Flow Chart Showing the Process of Transfer of Sentenced ROC Nationals

MOJ receives and processes the application.
-**(§4)** The Transferor State agrees to the transfer.
-**(§5)** MOJ shall confirm that the consent of the sentenced person or his/her guardian is voluntary.

↓

The Transferor State makes a request to MOJ.

↓

The former part of (§6)
MOJ considers if the application conforms to the conditions under Article 4 after consultation with relevant authorities.

→ Conditions →

(§4)
- the judgment is final
- double criminality
- the sentenced person has ROC nationality and household registration
- consent in writing
- has at least one year of the sentence that remains to be served
- the period of execution is still valid
- the same offence has not been finally judged by an ROC court
- the sentenced person's right to a fair trial in the Transferor State has been ensured

↓ NO

MOJ rejects the application.

↓ Yes

The latter part of (§6)
MOJ notifies the governing prosecutors office to apply with relevant documents to the competent court for the execution of the court judgment imposed in the Transferor State.

→ Documents Required →

- a certified copy of judgment provided by the Transferor State
- the length of time already served by the sentenced person
- the days of detention prior to the execution of judgment
- any other credits proving the transfer is subject to the conditions under Article 4

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(§8) The court rules if said application conforms to Article 4 and if the sentence could be served in the ROC pursuant to Article 9.
(§10) The time already served in the Transferor State shall be deducted.

→ No →

(§8) The court rejects the application. The sentenced person or his/her guardian may obtain judicial relief by filing an interlocutory appeal.

↓ Yes

The former part of (§11)
The said prosecutors office shall report the court ruling to MOJ.

↓

The latter part of (§11)
MOJ considers if the application for transfer is appropriate after consulting with relevant authorities.

↓ Yes

(§11) MOJ issues a transfer warrant to the governing prosecutors office.

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(§12) The sentenced person transferred home under this Act shall serve the sentence according to ROC laws.
(§13) Recidivism of the Criminal Code of ROC also applies to the same offenses on which the sentence has been imposed by a foreign court.
(§15) MOJ may permit releasing the sentenced person on parole.
(§16) When the Transferor State informs MOJ the sentence imposed on the sentenced person has been remitted or commuted, MOJ shall notify the governing prosecutors office.
(§17) The sentenced person may be pardoned with the consent of the Transferor State.

※ **(§14)** After the sentenced person has been received and has started serving the sentence in the ROC, the Transferor State alone is entitled to process any application for review of the judgment of its court when the judgment is found to be against the laws of the Transferor State, or when new facts or evidence is found.

Numbers in ( ) refer to the articles in the Transfer of Sentenced Persons Act