



**Agreement between the International Criminal Court and the
Government of the Kingdom of Belgium on the Enforcement
of Sentences of the International Criminal Court**

ICC-PRES/06-01-10

Date of entry into force: 1 June 2010

Official Journal Publication

**AGREEMENT BETWEEN THE INTERNATIONAL CRIMINAL COURT AND THE
GOVERNMENT OF THE KINGDOM OF BELGIUM ON THE ENFORCEMENT OF
SENTENCES OF THE INTERNATIONAL CRIMINAL COURT**

The International Criminal Court (hereinafter referred to as “the Court”) and
The Government of the Kingdom of Belgium (hereinafter referred to as “Belgium”),

PREAMBLE

RECALLING article 103 of the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries (hereinafter referred to as “the Rome Statute”), 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 of the Rules of Procedure and Evidence of the Court (hereinafter referred to as “the Rules”), 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 standards of international law governing the treatment of prisoners, including 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;

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

IN ORDER to establish a framework for the acceptance of persons sentenced by the Court and to provide for conditions under which the sentences will be enforced in territory of Belgium;

HAVE AGREED as follows:

Article 1

Purpose and scope of the Agreement

This Agreement shall regulate matters relating to or arising out of the enforcement of sentences imposed by the Court in prison facilities designated for this purpose by Belgium.

Article 2

Procedure

1. The Presidency of the Court (hereinafter referred to as “the Presidency”), when notifying Belgium of its designation to enforce a sentence in a particular case, shall transmit to Belgium *inter alia* the following information and documents:
 - a) a certified copy of the judgement;
 - b) a statement indicating how much of the sentence has already been served, including all information on any pre-trial detention;
 - c) after having heard the views of the sentenced person, where appropriate, any necessary information concerning the state of his or her health, including any medical treatment that he or she is receiving, or psychological reports on the sentenced person, any recommendation for his or her further treatment in Belgium, and any other factor relevant to the enforcement of the sentence.
2. The central authority for Belgium is the Minister of Justice. The focal points within the Belgian administration (Federal Public Service Justice) and within the Court will be designated and communicated through a separate confidential document to be annexed to this Agreement. Changes to the designated focal points shall be communicated by either party to the other and shall be effective upon receipt by the other party.
3. Belgium shall submit the notification of the designation referred to in paragraph 1 above to the competent national authorities, in accordance with its national law.
4. Belgium shall promptly decide upon such designation, in accordance with its national law, and inform the Presidency within a reasonable time.
5. Belgium may at any time withdraw its conditions of acceptance for the inclusion in the List of States of enforcement. Any amendments or additions to such conditions shall be subject to confirmation by the Presidency.

Article 3

Delivery

The Registrar of the Court, in consultation with Belgium, shall make appropriate arrangements for the proper conduct of the delivery of the sentenced person from the Court to the territory of Belgium. Prior to the delivery, the sentenced person shall be informed by the Presidency of the contents of this Agreement.

Article 4

Enforcement

1. Subject to the conditions contained in this Agreement, the sentence of imprisonment shall be binding on Belgium, which shall in no case modify it.
2. 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 treatment of prisoners.
3. If, after delivery of the sentenced person to the territory of Belgium, the Court, in accordance with the Rome Statute and the Rules, orders that the sentenced person appear for a hearing before the Court, the sentenced person shall be transferred temporarily to the Court, conditional on his or her return to the territory of Belgium within the period decided by the Court.
4. The Presidency may authorize the temporary extradition of the sentenced person to a third 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 the third State and transferred back to Belgium after prosecution.

Article 5

Communication

1. Communications between a sentenced person and the Court shall be unimpeded and confidential.
2. The Presidency and Belgium shall establish appropriate arrangements for the exercise by a sentenced person of his or her right of communication with the Court.

Article 6

Supervision of enforcement

1. The conditions of imprisonment shall be governed by the law of Belgium and shall be consistent with widely accepted international standards governing treatment of prisoners; in no case shall such conditions be less favorable than those available to prisoners convicted of similar offences in Belgium.
2. In order to supervise the enforcement of sentences of imprisonment, the Presidency may, *inter alia*:
 - a) when necessary, request any information, report or expert opinion from Belgium 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 Belgium, for meeting the sentenced

person and hearing his or her views, without the presence of national authorities of Belgium;

- c) where appropriate, give Belgium an opportunity to comment on the views expressed by the sentenced person under paragraph (b) of this article.

Article 7

Inspection

1. Belgium 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") at any time and on a periodic basis, the frequency of visits to be determined by the ICRC. The ICRC will submit a confidential report based on the findings of these inspections to Belgium and to the Presidency.
2. Belgium and the Presidency shall consult each other on the findings of the reports referred to in paragraph 1 of this Article. The Presidency may thereafter request Belgium to report to it any changes in the conditions of imprisonment suggested by the ICRC.

Article 8

Conditions of enforcement

1. Belgium shall notify the Presidency of any circumstances, including the exercise of any conditions agreed when declaring its willingness to be included in the List of States of enforcement, which could materially affect the terms or extent of the imprisonment. The Presidency shall be given at least 45 days' notice of any such known or foreseeable circumstances. During this period, Belgium shall take no action that might prejudice its obligations. Where the Presidency cannot agree to the aforementioned circumstances, it shall inform Belgium and transfer the sentenced person to a prison of another State.
2. When a sentenced person is eligible for a prison programme or benefit available under the national law of Belgium which may entail some activity outside the prison facilities, Belgium shall communicate that fact to the Presidency, together with any relevant information or observation, to enable the Court to exercise its supervisory function.

Article 9

Information

1. Belgium shall immediately notify the Presidency of the following:
 - a) the completion of the sentence by the sentenced person, two months prior to the completion of the sentence;
 - b) if the sentenced person has escaped;
 - c) if the sentenced person has deceased; and

- d) a request of extradition of the sentenced person.
2. Belgium shall notify the Presidency, 30 days before the scheduled completion of the sentence served by the sentenced person, of the relevant information concerning the intention of Belgium to authorize the person to remain in its territory or the location to which it intends to transfer the person.
 3. Belgium shall notify the Presidency of any important event concerning the sentenced person, and of any prosecution of that person for events subsequent to his/her transfer.
 4. For purposes of extension of the term of imprisonment, the Presidency may ask for observations from Belgium.

Article 10

Ne bis in idem

The sentenced person shall not be tried before a court of Belgium with respect to conduct which formed the basis of crimes for which the person has already been convicted or acquitted by the Court.

Article 11

Rule of speciality

1. In accordance with article 108 of the Rome Statute, a sentenced person in the custody of Belgium pursuant to the enforcement of a sentence of the Court shall not be subject to prosecution, punishment or to extradition to a third State for any conduct engaged in prior to that person's transfer to the territory of the Belgium, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of Belgium.
2. Paragraph 1 of this Article shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of Belgium after having served the full sentence imposed by the Court, or returns to the Belgian territory after having left it.

Article 12

Appeal, revision and reduction of sentence

1. The Court alone shall have the right to decide on any application for appeal and revision. Belgium shall not impede the making of any such application by the sentenced person.
2. The Court alone shall have the right to decide any reduction of sentence, and shall rule on the matter after having heard the sentenced person.

Article 13

Escape

1. If the sentenced person has escaped, Belgium 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 the territory of Belgium, Belgium 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.
3. If the State in which the sentenced person is located agrees to surrender him or her to Belgium, pursuant to either international agreements or its national legislation, Belgium shall so advise the Registrar in writing. The person shall be surrendered to Belgium as soon as possible, if necessary in consultation with the Registrar, pursuant to rule 225 of the Rules.
4. If the sentenced person is surrendered to the Court, then the Court shall transfer him or her to Belgium. Nevertheless, the Presidency may, acting on its own motion or at the request of the Prosecutor or of Belgium, 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 14

Change in designation of State of enforcement

1. The Presidency, acting on its own motion or at the request of the sentenced person or the Prosecutor, may, at any time, decide to transfer a sentenced person to a prison of another State.
2. A sentenced person serving a sentence in Belgium may apply at any time to the Presidency to be transferred from Belgium.
3. The Presidency shall notify the sentenced person, the Prosecutor, the Registrar and Belgium of its decision.

Article 15

Termination of enforcement

1. The enforcement of the sentence shall cease:
 - a) when the Court's sentence has been completed;
 - b) upon the demise of the sentenced person;
 - c) following a decision of the Court to transfer the sentenced person to another State in accordance with the Rome Statute and the Rules;
 - d) upon release following proceedings under Article 12 of this Agreement.
2. Belgium 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.

Article 16

Transfer of the sentenced person upon completion of the sentence

1. Following completion of the sentence, a sentenced person who is not a national of Belgium may, in accordance with its national law, 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 Belgium, in accordance with its national law, authorizes the person to remain in its territory.
2. Subject to the provisions of Article 11, Belgium 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 17

Impossibility to enforce sentences

1. If, at any time after the decision has been taken to enforce a sentence, further enforcement has, for any legal or practical reasons beyond the control of Belgium, become impossible, Belgium shall promptly inform the Presidency.
2. The Court shall make appropriate arrangements for the transfer of the sentenced person.
3. Belgium shall allow at least sixty days following the notification of transfer by the Presidency before taking other measures on the matter.

Article 18

Costs

1. The ordinary costs for the enforcement of a sentence in the territory of Belgium shall be borne by Belgium.
2. Other costs, including those for the transport of the sentenced person from and to the seat of the Court and to and from the territory of Belgium, shall be borne by the Court, in particular the costs foreseen under Article 4(3) and 4(4) of the present Agreement.
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 19

General cooperation

Belgium shall take all necessary measures to ensure the efficient execution of this Agreement and to ensure the appropriate security, safety and protection of the sentenced persons.

Article 20

Entry into force

This Agreement shall enter into force upon the signature by both parties.

Article 21

Amendments

This Agreement may be amended, after consultation, by mutual consent of the parties.

Article 22

Termination of the Agreement

Upon consultation, either party may terminate this Agreement, with two months prior written notice. Such termination shall not affect sentences in force at the time of the termination, and the provisions of this 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 14 of this Agreement.

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

Done at *Kampala* this *first* day of *June*, 2010, in duplicate, in the French language.

FOR THE COURT

[signed]
Judge Sang-Hyun Song
President of the International Criminal Court

**FOR THE GOVERNMENT OF
BELGIUM**

[signed]
Mr Stefaan De Clerck
Minister of Justice, central authority for
cooperation with the International Criminal
Court