence;
 - f) a duly authenticated copy of the final judgement of conviction;
 - g) a copy of the law on which the sentence is based;
 - h) if appropriate, a medical and social report on the sentenced person, information about the detention and medical treatment carried out in the Sentencing State and any recommendation for his or her further treatment in the Administering State;
 - i) a statement by which the sentenced person expresses consent to his or her transfer in compliance with paragraphs d) and e) of Article 4 of this Agreement;
 - j) a statement by which the Sentencing State indicates its consent to the transfer of the sentenced person;
 - k) any other further information or document that the Administering State deems necessary for the decision.



3. The Administering State, on request, shall send:
 - a) a statement or document indicating that the sentenced person is a national of the Administering State;
 - b) a copy of the law of the Administering State indicating that the acts or omissions on account of which the sentence has been imposed in the Sentencing State constitute a criminal offence also according to the law of the Administering State;
 - c) a statement containing the information on the consequences of the transfer pursuant to Article 12 of this Agreement;
 - d) a statement by which the Administering State indicates its consent to the transfer of the sentenced person and its commitment to enforce the remaining part of the sentence;
 - e) any other information or document which shall be deemed necessary by the Sentencing State for the decision.
4. The exchange of information and supporting documents referred to in the above provisions shall not be made if either State immediately indicates that it does not consent to the transfer.

Article 8

Language and Legalization

1. Request for transfer and supporting documents referred to in paragraph 2 of Article 6 and in Article 7 shall be submitted in, or accompanied by a translation into, an official language of the Administering State.
2. The supporting documents and records transmitted in application of this Agreement do not require any particular form of certification or authentication, except for the authentication of judgment provided for in paragraph 2 f) of Article 7, of this Agreement.

Article 9

Consent and its Verification

1. The Sentencing State shall ensure that the person required to give consent to the transfer in accordance with sub-paragraphs (d) and (e) of Article 4 of this Agreement does so



voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the Sentencing State.

2. Prior to the transfer, if the Administering State expressly requests it, the Sentencing State shall afford the Administering State an opportunity to verify, through an official designated in compliance with the law of the latter State, that the consent has been given in accordance with the conditions set out in paragraph 1 above.

Article 10

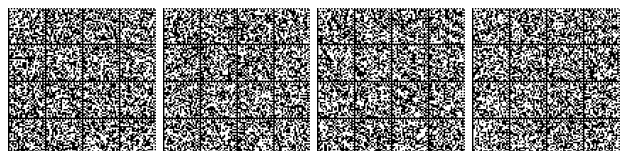
Decision

1. Before making the decision concerning the transfer of a sentenced person in compliance with the purposes of this Agreement, the Authorities of each State shall consider, among other factors, the seriousness and the consequences of the offence, any previous criminal convictions or pending criminal proceedings against the sentenced person, as well as any social and family ties that the said person has maintained in his or her society of origin, state of health and any security requirement or other interests of the State.
2. Where a sentenced person has not fulfilled any of the financial obligations imposed by the judicial decision, or the competent authority of the transferring State has not received such assurance of the fulfilment of the obligations that it considers significant, the Sentencing State may refuse the transfer of the sentenced person.
3. Each State shall promptly inform the other State of its decision as to whether it accepts, postpones or refuses the requested transfer, giving reasons for the refusal.

Article 11

Delivery of the Sentenced Person

If the transfer of a sentenced person is granted, the States shall promptly agree on the time, place and all other details concerning the execution of the transfer.



Article 12**Enforcement of Sentence**

1. The Authorities of the Administering State shall continue the enforcement of the sentence complying with the legal nature and duration of the punishment or measure involving deprivation of personal liberty as determined in the judgment of the Sentencing State.
2. The continued enforcement of the sentence shall be governed by the laws and procedures of the Administering State, including those governing conditions for service of imprisonment or other deprivation of liberty, and those providing for the reduction of the term of imprisonment or other deprivation of liberty by conditional release, remission or otherwise.
3. If the sentence is by its nature or duration incompatible with the law of the administering State, that State may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offence. The adapted sentence shall be no severer than that imposed by the Sentencing State in terms of nature or duration.
4. The Administering State shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the Sentencing State in accordance with Article 14 of this Agreement to pardon the sentenced person, or of any other decision or measure of the Sentencing State that results in cancellation or reduction of the sentence.
5. The Administering State shall inform the Sentencing State: a) when the sentenced person is discharged; b) if the sentenced person is granted conditional release.
6. The Administering State shall, if the Sentencing State so requests, provide any information requested in relation to the enforcement of the sentence.
7. If the sentenced person escapes from custody before the enforcement of the sentence is completed, the Administering State shall take appropriate measures to arrest such a person to ensure that the remainder of the sentence be served and that the person is prosecuted for the offence of escape if such an offence is provided for in the law of the Administering State. If the person returns to the Sentencing State and is traced in its territory, such State shall arrest and enforce the remainder of the sentence which the sentenced person should have served in the Administering State.



Article 13**Review of Judgment**

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

Article 14**Pardon, Amnesty, General Pardon of Sentence**

1. Either State may grant pardon, amnesty or general pardon of sentence, in accordance with its laws and shall immediately inform the other State thereof.
2. When the Administering State receives notice of any of the above orders, it shall immediately enforce them in compliance with its law.

Article 15**Termination of Enforcement**

The Administering State shall terminate enforcement of the sentence as soon as it is informed by the Sentencing State of any decision or measure by virtue of which the sentence ceases to be enforceable.

Article 16**Information on Enforcement**

The Administering State shall furnish information to the Sentencing State concerning the enforcement of the sentence:

- a) if, in compliance with its own law, the enforcement of the sentence has been completed or terminated;
- b) if the sentenced person has escaped from custody before enforcement of the sentence has been completed; or
- c) if the Sentencing State requests a special report.



Article 17**Transit**

1. If either State has entered into arrangements with any third State for the transfer of sentenced persons, the other State shall cooperate by permitting the transit through its territory, provided that no reasons of public order prevent it.
2. The State requesting transit shall forward to the State of transit, through the Central Authorities, a request indicating who is the sentenced person in transit. The request for transit shall be accompanied by a copy of the decision granting the transfer of the sentenced person.
3. The State of transit shall hold the sentenced person in transit in custody while said person stays in its territory.
4. No request for transit shall be required if transport is by air and no landing is scheduled in the territory of the transit State.
5. Either State may refuse to grant transit if:
 - a) The sentenced person is a national of that State;
 - b) If the act on account of which the sentence has been imposed does not constitute an offence pursuant to its law.

Article 18**Costs**

1. Any costs incurred in the application of this Agreement shall be borne by the Sentencing State up to the arrival of the sentenced person in the territory of the Administering State.

Article 19**Relationship with other International Agreements**

This Agreement shall not prevent the States from cooperating in respect of the transfer of sentenced persons in compliance with other international agreements to which both States are parties.



Article 20**Territorial and Temporal Application**

1. This Agreement shall be applied throughout the Federal Republic of Nigeria and the whole territory of the Republic of Italy.
2. This Agreement shall apply to any request submitted after its entry into force, even if this relates to the enforcement of a sentence imposed before such entry into force.

Article 21**Settlement of disputes**

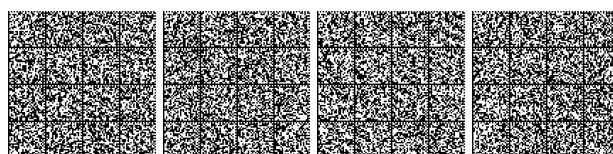
1. Any dispute arising out of the interpretation or application of this Agreement shall be resolved by mutual consultation between the Central Authorities.
2. If they do not reach an agreement, the dispute shall be resolved by consultation through diplomatic channels.

Article 22**Entry into Force**

1. Either State shall notify the other State in writing, through diplomatic channels, of the completion of its internal procedures required for the entry into force of this Agreement.
2. This Agreement shall enter into force thirty (30) days after the date of the later of two notifications.

Article 23**Amendment**

1. This Agreement may be amended at any time by the mutual consent of the States.
2. Any amendment to this Agreement agreed by the States shall be made by reciprocal arrangements between the States and shall come into effect in accordance with Article 22.



Article 24**Termination**

1. Either State may terminate this Agreement at any time by giving notice in writing to the other State through diplomatic channel. In that event, the Agreement shall cease to have effect on the ninetieth (90th) day from the date on which notice is given.
2. This Agreement shall apply to any request submitted after its entry into force, also if the relevant criminal offences were committed before the entry into force of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done at ROME, on this 8 day of NOVEMBER in the year 2016, in two originals, each in the Italian and English language, both texts being equally authentic.

In case of any divergence in interpretation, the English text shall prevail.

**For the Government of the
Republic of Italy**



**For the Government of the
Federal Republic of Nigeria**

