

**法規名稱：**Arrangement between the Taipei Representative Office in the Federal Republic of Germany and the German Institute in Taipei on the Transfer of Sentenced Persons and Cooperation in the Enforcement of Penal Sentences

**簽訂日期：**民國 102 年 11 月 06 日

**生效日期：**民國 103 年 02 月 07 日

The Taipei Representative Office in the Federal Republic of Germany and

the German Institute in Taipei

(in short, both Sides),

desire to cooperate in the transfer of sentenced persons and in the enforcement of penal sentences, with a view to facilitating the successful reintegration of sentenced persons into society, and

have come to the following understanding:

## I. Purpose

Both Sides share the view that this objective can be achieved by giving foreigners who are deprived of their liberty as a result of having committed criminal offences an opportunity to serve the sentence imposed on them in their homeland.

Both Sides therefore declare their willingness, under the pertinent laws and regulations, to transfer sentenced persons who wish to be transferred, according to the principles of humanity, security, speed, simplicity and reciprocity, by cooperating on the enforcement of the imposed penal sentences in the sentenced persons' homelands.

## II. Definitions

1. A “ sentence ” means imprisonment for life or for a fixed term imposed by a court of the transferring Side.

2. A “sentenced person” means a person who is required to be detained in the prisons or other correctional facilities of the transferring Side to serve a sentence by virtue of decisions made by a court of that Side as a result of committing a criminal offence.
3. The “transferring Side” means the Side by which the sentence was imposed and from which the sentenced person may be, or has been, transferred.
4. The “receiving Side” means the Side to which the sentenced person may be, or has been, transferred in order to serve the sentence.

### III. Contacting Authorities

The contacting authorities responsible for the implementation of this Arrangement will be

- a) the German Institute in Taipei;
- b) the Taipei Representative Office in the Federal Republic of Germany.

### IV. Application

1. The transfer of sentenced persons and cooperation in the enforcement of penal sentences will be subject to the following conditions:
  - a) the sentenced person is a passport holder of the receiving Side;
  - b) the decision is final and no other legal proceedings relating to the offence or any other offence are pending in the transferring Side;
  - c) the transferring Side, the receiving Side and the sentenced person or a person entitled to act on the sentenced person's behalf all consent; and
  - d) the acts or omissions on account of which the sentence has been imposed constitute the essential elements of a criminal offence according to the law of the receiving Side or would constitute such elements of a criminal offence if it were

- committed in the area of application of the laws of the receiving Side.
2. The transfer request made pursuant to the laws of both Sides and this Arrangement can be initiated by either Side in writing, either in the German or Chinese language, with a translation into the other language. The request should include:
    - a) a statement of the facts on which the sentence is based;
    - b) the termination date of the sentence, the length of time already served by the sentenced person and any credits to which he/she is entitled on account of good behaviour, pre-trial confinement or for other reasons;
    - c) a certified copy of all decisions concerning the sentenced person and the laws on which they are based.
  3. The transferring Side should afford an opportunity to the receiving Side to verify through an official designated by the receiving Side, prior to the transfer, that the necessary consent of the sentenced person or of a person entitled to act on his behalf has been given voluntarily and with full knowledge of the legal consequences thereof.

#### V. Enforcement of Sentences

1. Both Sides declare their willingness, should both Sides consent to the transfer of sentenced persons or to cooperation in the enforcement of penal sentences, to encourage the competent authorities to take all necessary measures.
2. The continued enforcement of the sentence after transfer should be governed by the laws and procedures of the receiving Side.
3. No sentence should be enforced by the receiving Side beyond the period specified under the terms of the sentence imposed by the court of the transferring Side. The imposed sentence cannot be transformed into the death penalty nor can sentences be enforced which are based on the death penalty.

4. The receiving Side should inform the transferring Side when the sentenced person is discharged upon the completion of the sentence or if he/she is granted conditional release.

#### VI. Retention of Jurisdiction

1. Where sentences are enforced pursuant to the laws of the receiving Side and this Arrangement, it is understood that only the transferring Side may propose any revision or cancellation of the decisions of its courts and any revision of the sentences imposed by them.
2. Any amnesty granted by the receiving Side to the sentenced person should only be granted with the consent of the transferring Side

#### VII. Final Provisions

1. Both Sides share the opinion that the expenses incurred in the transfer of the sentenced person or in the enforcement of the sentence after transfer should be borne by the receiving Side.
2. The provisions of this Arrangement can be applied to the enforcement of sentences imposed either before or after its coming into operation.
3. Both Sides will begin to cooperate as envisaged by this Arrangement on the thirtieth day after both Sides have informed each other in writing that they are prepared to commence such cooperation.

This Arrangement is signed in duplicate in the Chinese, English and German languages, all three texts being equally valid.

In case of divergent interpretation of the Chinese and German texts, the English text can be used as an interpretation aid.

For the Taipei Representative      For the German Institute

Office in the Federal                      in Taipei  
Republic of Germany

陳華玉                      Michael Zickerick