

# Treaty

## **between the Kingdom of Denmark and the Republic of Kosovo on the use of the Correctional Facility in Gjilan for the purpose of the execution of Danish sentences**

*The Kingdom of Denmark and the Republic of Kosovo (hereinafter the “Parties”),*

*Considering the close and longstanding cooperation and relationship between the Kingdom of Denmark and the Republic of Kosovo,*

*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 in the area of prison service, green energy and the promotion of rule of law, democracy and human rights,*

*Acknowledging that the Danish Prison and Probation Service is facing challenges relating to available correctional infrastructure,*

*Acknowledging the positive developments in the correctional service system in the Republic of Kosovo and that the Republic of Kosovo by such intensified cooperation will strengthen its correctional service system,*

*Noting that the principles of free consent, good faith and the pacta sunt servanda rule are universally recognized and this Treaty shall be based upon the respect for internationally fundamental human rights,*

*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 Treaty:

- a. "Sending State" means: the Kingdom of Denmark;
- b. "Receiving State" means: the Republic of Kosovo;
- c. "Designated authority of the Sending State" means: the Danish Prison and Probation Service;
- d. "Designated authority of the Receiving State" means: the Kosovo Correctional Service;
- e. "Prison" means: Correctional facility located in Gjilan with a capacity to house 300 Prisoners;
- f. "Governor" means: the Governor of the Prison appointed by the designated authority of the Sending State;
- g. "Director" means: the Director of the Prison appointed by the designated authority of the Receiving State to manage the Prison facilities and its staff;
- h. "Staff of the Sending State" means: staff appointed by the designated authority of the Sending State;
- i. "Staff of the Receiving State" means: staff appointed by the designated authority of the Receiving State;
- j. "Prisoner" means: an adult person upon whom a Danish prison sentence, including persons upon whom an expulsion order from Denmark, is imposed, and persons who are in custody pending enforcement of an expulsion order, who is transferred to the Receiving State;
- k. "Danish sentence" means: a prison sentence, including the decision on expulsion, imposed by a final decision of a court which is enforceable in the Sending State and a court order on the remand in custody pending enforcement of an expulsion order;
- l. "Prisoners' Escort Unit" means: a professional transportation unit of the Gjilan facility which escorts the Prisoners for any purpose throughout the territory of the Receiving State;
- m. "Prison Health Unit" means: a health service, located in Gjilan facility, consisting of Staff of the Sending State practicing under the rules and regulations of the Sending State;
- n. "Cooperation Agreement" means: An agreement between Kosovo Correctional Service and the Danish Prison and Probation Service on the use of Correctional Facility in Gjilan for the purpose of the execution of Danish sentences.

#### **Article 2**

##### ***Purpose and scope***

1. This Treaty regulates matters relating to or arising out of the execution of Danish sentences in the Prison and defines the necessary conditions for that purpose during the execution of the Danish sentence, including matters regarding asylum in the Receiving State, as well as procedure, rights and duties of both Parties.

2. The cooperation between the Sending State and the Receiving State may, in addition to the execution of Danish sentences, in particular include education and training, exchange of best practices and experiences, strengthening the implementation of international standards on correctional services and detention, as well as support and cooperation related to the correctional service systems and mechanisms more broadly.

3. This Treaty 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***

This Treaty shall not prejudice or otherwise affect or impact upon the rights and obligations under international law of either party to this Treaty.

**Article 4**  
***Mutual obligations***

1. The Minister of Justice of the Receiving State shall put the Prison, including its staff and facilities, at the disposal of the Minister of Justice of the Sending State for the purpose of the execution of Danish sentences.

2. The Receiving State shall make the necessary adjustments to the Prison facilities to ensure that the Prison meets the requirements of the Sending State. The Receiving State shall ensure that the Prison continuously meets the requirements of the Sending State as referred to in the previous sentence.

3. The Minister of Justice of the Sending State shall make use of the Prison for a remuneration, see Articles 32 and 33, and in accordance with this Treaty. Execution of criminal sanctions and other measures in the Prison shall be based exclusively on a Danish sentence.

4. With a view to the implementation of this Treaty, the Designated authorities of the Sending State and the Receiving State shall conclude a Cooperation Agreement regarding the functioning of the Prison, the staff, the facilities, the transport of Prisoners and other tasks that may be carried out by both Parties.

5. The execution of the rights and duties under this Treaty and the Cooperation Agreement, including the Prison facilities, the transport of Prisoners, criminal investigations, criminal prosecution for offences, and treatment inside and outside the Prison, including medical care, shall be conducted in accordance with the obligations under international law of the Sending State. Both Parties to this Treaty shall secure the fulfilment of these obligations, including taking the necessary measures to that end.

**Article 5**  
***Applicable law***

1. The rules and regulations of the Sending State shall be exclusively applicable to the execution of Danish sentences in the Prison, including the rights and duties of the Prisoners, which may take the form of complaints or legal actions of Prisoners concerning the execution of Danish sentences.

2. Complaints and legal matters concerning the execution of Danish sentences shall be handled by the Danish authorities, including Danish courts.

3. The rules and regulations of the Sending State on employment, healthcare, working environment and safety shall apply to the Staff of the Sending State.

4. The rules and regulations of the Receiving State on employment, healthcare, working environment and safety shall apply to the Staff of the Receiving State.

5. The rules and regulations of the Sending State on working conditions, including health environment, safety and insurance, shall apply to the Prisoners during work activities.

6. Asylum claims lodged by Prisoners and other matters regarding asylum shall be dealt with by the Sending State in accordance with rules and regulations of the Sending State, when under the jurisdiction of the Sending State.

## **Article 6** ***Rights and duties of Prisoners***

The rights and duties of Prisoners as referred to in Article 5(1) in the areas of, *inter alia*, healthcare, participation in the community of Prisoners, postal correspondence, religious services, visits, and telephone communication shall be governed by the rules and regulations of the Sending State, as further specified in the Cooperation Agreement.

## **Article 7** ***Personal data***

1. The applicable rules and regulations of the Sending State referred to in Article 5 include, *inter alia*, legislation on data protection, including international obligations of the Sending State.

2. Personal data exchanged with the Prison in the context of the application of this Treaty shall only be used for the purposes mentioned in Article 2.

3. Personal data received by the Prison from the Sending State in the context of this Treaty shall not be disclosed to or accessed by other authorities in the Receiving State or other countries outside the European Union, as well as international organisations, unless the Designated authority of the Sending State has given prior authorisation to such disclosure.

4. The requirement of prior authorisation pursuant to paragraph 3 does not apply in the following situations provided that the Governor authorises the disclosure:

- a. To protect the vital interests of the Prisoner;
- b. To apprehend a Prison escapee;
- c. To prevent an immediate and serious threat to public security or risk to public health.

This paragraph is only applicable when prior authorisation pursuant to paragraph 3 cannot be obtained in good time. The Designated authority in the Sending State shall receive notification regarding disclosures carried out pursuant to this paragraph.

5. In case of prior authorisation pursuant to paragraph 3 or situations covered by paragraph 4, the Prison may only disclose the relevant data in accordance with the rules set out in legislation on data protection, including international obligations of the Sending State, provisions on processing of personal data and on transfers of personal data to third countries or international organisations.

6. Having regard to Article 30, the Danish Data Protection Agency has the competence to supervise and enforce the processing of personal data carried out by the Prison in the context of the application of this Treaty.

## **PART II**

### **THE PRISON**

#### **Article 8** ***Language***

1. The working language of the Prison shall be English.
2. All official documents and other documentation shall, where relevant, be drafted in or translated into Danish or English.
3. Where relevant, documents shall be drafted in or translated into the official languages of the Receiving State, as specified in the Cooperation Agreement.

#### **Article 9** ***Prison capacity***

The Receiving State shall make capacity suitable to house 300 Prisoners available in the Prison for Prisoners of the Sending State. The capacity shall be in the form of single cells or shared cells for no more than two Prisoners with a floor area of no less than 6 square meters for single cells and no less than 8 square meters for shared cells, in accordance with the rules and regulations of the Sending State.

#### **Article 10** ***Prison conditions***

1. The Receiving State guarantees that the conditions in the Prison are such that the Governor is able to ensure full compliance with the rules and regulations of the Sending State, the Treaty and the Cooperation Agreement.
2. In case of significant changes in the rules and regulations of the Sending State as mentioned in paragraph 1, the Parties agree to hold consultations, see Article 37.

#### **Article 11** ***Damage to property***

Damage to Prison property by Prisoners as the result of normal use or vandalism shall be borne by the Receiving State.

#### **Article 12** ***Management of Prisoners' funds***

The Designated authority of the Sending State shall organise the administration of Prisoners' funds acquired through employment at the Prison and shall cover all expenses and salaries of Prisoners in accordance with the rules and regulations of the Sending State. In managing the Prisoner's funds, the Designated authority of the Sending State shall ensure that no financial relationship is created between the Designated authority of the Receiving State and the Prisoners.

**Article 13**  
***Competences and responsibilities of the Governor***

1. The Governor shall be in charge of the Prison.
2. The Governor may as part of the Staff of the Sending State appoint up to two deputy Governors and other staff in order to support the Governor.
3. Within the Prison, the Governor shall be responsible for the proper execution of Danish sentences, maintaining order and security and the treatment of Prisoners in accordance with the Danish Execution of Sentences Act (*straffuldbyrdelsesloven*) and other relevant rules and regulations of the Sending State, including the international obligations of the Sending State. To that end, the Governor shall make use of and direct the Staff of the Receiving State in accordance with paragraph 5.
4. In accordance with paragraph 3, the Governor shall authorise and be responsible for the use of direct force against Prisoners, including the use of measures of restraint in accordance with the rules and regulations of the Sending State, with a view to maintaining order and security in the Prison, for reasons of safety and preventing escape or in relation to the execution of an expulsion order or in relation to the examination of cases on asylum, see Article 28.
5. Under the authority, responsibility and orders of the Governor, the Director shall manage the Prison and the Staff of the Receiving State, see Article 14.
6. The Governor may request the Director to reassign the duties of Staff of the Receiving State, e.g., not to have contact with inmates. The Director shall give effect to such a request without delay in accordance with the rules and regulations of the Receiving State.
7. The Governor or staff appointed by the Governor shall review and decide on complaints from Prisoners in matters covered by Article 5(1). Complaints shall be lodged with the Governor or the staff appointed by the Governor.

**Article 14**  
***Competences and responsibilities of the Director***

1. Under the authority, responsibility and orders of the Governor, the responsibilities of the Director are:
  - a. to ensure the fulfilment of all the obligations of the Receiving State in this Treaty and the Cooperation Agreement in order to secure the proper and lawful functioning of the prison and to manage the Staff of the Receiving State for the purpose of this Treaty;
  - b. to facilitate the communication with relevant authorities of the Receiving State;
  - c. to order the use of coercive measures for the purpose of this Treaty;
  - d. to assist the Governor in drafting standard rules and procedures for the purpose of the practical operation and effective management of the Prison;
  - e. to implement the rules and procedures of the Staff of the Receiving State related to the execution of a Danish Sentence.
2. The Director shall, in consultation with the Governor, make a report on the annual budget plan for the Kosovar operation of the Prison and submit it to the Designated authority of the Receiving State for approval.

3. The Director shall, without prejudice to article 13(6), undertake immediate measures and initiate disciplinary procedures for the Staff of the Receiving State in case of staff-related violations.
4. The Director shall on a regular basis report to the Governor and to the Director of the Designated authority of the Receiving State about the operation of the Prison.
5. The Director may have at least one Deputy Director in order to support the Director.

**Article 15**  
***Staff***

1. The Receiving State shall provide the staff necessary to implement the Treaty and the Cooperation Agreement. The number of qualified Staff of the Receiving State shall also be agreed upon in the Cooperation Agreement. The staff shall receive training in accordance with the rules and regulations agreed upon in the Cooperation Agreement.
2. The Sending State may for the purpose of education and training provide uniformed staff. Staff of the Sending State shall in case of self-defence during education and training of Staff of the Receiving State have the authority to use coercive measures towards the Prisoners and take necessary measures pursuant to the Danish Execution of Sentences Act.

**PART III**

**EXECUTION OF SENTENCES**

**Article 16**  
***Transfer and placement of Prisoners***

1. In advance of the transfer of Prisoners, the Designated authority of the Sending State shall notify the Designated authority of the Receiving State of the Prisoners expected to be transferred to and incarcerated in the Prison, as further specified in the Cooperation Agreement.
2. The Designated authority of the Sending State must notify the Designated authority of the Receiving State of relevant data necessary in order to handle the individual Prisoner. Specific data regarding the individual security risk assessment shall be part of the notification.
3. The Receiving State may request supplementary data regarding the Prisoner if it is necessary in order to handle the Prisoner, see Article 7.
4. The Sending State shall not send Prisoners convicted of terrorist offences, Prisoners convicted of war crimes and Prisoners who, at the time of the decision on the placement, are confirmed with terminal diagnosis and/or serious mental disorders in need of medical care outside the Prison.
5. Without prejudice to paragraph 4, consultations shall take place in exceptional cases between the Designated authorities of the Sending State and the Receiving State as specified in the Cooperation Agreement.

**Article 17**  
***Execution of leave and release***

1. Any decision taken in the Sending State according to which a Prisoner is allowed to leave the Prison, temporarily or otherwise, shall not be executed on the territory of the Receiving State unless the Prisoner is a national or a resident of the Receiving State. However, the Governor may in

individual cases permit a temporary leave, accompanied by the Prisoners' Escort Unit, on the territory of the Receiving State.

2. Prisoners shall be transferred back to the Sending State before their release unless the Prisoner is a national or a resident of the Receiving State or there is an understanding between the Sending State and a third State on the transfer of the Prisoner to the third State upon release.

### **Article 18** ***Transport of Prisoners***

1. The Prisoners shall be transported from the Sending State to the Receiving State and from the Receiving State to a third country or the Sending State, and the transport shall be carried out by the Designated authorities of the Sending State. If the Prisoner is to be transferred to a third country upon release, the transport of the Prisoner from the territory of the Receiving State may take place by commercial flights or by other ways of transportation from the border to a third country. The transport to and from the border of the Receiving State to the Sending State or a third country shall be arranged and carried out by the Sending State according to the rules and regulations of the Sending State.

2. In connection with the handover, the Staff of the Sending State may at a designated area carry out security procedures, including a body search or other coercive measures, in accordance with the rules and regulations of the Sending State assisted, if necessary, by the Prisoner's Escort Unit or relevant Staff of the Sending State. In respect of the latter, Article 19(5) shall apply. The handover of the Prisoner shall be further regulated in the Cooperation Agreement.

3. The transport of Prisoners on the territory of the Receiving State to and from the Prison shall take place by order of the Governor or the Designated authority in the Sending State, and shall be carried out by Staff of the Receiving State designated by the competent authority of the Receiving State according to the rules and regulations of the Receiving State and in accordance with the international obligations of the Sending State.

4. During the transport of Prisoners, coercive measures, including measures of restraint, may be used by the Designated Staff of the Receiving State for reasons of safety and the undisturbed progress of the transport, in accordance with international obligations of the Sending State during such transport.

5. In accordance with Article 13, the Governor or persons designated by the Governor may participate as observers in transport carried out by Staff of the Receiving State.

6. The Governor is authorised to impose sanctions or measures for any disciplinary breaches committed by a Prisoner during the transport to and from the Prison, in accordance with the rules and regulations of the Sending State.

### **Article 19** ***Medical care inside and outside the Prison***

1. If a Prisoner needs medical care, the Prisoner shall be transferred to a medical centre in the Sending State.

2. By way of derogation from paragraph 1, a Prisoner may receive medical care:



- a. Inside the Prison, in cases where the treatment does not require transport to the Sending State or admission to a medical centre, see litra b and c. Medical care in the Prison shall be provided by the Sending State in accordance with the rules and regulations of the Sending State;
- b. Outside the Prison, in a medical centre in the Receiving State in cases where the Prisoner's treatment requires admission to a medical centre for not more than 3 nights;
- c. Outside the Prison, in a medical centre in the Receiving State in cases where for medical reasons the transfer to a medical centre in the Sending State is not possible. If relevant, the Prisoner shall be transferred to the Sending State as soon as his medical situation allows.

3. The decision to transfer a Prisoner to a medical centre in the Sending State shall be taken under the authority of the Governor.

4. Medical professionals, medical products and medicine inside the Prison shall be provided by the Sending State in accordance with the rules and regulations of the Sending State.

5. For the purpose of the functioning of the Prison Health Unit:

- a. Medical professionals of the Sending State working in the Prison Health Unit shall not be required to undergo any procedures for foreigners working in the Receiving State;
- b. The license of the Prison Health Unit and import of medical products and medicines for the purpose of providing medical services in the Prison shall not be required to undergo procedures of the Receiving State;
- c. Medical waste and expired medicine shall be managed in the Receiving State by the Prison Health Unit;
- d. In the event of a termination of the Treaty, all medical device shall be returned to the Sending State;
- e. In cases referred to in paragraph 2(b) and (c), Prisoners shall be accepted by a medical centre in the Receiving State.

6. During a stay in the medical centre outside the prison in the Receiving State, the Prisoner shall be treated in accordance with the rules and regulations of the Receiving State, in accordance with the international obligations of the Sending State. The treatment which a medical centre of the Receiving State shall provide, see paragraph 2(b) and (c), shall be provided according to a smooth and effective procedure, which must include contacts points, between the Prison and the relevant medical centres in the Receiving State. The Receiving State shall ensure the establishment of this procedure. The Parties may consult with a view to providing, where needed, or in cases with terminal diagnosis for which transport is not possible, medical treatment at complimentary facilities insofar as such treatment would be more appropriate to ensure the obligations of the Sending State referred to in this paragraph.

7. The Prisoner shall be guarded by Prisoners' Escort Unit and the Unit may use coercive measures, including measures of restraint, for reasons of safety and the prevention of escape, in accordance with the principle of proportionality and the obligations under international law of the Sending State.

8. A Prisoner transferred to a medical centre for emergency medical purpose shall be accompanied with a medical record, and a translated medical ID in one of the official languages of the Receiving State, including standard information, as further regulated in the Cooperation Agreement.

9. The Prison Health Unit shall receive the patient's medical record from a medical centre of the Receiving State, where the Prisoner has undergone treatment.

## **Article 20**

### ***Death of a Prisoner, qualified suicide attempts and other qualified self-harming actions or behaviors***

1. In the event of death, including suicide and possible suicide of a Prisoner in the Prison and outside the Prison, the Governor shall immediately inform the relevant authorities of the Receiving State and make a report thereof and through the Director send it to the relevant authorities of the Receiving State.
2. The Governor shall then follow all instructions of the competent authorities of the Receiving State, grant them access to the Prison, allow them to carry out any necessary criminal investigation into the cause of death and give them every assistance in that regard.
3. The Governor shall allow the deceased to be transported on the orders of the competent authorities of the Receiving State, from the Prison to a place for further examination into the cause of death.
4. The Governor shall arrange for the transfer of the deceased to the Sending State or a third country, as soon as possible.
5. After following the procedure as specified in paragraph 1, in the event of death of a Prisoner and in the event of qualified suicide attempts, other qualified self-harming actions and other suicidal and self-harming behavior, the Governor shall make a report to the relevant authorities of the Sending State. The Governor shall then follow all instructions of the Sending State.
6. Administrative and supervisory inquiries in the Prison regarding the events mentioned in paragraph 5 may be conducted by relevant authorities of the Sending State in accordance with the rules and regulations of the Sending State.
7. Upon the request of the Governor or, where relevant, the competent authorities of the Sending State, they shall be informed of ongoing investigations and the prosecution results.

## **Article 21**

### ***Escape***

In the event of escape from the Prison, e.g., during transport or during a stay in a medical centre in the Receiving State, the Governor shall immediately inform the police of the Receiving State, the Designated authority of the Receiving State and the relevant authorities of the Sending State, providing the identity of the person concerned and other relevant information.

## **Article 22**

### ***Security of the Prison***

1. The competent authorities of the Receiving State shall be responsible for enforcing public order and safety outside the Prison. They shall take the measures necessary for the undisturbed operation of the Prison and, where necessary, measures to prevent the disturbance of public order in the immediate vicinity of the Prison.
2. The security inside the Prison shall be the responsibility of the Governor in accordance with Article 13(3). Upon the request of the Governor, in extraordinary situations where the staff of the Prison is no longer able to ensure the security and order in the prison, the competent authorities of the Receiving State are responsible for enforcing public order and safety inside the Prison. Such

enforcement of security or public order must be carried out in close consultation with the Governor, with the least possible intervention and in accordance with the principle of proportionality. As soon as public order and safety is restored, the security of the Prison is again the responsibility of the Governor. This matter shall be further regulated in the Cooperation Agreement.

**Article 23**  
***Evacuation of the Prison in case of emergency***

1. If the Prison has to be evacuated in case of an emergency, the Prisoners shall be transferred to another location designated by the competent authorities of the Receiving State, with a view to their immediate return to the Sending State.
2. This Treaty and the Cooperation Agreement are applicable *mutatis mutandis* to the other location, as referred to in paragraph 1, as far as emergency circumstances allow.

**PART IV**

**CRIMINAL LAW**

**Article 24**  
***Criminal offences committed in the Receiving State***

1. Criminal offences committed in the Receiving State are prosecuted in the Receiving State. In exceptional cases and with respect to the jurisdiction of the Sending State and the principle of *ne bis in idem*, criminal offences committed against or by Staff of the Sending State may be prosecuted in the Sending State after consultation between the relevant authorities of the Sending State and the Receiving State.
2. Through the Director, the Governor is obliged to report all criminal offences to the relevant authorities. The relevant authorities shall immediately inform the State Prosecutor of the Receiving State of the reporting.
3. The Governor shall cooperate with any investigation within the Prison that is considered necessary by the authorities of the Receiving State responsible for investigating and prosecuting criminal offences.
4. Upon the request of the Governor or, where relevant, the competent authorities of the Sending State, they shall be informed of ongoing investigations and the prosecution results.
5. Interviewing Prisoners as suspects or witnesses and other investigative acts that affect them shall, where the interests of the investigation allow it, take place as far as possible within the Prison.
6. A Prisoner suspected of a criminal offence committed in the Prison shall not be transferred to the Sending State other than with the consent of the relevant authorities of the Receiving State.
7. The authorities of the Sending State are not permitted to launch investigations in the Prison into criminal offences committed in the Receiving State, unless this is permitted in accordance with paragraph 1 or Article 26. However, the Governor is, in accordance with the rules and regulations of the Sending State, permitted to conduct an inquiry with a view to imposing a disciplinary sanction on a Prisoner involved in a criminal offence.
8. This Article is without prejudice to the rights and duties set out in Article 4(5) and Article 31.

**Article 25**  
***Execution of a Sentence imposed by the Receiving State***

1. When a Prisoner is sentenced to imprisonment in the Receiving State, see Article 24, the execution of the Danish sentence shall be suspended and the Prisoner shall, without delay, be transferred to another custodial institution in the Receiving State to serve the sentence of the Receiving State.
2. The execution and imposition of the sentence of the Receiving State shall be in accordance with the international obligations of the Sending State.
3. When the serving of the sentence of the Receiving State is completed, the Prisoner shall be returned to the Prison in order to resume and complete the execution of the Danish Sentence.
4. If the Treaty is terminated in accordance with Article 35, Prisoners serving a sentence of the Receiving State in another custodial institution in the Receiving State shall as soon as possible be transferred to the Sending State to serve the sentence of the Receiving State in the Sending State, in accordance with the international obligations of the Sending State and with principles in the convention of the Council of Europe on the transfer of sentenced persons.

**Article 26**  
***Investigation conducted by the Sending State***

1. The relevant authorities of the Sending State may within the Prison and according to the rules and regulations of the Sending State launch investigations and criminal investigations into offences covered by the jurisdiction of the Sending State and may interview Prisoners as suspects or witnesses.
2. In the event that a Prisoner needs to be interviewed as a suspect or a witness by the competent authorities of the Sending State, arrangements may be made, including the use of other secure online communication based on the rules and regulations of the Sending State.
3. In accordance with the rules and regulations of the Sending State, the Governor may monitor e.g., the Prisoner's phone calls, visits and correspondence. The Prison and the technical systems shall be able to support the monitoring. The Sending State shall provide the equipment for monitoring.

**Article 27**  
***Legal cooperation at the request of third States***

1. In the event that the competent authorities of the Receiving State receive an extradition request, or a request for legal assistance from a third State with regard to a Prisoner in the Prison, this shall be passed on to the competent authorities of the Sending State. In the situations referred to in Article 25, the Receiving State shall not grant a request for extradition or legal assistance from a third State without prior consent of the Sending State. The same applies to requests from international tribunals.
2. In the event that the competent authorities of the Sending State receive an extradition request, a European arrest warrant or a request for legal assistance from a third State with regard to a Prisoner in the Prison, this shall be dealt with by the Sending State with a view to the handling and execution thereof. The same applies to requests from international tribunals. The Prisoner shall be returned to the Sending State when and if appropriate.

## **PART V**

### **ASYLUM**

#### **Article 28**

##### ***Examination of cases regarding asylum***

1. The relevant authorities of the Sending State may, in accordance with the rules and regulations of the Sending State, *inter alia*, conduct interviews with prisoners or take fingerprints and photographs of prisoners for the purpose of completing an examination of cases regarding asylum and complaints against decisions regarding asylum and have oral proceedings before the Danish Refugee Appeals Board.
2. Lawyers or non-governmental organisations providing legal services may, in accordance with the rules and regulations of the Sending State, be permitted to do so in the Prison.
3. In the event that a Prisoner is to be interviewed or provided legal services regarding a case regarding asylum, see paragraphs 1 and 2, arrangements may be made to facilitate this, which may include the use of secure online communication in accordance with the rules and regulations of the Sending State.

## **PART VI**

### **PRIVILEGES AND IMMUNITIES**

#### **Article 29**

##### ***The grounds of the prison***

1. The grounds of the Prison are inviolable and may only be entered with the permission of the Governor.
2. The permission, as referred to in paragraph 1, is deemed to have been obtained in the event of fire or accident in the Prison or a calamity or major crisis in or with consequences for the Prison, where protective measures need to be taken immediately.
3. The Designated authorities of the Sending State and the Receiving State shall make suitable arrangements to enable duly authorised representatives of appropriate public services and inspections to enter the Prison.

#### **Article 30**

##### ***Supervision, inquiries and complaints or legal actions of Prisoners***

1. Supervision and the implementation of the execution of sentences is governed by the rules and regulations of the Sending State. That includes the Governor's duty to supervise the proper execution of sentences, in regards to which the Governor shall have the same powers and access referred to below in paragraph 3.
2. International bodies, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, authorised to conduct announced and unannounced visits to the Prison and with respect to transport under Article 18 and transfer and treatment under Article 19. They shall be granted access to information and be allowed to interview Prisoners to the greatest extent possible by the authorities of the Sending State and the Receiving State.

3. Authorities of the Sending State that are competent to deal with complaints, legal actions and/or supervision such as the Parliamentary Ombudsman may with respect to the obligations of the Sending State under this Treaty, conduct inquiries in the Prison including obligations during transport under Article 18 and during transfer and treatment under Article 19. In that regard those authorities shall enjoy the same powers as under the rules and regulations of the Sending State, including access to relevant locations and information, written statements from the Prison and the right to interview prisoners and staff in accordance with the rules and regulations of the Sending State.

4. The Ombudsperson of the Receiving State may conduct inquiries related to the rules and regulations of the Receiving State, when applicable according to this Treaty and in accordance with the Ombudsperson's mandate.

5. Lawyers and organisations from the Sending State providing legal services to Prisoners shall be permitted to do so in the Prison.

### **Article 31**

#### ***Immunity of the Governor, staff and competent authorities of the Sending State***

1. The Governor and Staff of the Sending State enjoy immunity from the jurisdiction of the Receiving State in respect of acts performed in the exercise of their duties. This also applies to the authorities referred to in Article 30(3).

2. The immunity provided in paragraph 1 is granted in the interests of the proper implementation of this Treaty and not for the personal benefit of the Governor, Staff and authorities of the Sending State. The Sending State *ex officio* or at the request of the Receiving State has the duty to waive the immunity of the Governor, Staff and authorities of the Sending State 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 staff from the jurisdiction of the Sending State.

4. Regardless of where they are located, all files, documents and other data carriers of the Sending State that the Governor or the Staff of the Sending State have in their possession in the exercise of their duties shall be inviolable. The Receiving State may request access to relevant documents, which shall be further regulated in the Cooperation Agreement.

5. Immunity in regards to property, assets and other relevant items shall be further regulated in the Cooperation Agreement.

6. The Governor and Staff of the Sending State shall not be subject to income tax in the Receiving State provided that the Governor and Staff of the Sending State during their stay in the Receiving State are fully subject to taxation in the Sending State in accordance with rules and regulations of the Sending State.

7. This Article is applicable *mutatis mutandis* to the actions and Staff of the Sending State referred to in Article 18(2).

## **Part VII**

### **COSTS**

#### **Article 32**

##### ***Fee for the use of the Prison***

1. The fee shall be a continuously fixed annual amount of € 15,000,000 (*fifteen million*), which shall be put at the Receiving State's disposal in quarterly rates of € 3,750,000 (*three million seven hundred and fifty thousand*).

2. The fee referred to in paragraph 1 shall be paid in full on a yearly basis in quarterly rates beginning from the date when the Prison is fully adapted and staffed to house 300 Prisoners according to the standards and legal requirements of the Sending State, see paragraph 5, yet at the earliest 12 months after the first payment of the fee as prescribed in paragraph 4.

Should the Prison at any point in time not meet the requirements referred to in the first sentence, the rates of the fixed annual fee shall be reduced to an amount corresponding to the share of the intended 300 Prisoners that can be housed in the Prison according to the standards and legal requirements of the Sending State. The reduced rate referred to in the third sentence shall apply until the requirements referred to in the first sentence are met.

3. Upon the entry into force of the Treaty, an initial fee of an amount of € 5,000,000 (*five million*) shall be put at the disposal of the Receiving State to cover the transition period until the Prison has been adapted and staffed as prescribed in paragraph 4. The initial fee shall be in addition to the later continuous annual payments for the use of the Prison as prescribed in paragraph 1 and 2.

4. For the first 12 months of use of the Prison, see paragraph 5, the fee shall be paid in quarterly rates in correspondence to the number of Prisoners that the facility has been adapted and staffed to house, beginning from the date when the Prison has been made suitable for 100 Prisoners, in accordance to rules and regulations of the Sending State.

The quarterly rates of the fee as referred to in the first sentence of this paragraph shall not exceed € 1,250,000 (*one million two hundred and fifty thousand*) for the first quarter, € 1,875,000 (*one million eight hundred and seventy five thousand*) for the second quarter, € 2,500,000 (*two million and five hundred thousand*) for the third quarter and € 3,125,000 (*three million one hundred and twenty five thousand*) for the fourth quarter. The quarterly rates of the fee for the first 12 months of use of the Prison as referred to in the first and second sentence of paragraph 4 therefore shall not combined exceed € 8,750,000 (*eight million seven hundred and fifty thousand*).

5. The date referred to in the first sentence of both paragraph 2 and paragraph 4 shall be determined by an inspection report to be further regulated in the Cooperation Agreement. Without prejudice to Article 4 (2), second sentence, and Article 10 (2), as concerns the inspection report, the Cooperation Agreement must provide that the relevant requirements and conditions of the Sending State are met, when the inspection report is signed by the Technical Group of the Receiving State and the Sending State and approved by the Joint Steering Committee.

#### **Article 33**

##### ***Other costs***

The Sending State shall not be responsible for any other costs incurred by the Receiving State than the fee referred to in Article 32.

## **PART VIII**

### **FINAL PROVISIONS**

#### **Article 34**

##### ***Term of the use of the Prison***

1. The Receiving State shall put the Prison at the Sending State's disposal and the Sending State shall use the Prison for five (5) years, from the entry into force of the Treaty.
2. The term of the use of the Prison shall be automatically extended for an additional five (5) year period unless either of the Party notifies the other, according to the procedure described in Article 35, of its intention to terminate this Treaty at least twelve (12) months before the term of the use of the Prison were to end according to paragraph 1.

#### **Article 35**

##### ***Termination of the Treaty***

1. This Treaty may be terminated by the Sending State or the Receiving State at any time by giving written notification to the other party through diplomatic channels. The termination shall be effective 12 months after the date of the received notification.
2. Termination of this Treaty shall not affect any rights or obligations arising out of the execution of this Treaty and the Cooperation Agreement before such termination.
3. In case of termination of this Treaty, personal data that has been received by the Prison from the Sending State shall, if deemed necessary by the Governor, continue to be processed in accordance with the rules referred to in Article 7 or otherwise be returned or erased in accordance with instructions from the Designated authority of the Sending State.

#### **Article 36**

##### ***Additional arrangements***

For the purpose of the practical application of this Treaty, representatives of the Sending State and the Receiving State may make additional arrangements.

#### **Article 37**

##### ***Consultations and dispute resolution***

1. The Designated authorities of the Sending State and the Receiving State or their appointed representatives of the Ministries of Justice shall consult on the implementation of this Treaty if need be. Any difference or dispute concerning the interpretation or implementation of this Treaty shall be settled by negotiation between the Parties.
2. For the purpose of overseeing the practical implementation of the Treaty and securing the sufficient dialogue in that respect a Joint Steering Committee shall be established. The Committee shall be composed of three persons of each Party with authority to act on behalf of that Party. They shall meet regularly and report to their Ministers of Justice at least twice per year.
3. The Joint Steering Committee shall have the powers to settle any dispute arising out of this Treaty and the Cooperation Agreement unless where specifically excluded. It shall be responsible for supervising the implementation of this Treaty and the Cooperation Agreement, including approving



the inspection report. The composition, authorities and further responsibilities of the committee shall be described in the Cooperation Agreement.

4. For the purpose of consultation on and supervision of the fulfilment of the requirement specification to the Prison by the Sending State a working group of technical professionals shall be established. The composition, authorities and responsibility of the technical committee shall be further described in the Cooperation Agreement.

5. Where a dispute remains unresolved in the working group, it shall be submitted to and negotiated by the Joint Steering committee and, if equally unresolved, ultimately by means of consultations between the Parties, where appropriate through diplomatic channels.

6. Any dispute between the Parties concerning the interpretation of this Treaty which cannot be settled through negotiations shall, at the request of one of them, be submitted to arbitration. If within six [6] months from the date of the request for arbitration the Parties are unable to agree on the organisation of the arbitration, any one of those Parties may refer the dispute to the Permanent Court of Arbitration (PCA) in accordance with the PCA Arbitration Rules 2012.

### **Article 38** ***Liability***

1. Any failure to comply with this Treaty 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 fulfill that Party's obligations under this Treaty and obligations deriving therefrom in the same way as that Party is liable for its own actions, omissions or other conduct.

### **Article 39** ***Force majeure***

1. If an event giving rise to an instance of *force majeure* occurs so as to prevent the partial or complete fulfilment of this Treaty, 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 Treaty 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 40** ***Amendment***

This Treaty may be amended by mutual consent of the Sending State and the Receiving State by exchange of letters and in accordance with their domestic legislation.

**Article 41**  
***Termination of use of the Prison***

On termination of this Treaty, the Sending State shall ensure that the use of the Prison ends and that no Prisoners or property brought into the Prison by the Sending State remain in the Prison. The Sending State shall return the Prison to the Receiving State in the condition it is at the moment of the end of the term of the Treaty. The Sending State shall not undo any adjustments made to the facilities.

**Article 42**  
***Entry into force***

The Parties shall notify each other in writing that the national legal requirements for the entry into force of this Treaty have been completed. The Treaty shall enter into force on the date of the latter of these notifications.

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

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

For the Kingdom of Denmark,

For the Republic of Kosovo,

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