

**AGREEMENT BETWEEN THE
REPUBLIC OF AUSTRIA
AND
THE SPECIAL COURT FOR SIERRA LEONE
ON THE ENFORCEMENT OF SENTENCES
OF THE SPECIAL COURT FOR SIERRA LEONE**

The Republic of Austria (hereinafter “requested State”) and

The Special Court for Sierra Leone, established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone signed on 16 January 2002 (hereinafter “Special Court”),

RECALLING Article 22 of the Statute of the Special Court annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court, according to which imprisonment of persons sentenced by the Special Court shall be served in Sierra Leone; or if circumstances so require, in any State that has concluded with the International Criminal Tribunal For Rwanda or the International Criminal Tribunal for the former Yugoslavia an agreement for the enforcement of sentences and which has indicated to the Special Court its willingness to accept convicted persons; or alternatively, in any State with which the Special Court has concluded similar agreements;

RECALLING United Nations Security Council Resolution 1470 (2003), adopted on 28 March 2003, which urges all the States to cooperate fully with the Special Court;

NOTING the willingness of the requested State to enforce sentences imposed by the Special Court;

RECALLING the provisions of the Standard Minimum Rules for the Treatment of Prisoners approved by ECOSOC resolutions 663 C XXIV) of 31 July 1957 and 2067 (LXII) of 13 May 1977, 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;

IN ORDER to give effect to the judgements and sentences of the Special Court;

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 Special Court.

Article 2

Procedure

1. A request to the Republic of Austria to enforce a sentence shall be made by the Registrar of the Special Court (hereinafter: “the Registrar”), with the approval of the President of the Special Court.
2. The Registrar shall provide the following documents to the requested State when making the request:
 - (a) a certified copy of the judgement;
 - (b) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention;
 - (c) when appropriate, any medical or psychological reports on the convicted person, any recommendation for his or her further treatment in the requested State and any other factor relevant to the enforcement of the sentence.
3. The requested State shall submit the request to the competent national authorities, in accordance with the national law of the requested State.
4. The competent national authorities of the requested State shall promptly decide upon the request of the Registrar, in accordance with national law. Unless the person concerned is an Austrian citizen the competent national authorities of the requested State may reject the request of the

enforcement of the sentence if it would entail untenable disadvantages for the security and public order of the Republic of Austria.

Article 3

Enforcement

1. In enforcing the sentence pronounced by the Special Court, the competent national authorities of the requested State shall be bound by the duration of the sentence.
2. The conditions of imprisonment shall be governed by the law of the requested State, subject to the supervision of the Special Court, as provided for in Articles 6 to 8 and paragraphs 2 to 4 of Article 9 below.
3. The conditions of imprisonment shall be equivalent to those applicable to prisoners serving sentences under Austrian law and shall be in accordance with relevant human rights standards.

Article 4

Transfer of the convicted person

The Registrar shall make appropriate arrangements for the transfer of the convicted person from the Special Court to the competent authorities of the requested State. Prior to his or her transfer, the convicted person will be informed by the Registrar of the contents of this Agreement.

Article 5

Rule of Speciality

1. A convicted person transferred to the requested State pursuant to the terms of this Agreement shall not be prosecuted or proceeded against in the requested State for any act or conduct committed prior to his or her transfer to the requested State, unless:
 - (a) the convicted person stays on the territory of the requested State for more than 45 days after his or her release, despite the fact that he or she could leave the requested State; or
 - (b) the convicted person leaves the requested State and:
 - (i) returns voluntarily; or
 - (ii) is lawfully brought back by another State.

Article 6

Monitoring

1. The competent authorities of the requested State shall allow the inspection of the conditions of detention and the treatment of the prisoner(s) by the Special Court, or an entity designated by it, in accordance with Austrian law. The Special Court shall determine the frequency of visits. The Special Court or the entity designated by it shall submit a confidential report based on the findings of these inspections to the requested State.
2. The requested State and the President of the Special Court shall consult each other on the findings of the reports referred to in paragraph 1. The President of the Special Court may thereafter request the requested State to report to him or her any changes in the conditions of detention suggested in the reports.

Article 7

Information

1. The requested State shall immediately notify the Registrar:
 - (a) two months prior to the completion of the sentence;
 - (b) if the convicted person has escaped from custody before the sentence has been completed;
 - (c) if the convicted person has deceased.
2. Notwithstanding the previous paragraph, the Registrar and the requested State shall consult each other on all matters relating to the enforcement of the sentence upon the request of either party.

Article 8

Early release, pardon and commutation of sentences

1. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for early release, pardon or commutation of the sentence, the requested State shall notify the Registrar accordingly.
2. The requested State shall inform the Registrar of all circumstances pertaining to the eligibility for early release, pardon or commutation of the sentence.
3. The President of the Special Court shall determine, in consultation with the Judges of the Special Court, whether any early release, pardon or commutation of the sentence is appropriate. The Registrar shall inform the requested State of the President's determination. If the President determines that an early release, pardon or commutation of the sentence is not appropriate, the requested State shall continue the enforcement of the sentence accordingly.

Article 9

Termination of enforcement

1. The enforcement of the sentence shall cease:
 - (a) when the sentence has been completed;
 - (b) upon the demise of the convicted;
 - (c) upon the pardon of the convicted;
 - (d) following a decision of the Special Court as referred to in paragraph 2.
2. The Special Court may at any time decide to request the termination of the enforcement in the requested State and transfer the convicted person to another State or to the Special Court.
3. The competent authorities of the requested State shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.
4. The provisions of this Agreement shall be without prejudice to the right of the requested State to deport the convicted person after the completion of his or her sentence enforced pursuant to this Agreement, unless the Special Court notifies the requested State of the willingness of another State to accept the convicted person.

Article 10

Impossibility to enforce 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. The Registrar shall 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 the notification of the Registrar before taking other measures on the matter.

Article 11

Costs

The Special Court shall bear the expenses related to the transfer of 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 12

Entry into force

This Agreement is subject to ratification by the requested State and shall enter into force on the first day of the second month that follows the month in which Austria has informed the Special Court that the national procedures have been completed.

Article 13

Duration of the Agreement

1. Upon consultation, either party may terminate this Agreement, with two months prior notice. This Agreement shall not be terminated before the sentences to which this Agreement applies

have been completed or terminated and, if applicable, before the transfer of the convicted as provided for in Article 10 has been effected.

2. Notwithstanding paragraph 1 of this Article, this Agreement shall be applicable as long as the requested State has notified its willingness to enforce sentences of the Special Court.
3. Articles 3 and 5 to 11 shall remain applicable as long as sentences of the Special Court are being enforced by the requested State under the terms and conditions of this Agreement.

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

DONE at New York on 16 March 2005 in duplicate, in the English language.

For the Republic of Austria:
Dr. Gerhard Pfanzelter m.p.

For the Special Court:
Robert Vincent m.p.