

Title Transfer of Sentenced Persons Act

25 articles promulgated by Presidential Order No. 10200012411 Hua-Zong-I-Yi-Zih, January 23, 2013;
Effective from July 24, 2013.

Chapter I General Principles

- Article 1 This Act is regulated to transfer sentenced persons to serve the sentences imposed against them in their countries, to manifest humanitarian principles and to achieve the purposes of edification and education.
- Article 2 The transfer of sentenced persons is subject to the treaties, which Republic of China (hereinafter referred to as “ROC”) has signed with the Transferring States. The provisions of the Act herein shall be applicable only when there is no treaty or they are not regulated in treaties. Where matters are not regulated in this Act, the Criminal Code of ROC, Code of Criminal Procedure, Juvenile Delinquency Act and other relevant provisions of the laws shall govern.
- Article 3 For the purpose of this Act:
“Sentenced Persons” means a person who has been convicted of an offense by a final judgment of a court in the Transferring States and has been imprisoned or is required to be imprisoned.
“Receiving” means the procedure of having the sentenced person with ROC nationality back to serve the sentence in ROC.
“Repatriation” means the procedure of sending a foreign sentenced person to serve the sentence within his own country.
“Transfer” means the receiving and repatriation of sentenced persons.
“Transferring States” means foreign states transferring sentenced persons to or from ROC.

Chapter II Receiving Sentenced Persons

- Article 4 Receiving sentenced persons shall be subject to the following conditions:
the Transferring States and ROC both agree to the transfer.
the judgment of imprisonment imposed by the Transferring States on the sentenced persons is final.
the offenses on account of which the sentence has been imposed, if committed in the territory of ROC, would be offenses according to the laws of ROC.
the sentenced persons have ROC nationality and a household registration in ROC.
the sentenced persons or their guardians shall consent in writing. However, the guardians' statement shall not be contrary to that of the sentenced persons expressed explicitly.
at least one year of the sentence imposed on the sentenced persons remains to be served at the time of the request for transfer, unless a term is agreed by both the Transferring States and ROC.
according to the law of ROC, the limitation of the execution has not been barred.
before the court of the Transferring States impose a final judgment, the same offenses have not been finally judged by the court of ROC.
the right to a fair trial in the Transferring States has been protected. If sentenced persons and their guardians do not claim contrarily, it is presumed that the right to a fair trial in the Transferring State has been protected.

- Article 5 The Ministry of Justice (hereinafter referred to as “MOJ”) shall appoint officials or delegate an agency to appoint officials to confirm the consent of the sentenced persons or their guardians under Paragraph 5, Article 4 was voluntary, and to inform the sentenced persons and their guardians of the legal effects of the transferring.
- The consent of the preceding paragraph may not be withdrawn upon confirmation.
- Under the request of the sentenced person, the officials mentioned in Paragraph 1 shall assist the sentenced persons, according to the laws of the Transferring States, to inspect the dossier, and to obtain relevant materials.
- The officials under Paragraph 1 shall inform the sentenced persons about the rights specified in the preceding paragraph.
- Article 6 Upon receiving the Transferring States’ request for transferring, MOJ, if considering the request conforming to the conditions under Article 4 and fitting to execute after consultation with relevant authorities, shall notify the governing prosecutors offices and the prosecutors shall apply in writing for the execution of the judgment imposed by the Transferring States in courts with a certified copy of judgment provided by the Transferring States, the length of time already served by the sentenced persons, the days of detention prior to the execution of judgment, and any other credits proving the transferring is subject to the conditions under Article 4.
- Article 7 In matters relating to the permission to execution of the judgment imposed by the Transferring States, exclusive jurisdiction resides in court for the place where the central government is located.
- Article 8 The court shall, by a ruling, grant the execution of the judgment and declare the sentence pursuant to Article 9, if the court deems prosecutor’s application conforms to Article 4 and that the sentence imposed by the Transferring States could be converted pursuant to Article 9.
- The court shall, by a ruling, overrule the application if the application does not comply with legal formality, or it shall not be granted as a matter of law.
- The prosecutor, sentenced persons or their guardians may file an interlocutory appeal to the direct appellate court if they disagree with the court’s ruling. However, no interlocutory appeals shall be filed against rulings by the appellate court.
- Article 9 The sentence imposed by the Transferring States shall be converted pursuant to the following subparagraphs:
- life imprisonment shall be imposed, if the same offenses on account of which the life imprisonment has been imposed constitutes a life imprisonment according to the laws of ROC as well.
 - an imprisonment shall be imposed and not be commuted to fine, if the same offenses on account of which the life imprisonment has been imposed constitutes a maximum term of imprisonment according to the laws of ROC.
 - a sentence identical to the original one shall be imposed on the same offenses, if, according to the laws of ROC, the original one is not more than the maximum punishment, or less than the minimum punishment.
 - a maximum punishment shall be imposed on the same offenses and not be

commuted to fine, if, according to the laws of ROC, the original sentence exceeds the maximum punishment.

a concurrent sentence identical to the original one shall be imposed, if the Transferring States grants a concurrent sentence when multiple sentences are pronounced, but the execution shall not exceed 30 years.

a concurrent sentence shall be imposed after being converted under subparagraph 1 to 4 according to the laws of ROC, if multiple sentences have not been granted to a concurrent sentence by the Transferring States.

conditions may be granted, if the conditions appended to the original sentence are not in violation of the imperative provisions, prohibitive provisions, public policy or morals. If the previously mentioned conditions are in violation of the imperative provisions, prohibited provisions, public policy or morals, they shall be deemed not appended.

Article 10 The days already served by the sentenced persons in the Transferring States prior to the transferring, the days of detention prior to the execution of judgment, and the days already proceeded on the transferring shall be deducted from the sentence converted pursuant to Article 9.

Article 11 The governing prosecutors office shall inform MOJ after the ruling under Paragraph 1, Article 8 is final. If MOJ deems the transferring appropriate, MOJ may issue a receiving warrant to the governing prosecutors offices. The governing prosecutors offices shall designate a prosecutor to direct the execution. Prior to the issue of a receiving warrant, MOJ shall consult with relevant authorities.

Article 12 The sentenced persons received under this Act shall serve the sentence according to the laws of ROC.

Article 13 The same offenses, which the sentence has been imposed on and permitted to be served in ROC pursuant to Paragraph 1, Article 8, shall not be punished again pursuant to the laws of ROC.

Recidivism of the Criminal Code of ROC also applies to the same offenses on which the sentence has been imposed by a foreign court, and such sentence is permitted to be executed in ROC pursuant to Paragraph 1, Article 8.

Article 14 After the sentenced persons have been received and the imprisonment has been executed in ROC, the Transferring States alone is entitled the right to process any application for review of the judgments of its courts when the judgment is found against the laws of the Transferring States, or new facts or evidence are discovered.

Article 15 Correction facility may inform MOJ to permit releasing the sentenced persons on parole, who have been received and serving the sentence in ROC, on the following conditions:

the sentence served by sentenced persons in the Transferring States and ROC conforms to Paragraph 1, Article 77 of the Criminal Code of ROC and their repentance has been proven, without the circumstances regulated pursuant to Paragraph 2, Article 77 of the Criminal Code of ROC.

the sentence served by juvenile delinquents in the Transferring States and ROC conforms to Paragraph 1, Article 81 of Juvenile Delinquency Act, and their

repentance has been proven.

The record of sentences which the sentenced persons have served in the Transferring States may be converted to the scores regulated in Act for Execution of Sentence.

Such a record may be considered as the basis of repentance. The relevant standards and regulations of conversion shall be prescribed by MOJ.

Article 16 When the Transferring States informs MOJ the sentence imposed on the sentenced persons has been remitted or commuted, MOJ shall notify the governing prosecutors offices to delegate a prosecutor to submit a written application to courts for the remittance or commutation of the sentence which has been permitted to be executed and converted pursuant to Paragraph 1, Article 8 and Article 9.

Article 17 With the consent of the Transferring States, the sentenced persons received to serve sentences within the territory of ROC may be pardoned according to the laws of ROC.

Chapter III Repatriation of Sentenced Person

Article 18 Repatriating sentenced persons may be subject to the following conditions:

the Transferring States and ROC both agree to the repatriation.

the sentenced persons have nationality of the Transferring States, except that they have ROC nationality and a household registration in ROC.

the sentenced persons or their guardians shall consent in writing. However, the guardian's statement shall not be contrary to that of the sentenced persons expressed explicitly.

at least one year of the sentence imposed on the sentenced persons remains to be served at the time of the request for repatriation, unless a term is agreed by both the Transferring States and ROC.

the Transferring States have guaranteed reciprocity in writing.

the sentenced persons have no other offense under investigation or at trial in ROC.

Article 19 MOJ shall appoint officials to confirm the consent of the sentenced persons or their guardians to serve sentences in the territory of the Transferring States was of their own will, and to inform the sentenced persons and their guardians of the legal effects of repatriation.

The Transferring States may designate officials to present on the occasion of confirmation and notification regulated in the preceding paragraph.

The consent under Paragraph 1 shall not be withdrawn upon confirmation.

Article 20 Upon receiving Transferring States' request for repatriation, considering the request conforms to the conditions under Article 18 and is appropriate after deliberating with relevant authorities, MOJ may issue a repatriation warrant to the governing prosecutors office who shall implement it.

Article 21 The sentence which has not been served in ROC shall be considered served, after the sentenced persons have been repatriated and fully served the sentence in the Transferring States.

Chapter IV Supplementary Provisions

- Article 22 This Act shall also be applicable to the sentenced persons whose judgment is final before this Act enters into force.
- Article 23 This Act shall apply mutatis mutandis to the transfer among ROC, Mainland Area, Hong Kong and Macao. It is not bound to Article 75 of Act Governing Relations between the People of the Taiwan Area and the Mainland Area and Article 44 of Laws and Regulations Regarding Hong Kong and Macao Affairs.
- Article 24 The enforcement rule of this Act shall be enacted by Executive Yuan and Judicial Yuan.
- Article 25 This Act shall enter into force six months after the date of promulgation.