

Agreement between the Kingdom of Sweden and the Republic of Estonia on the enforcement of Swedish sentences of imprisonment in the Republic of Estonia

The Government of the Kingdom of Sweden and the Government of the Republic of Estonia (hereinafter the “Parties”),
Considering the close and longstanding cooperation and relationship between the Kingdom of Sweden and the Republic of Estonia,
Recognizing the shared commitment to common fundamental values, and wishing to further develop the existing relations of cooperation,
Desiring to strengthen mutual ties and cooperation within the Nordic-Baltic cooperation and the North Atlantic Treaty Organization, as well as in the area of prison service and the promotion of rule of law, democracy and human rights,
Acknowledging that the Swedish Prison and Probation Service is facing challenges relating to available correctional infrastructure,
Noting that the principles of free consent, good faith and the *pacta sunt servanda* rule are universally recognized,
Stressing that this Agreement shall be implemented with full respect for human rights, as laid down in international human rights conventions to which the Parties are Contracting Parties,
Desiring to afford each other the widest measure of mutual assistance,
Have agreed as follows:

PART I GENERAL PROVISIONS

Article 1 *Use of terms*

For the purpose of this Agreement:

- a. “Sweden” means: the Kingdom of Sweden;
- b. “Estonia” means: the Republic of Estonia;
- c. “Prison” means: the Tartu prison located in Tartu, Estonia;
- d. “Swedish staff” means: staff appointed by the Swedish Prison and Probation Service;
- e. “Estonian staff” means: staff appointed by Estonian authorities;
- f. “Swedish sentence” means: a sentence of imprisonment imposed by a final and in Sweden enforceable decision of a Swedish court;
- g. “Prisoner” means: a person upon whom a Swedish sentence of imprisonment is imposed and who is transferred to Estonia;
- h. “Prison Health Unit” means: a health service provider located in the Prison,
- i. “Memorandum of Cooperation” means: an agreement between the Swedish Prison and Probation Service and the Government of the Republic of Estonia, within the scope of this Agreement, that sets forth the further terms and conditions under which the Prison shall be used for the purpose of the enforcement of Swedish sentences;
- j. “European Prison Rules” means: the Recommendation Rec(2006)2-rev of the Committee of Ministers to member states on the European Prison Rules;
- k. “CPT Standards” means: the standards developed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment's statement that are relevant in the context of imprisonment.

Article 2

Purpose and scope

1. This Agreement sets forth the framework for the cooperation between Sweden and Estonia on the enforcement of Swedish sentences in Estonia as well as procedure, rights and duties of the Parties.
2. This Agreement constitutes a legally binding instrument under international law and is governed by the Vienna Convention on the Law of Treaties (1969).

Article 3

Applicability of other international instruments

1. All activities under this Agreement shall be conducted with full respect for the Parties' rights and legal obligations under international law, including but not limited to:
 - a. European Union law;
 - b. the International Covenant on Civil and Political Rights;
 - c. the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;
 - d. the European Convention on Human Rights and its Protocol No. 1; and
 - e. the Convention Relating to the Status of Refugees and its 1967 Protocol.
2. The processing of personal data under this Agreement shall be carried out in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and in accordance with the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

Article 4

Memorandum of Cooperation

1. With a view to the implementation and of the practical application of this Agreement, the Swedish Prison and Probation Service and the Estonian Ministry of Justice and Digital Affairs shall draft a Memorandum of Cooperation regarding, for instance, the functioning of the Prison, the staff, the facilities, the transport of Prisoners and other tasks that may be carried out by the Swedish Prison and Probation Service or the Estonian Prison and Probation Service.
2. The Memorandum of Cooperation shall be agreed upon by the Swedish Prison and Probation Service and the Government of the Republic of Estonia.
3. The Swedish Prison and Probation Service and the Estonian Ministry of Justice and Digital Affairs may enter into additional implementing arrangements within the scope of this Agreement and the Memorandum of Cooperation to further facilitate the uninterrupted execution of this Agreement.

Article 5

Obligations of the Parties

1. Estonia consents to use the Prison and Estonian staff to enforce Swedish sentences on Estonian territory.

2. Sweden shall provide for a remuneration to Estonia for the enforcement of Swedish sentences, see Part XI, and in accordance with this Agreement. Enforcement of Swedish sentences in the Prison shall be based on conditions set out in this Agreement.
3. Estonia shall make the necessary adjustments, as to be further specified in the Memorandum of Cooperation, to the Prison to ensure that the Prison meets the requirements set out in this Agreement. Estonia shall ensure that the Prison continuously meets these requirements.

Article 6

Applicable law

1. The law and other regulations of Estonia, with respect to this Agreement and the Memorandum of Cooperation, shall be applicable to the enforcement of Swedish sentences in the Prison, including the rights and duties of the Prisoners.
2. Parts of the Estonian legislation on enforcement of prison sentences shall not apply to the enforcement of Swedish sentences in the Prison. This applies to the scope of the provisions in § 11 (1) and (3); § 14 (3) and (4); § 16; § 18 (1), (4), (5) and (8) only regarding DNA sample; §§ 19–22; § 31 (3); § 46 (1) last sentence; § 50 (3) last sentence; § 53 (4); Subchapter 6; § 63¹⁾, 2–4)), (2); § 64 (4¹⁾; § 65¹⁾; § 67¹⁾ (3); Subchapter 9; and Chapter 3 of the Estonian Imprisonment Act, including amendments until RT I, 31.12.2024.
3. Parts of the Estonian legislation on enforcement of prison sentences shall be replaced by provisions in this Agreement. This applies to the scope of the following provisions, in their phrasing according to the Estonian Imprisonment Act, including amendments until RT I, 31.12.2024.
 - a. Article 41.2 shall be applied instead of § 14 (1) last sentence;
 - b. Article 28.3 shall be applied instead of § 28 (2);
 - c. Article 29 shall be applied instead of § 28¹⁾;
 - d. Part VII shall be applied instead of §§ 32–33;
 - e. Article 26 and Part VI shall be applied instead of §§ 34–44; and
 - f. Article 42 shall be applied instead of § 56.
4. Complaints and legal matters concerning the enforcement of Swedish sentences shall be handled by the Estonian authorities, including Estonian courts. However, complaints and legal matters concerning a decision by the Swedish Prison and Probation Service to request for enforcement of a Swedish sentence in Estonia in accordance with Article 19 or to second the conclusion of the Estonian Prison and Probation Service in accordance with Article 35.2.b, shall be handled by Swedish authorities, including Swedish courts.
5. The law and other regulations of Sweden regarding employment and working environment shall apply to the Swedish staff.
6. The law and other regulations of Estonia regarding employment and working environment, shall apply to the Estonian staff.
7. The law and other regulations of Estonia regarding working conditions, including working environment, and insurance, shall apply to the Prisoners during work activities.

Article 7

Competences and responsibilities of the Swedish Prison and Probation Service

1. The Swedish Prison and Probation Service shall:
 - a. Have the right to monitor the implementation of this Agreement;
 - b. Carry out the tasks and duties assigned in this Agreement.
 - c. Provide training to the Estonian staff as agreed upon in the Memorandum of Cooperation; and
 - d. Retain its responsibilities as employer for the Swedish staff.

2. The Swedish Prison and Probation Service shall have the right to make remarks about the Estonian compliance of this Agreement.
3. The Swedish Prison and Probation Service may request the Estonian Prison and Probation Service to reassign the duties of a member of the Estonian staff. The Estonian Prison and Probation Service shall give effect to such a request without delay in accordance with the law and other regulations of Estonia.
4. The Swedish staff shall have access to the Prison and all information regarding the enforcement of Swedish sentences. The Swedish staff shall also have the right to attend staff meetings of the Prison.

Article 8

Competences and responsibilities of the Estonian Prison and Probation Service

1. The responsibilities of the Estonian Prison and Probation Service are the following:
 - a. Within the Prison, the Estonian Prison and Probation Service shall be responsible for the enforcement of Swedish sentences, maintaining order and security, and for the treatment of Prisoners;
 - b. In accordance with paragraph a, the Estonian Prison and Probation Service shall authorise and be responsible for the use of direct force against Prisoners, including the use of measures of restraint in accordance with the Agreement and the law and regulations of Estonia, with a view to maintain order and security in the Prison;
 - c. To provide for the overall security arrangements in the Prison;
 - d. To be in charge of the Estonian staff for the purpose of this Agreement;
 - e. To facilitate the communication between the Swedish Prison and Probation Service, the Swedish staff, and with relevant Estonian authorities; and
 - f. To implement the law and procedures of the Estonian staff related to the enforcement of Swedish sentences.
2. Estonia guarantees that the treatment of prisoners and other measures undertaken under this Article to maintain order and security meet the standards set out in the European Prison Rules and the CPT Standards.
3. The Estonian Prison and Probation Service shall, without prejudice to Article 7.3, undertake immediate measures and initiate disciplinary procedures in case of violations by the Estonian staff.
4. The Estonian Prison and Probation Service shall review and decide on complaints from Prisoners in matters concerning the Estonian staff. The Estonian Prison and Probation Service shall consult the Swedish Prison and Probation Service when such cases are decided.

PART II JURISDICTION

Article 9

Prosecution of criminal offences

If a criminal offence is committed by a Prisoner or a member of the Swedish staff in Estonia and the criminal offence falls within the jurisdiction of both Sweden and Estonia, Swedish and Estonian authorities shall cooperate to determine which State is to conduct criminal proceedings. The matter shall, where appropriate, be referred to Eurojust in accordance with Article 12(2) of Council Framework Decision 2009/948/JHA.

Article 10

Responsibility to report alleged criminal offences

1. If required by the law or other regulations of Estonia, the Estonian Prison and Probation Service is responsible to report the alleged criminal offences within the Prison to the relevant Swedish authorities.
2. If required by the law or other regulations of Sweden, the Swedish Prison and Probation Service is responsible to report the suspected criminal offences within the Prison to the relevant Swedish authorities.

Article 11

Investigation by Estonia of alleged criminal offences

1. If requested by Sweden or the Swedish authorities, Estonia shall provide information of ongoing investigations and the prosecution results.
2. Interrogations of Prisoners as suspects or witnesses and other investigative acts that affect them shall, where the interests of the investigation allow it, take place within the Prison as far as possible.
3. This Article is without prejudice to the rights and duties set out in Article 12.

Article 12

Hearing and participation through audio and video transmission

1. Swedish authorities and courts shall have the possibility to hear a Prisoner or ensure a Prisoner's participation in proceedings before the authority or court through audio transmission or audio and video transmission in accordance with applicable Swedish legislation. The Estonian Prison and Probation Service shall facilitate the hearing and participation of the Prisoner.
- 2 This Article is without prejudice to existing legal instruments in force between the Parties.

PART III THE PRISON

Article 13

Prison capacity and conditions

1. Estonia shall make 400 cells available with capacity to house up to 600 Prisoners in the Prison. The capacity shall be in the form of single occupancy cells or multi-occupancy cells for no more than two Prisoners.
2. Estonia guarantees that the conditions in the Prison meet the standards set out in the European Prison Rules and the CPT Standards.
3. A Prisoner's cell shall be equipped with at least a chair, a table, a cabinet or a shelf, a bed, appropriate bedding, a mirror, a bulletin board, a cell terminal for communication with members of the Estonian staff, a mug, an alarm clock, a radio, a television, and a device that allows the Prisoner to regulate the inflow of daylight.
4. By way of derogation from paragraph 3, a Prisoner's cell may be equipped differently if there is a risk that the Prisoner will seriously harm himself or others, commit vandalism or if he is isolated for body inspection. In that case, the Prisoner's room shall, as far as possible and based on order and security considerations, be equipped with the items described in paragraph 3.
5. The use of tobacco and nicotine products for Prisoners and members of the Swedish staff shall be further regulated in the Memorandum of Cooperation.

6. In case of significant changes in the law and other regulations in Estonia concerning prison conditions or the rights and duties of the Prisoners, the Parties agree to hold consultations in accordance with Article 58.

Article 14

Language and the right to information

1. The working language of the Prison shall be English. Another language may be used when a member of the Estonian staff communicates with another member of the Estonian staff or when a member of the Swedish staff communicates with another member of the Swedish staff or with a Prisoner.
2. All official documents and other documentation shall be drafted in or translated into English.
3. Prisoners shall have the right to have assistance of an interpreter and to have documents translated, if this is needed for the Prisoner to exercise his rights, including, but not limited to, presenting and pursuing complaints in matters covered by Article 6.1 and the right to medical care according to Article 41.
4. Prisoners shall have the right to be fully informed of their rights and obligations during the enforcement of a Swedish sentence in Estonia.

Article 15

Staff

Estonia shall provide the staff necessary to implement this Agreement and the Memorandum of Cooperation according to the need specified by the Swedish Prison and Probation Service. The composition of the Estonian staff shall be further specified in the Memorandum of Cooperation. The Estonian staff shall receive education and training as to be further specified in the Memorandum of Cooperation.

Article 16

Security of the Prison

1. Estonia is responsible for enforcing public order and safety outside the Prison. Estonia shall take the necessary measures for the undisturbed operation of the Prison and to prevent the disturbance of public order in the immediate vicinity of the Prison.
2. The security in the Prison shall be the responsibility of the Estonian Prison and Probation Service in accordance with Article 8.1.a.

Article 17

Food in the Prison

1. Prisoners shall be provided food in the Prison in accordance with the Nordic Counsel of Ministers' Nordic Nutrition Recommendations.
2. A Prisoner is entitled to food that is adapted to his medical needs. To the extent possible, consideration shall also be given to the Prisoner's religion. However, a Prisoner always has the right to receive vegetarian food.
3. A Prisoner is entitled to receive meals at customary mealtimes. However, the Prisoner shall be given the opportunity to eat at times adapted to his medical needs or religion.
4. During Prisoners' leisure time, a Prisoner has the right to prepare or receive hot beverages, unless this would jeopardise order or security.

Article 18

Evacuation of the Prison in case of emergency

1. If the Prison must be evacuated in case of an emergency, the Prisoners shall be transferred to another location designated by the Estonian Prison and Probation Service, with a view to their immediate transfer to Sweden if necessary due to the reason for the evacuation.
2. The Swedish Prison and Probation Service and the Estonian Prison and Probation Service shall carry out exercises in a format of their choice to practice the procedures for evacuating Prisoners in the Prison during special regimes (such as a state of emergency, crisis situation, heightened defence readiness, or state of war).

PART IV PROCEDURES

Article 19

Request for enforcement

1. Before the commencement of an enforcement of a Swedish sentence in Estonia, the Swedish Prison and Probation Service shall make a request for enforcement to the Estonian Ministry of Justice and Digital Affairs. The Swedish Prison and Probation Service may not make more than 30 requests within a period of ten (10) days.
2. The request shall include the date on which the enforcement in Estonia shall cease. The enforcement in Estonia shall cease no later than one month before the date for conditional release or the date for enforcement of an expulsion order.
3. The request shall also include information about the sentence and its enforcement necessary for the evaluation of the request's compliance with this Agreement.
4. The Estonian Ministry of Justice and Digital Affairs shall handle a request within ten (10) days. If more than 20 but less than 30 requests are being made within ten (10) days, the requests filed within that period shall be handled within fifteen (15) days.
5. The request shall be granted if the conditions in Article 20 are met. If the request is granted, the Estonian Ministry of Justice and Digital Affairs shall immediately notify the Swedish Prison and Probation Service of the date on which the enforcement of the Swedish sentence earliest can be initiated in the Prison. The enforcement of the sentence shall be able to initiate as soon as possible with respect to the availability of prison capacity according to this Agreement.
6. If the Estonian Ministry of Justice and Digital Affairs has a dissenting assessment of whether a person should be considered a high security risk according to Article 20.2.e, the Estonian Ministry of Justice and Digital Affairs may deny the request. If the request is denied, the Estonian Ministry of Justice and Digital Affairs shall immediately notify the Swedish Prison and Probations Service and provide for the grounds for the denial.

Article 20

Convicted persons excluded from enforcement of a Swedish sentence in Estonia

1. The Swedish Prison and Probation Service shall not request the enforcement of a Swedish sentence in Estonia if the convicted person is:
 - a. female;
 - b. under the age of 18;
 - c. at the time of the request for enforcement, is confirmed with a terminal diagnosis or a serious physical or mental disorder and in need of medical care outside the Prison
 - d. sentenced to forensic mental care under the Swedish Forensic Mental Care Act (1991:1129) or is otherwise receiving care under that Act;

- e. a recipient of Swedish retirement pension;
 - f. an Estonian citizen or permanent resident of Estonia;
 - g. a person that has been declared a fugitive from justice by an Estonian authority;
 - h. deemed a *persona non grata* in Estonia or is banned by Estonian authorities from entering Estonia on other grounds.
2. The Swedish Prison and Probation Service shall not request the enforcement of a Swedish sentence in Estonia for a person that constitutes a high security risk because the person:
- a. has been convicted of an offence under the Swedish Terrorist Offences Act (2022:666);
 - b. has been convicted of an offence under chapter 19 in the Swedish Penal Code (1962:700);
 - c. is a party in a case or matter under the Swedish Act on Special Control of Certain Foreign Nationals (2022:700);
 - d. is or has been subject to review in a security case under the Swedish Aliens Act (2005:716); or
 - e. is otherwise considered a high security risk by the Swedish Prison and Probation Service.

Article 21

Commencement of enforcement in Estonia

1. Once a request for enforcement is granted by the Estonian Ministry of Justice and Digital Affairs, the Swedish Prison and Probation Service may transfer the Prisoner to Estonia from the date notified by the Estonian Ministry of Justice and Digital Affairs according to Article 19.5.
2. This Agreement serves as a legal basis for a Prisoner's entry and stay in Estonia for the duration of the enforcement of the Swedish sentence in the Prison.

Article 22

Cease of enforcement in Estonia

1. The Prisoner shall be transported from Estonia to Sweden no later than the date specified in accordance with Article 19.2.
2. The Swedish Prison and Probation Service may decide that the enforcement in Estonia shall cease earlier than the date specified in accordance with Article 19.2.
3. The Estonian Prison and Probation Service may request the Swedish Prison and Probation Service to decide that the enforcement in Estonia shall cease earlier than the date specified in accordance with Article 19.2. If the request is based upon a changed assessment of whether a person should be considered a high security risk according to Article 20.2.e, the Swedish Prison and Probation Service shall immediately grant such a request.

Article 23

Extension of the period of enforcement in Estonia

The date on which the enforcement in Estonia shall cease may be extended on request by the Swedish Prison and Probation Service. The Estonian Prison and Probation Service shall handle such a request in accordance with Articles 19.4 and 19.5.

Article 24

Transports of Prisoners

1. The Swedish Prison and Probation Service is responsible for the transports of Prisoners to and from Estonian territory.

2. The Estonian Prison and Probation Service is responsible for the transports of Prisoners within the Estonian territory, including transports to and from Estonian airports and borders.
3. Before the handover of a Prisoner to the Swedish Prison and Probation Service, the Estonian Prison and Probation Service is responsible for guaranteeing that the Prisoner has been subject to necessary security procedures, in accordance with the law and other regulations of Estonia.
4. Before the handover of a Prisoner to the Estonian Prison and Probation Service, the Swedish Prison and Probation Service is responsible for guaranteeing that the Prisoner has been subject to necessary security procedures in accordance with the law and other regulations of Sweden.
5. Upon request from the Swedish Prison and Probation Service, the Estonian Prison and Probation Service may carry out a transport that would otherwise be under the responsibility of the Swedish Prison and Probation Service according to paragraph 1. This does not apply to transports on Swedish territory.
6. During the transport of Prisoners by the Estonian Prison and Probation Service, coercive measures, including measures of restraint, may be used by the Estonian staff for reasons of safety and the undisturbed progress of the transport, in accordance with the law and other regulations of Estonia and in accordance with this Agreement.
7. The Swedish staff may participate as observers in transports carried out by the Estonian Prison and Probation Service.
8. The Estonian Prison and Probation Service is authorised to impose sanctions or measures according to the law and other regulations in Estonia and in accordance with this Agreement, for any disciplinary breaches committed by a Prisoner during the transport within the Estonian territory.

Article 25

Escape

1. In the event of an escape of a Prisoner, the Estonian staff shall immediately inform the Estonian police and the Swedish Prison and Probation Service about the identity of the person concerned. Other relevant information shall also be provided.
2. The Estonian Prison and Probation Service shall, if required by the law or other regulations of Estonia, report the event to relevant Estonian authorities.
3. The Swedish Prison and Probation Service shall, if required by the law or other regulations of Sweden, report the event to relevant Swedish authorities.
4. Without prejudice to paragraph 1–3 Swedish authorities shall be responsible for issuing relevant warrants.

PART V

CONDITIONS FOR THE ENFORCEMENT

Article 26

Occupational activities

1. A Prisoner shall be given the opportunity to take part in occupational activities in the form of work, education, training, programmes related to crime and misuse or some other structured occupational activity. The Estonian Prison and Probation Service may request assistance from the Swedish Prison and Probation Service in offering education and programmes related to crime and misuse.
2. A Prisoner shall be offered at least 30 hours of occupational activity per week. The Prisoner shall, as far as possible, be assigned occupational activities aimed at preventing recidivism or otherwise facilitating the Prisoner's reintegration into society. Consideration shall be given to the Prisoner's motivation for change.

3. A Prisoner is obliged to carry out or take part in the occupational activity assigned to him. A Prisoner who has been granted sickness compensation or activity compensation in accordance with the Swedish Social Insurance Code may only be required to undertake occupation of the nature and to the extent that can be regarded as suitable for him. A Prisoner may not be required to submit to treatment of medical character.

4. A Prisoner may be assigned occupational activities from Monday to Friday, excluding Swedish public holidays, between 07.30 and 19.00. However, if the nature of the activity or other specific circumstances require it, a Prisoner may be assigned occupational activities at other times as well.

5. A Prisoner is entitled to two days off from work per week, unless there are special reasons against it.

Article 27

Prisoners' leisure time

1. A Prisoner shall be given the opportunity to spend at least one hour each day outdoors unless there are exceptional reasons for not providing this opportunity.

2. A Prisoner shall be given the opportunity of engaging, in a suitable way, in physical or other recreational activity. The activities shall be of a varied nature.

3. A Prisoner shall be given the opportunity of following, in a suitable way, events in the outside world. This includes, but is not limited to, access to a varied selection of literature in Swedish and Swedish public information and access to Swedish television channels as to be specified in the Memorandum of Cooperation.

4. A Prisoner shall be given the opportunity of practising, in a suitable way, his religion.

5. A Prisoner shall be given the opportunity of meeting with other Prisoners in a suitable way to discuss matters of common interest to the Prisoners (Prisoners' council). A Prisoners' council shall be given the opportunity of holding discussions in some suitable way with the Estonian staff.

Article 28

Prisoners' electronic communication

1. Without prejudice to Article 47, a Prisoner may use electronic communication from the Prison only upon permission from the Estonian Prison and Probation Service. An application for such permission should be filed with and handled by the Estonian Prison and Probation Service. Such an application shall be granted if the conditions in paragraph 2 are met.

2. A Prisoner may be in contact with another person through electronic communication to the extent that this can be conveniently arranged. However, such communication may be refused if it may

a. jeopardise security;

b. counteract the Prisoner's adjustment in the community, or;

c. be harmful in some other way to the Prisoner or some other person.

3. A Prisoner may be charged for the costs for his electronic communication as to be further specified in the Memorandum of Cooperation.

Article 29

Prisoners' correspondence and parcels

1. The Swedish Prison and Probation Service shall be responsible for the handling of Prisoners' postal service including the forwarding of the correspondence and parcels to the Swedish Postal

Service. The Estonian Prison and Probation Service shall assist the Swedish Prison and Probation Service in handling Prisoners' correspondence and parcels.

2. Without prejudice to paragraph 1, the Estonian Prison and Probation Service shall be responsible for the handling of Prisoners' correspondence to and from Estonian public authorities and Estonian legal representatives.

Article 30

Prisoners' personal belongings

Prisoners shall be entitled to bring personal belongings in accordance with what is further specified in the Memorandum of Cooperation.

PART VI

PRISONERS' FUNDS AND REMUNERATION

Article 31

Administration of Prisoners' funds

1. In connection to the commencement of the enforcement of a Swedish sentence in the Prison, the Swedish Prison and Probation Service shall, on the day of the transfer to the Prison, inform the Estonian Prison and Probation Service about the balance of the Prisoner's fundings account with the Swedish Prison and Probation Service. The information about the balance shall be given in euros after a conversion made in accordance with the exchange rate determined by the European Central Bank on the day of the transfer to the Prison.

2. The Estonian Prison and Probation Service is responsible to make funds corresponding to the balance mentioned in paragraph 1 available in a Prisoner's fundings account with the Estonian Prison and Probation Service.

3. During the enforcement of a Swedish sentence in the Prison, the Estonian Prison and Probation Service shall continuously make available funds in the Prisoner's fundings account with the Estonian Prison and Probation Service, corresponding to the remuneration for occupational activities as set out in Article 32. Such funds shall be available for use in the kiosk of the Prison.

4. If the Prisoner receives Swedish sickness compensation, or activity compensation under the Swedish Social Insurance Code, the Swedish Prison and Probation Service shall report such deposits to the Estonian Prison and Probation Service. The information about the deposit shall be given in euros after a conversion made in accordance with the exchange rate determined by the European Central Bank on the day of the deposit. The Estonian Prison and Probation Service shall continuously make available funds in the Prisoner's fundings account with the Estonian Prison and Probation Service, corresponding to such deposits.

5. In connection to the cease of the enforcement of a Swedish sentence in the Prison, the Estonian Prison and Probation Service shall, on the day of the transfer from the Prison, inform the Swedish Prison and Probation Service about the balance of the Prisoner's fundings account with the Estonian Prison and Probation Service. The information about the balance shall be given in euros.

6. A Prisoner's fundings account with the Estonian Prison and Probation Service shall be closed for other deposits or withdrawals than those covered by this Agreement.

Article 32

Remuneration for occupational activities

1. A Prisoner is entitled to remuneration if he has carried out or participated in an assigned occupational activity, and under the condition that remuneration for the occupational activity is not being paid for by another person or body.
2. A Prisoner is entitled to a remuneration that may not be less than EUR 1.6 per hour (standard remuneration) for the time the Prisoner participate in or perform assigned occupational activities (occupational time). The level of the standard remuneration is to be specified in the Memorandum of Cooperation.
3. If a Prisoner, while working, delivers significantly below expected performance, the standard remuneration shall be reduced to no less than EUR 1 per hour (reduced remuneration). The level of the reduced remuneration is to be specified in the Memorandum of Cooperation. The standard remuneration may only be reduced if the Prisoner, after being informed that a reduction may occur, does not improve his performance. The reduced remuneration shall apply until the Prisoner delivers in line with what can be expected of him.
4. Occupational time includes time spent between activities during the day, and breaks totalling up to 30 minutes per day. The lunch break is not included in the occupational time.
5. Occupational time also includes, if a Prisoner otherwise would have performed or participated in occupational activities, time spent on:
 - a. planned and staff-led discussions about the enforcement of the Swedish sentence and comparable matters;
 - b. participation in the Prisoners' council or its deliberations with the Estonian staff,
 - c. other important activities taking place within the prison, including but not limited to medical visits, dentist visits and contacts with religious representatives.
6. A Prisoner is entitled to an additional remuneration, as to be specified in the Memorandum of Cooperation, if the Prisoner:
 - a. works more than eight hours in a day;
 - b. works more than 40 hours in a week;
 - c. works on a day that would otherwise have been a day off according to Article 26.4; or
 - d. works outside the hours referred to in Article 26.4, unless additional remuneration is provided under litra a–c.
7. A Prisoner is entitled to remuneration if no occupational activity can be assigned to the Prisoner during normal working hours and this is not due to the Prisoner, or if the Prisoner's work capacity is wholly or partially reduced due to illness. Such remuneration shall not be granted if the Prisoner receives Swedish retirement pension, Swedish sickness compensation, or activity compensation under the Swedish Social Insurance Code.
8. A Prisoner who cannot be assigned occupational activities for at least 30 hours per week is entitled to a remuneration, that shall not be less than EUR 0.8 for each hour that occupational activities cannot be assigned. The level of the remuneration is to be specified in the Memorandum of Cooperation.
9. Remuneration referred to in this Article may not be subject to distraint.

Article 33

Withholding of remuneration

1. The Estonian Prison and Probation Service shall withhold ten (10) per cent of the remuneration referred to in Article 32 for leave and release purposes. In special cases the Estonian Prison and Probation Service may authorise the use of withheld remuneration for some other purpose.
2. If a prisoner has intentionally damaged property that belongs to or has been made available to the Estonian Prison and Probation Service, the Estonian Prison and Probation Service may, in accordance with Article 56.5, withhold an amount from the remuneration referred to in

Article 32 corresponding to the cost of replacing the property or substituting for it in some other way.

PART VII

LEAVE AND OTHER TEMPORARY STAYS AWAY FROM THE PRISON

Article 34

General conditions

Leave and other temporary stays away from the Prison may only be granted on Swedish territory.

Article 35

Applications for leave

1. Leave from the Prison according to Articles 36 or 37 may be granted upon application from the Prisoner. The application should be filed with and handled by the Estonian Prison and Probation Service.
2. If the Estonian Prison and Probation Service concludes that an application for leave may be granted according to Articles 36 or 37, the Estonian Prison and Probation Service shall inform the Swedish Prison and Probation Service of its conclusion and of the Prisoner's application for leave. The Swedish Prison and Probation Service shall review the application and notify the Estonian Prison and Probation Service about its conclusion.
 - a. If the Swedish Prison and Probation Service comes to the same conclusion as the Estonian Prison and Probation Service when assessing the application, the Swedish Prison and Probation Service shall immediately decide that the enforcement in Estonia shall cease in accordance with Article 22.2.
 - b. If the Swedish Prison and Probation Service comes to a different conclusion than the Estonian Prison and Probation Service when assessing the application, the Estonian Prison and Probation Service shall deny the application.

Article 36

Standard leave

1. To facilitate a Prisoner's adjustment in the Swedish community, he may be granted permission to stay outside the Prison for a brief period of time (standard leave) if
 - a. at least a one-quarter of the Swedish sentence, but at least two months, has been served; and
 - b. there is no manifest risk that the Prisoner will commit crime, evade the full enforcement of the Swedish sentence or otherwise misbehave.
2. For a prisoner serving life imprisonment, the period referred to in the paragraph 1 shall be determined as if the Swedish sentence is for eighteen years.
3. For special reasons, leave may be granted even though the period referred to in the paragraph 1.a has not elapsed.
4. If the Prisoner is covered by a Swedish decision on the special conditions that are necessary for security reasons, this decision shall be taken into consideration when granting leave according to this Article.

Article 37

Special leave

1. For particularly compassionate reasons, a Prisoner may be granted permission to stay outside the Prison for a brief period (special leave) if
 - a. his need for a stay outside the Prison cannot be met by leave in accordance with Article 36; and
 - b. the stay outside the Prison can be granted having regard to the risk that the Prisoner will commit crime, evade the full enforcement of the Swedish sentence or otherwise misbehave.
2. If the Prisoner is covered by a Swedish decision on the special conditions that are necessary for security reasons, this decision shall be taken into consideration when granting special leave according to this Article.

Article 38

Handling of temporary stays away from the Prison

1. Temporary stays away from the Prison according to Articles 39 or 40 shall be granted without an application from the Prisoner.
2. If the Estonian Prison and Probation Service concludes that temporary stay away from the Prison shall be granted in accordance with Articles 39 or 40, the Estonian Prison and Probation Service shall inform the Swedish Prison and Probation Service of its conclusion.
 - a. If the Estonian Prison and Probation Service concludes that temporary stay away from the Prison shall be granted in accordance with Article 39 upon request from an Estonian public authority, the Estonian Prison and Probation Service is responsible for the enforcement of the decision. By way of derogation to Article 34, such a decision may be enforced on Estonian territory.
 - b. If the Estonian Prison and Probation Service concludes that temporary stay away from the Prison shall be granted in accordance with Articles 39 or 40 upon request from a Swedish public authority, the Swedish Prison and Probation Service is responsible for the enforcement of the decision and shall immediately decide that the enforcement in Estonia shall cease in accordance with Article 22.2.

Article 39

Appearance before a court or other authority

1. A Prisoner may temporarily stay outside the Prison if a public authority in Sweden or Estonia requests that he shall appear before it. Such an appearance shall always be granted if it is a court that requests that the prisoner appear before it.
2. Without prejudice to paragraph 1 and in accordance with Article 12, solutions that make it possible for the Prisoner to appear before a public authority through audio transmission or audio and video transmission should be pursued.

Article 40

Assessment of the risk of re-offending

A Prisoner who is to undergo an assessment of his risk of re-offending in accordance with Section 10 of the Swedish Act on the Commutation of Life Sentences (2006:45) may stay away from the Prison to the extent that the Swedish authority responsible for the assessment considers necessary for carrying out the assessment.

PART VIII MEDICAL CARE AND DEATH OF A PRISONER

Article 41
Medical care

1. Medical care of a Prisoner in Estonia shall be provided by Estonia in accordance with the law and other regulations of Estonia.
2. In connection to the reception of a Prisoner to the Prison, the Prisoner shall be given the opportunity to undergo medical examination by a healthcare professional in the Prison.
3. Screenings with the purpose of suicide prevention shall be done in a manner that is to be further specified in the Memorandum of Cooperation.
4. A Prisoner shall receive medical care, including dental care and advise by an optician:
 - a. Inside the Prison, in cases where the Prisoner's medical condition does not require admission to a medical clinic, a dental clinic or an optician's clinic according to litra b.
 - b. Outside the Prison, in a medical clinic, dental clinic or optician's clinic in Estonia, in cases where the Prisoner's medical condition requires temporary admission to such a clinic outside the Prison.
5. A Prisoner that is restrained with an instrument of restraint shall be examined by a doctor as soon as possible. Awaiting the doctor's examination, another health care professional shall immediately examine the Prisoner.
6. If a Prisoner is no longer eligible for enforcement in the Prison due to his medical condition according to Article 20.1.c, he shall be transferred to Sweden as soon as possible.
7. If a transfer to Sweden according to paragraph 6 is not possible for medical reasons, medical care shall temporarily be provided in Estonia according to paragraph 4.b. The Prisoner shall be transferred to Sweden as soon as the Prisoner's medical situation allows.
8. If a Prisoner needs to be transferred to Sweden due to his need for medical care, according to paragraph 6, the Swedish Prison and Probation Service shall decide that the enforcement in Estonia shall cease according to Article 22.2.
9. Medical or dental products and medicine shall be provided by Estonia in accordance with the law and other regulations of Estonia. The Prisoner shall be informed of the generic name of the product or medicine. Exceptionally, medical or dental products and medicine may be provided by Sweden provided that this is in accordance with applicable regulations.
10. When a convicted person is transferred to Estonia in accordance with this Agreement, the Swedish Prison and Probation Service shall share the convicted person's medical record in English with the Prison Health Unit provided that this is in accordance with applicable regulations.
11. When a Prisoner is transferred to Sweden in accordance with this Agreement, the Prison Health Unit shall share the Prisoner's medical record with the Swedish Prison and Probation Service in Swedish, provided that this in accordance with applicable regulations.
12. When a Prisoner's medical record is shared in accordance with paragraphs 10 or 11, the following documents shall be included:
 - a. medical records;
 - b. prescriptions;
 - c. medical opinions;
 - d. medical certificates; and
 - e. other documents that can be of importance when assessing a Prisoner's health, including but not limited to documentation of rehabilitation.
13. The documents referred to in paragraph 12 shall continuously be made available to the Prisoner in Swedish.
14. The cost of care according to paragraph 4 and provided by Estonia shall be covered by the fee referred to in Articles 51 and 52.

Article 42

Death of a Prisoner, suicide attempts and other self-harming actions or behaviours

1. In the event of death, suicide attempts and other self-harming actions or behaviours of a Prisoner during the enforcement in the Prison, the Estonian Prison and Probation Service shall immediately inform the Swedish Prison and Probation Service. This obligation is without prejudice to Estonia's obligations under Article 37 of the Vienna Convention on Consular Relations.
2. The Estonian Prison and Probations Service shall report the event to relevant authorities in Estonia.
3. The remains of the deceased shall be allowed to be transported on the orders of the relevant authorities of Estonia, for further examination of the cause of death.
4. The Swedish Prison and Probation Service and the Estonian Prison and Probation Service share the responsibility to arrange for the transfer of the remains of the deceased to Sweden or to a third country, as soon as possible.
5. Administrative and supervisory inquiries in the Prison regarding the events mentioned in paragraph 1 may be conducted by relevant Swedish authorities in accordance with the law and other regulations of Sweden. If requested, Estonia shall provide relevant Swedish authorities with information of ongoing investigations and prosecution results.

PART IX INFORMATION EXCHANGE

Article 43

Information in connection to the commencement of the enforcement in Estonia

In connection to the commencement of the enforcement in Estonia, the Swedish Prison and Probation Service shall provide the Estonian Prison and Probation Service with all necessary information, as to be further specified in the Memorandum of Cooperation.

Article 44

Information during the enforcement in Estonia

1. The Estonian Prison and Probation Service shall immediately report any serious incident regarding the security of the Prison to the Swedish Prison and Probation Service. The Estonian Prison and Probation Service shall also immediately report to the Swedish Prison and Probation Service regarding any media coverage of the Prison.
2. The Estonian Prison and Probation Service shall on a regular basis report to the Swedish Prison and Probation Service about any legal actions regarding Prisoners during the enforcement of a Swedish sentence in the Prison.
3. The Estonian Prison and Probation Service shall inform the Swedish Prison and Probation Service about requests for judicial cooperation from third States concerning the Prisoner.
4. The Estonian Prison and Probation Service shall provide copies of complaints from Prisoners in matters covered by Article 6.1 to the Swedish Prison and Probation Service.
5. If requested by the Swedish Prison and Probation Service, the Estonian Prison and Probation Service shall provide other information regarding the enforcement in Estonia.

Article 45

Information in connection to the cease of the enforcement in Estonia

Before the transportation from Estonia to Sweden the Estonian Prison and Probation Service shall provide the Swedish Prison and Probation Service with information about the enforcement in the Prison necessary for the continuation of the enforcement in Sweden.

Article 46

Confidentiality

All information exchanged under this Agreement shall be treated by the Parties in a secure and confidential manner.

PART X

IMMUNITIES AND PRIVILEGES ETC.

Article 47

Supervision, inquiries, complaints, and legal actions of Prisoners

1. Supervision and the implementation of the enforcement of Swedish sentences is governed by the law and other regulations of Estonia with respect to this Agreement and the Memorandum of Cooperation (see Article 6).
2. The Swedish Prison and Probation Service shall have the right to monitor the proper enforcement of sentences, in regard to which it shall have access as referred to in Articles 7 and 24.7 of this Agreement.
3. International bodies, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, are authorised to conduct announced and unannounced visits to the Prison and with respect to transport under Article 24 and transfer and treatment under Article 41. They shall be granted access to information and be allowed to interview Prisoners to the greatest extent possible by Estonia.
4. The relevant Estonian authorities may conduct inquiries related to the law and other regulations of Estonia, when applicable according to this Agreement and in accordance with the mandate of these authorities.
5. Estonian lawyers and other legal representatives may be permitted to provide legal services in the Prison according to the law and other regulations of Estonia.
6. Other lawyers and legal representatives than those referred to in paragraph 5, and non-governmental organisations providing legal services may be permitted to do so in the Prison or by contacting a Prisoner through audio transmission or audio and video transmission. Such a permission shall be decided by the Swedish Prison and Probation Service.
7. A visit by a lawyer who is assisting the Prisoner in a legal matter may only be controlled if the lawyer or the Prisoner request for it.

Article 48

Immunity of the Swedish staff

1. The Swedish staff enjoy immunity from Estonian jurisdiction in respect of acts performed in the exercise of their duties.
2. The immunity provided in paragraph 1 is granted in the interests of the proper implementation of this Agreement and not for the personal benefit of the Swedish staff. Sweden shall, ex officio or at the request of Estonia, waive the immunity of the Swedish staff in any case where it would impede the course of justice not to do so and where the immunity may be waived without prejudice to the purpose for which it is accorded.
3. The immunity provided in paragraph 1 shall not remove the Swedish staff from Swedish jurisdiction.

4. Regardless of where they are located, all files, documents, and other data carriers of Sweden that the Swedish staff have in their possession in the exercise of their duties shall be inviolable. Estonia may request access to relevant documents.
5. Immunity regarding property, assets and other relevant items shall be further specified in the Memorandum of Cooperation.
6. Salaries, wages and similar remuneration paid by the Swedish Prison and Probation Service to Swedish staff shall be exempt from taxation in Estonia.

Article 49

Income tax for Prisoners

1. Time spent by a Prisoner in the territory of Estonia for the purpose of serving a Swedish sentence, shall not be considered as time spent in Estonia for the purpose of determining his liability to tax in Estonia by reason of domicile, residence, or any other criterion of a similar nature
2. Paragraph 1 shall only apply if the Prisoner upon commencing the Swedish sentence
 - a. is liable to tax in Sweden by reason of his domicile, residence, or any other criterion of a similar nature, and
 - b. is not liable to tax Estonia by any such reason.
3. Remuneration referred to in Article 32 shall be exempt from taxation in Estonia.

PART XI COSTS

Article 50

Upon entry

1. Estonia will cover the costs for the necessary adaption, preparation and equipment of the Prison according to the standards and legal requirements in this Agreement.
2. The adaptations necessary shall be decided in dialogue between the Swedish Prison and Probation Service and the Estonian Prison and Probation Service.

Article 51

At full capacity

1. Estonia shall guarantee full availability of the total number of prison places as specified in Article 13.1 no later than twelve months after this Agreement entry into force.
2. After the transitional period referred to in Article 52 an annual [calendar yearly] fixed fee of EUR 30 600 000 for the availability of 300 prison cells shall be paid six months in advance in biannual instalments, each amounting to 50 per cent of the applicable annual fee.
3. Cells used in addition to those paid for in accordance with paragraph 2 shall be calculated monthly and shall be paid in arrears at a cost of EUR 8500 per month per Prisoner.

Article 52

Transitional period

1. The total number of cells for single occupancy specified in Article 13.1 shall be made available gradually over a transition period of twelve (12) months from this Agreement's entry into force. The transition period shall be divided into four quarters and the capacity shall be made available according to paragraphs 2–5.
2. At the start of the first quarter [after the validity of this Agreement] Estonia shall guarantee 25 per cent availability of the capacity referred to in paragraph 1 (100 cells).
3. At the start of the second quarter [after the validity of this Agreement] Estonia shall guarantee 50 per cent availability of the capacity referred to in paragraph 1 (200 cells).
4. At the start of the third quarter [after the validity of this Agreement] Estonia shall guarantee 75 per cent availability of the capacity referred to in paragraph 1 (300 cells).
5. At the start of the fourth quarter [after the validity of this Agreement] Estonia shall guarantee 100 per cent availability of the capacity referred to in paragraph 1 (400 cells).
6. The fixed fee for the transitional period shall be EUR 22 950 000 and shall be paid in advance no later than 1-2 months after this Agreement's entry into force.
7. When entered into the fourth quarter referred to in paragraph 5 the cells used in addition to the 300 cells referred to in paragraph 4 shall be calculated monthly and be paid in arrears at a cost of EUR 8500 per month per Prisoner.

Article 53

Costs for unanticipated stay in Estonia

Sweden shall compensate costs related to a Prisoner's unanticipated stay in Estonia arising from an asylum process or from investigation of an alleged criminal offence. This applies to costs arising until the asylum claim or the investigation of an alleged criminal offence have been subject to a final decision by an Estonian public authority.

Article 54

Indexation

The fees listed in Article 51 shall be indexed annually to a fixed indexation rate of 3,5 per cent starting 1 January 2027.

PART XII FINAL PROVISIONS

Article 55

Duration of the Agreement

1. This Agreement shall be valid for five (5) years, from its entry into force.
2. The duration of the Agreement shall be automatically extended for additional periods of three (3) years at a time unless either of the Parties notifies the other of its intention to terminate this Agreement. Such notification shall be made at least twelve (12) months before
 - a. the end of the duration of the Agreement according to paragraph 1, or
 - b. the end of an extension period according to this Article.

Article 56

Liability

1. Any failure to comply with this Agreement and obligations deriving therefrom, shall oblige the failing party to provide satisfaction to the other party for all damage resulting therefrom.

2. A party shall be liable for the actions, omissions, or other conduct of a third party which that party has recourse to in order to fulfil that party's obligations under this Agreement and obligations deriving therefrom in the same way as that party is liable for its own actions, omissions or other conduct.
3. Any damage cost or loss to the Prison and to its movable and immovable property caused by a Prisoner through normal use or otherwise shall be borne by Estonia. The same applies to any damage to the Estonian staff caused by a Prisoner.
4. In the event of an escape of a Prisoner, any damage, costs or loss caused by the Prisoner shall be borne by Estonia. The same applies to any damage, costs or loss caused by the Prisoner during granted leave or other sorts of admissible temporary stays away from the Prison enforced on Estonian territory.
5. Notwithstanding the foregoing, the Parties acknowledge that a Prisoner, under the laws of Estonia, personally may be liable for intentionally caused damages.

Article 57

Force majeure

1. If an event giving rise to an instance of force majeure occurs to prevent the partial or complete fulfilment of this Agreement, a party must notify the other party of the relevant facts in writing as soon as possible. After receipt of the notification, the Parties shall enter into dialogue in order to determine if this Agreement and obligations deriving therefrom may be amended under acceptable terms.
2. An instance of force majeure means all circumstances beyond the reasonable control of the party concerned, including without limitation, natural disasters, war, riot, civil disturbance, fire, explosion, terrorism, sabotage, strike, lockout, labour disturbances, accident, epidemic, pandemic, breakdown of public utilities, orders or decrees of any court and extraordinary actions by third parties.

Article 58

Consultations and dispute resolution

1. The Parties shall take the necessary measures to ensure full compliance of this Agreement. Any breach in the implementation of this Agreement by Estonia identified by the Swedish Prison and Probation Service, and communicated to the Estonian Prison and Probation Service, shall be immediately addressed.
2. Any disputes arising from the enforcement of this Agreement shall primarily be solved via consultations between the Swedish Prison and Probation Service and the Estonian Prison and Probation Service.
3. If a dispute cannot be resolved according to paragraph 2, the Parties shall consult on the implementation of this Agreement if need be. Any difference or dispute concerning the interpretation or implementation of this Agreement shall be settled by negotiations between the Parties.

Article 59

Suspension of the Agreement

The operation of the Agreement may be in whole or in part temporarily suspended at any time by consent of both Parties.

Article 60

Amendment of the Agreement

This Agreement may be amended by consent of the Parties by exchange of letters and in accordance with their domestic legislation. The amendments in question shall enter into force as detailed in Article 62 of this Agreement.

Article 61

Termination of the Agreement

1. Notwithstanding Article 55, this Agreement may be terminated by Sweden or Estonia at any time by giving written notification to the other party through diplomatic channels. The termination shall be effective twelve (12) months after the date of the received notification.
2. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement and the Memorandum of Cooperation before such termination.
3. In case of termination of this Agreement, personal data that has been received by Estonia from Sweden shall, if deemed necessary by Sweden, continue to be processed in accordance with the rules referred to in Article 3.2 or otherwise be returned or erased in accordance with instructions from the Swedish Prison and Probation Service.
4. On termination of this Agreement, the Parties shall ensure that the enforcement of Swedish sentences in the Prison ends and that no Prisoners or property brought into the Prison by Sweden remain in the Prison.

Article 62

Entry into force

This Agreement shall be subject to ratification by the Parties. The Parties shall notify each other in writing that the national legal requirements for the entry into force of this Agreement have been completed. The Agreement shall enter into force on the thirtieth day after the latter of these notifications.

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

Done in duplicate in on the..... in English, Estonian, and Swedish, all the texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of the Kingdom of Sweden,

For the Government of the Republic of Estonia
