

## Agreement between the Kosovo Specialist Chambers and the Government of the Kingdom of Belgium on the Enforcement of Sentences Pronounced by the Specialist Chambers

The Government of the Kingdom of Belgium (for the purposes of this Agreement, hereinafter the 'Requested State'), and

The Kosovo Specialist Chambers (hereinafter 'Specialist Chambers'), acting through the Registrar of the Specialist Chambers ('Registrar'),

*Recalling* the 2014 International Agreement between the High Representative of the European Union for Foreign Affairs and Security Policy and the President of Kosovo ('2014 Exchange of Letters') foreseeing that the Specialist Chambers shall be governed by their own statute and rules of procedure and evidence, including provisions on service abroad of sentences of imprisonment following a final judgment resulting in conviction;

*Whereas* Article 162 (4) and (8) of the Kosovo Constitution foresees that the Specialist Chambers shall have full legal and juridical personality and shall have all the necessary powers and mandate for their operation, including the service of sentence outside the territory of Kosovo for anyone convicted (hereinafter 'Convicted Person');

*Recollecting* the Specialist Chambers' Practice Direction on the Designation of the State of Enforcement, which regulates the designation of States for the enforcement of sentences against Convicted Persons of the Specialist Chambers, in line with the 2014 Exchange of Letters, Article 164(4) and (8) of the Kosovo Constitution, Articles 50(1) and 57 of Law No. 05/L-053 ('Law') on Specialist Chambers and Specialist Prosecutor's Office, and Rule 166 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ('Rules');

*Noting* that pursuant to the aforementioned Practice Direction, as soon as the Trial Panel renders a judgment convicting the Accused person, the Registrar shall engage with States on a confidential basis about their willingness to accept a Convicted Person for the enforcement of a sentence of imprisonment;

*Whereas* Articles 4 and 57 of the Law permit the Specialist Chambers to enter into arrangements with States for the purpose of fulfilling its mandate or in furtherance of its operations in accordance with the Law, in particular with regard to the service of sentence;

*Recalling* Article 50(1) of the Law and Rule 166 of the Rules, pursuant to which imprisonment of a Convicted Person shall be served in a State designated by the President of the Specialist Chambers from among States that have indicated their willingness to accept persons convicted by the Specialist Chambers for the duration of the sentence imposed, pursuant to arrangements concluded by the Specialist Chambers;

*Recollecting* Articles 50(2) and 57(3) of the Law, according to which the conditions of imprisonment shall be governed by the law of the State of enforcement, subject to the supervision of the Specialist Chambers, which shall retain its supervision responsibility until the sentence of imprisonment has been served and the convicted person released;

*Mindful of* the internationally accepted regulations for the treatment of persons deprived of their liberty;

*Recalling* Articles 50(2) and 51 of the Law, according to which only the Specialist Chambers can modify, alter or commute the duration of the sentence, as further governed by Rules 195 to 197 of the Rules on the commutation of sentence;

*Noting* the willingness of the Requested State to enforce sentences imposed by the Specialist Chambers;

*In order* to give effect to the sentences of the Specialist Chambers;

*Have agreed* as follows:

## **Article 1**

### *Purpose and scope of the Agreement*

This Agreement shall regulate matters relating to or arising out of all requests to the Requested State to enforce sentences imposed by the Specialist Chambers.

## **Article 2**

### *Procedure*

1. The Registrar shall make a preliminary inquiry to the Requested State to provide an indication of its willingness and readiness to enforce a sentence.
2. Upon receiving a positive response to the preliminary inquiry pursuant to paragraph 1, the Registrar shall provide the Requested State with the following documents concerning the Convicted Person who the Specialist Chambers considers transferring for the purpose of serving the imposed sentence:
  - a. a certified copy of the relevant judgement(s) in a working language of the Specialist Chambers;
  - b. where applicable, a statement indicating how much of the sentence has already been served, including information on any pre-trial detention;
  - c. when appropriate, the medical records of the Convicted Person, any recommendation for treatment in the Requested State, and any other factor relevant to the enforcement of the sentence; and
  - d. certified copies of identification papers of the Convicted Person in the possession of the Specialist Chambers.
3. All communications to the Requested State relating to matters provided in this Agreement shall be made to the Belgian central authority responsible for this Agreement, *i.e.* the International Humanitarian Law Unit of the Federal Public Service Justice. The contact persons in the Belgian central authority and at the Registry of the Specialist Chambers are indicated in the annex to this Agreement. The annex may be amended at any time by notification of the party concerned. The amendment shall take effect upon receipt by the other party.
4. The competent national authorities of the Requested State shall promptly decide on the Registrar's request, in accordance with the Law of 29 March 2004 on cooperation with the International Criminal Court and international criminal tribunals, and notify the Registrar in writing of its decision whether or not to accept the Convicted Person.

### Article 3

#### *Enforcement of the sentence and Supervision*

1. In enforcing the sentence pronounced by the Specialist Chambers, the competent national authorities of the Requested State shall be bound by the duration of the sentence so pronounced and ensure the sentence is served in a prison facility identified and agreed to by the parties.
2. In the event that the sentence pronounced by the Specialist Chambers exceeds the upper limit of the statutory penalty stipulated in the Requested State's national law for the same kind of offence, the Requested State shall notify the Registrar in writing, six months in advance of the date of the completion of the part of the sentence enforceable in the Requested State, and Article 11 of this Agreement shall be applied accordingly.
3. The conditions of imprisonment are governed by the legislation of the Requested State, subject to the supervision of the Specialist Chambers, as provided for in Articles 6 to 8 and in paragraphs 2 and 3 of Article 10 below.
4. In order to supervise the enforcement of sentences of imprisonment, the Specialist Chambers may, *inter alia*:
  - a. when necessary, request any information, report or expert opinion from the Requested State or from any reliable sources;
  - b. where appropriate, delegate a judge or a member of the staff of the Specialist Chambers who will be responsible, after notifying the Requested State, for meeting the Convicted Person and hearing his or her views, without the presence of national authorities of the Requested State;
  - c. where appropriate, give the Requested State an opportunity to comment on the views expressed by the Convicted Person under paragraph (b) of this article.
5. The conditions of imprisonment shall be consistent with the internationally accepted regulations for the treatment of persons deprived of their liberty, applicable in the Requested State.
6. Pursuant to Article 51(3) of the Law, a Convicted Person serving his/her sentence may make an application to the Specialist Chambers should the conditions of detention fail to comply with international standards and fundamental human rights protections.

### Article 4

#### *Transfer of the Convicted Person*

1. The Registrar shall make all necessary arrangements for the transfer of the Convicted Person to the competent authorities of the Requested State. Before such transfer, the Registrar shall inform the Convicted Person of the contents of this Agreement.
2. If, after transfer of a Convicted Person to the Requested State, the Specialist Chambers, in accordance with its Rules, orders that the Convicted Person appear in a proceeding before the Specialist Chambers, the Convicted Person shall be transferred temporarily to the Specialist Chambers' detention facility for that purpose, conditioned upon his/her return to the Requested State within the period decided by the Specialist Chambers.
3. The Registrar shall transmit the order for the temporary transfer of the Convicted Person to the competent authorities of the Requested State. The Registrar shall ensure the proper transfer of the



Convicted Person from the Requested State to the Specialist Chambers' detention facilities and back to the Requested State for his/her continued imprisonment after the expiration of the period of temporary transfer decided by the Specialist Chambers. The Convicted Person shall receive credit for the period spent in the custody of the Specialist Chambers.

4. The Requested State shall cooperate with the Specialist Chambers in the event of the need to evacuate the Convicted Person in case of an emergency which, in the view of the Specialist Chambers, necessitates an evacuation and transfer to another prison in the Requested State or to another State.

#### **Article 5**

##### *Non bis in idem*

The Convicted Person shall not be tried before a court of the Requested State for acts for which they have already been tried by the Specialist Chambers.

#### **Article 6**

##### *Inspection*

1. The competent authorities of the Requested State shall allow the inspection of the conditions of detention and the treatment of the prisoner(s) at any time and on a periodic basis by the International Committee of the Red Cross (ICRC) and by the Specialist Chambers' Ombudsperson. The frequency of the visits will be determined by the ICRC and the Specialist Chambers' Ombudsperson. The Specialist Chambers may furthermore request the ICRC and the Specialist Chambers' Ombudsperson to carry out such an inspection. The ICRC and the Specialist Chambers' Ombudsperson will submit a confidential report based on the findings of these inspections to the Requested State and to the President and Registrar of the Specialist Chambers.

2. The Requested State, the President and the Registrar of the Specialist Chambers shall consult each other on the findings of the reports referred to in the previous paragraph 1. The President of the Specialist Chambers may thereafter request the Requested State to report to her/him any changes to the conditions of detention suggested by the ICRC and the Specialist Chambers' Ombudsperson.

3. Notwithstanding the provisions of paragraph 1 of this Article, the competent authorities of the Requested State shall allow the Registrar or her/his designated representative, to inspect the facilities housing the Convicted Persons, consult or meet with relevant authorities on all matters related to enforcement of sentences, and visit the Convicted Persons.

#### **Article 7**

##### *Information*

1. The relevant authorities of the Requested State and the Registrar shall maintain open, direct, and regular communication and shall consult each other on all matters relating to the enforcement of the sentence, upon request by either party. The relevant authorities of the Requested State shall facilitate communications to and from Convicted Persons and the Specialist Chambers.

2. The Requested State shall immediately notify the Registrar:

- a. at least two months prior to the completion of the Convicted Person's Sentence;
- b. if the Convicted Person has escaped from custody;
- c. in the event of the serious illness or injury of the Convicted Person;

- d. if the Convicted Person has died.
3. Upon request of the Specialist Chambers, the Requested State shall provide any information regarding the conditions of detention of the Convicted Persons, including medical information, taking into account confidentiality requirements.
4. The Requested State shall treat as confidential any communication related to the enforcement of sentences of the Convicted Persons, except where the Specialist Chambers indicates otherwise.

## **Article 8**

### *Commutation, Modification or Alteration of sentence*

1. Only the Specialist Chambers shall have the authority to decide on a commutation, modification or alteration of sentence. The Requested State shall not prevent the convicted person from submitting such a request.
2. The procedure for commutation, modification or alteration of sentences and the decision of the President thereon are regulated only by the relevant legal documents of the Specialist Chambers.
3. In the determination of eligibility of the Convicted Person, consideration shall be given to the length of the sentence imposed by the Specialist Chambers and the necessity to ensure equality of treatment among Convicted Persons. The President of the Specialist Chambers shall adjudicate on this matter after hearing the Convicted Person's submissions.
4. The Registrar shall inform the Requested State of the President's decision.
5. Decisions rendered by the Specialist Chambers shall be immediately enforceable in the Requested State.

## **Article 9**

### *Pardon*

Pursuant to Article 51 of the Law, the judgments of the Specialist Chambers shall not be subject to any pardon granted under Article 84(29) of the Kosovo Constitution, nor shall any person convicted by the Specialist Chambers be eligible for pardon, regardless of where their sentence is served.

## **Article 10**

### *Termination of enforcement*

1. The enforcement of the sentence shall terminate:
  - a. when a Convicted Person has completed his/her sentence;
  - b. when a Convicted Person has died;
  - c. when a Convicted Person has been released as a result of being granted commutation of sentence by the Specialist Chambers; or
  - d. when the Specialist Chambers has issued a decision as referred to in paragraph 2 below.
2. The Specialist Chambers may at any time decide to request the termination of the enforcement of the sentence in the Requested State and transfer the Convicted Person to another State or to the Specialist Chambers.

3. The competent authorities of the Requested State shall terminate the enforcement of the sentence as soon as they have been notified by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.

4. Upon the termination of the enforcement of a sentence, the Registrar shall in consultation with the Requested State, make the appropriate arrangements for the transfer of the Convicted Person from the Requested State, or in the case of death, the repatriation of the Convicted Person's body.

#### **Article 11**

##### *Impossibility of enforcing the sentence*

If at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, the Requested State shall promptly inform the Registrar of the Specialist Chambers. The Registrar shall then make the appropriate arrangements for the transfer of the Convicted Person. The competent authorities of the Requested State shall allow for at least sixty days following notification of the Registrar before taking other measures on the matter.

#### **Article 12**

##### *Costs*

The Specialist Chambers shall assume the costs of transferring the Convicted Person to and from the Requested State, unless the parties agree otherwise. The Requested State shall pay all other expenses incurred by the enforcement of the sentence.

#### **Article 13**

##### *Substitution Clause*

As per Article 60 of the Law, any residual mechanism established to manage residual Specialist Chambers matters will take over all functions of the President, the Registrar and the Judges pertaining to the execution of this Agreement.

#### **Article 14**

##### *Entry into force*

This Agreement shall enter into force on the date the Requested State has notified the Registrar of completion of the relevant internal procedures necessary for the entry into force of the Agreement.

#### **Article 15**

##### *Duration of the Agreement*

1. The Agreement shall remain in force as long as sentences of the Specialist Chambers are being enforced by the Requested State under the terms and conditions of this Agreement.

2. Upon consultation, either party may terminate this Agreement with six months' prior written notice in writing. This Agreement shall not be terminated before the sentences to which it applies



have been terminated and, if applicable, before the transfer of the Convicted Person as provided for in Article 11 has been effected.

#### Article 16

##### *Amendment*

This Agreement may be amended by written agreement of the parties.

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

Done at Bruxelles and Rixensart, on 12 June 2025, in duplicate, in French and English, both versions being equally authoritative.

FOR THE SPECIALIST CHAMBERS



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Dr Fidelma Donlon  
Registrar

FOR THE GOVERNMENT OF  
BELGIUM AND THE CENTRAL  
AUTHORITY



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Mr Gérard Dive  
Head of the Central Authority