

HOUSE OF LORDS

International Agreements Committee

11th Report of Session 2021–22

**Scrutiny of international
agreements:
Amendment to Road
Traffic Convention, and
Agreement with Albania
on Prisoner Transfers**

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International Agreements Committee

The International Agreements Committee is appointed by the House of Lords in each session to consider matters relating to the negotiation, conclusion and implementation of international agreements, and to report on treaties laid before Parliament in accordance with Part 2 of the Constitutional Reform and Governance Act 2010.

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Declaration of interests

See Appendix 1.

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Committee staff

The current staff of the Committee are Jennifer Martin-Kohlmorgen (Clerk), Andrea Ninomiya (Policy Analyst) and Robert Cocks (Committee Operations Officer).

Contact details

All correspondence should be addressed to the International Agreements Committee, Committee Office, House of Lords, London SW1A 0PW. Telephone 020 7219 4840. Email HLIntlAgreements@parliament.uk

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SUMMARY

This report addresses the following two Agreements, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG), and considered at the meeting of the Committee on 17 November 2021, which we report for information:

- Proposal of Amendment to Article 1 and new Article 34 BIS of the 1968 Convention on Road Traffic (CP 540)
- The Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania on the Transfer of Sentenced Persons (CP 523, 2021)

Scrutiny of international agreements: Amendment to Road Traffic Convention, and Agreement with Albania on Prisoner Transfers

CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

Proposal of Amendment to Article 1 and new Article 34 BIS of the 1968 Convention on Road Traffic (CP 540)¹

1. The Proposal of Amendment to Article 1 and new Article 34 BIS of the 1968 Convention on Road Traffic (the Road Traffic Convention amendment proposal) was laid on 29 September, and the scrutiny period is scheduled to end on 22 November 2021.
2. The Agreement inserts two new definitions and a new article to bring automated vehicles compliant with domestic and international regulations within scope of the Road Traffic Convention. As such, it is the first binding international agreement specifically on automated vehicles.² The Explanatory Memorandum (EM) accompanying the proposed amendment states that it will facilitate the development and safe use of automated vehicles,³ but also emphasises that the amendment is “merely clarificatory” for the UK in that it simply restates what the UK is doing already. In the Government’s view, the 1968 Convention (and the 1949 Geneva Convention on Road Traffic) were sufficiently flexible to accommodate the safe use of automated vehicles.

Entry into force, territorial scope and consultation

3. The amendment will enter into force on 14 July 2022, subject to no objections from a third or more signatories, or a separate call for a conference to consider it.
4. The amendment applies to the UK only, and does not extend to the Crown Dependencies or Overseas Territories. The EM explains that although it covers a reserved matter, the Government consulted the devolved administrations and shared the draft text with them.
5. The EM confirms that no new legislation is required to implement the amendment.

1 Proposal of Amendment to Article 1 and new Article 34 BIS of the 1968 Convention on Road Traffic, CP 540, October 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1023593/MS_5.2021_Proposal_Amendment_1968_Convention_Road_Traffic.pdf [accessed 17 November 2021]

2 Department for Transport, Explanatory memorandum on Proposal of Amendment to Article 1 and new Article 34 BIS of the 1968 Convention on Road Traffic, October 2021, para 3.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1023594/EM_MS_5.2021_Proposal_Amendment_1968_Convention_Road_Traffic.odt [accessed 18 November 2021]

3 EM, para 4.1

6. **We report the Road Traffic Convention amendment proposal to the House for information.**

The Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania on the Transfer of Sentenced Persons (CP 523, 2021)⁴

7. The Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania on the Transfer of Sentenced Persons (the Prisoner Transfer Agreement) was laid on 19 October 2021, and the scrutiny period is scheduled to end on 24 November 2021. It was considered by the Committee on 17 November 2021.
8. The Explanatory Memorandum (EM) notes that the Prisoner Transfer Agreement will replace an earlier Agreement signed with Albania in 2013 due to variations in sentencing guidelines. The EM states that “returned prisoners were serving a longer proportion of their sentence in Albania than they would have if they had not been transferred and served their sentence in the United Kingdom. This was solely due to the difference in release provisions”.⁵ This resulted in a reduction in the number of prisoners returned to Albania due to the increased risk of legal challenge.
9. The EM indicates that amendments were agreed between the Parties to “allow for a wider adaptation of sentences to align the custodial periods on transfer”.⁶ Notably, Article 7 of the new Agreement will enable the Albanian authorities to reduce the headline sentence to the equivalent UK level, when Albanian release arrangements are applied. The EM also highlights some other minor amendments that were made to the 2013 Agreement, including to make clear that a transfer can be made without an individual’s consent in some circumstances.⁷
10. Such transfers without consent can be made where prisoners are subject to an order for expulsion, deportation or removal, provided that this is compliant with the UK’s international obligations, including Article 8 of the European Convention on Human Rights.⁸ The EM confirms that “in deciding whether or not a prisoner should be transferred without his or her consent, account is taken of the prisoner’s links with the United Kingdom and with Albania”.⁹ Albania is a signatory to the European Convention on Human Rights.
11. Additionally, the EM explains that Article 3 of the Human Rights Act provides for prison conditions in Albania being taken into account in UK

4 Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania on the Transfer of Sentenced Persons, CP 523, October 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024543/CS_Albania_3.2021_UK_Albania_Transfer_Sentenced_Persons.pdf [accessed 17 November 2021]

5 Ministry of Justice, Explanatory memorandum: UK/Albania: Agreement on the Transfer of Sentenced Persons, October 2021, para 3.4: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1026635/EM_CS_Albania_3.2021_UK_Albania_Transfer_Sentenced_Persons.odt [accessed 18 November 2021]

6 Article 7(2) of the Prisoner Transfer Agreement provides for the adaption of sentences. Article 7(4) ensures that “the sentence to be enforced in the receiving State shall not aggravate, by its nature or duration, the sanction imposed in the transferring State.”

7 It notes that these can be found at Articles 2, 4, 7 and 8 of the Agreement.

8 On the question of human rights, Article 9 of the Prisoner Transfer Agreement provides that: “Each Party shall treat all sentenced persons transferred under this Agreement in accordance with applicable international human rights obligations, particularly regarding the right to life and the prohibition against torture and cruel, inhuman or degrading treatment or punishment.”

9 EM, para 8.1

decisions on prisoner transfers, should concerns be raised.¹⁰ We note that the European Court of Human Rights factsheet on Albania published in July raises concerns around the treatment of persons detained in hospital and inadequate medical treatment in prison.¹¹

12. **We call on the Government to set out how it will satisfy itself that Albanian prison conditions are adequate when deciding on prisoner transfers.**
13. A transfer still requires the consent of both Parties.¹² The Government has stated that Albanian nationals currently represent the highest percentage of foreign nationals in custody with more than 1,500 in prison in England and Wales, representing around 10% of overseas criminals in jail.¹³ The EM, however, does not provide information on how many prisoners are expected to be returned under the Agreement. This information is necessary in order to establish, in future, whether the Agreement has had its intended effects.
14. **We call on the Government to submit an updated EM that includes the total number of Albanian prisoner transfers expected under the Agreement.**
15. The Government press release about the new Prisoner Transfer Agreement made clear that the Government sees it as a way to remove more Albanian prisoners from the UK, while ensuring that they are detained for as long as they would have been in the UK. It noted that “removed prisoners will be barred from ever returning to the UK” and that “Albania will pay the costs of housing prisoners transferred from Britain”.¹⁴ We note that although the EM states that there will be a reduction in accommodation costs resulting from the Agreement, it is otherwise vague on the overall financial implications. There have been press reports¹⁵ regarding the UK Government potentially providing financial support to Albania’s prison system, about which the EM is silent.
16. **We call on the Government to submit an updated EM that clearly sets out the financial implications of the Agreement, and what funding, if any, the UK Government has agreed to provide to Albania’s prison system.**

Governance and amendments

17. Article 14 of the Prisoner Transfer Agreement provides that “any dispute between the Parties arising out of or in connection with this Agreement shall

10 EM, para 8.1

11 These include concerns around treatment of persons detained in hospital and inadequate medical treatment in prison: ECHR, *Press country profile: Albania, July 2021*: https://www.echr.coe.int/Documents/CP_Albania_ENG.pdf [accessed 18 November 2021]

12 EM, para 3.6

13 When the UK agreed the original prisoner transfer agreement in 2012, there were only 193 Albanian nationals in UK prisons. Ministry of Justice, ‘Press Release: Government strikes deal to remove more Albanian prisoners’ (26 July 2021): <https://www.gov.uk/government/news/government-strikes-deal-to-remove-more-albanian-prisoners> [accessed 17 November 2021]

14 Ministry of Justice, ‘Press Release: Government strikes deal to remove more Albanian prisoners’ (26 July 2021): <https://www.gov.uk/government/news/government-strikes-deal-to-remove-more-albanian-prisoners> [accessed 17 November 2021]

15 ‘Albania, UK Prisoner Deal Waits on Albanian Parliament’, *Balkan Insight* (3 August 2021): <https://balkaninsight.com/2021/08/03/albania-uk-deal-to-transfer-albanian-prisoners-faces-postponement/> [accessed 17 November 2021]

be resolved through diplomatic channels”.¹⁶ The Agreement does not have a specific provision on amendments.

18. The Agreement can be terminated in writing by either Party, with six months’ notice.

Entry into force

19. The EM confirms that the Agreement can take effect once both Parties have completed their domestic legal procedures. No new legislation is required to implement the Agreement in the UK.

Territorial scope and consultation

20. The Prisoner Transfer Agreement extends to the United Kingdom and to the Isle of Man. The EM indicates that it is intended that this Agreement will be extended to any Crown Dependency or Overseas Territory that wishes to be included in the future, provided they have the necessary legislation for the transfer of prisoners in place.
21. The Agreement relates to immigration laws, policies and procedures, which are a reserved matter, although the EM notes that there will be implications for the devolved administrations. The Government consulted with the administrations of Scotland and Northern Ireland, sharing the draft text in advance of signature. No reference is made to consultation with the Welsh Government. We note that the Senedd’s Legislation, Justice and Constitution Committee, in its report on the Prisoner Transfer Agreement, pointed this out too, but did not raise any specific concerns.¹⁷
22. **We report the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania on the Transfer of Sentenced Persons to the House for information, noting that the Government sees this as a way of transferring more prisoners to serve their sentences in Albania. In particular, we highlight our comments at paragraphs 12, 14 and 16.**

¹⁶ Article 14

¹⁷ Welsh Parliament, Legislation, Justice and Constitution Committee, *International Agreements, Agreements considered on 1 November 2021*: <https://senedd.wales/media/3syjhpcf/cr-ld14660-e.pdf> [accessed 17 November 2021]

APPENDIX: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND COMMITTEE STAFF

International Agreements Committee Members and staff

Lord Astor of Hever

No relevant interests

Lord Gold

Director, Gold Collins Associates Ltd

Principal, David Gold & Associates LLP

Baroness Hayter of Kentish Town

No relevant interests

Lord Kerr of Kinlochard

Chairman, Centre for European Reform

Deputy Chairman, Scottish Power plc

Lord Lansley

Director, LOW Associates Ltd

Chair, UK-Japan 21st Century Group

Trustee, Radix

Baroness Liddell of Coatdyke

Adviser, PricewaterhouseCoopers

Association Member, Bupa

Chair, Annington Ltd

Honorary Vice President, Britain-Australia Society Education Trust

Trustee, Northcote Educational Trust

Lord Morris of Aberavon

No relevant interests

Lord Oates

Chair, Advisory Committee, Weber Shandwick UK

Director, H&O Communications Ltd

Lord Razzall

Director, North Atlantic Mining Associates Limited

Director, ZeU Crypto Networks Inc

Shareholdings, ZeU Technologies Inc

Shareholdings, St-Georges Eco-Mining Corporation

Shareholdings, Tintra plc

Lord Robathan

No relevant interests

Earl of Sandwich

No relevant interests

Lord Watts

No relevant interests

The Committee staff are Jennifer Martin-Kohlmorgen (Clerk), Andrea Ninomiya (Policy Analyst), and Robert Cocks (Committee Operations Officer).

Specialist Adviser

Alex Horne acted as Specialist Adviser to the Committee and declared the following interests:

Counsel, Hackett & Dabbs LLP; Visiting Professor at Durham University; and Special Adviser, United Nations Development Programme (Pacific Region).

