



**TREATY**  
**BETWEEN**  
**THE REPUBLIC OF COLOMBIA**  
**AND**  
**THE PEOPLE'S REPUBLIC OF CHINA**  
**ON THE TRANSFER OF SENTENCED PERSONS**

The Republic of Colombia and The People's Republic of China (hereinafter referred to as "the Parties"),

On the basis of respect for the principles of sovereignty, reciprocity, equality and mutual benefit,

Reaffirming the common aim of guaranteeing the dignity and welfare of the sentenced persons,

Desiring to strengthen judicial cooperation in criminal matters between the two countries,

In order to have sentenced persons serve their sentences in their country of nationality to facilitate their social rehabilitation,

Have agreed as follows:

**ARTICLE 1**  
**DEFINITIONS**

For the purposes of this Treaty:

- (a) "Transferring Party" means the Party which may transfer or has transferred a sentenced person out of its territory;
- (b) "Receiving Party" means the Party which may receive or has received a sentenced person into its territory;
- (c) "Sentenced person" means a person who has been sentenced by a court to imprisonment in the Transferring Party;
- (d) "Sentence" means any punishment involving deprivation of liberty imposed by a court of the Transferring Party on account of a criminal offence;
- (e) "National" means:
  - i. In relation to the Republic of Colombia, a person who has the nationality of the Republic of Colombia;
  - ii. In relation to the People's Republic of China, a person who has the nationality of the People's Republic of China.



## **ARTICLE 2 GENERAL PROVISIONS**

Each Party may, in accordance with the provisions of this Treaty, transfer a sentenced person to the other Party to enforce the sentence imposed against the person by the Transferring Party in the territory of the Receiving Party.

## **ARTICLE 3 CENTRAL AUTHORITIES**

1. For the purpose of implementing this Treaty, the Parties shall communicate in writing with each other through the Central Authorities, or when necessary, through diplomatic channels.
2. The Central Authorities referred to in paragraph 1 of this Article shall be the Ministry of Justice for the People's Republic of China and the Ministry of Justice and Law for the Republic of Colombia.
3. Should either Party change its designated Central Authority, it shall promptly notify the other Party of such change in writing through diplomatic channels.

## **ARTICLE 4 CONDITIONS FOR TRANSFER**

1. A sentenced person may be transferred if:
  - (a) the sentenced person is a national of the Receiving Party;
  - (b) the conduct on account of which the sentence was imposed against the sentenced person also constitutes an offence under the laws of the Receiving Party;
  - (c) the judgment imposed against the sentenced person is effective without any possibility of further appeal;
  - (d) there are no pending proceedings in the Transferring Party against the sentenced person;
  - (e) at the time of receipt of the request for transfer, the sentenced person still has at least one year of the sentence to serve, unless otherwise agreed;
  - (f) the transfer is consented to in writing by the sentenced person, or by the person's legal representative when either Party considers it necessary in view of the person's age or physical or mental condition; and
  - (g) both Parties agree to the transfer.
2. The considerations that justify the transfer shall be contemplated in each Party's domestic laws, regulations or practice.



## **ARTICLE 5 DECISION TO TRANSFER**

Regardless of the fulfilment of the conditions provided in this Treaty, each Party may determine at its discretion whether or not to agree to the transfer requested by the other Party.

## **ARTICLE 6 REQUESTS AND REPLIES**

1. A sentenced person may apply to either Party for a transfer under this Treaty. The Party to which the sentenced person has made an application for transfer must notify the other Party in writing of the application.
2. A request for transfer may be made by either Party. The requested Party shall promptly inform the requesting Party of its decision as to whether or not to agree to the requested transfer.
3. Requests for, and replies to transfers shall be made in writing and transmitted through the channels as provided for in paragraph 1 of Article 3 of this Treaty.

## **ARTICLE 7 REQUIRED DOCUMENTS**

1. If a transfer is requested, the Transferring Party shall provide the following documents or statements to the Receiving Party, unless the requested Party has already indicated that it will not agree to the transfer:
  - (a) a certified copy of the judgment, including the relevant provisions of law on which the judgment is based;
  - (b) a statement indicating the category of the penalty, the term of the punishment and the starting date for calculating the term;
  - (c) a statement describing the behavior of the person during the service of the sentence and the period of time already served and remaining to be served as well as the time spent in pre-trial detention, any reduction of sentence and other factors relevant to the enforcement of the sentence;
  - (d) a written declaration of the consent to transfer as referred to in Article 4 of this Treaty;  
and
  - (e) a statement indicating the physical and mental conditions of the sentenced person.
2. The Receiving Party shall provide the Transferring Party with the following documents or statements:
  - (a) documents or statements certifying that the sentenced person is a national of the Receiving Party;
  - (b) relevant provisions of the law of the Receiving Party stipulating that the conduct for which the sentence was imposed against the sentenced person also constitutes an offence; and



- (c) information on the procedures of the Receiving Party, under its domestic law, to enforce the sentence imposed by the Transferring Party.

#### **ARTICLE 8 NOTIFICATION TO THE SENTENCED PERSON**

1. Each Party shall, within its territory, notify sentenced persons, to whom this Treaty is applicable, that he or she may be transferred in accordance with the provisions of this Treaty.
2. Each Party shall inform the sentenced person concerned within its territory, in writing, of the measures taken or decisions made by the Transferring Party or the Receiving Party upon requests for transfer in accordance with Articles 5 and 6 of this Treaty.

#### **ARTICLE 9 CONSENT OF THE SENTENCED PERSON AND ITS VERIFICATION**

1. The Transferring Party shall ensure that the sentenced person or his or her legal representative voluntarily gives consent to the transfer with full knowledge of the legal consequences of the transfer and confirms such knowledge in a declaration indicating consent to the transfer.
2. Where the Receiving Party requests, the Transferring Party shall afford the opportunity to the Receiving Party to verify, through a designated official, that the sentenced person has expressed consent in accordance with the conditions set out in the paragraph above.

#### **ARTICLE 10 DELIVERY OF THE TRANSFERRED PERSON**

Where an agreement is reached on a transfer, the Parties shall determine the time, place and procedure for the transfer, by means of consultation through the channels as provided for in paragraph 1 of Article 3 of this Treaty.

#### **ARTICLE 11 CONTINUED ENFORCEMENT OF SENTENCE**

1. After receiving the sentenced person, the Receiving Party shall continue to enforce the sentence pursuant to the nature and the duration of the sentence determined by the Transferring Party, and the sentence shall be enforced by the Receiving Party in the same manner as a sentence imposed by its own courts.
2. In order to be enforced by the Receiving Party, the sentence, as determined by the Transferring Party, must be definite in its duration. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the Receiving Party, including those governing the reduction of the sentence, parole, and other measures adopted during the enforcement of the sentence.



**ARTICLE 12**  
**RETENTION OF JURISDICTION**

1. The Transferring Party shall retain jurisdiction for the modification, cancellation or other dispositions regarding convictions and sentences imposed by its courts, as applicable under its legal system.
2. The Receiving Party shall modify or terminate enforcement of a sentence as soon as it is informed of any decision by the Transferring Party in accordance with this Article that results in the modification, cancellation or the application of other dispositions regarding a conviction or sentence imposed by its courts.

**ARTICLE 13**  
**INFORMATION ON THE ENFORCEMENT OF THE SENTENCE**

The Receiving Party shall provide information to the Transferring Party concerning the enforcement of the sentence when:

- (a) the enforcement of the sentence has been completed;
- (b) the sentenced person has escaped from custody or died before the enforcement of the penalty has been completed;
- (c) the Transferring Party requests a specific statement.

**ARTICLE 14**  
**TRANSIT**

1. When one Party is to implement an agreement with a third country on the transfer of sentenced persons through the territory of the other Party, the former Party shall request permission from the latter Party for such transit.
2. Such permission is not required where air transportation is used and no landing in the territory of the other Party is scheduled.
3. The requested Party shall, insofar as it is not contrary to its domestic law, grant the request for transit made by the requesting Party.

**ARTICLE 15**  
**LANGUAGE OF COMMUNICATION**

For the purpose of this Treaty, each Party shall communicate in its official language and provide a translation into the official language of the other Party or in English.



#### **ARTICLE 16**

#### **EXEMPTION FROM LEGALIZATION**

For the purpose of this Treaty, any document made by the competent authorities of the Parties and transmitted through the channels as provided for in paragraph 1 of Article 3 of this Treaty, affixed with the signature or seal of the competent authority of one Party, may be used in the territory of the other Party without any form of legalization.

#### **ARTICLE 17**

#### **COSTS**

1. The Receiving Party shall bear the costs of:
  - (a) the transfer of the sentenced person, except the costs incurred exclusively in the territory of the Transferring Party; and
  - (b) the continued enforcement of the sentence after transfer.
2. The Receiving Party may seek to recover all or part of the costs from the sentenced person.

#### **ARTICLE 18**

#### **CONSULTATION**

The Central Authorities of the Parties may consult with each other to promote the effectiveness of this Treaty. The Central Authorities may also take any practical measures that may be necessary for facilitating the implementation of this Treaty.

#### **ARTICLE 19**

#### **SETTLEMENT OF DISPUTES**

Any dispute arising out of the interpretation, application, or implementation of this Treaty shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach an agreement.

#### **ARTICLE 20**

#### **COMPATIBILITY WITH OTHER TREATIES**

This Treaty shall be without prejudice to any rights and obligations of the Parties that arise from other international treaties to which they are both Parties.



**ARTICLE 21**  
**ENTRY INTO FORCE, AMENDMENT AND TERMINATION**

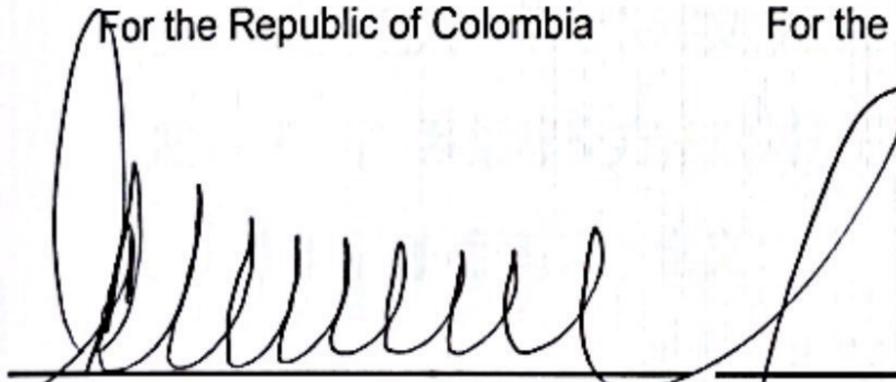
1. Each Party shall inform the other by diplomatic note that all necessary steps have been taken under its laws for entry into force of this Treaty. This Treaty shall enter into force upon the thirtieth (30<sup>th</sup>) day from the date on which the later diplomatic note is received.
2. This Treaty may be amended at any time by written agreement between the Parties. Any such amendment will enter into force in accordance with the same procedure prescribed in paragraph 1 of this Article and will form part of this Treaty.
3. This Treaty applies to any requests for transfer presented after its entry into force even if the relevant offences occurred before the entry into force of this Treaty.
4. Either Party may terminate this Treaty at any time by notice in writing to the other Party through diplomatic channels. Termination shall take effect on the one hundred and eightieth (180<sup>th</sup>) day after the date on which the notice is given. However termination of this Treaty shall not affect any requests made before notification of the termination. Furthermore, notwithstanding any termination, this Treaty shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred under this Treaty before the date on which such termination takes effect.

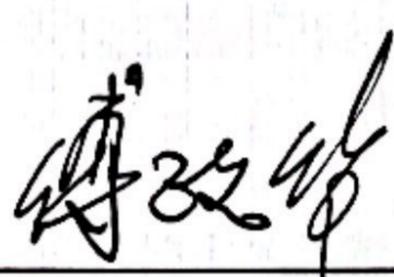
IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective governments have signed this Treaty.

Done in duplicate at Beijing on this 31st day of July 2019, in the Chinese, Spanish and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Republic of Colombia

For the People's Republic of China

  
CARLOS HOLMES TRUJILLO

  
FU ZHENGHUA

GARCÍA

Minister of Foreign Affairs

Minister of Justice



# 哥伦比亚共和国和中华人民共和国 关于移管被判刑人的条约 (中文本)

哥伦比亚共和国和中华人民共和国(以下简称“双方”),在互相尊重主权和平等互利的基础上,为保障被判刑人的尊严与福祉,加强两国在刑事司法领域的合作,使被判刑人得以在其国籍国服刑,以有利于被判刑人重返社会,议定下列各条:

## 第一条 定义

在本条约中:

- (一)“移交方”系指可能或者已经将被判刑人移管出其境内的一方;
- (二)“接收方”系指可能或者已经将被判刑人接收到其境内的一方;
- (三)“被判刑人”系指在移交方被法院判处监禁刑的人;
- (四)“刑罚”系指移交方法院对刑事犯罪作出的剥夺自由刑;
- (五)“国民”分别有以下含义:
  1. 哥伦比亚共和国国民,系指具有哥伦比亚共和国国籍者;
  2. 中华人民共和国国民,系指具有中华人民共和国国籍者。



## 第二条 一般规定

双方可以根据本条约的规定,相互移管被判刑人,以便在接收方境内执行移交方对该人所判处的刑罚。

## 第三条 中央机关

一、为实施本条约,双方应当通过中央机关以书面形式进行联系,或者在必要时,通过外交途径进行联系。

二、本条第一款所称中央机关,在中华人民共和国方面系指司法部,在哥伦比亚共和国方面系指司法与法律部。

三、一方如果变更其指定的中央机关,应当立即通过外交途径书面通知另一方。

## 第四条 移管的条件

一、如符合下列条件,可移管被判刑人:

(一) 被判刑人是接收方国民;

(二) 对被判刑人判处刑罚所针对的行为按照接收方法律也构成犯罪;

(三) 对被判刑人判处刑罚的判决已经发生法律效力,且不存在进一步上诉的可能;

(四) 在移交方不存在针对被判刑人的尚未了结的诉讼;

(五) 在接到移管请求时,被判刑人还需服刑至少一年,双方另行约定的除外;



(六) 被判刑人书面同意移管, 或者任何一方鉴于该人的年龄、身体或者精神状况认为有必要时, 经被判刑人的合法代理人书面同意移管;

(七) 双方均同意移管。

二、是否移管应考虑双方各自的国内法律法规和实践。

### **第五条 移管的决定**

无论是否满足本条约中规定的移管条件, 任何一方均可自主决定是否同意另一方提出的移管请求。

### **第六条 请求与答复**

一、被判刑人可依据本条约向任何一方提出移管申请。收到被判刑人移管申请的一方应将该申请书面告知另一方。

二、任何一方均可提出移管请求。被请求方应当将其是否同意移管的决定尽快通知请求方。

三、移管的请求与答复均应采取书面形式, 并通过本条约第三条第一款规定的途径递交。

### **第七条 所需文件**

一、如有移管请求, 除非被请求方已表示不同意移管, 移交方应当向接收方提供下列文件或者说明:

(一) 经证明无误的判决书副本, 包括判决所依据的法律条文;



- (二) 关于刑罚的种类、刑期和起算日期的说明;
- (三) 关于被判刑人的服刑表现、已服刑期和剩余刑期的说明,包括审判前羁押时间、减刑和其他有关刑罚执行事项的说明;
- (四) 关于本条约第四条所提及的同意移管的书面声明;
- (五) 关于被判刑人身体及健康状况的说明。

二、接收方应当向移交方提供下列文件或说明:

- (一) 证明被判刑人是接收方国民的文件或者说明;
- (二) 对被判刑人判处刑罚所针对的行为根据接收方法律也构成犯罪的有关法律规定;
- (三) 接收方根据本国法律执行移交方所判处刑罚的有关程序的信息。

### **第八条 通知被判刑人**

一、双方应当在各自境内通知本条约适用的被判刑人,其可以根据本条约的规定被移管。

二、双方应当将移交方或者接收方根据本条约第五条和第六条就移管请求所采取的措施或者所作出的决定,书面通知在其境内的有关被判刑人。

### **第九条 被判刑人同意及其核实**

一、移交方应当确保被判刑人或者其合法代理人在完全知晓移管法律后果的情况下自愿表示同意移管,并由其在同意移管的声明



中对此予以确认。

二、如接收方请求，移交方应当提供机会，使接收方通过指定的官员核实被判刑人已按前款规定的条件表示同意。

### **第十条 移交被判刑人**

双方如果就移管达成一致，应当通过本条约第三条第一款规定的途径，协商确定移交被判刑人的时间、地点和方式。

### **第十一条 继续执行刑罚**

一、在接收被判刑人后，接收方应按照移交方确定的刑罚的性质和期限继续执行刑罚，执行方式应与其执行本国法院所判刑罚的方式一致。

二、移交方确定的刑罚必须有明确的期限，以便接收方执行。移管后，继续执行刑罚适用接收方的法律和程序，包括对被判刑人减刑、假释或采取其他刑罚执行中的有关措施。

### **第十二条 管辖权的保留**

一、移交方保留根据本国法律对其法院所作定罪和量刑进行变更、撤销或其他处置的管辖权。

二、在被告知移交方根据本条作出导致其法院对被判刑人的定罪和量刑予以变更、撤销或其他处置的决定后，接收方应当立即变更或终止刑罚的执行。



### **第十三条 通报执行信息**

有下列情形之一的，接收方应当向移交方提供有关执行刑罚的信息：

- (一) 刑罚已经执行完毕；
- (二) 被判刑人在刑罚执行完毕前逃脱或者死亡；
- (三) 移交方要求提供特别说明。

### **第十四条 过境**

一、任何一方如果为履行与第三国达成的移管被判刑人协议需要从另一方领土过境，应当向该另一方提出过境请求。

二、前款规定不适用于使用航空运输且未计划在另一方领土降落的情形。

三、被请求方在不违反本国法律的情况下，应当同意请求方提出的过境请求。

### **第十五条 联系语言**

为本条约之目的，双方应当使用各自的官方语言进行联系，并附有另一方官方语言或者英语的译文。

### **第十六条 免除认证**

为本条约之目的，由双方主管机关制作并通过本条约第三条第



一款规定的途径递交的文件，经一方主管机关签名或盖章，即可以在另一方境内使用，无须认证。

### **第十七条 费用**

一、接收方应当承担以下费用：

- (一) 移管被判刑人的费用，但完全在移交方境内发生的费用除外；
- (二) 移管后继续执行刑罚的费用。

二、接收方可以向被判刑人追偿全部或者部分费用。

### **第十八条 磋商**

双方中央机关可以为有效实施本条约进行磋商，也可为促进本条约实施采取必要实际措施。

### **第十九条 争议的解决**

由本条约的解释、适用、实施产生的争议，如果双方中央机关不能自行协商一致，应当通过外交途径解决。

### **第二十条 与其他条约的关系**

本条约不妨碍双方在其他共同为缔约方的国际条约下的权利和义务。



## 第二十一条 生效、修订和终止

一、任何一方根据本国法律完成为本条约生效所需的一切必要程序后，应当通过外交照会通知另一方。本条约自最后一份照会收到之日起第三十天生效。

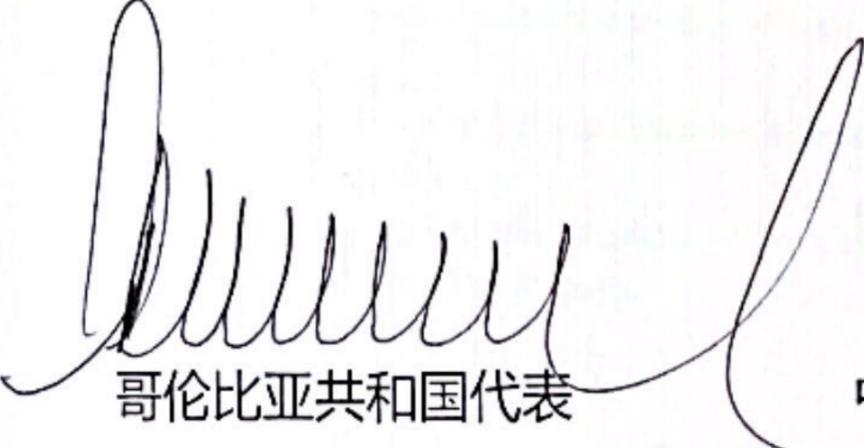
二、本条约可以经双方书面协议随时予以修订。修订应根据本条第一款规定的程序生效，并成为本条约的组成部分。

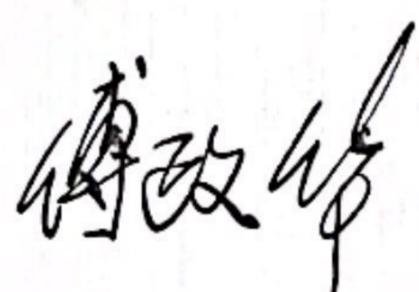
三、本条约适用于生效后提出的任何移管请求，即使请求涉及的犯罪是在本条约生效前发生的。

四、任何一方可以随时通过外交途径，以书面形式通知终止本条约。终止自该通知发出之日后第一百八十天生效。条约的终止不影响终止通知前提出的移管请求。被判刑人在条约终止之日前根据本条约被移管的，条约终止后其刑罚执行应当继续适用本条约的规定。

下列签署人经各自政府适当授权，在本条约上签字，以昭信守。

本条约于 2019 年 7 月 31 日在北京签订，一式两份，每份均以西班牙文、中文和英文写成，三种文本同等作准。如遇解释上的分歧，以英文本为准。

  
哥伦比亚共和国代表

  
中华人民共和国代表