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**Law of the People's Republic of China on International Criminal Judicial Assistance**  
**(Translation for reference only)**

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**(No. 13)**

The Law of the People's Republic of China on International Criminal Judicial Assistance, as adopted at the 6th Session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China on October 26, 2018, is hereby issued, and shall come into force on the date of issuance.

**President of the People's Republic of China: Xi Jinping**

**October 26, 2018**

**Law of the People's Republic of China on**  
**International Criminal Judicial Assistance**

(Adopted at the 6th Session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China on October 26, 2018)

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Chapter I General Provisions

Article 1 This Law is developed for purposes of guaranteeing the normal proceeding of international criminal judicial assistance, strengthening international cooperation in the field of criminal judicial justice, effectively punishing crimes, protecting the lawful rights and interests of individuals and organizations, and maintaining national interest and social order.

Article 2 For the purpose of this Law, "international criminal judicial assistance" means the mutual assistance provided between the People's Republic of China and foreign countries in the investigation, criminal investigation, prosecution, trial, execution and other activities of criminal cases, including the service of documents, investigation and evidence collection, arrangement of witnesses to testify or assist in investigation, seizure, impoundment and freezing of properties involved in cases, confiscation and return of illegal income and other properties involved in cases, transfer of sentenced persons and other assistance.

Article 3 Criminal judicial assistance between the People's Republic of China and foreign countries shall be provided in accordance with this Law.

The provisions of this Law, the Criminal Procedure Law and other relevant laws shall apply to the execution of requests for criminal judicial assistance made by foreign countries.

Such matters as the authority which signs the written request, the language of the written request and attached materials, the relevant time limit for handling and specific procedures may be handled in accordance with the provisions of criminal judicial assistance treaties or through consultation by both parties, provided that they are not against the basic principles of laws of the People's Republic of China.

Article 4 The People's Republic of China and foreign countries shall provide international criminal judicial assistance under the principles of equality and reciprocity.

International criminal judicial assistance shall not damage the sovereignty, security or public interest of the People's Republic of China, and shall not violate the basic principles of laws of the People's Republic of China.

No foreign institution, organization or individual may conduct criminal proceedings prescribed by this Law within the territory of the People's Republic of China without the approval of the competent authority of the People's Republic of China, and no institution, organization or individual within the territory of the People's Republic of China may provide evidentiary materials and assistance prescribed by this Law to foreign countries.

Article 5 Criminal judicial assistance between the People's Republic of China and foreign countries shall be provided through liaison with foreign affairs liaison authorities.

The Ministry of Justice of the People's Republic of China and other foreign affairs liaison authorities shall be responsible for proposing, receiving and forwarding the requests for criminal judicial assistance and handling other affairs relating to international criminal judicial assistance.

The People's Republic of China and foreign countries shall communicate with each other through diplomatic channels, if there are no criminal judicial assistance treaties between them.

Article 6 The National Supervisory Commission, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and other departments are the competent authorities in charge of international criminal judicial assistance, and shall be responsible for examining criminal judicial assistance requests made to foreign countries, examining and handling criminal judicial assistance requests made by foreign countries and forwarded by foreign affairs liaison authorities, and undertaking other work relating to international criminal judicial assistance according to the division of functions. In the cases on the transfer of sentenced persons, the Ministry of Justice shall, according to the division of functions, undertake the functions of corresponding competent authorities.

The organs handling criminal judicial assistance cases are the case handling organs of international criminal judicial assistance, and shall be responsible for submitting to the competent authorities to which they are subordinate the requests for criminal judicial assistance to be made to foreign countries, and executing the requests for criminal judicial assistance made by foreign countries and assigned by the competent authorities to which they are subordinate.

Article 7 The state shall guarantee the funds required for international criminal judicial assistance.

Article 8 The expenses incurred from the mutual execution of requests for criminal judicial assistance between the People's Republic of China and foreign countries shall be borne in accordance with the provisions of the treaty if there is a treaty; and shall be resolved through consultation under the principles of equality and reciprocity if there is no treaty or it is not provided for in the treaty.

## Chapter II Presentation, Receipt and Handling of Requests for Criminal Judicial Assistance

### Section 1 Requesting a Foreign Country to Provide Criminal Judicial Assistance

Article 9 Where the case handling organ needs to request a foreign country to provide criminal judicial assistance, it shall prepare a written request for criminal judicial assistance with the relevant materials attached, which shall, after being examined and approved by the competent authority to which it is subordinate, be filed by the foreign affairs liaison authority with the foreign country in a timely manner.

Article 10 A written request for criminal judicial assistance shall be filed with a foreign country in accordance with the provisions of the criminal judicial assistance treaty; if there is no such treaty or it is not provided for in the treaty, the provision of Article 13 of this Law may apply mutatis mutandis, or if the requested country has particular requirements, the request may be filed according to the particular requirements of the requested country, provided that it is not against the basic principles of laws of the People's Republic of China.

The written request and the attached materials shall be prepared in Chinese and be accompanied by a translation of the official language of the requested country.

Article 11 Where the requested country puts forward additional conditions for the execution of a request for criminal judicial assistance, if it does not damage the sovereignty, security or public interest of the People's Republic of China, the Ministry of Foreign Affairs may make a commitment. If the requested country expressly states that the commitment made by the foreign affairs liaison authority is sufficient and effective, the foreign affairs liaison authority may also make a commitment. The commitment to restrict prosecution shall be decided by the Supreme People's Procuratorate; and the commitment to sentencing shall be decided by the Supreme People's Court.

When investigating the criminal liability of a person involved in a case, the relevant authority shall be bound by the commitment made.

Article 12 After receiving the relevant notice or execution result provided by a foreign country, the foreign affairs liaison authority shall forward it to or inform the competent authority in a timely manner.

Where a foreign country requests a notification of the litigation result in a case for which it provides criminal judicial assistance, the foreign affairs liaison authority shall transfer the case to the competent authority for handling.

## Section 2 Requesting the People's Republic of China to Provide Criminal Judicial Assistance

Article 13 When a foreign country requests the People's Republic of China to provide criminal judicial assistance, it shall file a written request in accordance with the provisions of the criminal judicial assistance treaty. If there is no treaty or it is not provided for in the treaty, it shall indicate the following matters in the written request and attach the relevant materials:

- (1) Name of the organ that makes the request.
- (2) Case nature, basic information on personnel involved in the case and criminal facts.
- (3) Legal provisions applicable to this case.
- (4) Requested matters and the purpose of the request.
- (5) Correlation between requested matters and the case.
- (6) The period during which the request shall be executed.
- (7) Other necessary information or additional requirements.

In the absence of a criminal judicial assistance treaty, the requesting country shall make a reciprocal commitment.

The written request and the attached materials shall be accompanied by a Chinese translation.

Article 14 Under any of the following circumstances, a request for criminal judicial assistance made by a foreign country to the People's Republic of China may be rejected:

- (1) The conduct against which the request is made does not constitute a crime in accordance with the laws of the People's Republic of China.
- (2) When a request is received, the crime against which the request is made is subject to investigation, criminal investigation, prosecution and trial within the territory of the People's Republic of China, an effective judgment has been rendered, criminal proceedings have been terminated, or the term for prosecution has expired.
- (3) The crime against which the request is made is a political offense.
- (4) The crime against which the request is made is purely a military offense.
- (5) The purpose of the request is to conduct investigation, criminal investigation, prosecution, trial or execute the punishment on the grounds of race, ethnicity, religion, nationality, gender, political opinion, or identity, among others, or the party may receive unfair treatment for the aforesaid reasons.
- (6) The requested matters have no substantial relations with the case on which the request for assistance is made.
- (7) Any other circumstance where the request may be rejected.

Article 15 When the foreign affairs liaison authority receives a foreign country's request for criminal judicial assistance, it shall examine the written request and the attached materials. If the form and content of the written request satisfy the relevant requirements, the written request and the attached materials shall be forwarded to the competent authority for handling according to the division of functions. If the form and content of the written request fail to satisfy the requirements, the requesting country may be required to supplement materials or submit a new written request.

Where the request for criminal judicial assistance evidently damages the sovereignty, security or public interest of the People's Republic of China, the foreign affairs liaison authority may directly reject the request.

Article 16 After receiving the written request for criminal judicial assistance and the attached materials forwarded by the foreign affairs liaison authority, the competent authority shall conduct examination and handle them respectively as follows:

- (1) Where the competent authority deems that it may assist in the execution in accordance with the provisions of this Law and the criminal judicial assistance treaty, it shall make a decision and arrange the execution by the relevant case handling organ.
- (2) Where the competent authority deems that it shall refuse to provide assistance, either entirely or partially, as prescribed by Article 4 or 14 of this Law or the criminal judicial assistance treaty, it shall return the written request and the attached materials to the foreign affairs liaison authority and explain the reason.
- (3) Where the competent authority has confidentiality requirements for or other conditions attached to the execution of the request, it shall put forward such requirements or conditions to the foreign country through the foreign affairs liaison authority, and decide to execute the request with attached conditions after the foreign country accepts the conditions and makes a written commitment.
- (4) Where the competent authority deems it necessary to supplement materials, it shall notify the foreign affairs liaison authority in writing to require the requesting country to provide the materials within a reasonable time limit.

Where the competent authority deems that the execution of a request may obstruct the ongoing investigation, criminal investigation, prosecution, trial or execution of the relevant authority of the People's Republic of China, it may decide to postpone assistance and shall notify in writing the foreign affairs liaison authority of the decision on and grounds for postponing the assistance.

Where a foreign country has confidentiality requirements or other particular procedural requirements for the execution of its request, the competent authority may arrange the execution of the request in accordance with such requirements provided that it is not against the basic principles of laws of the People's Republic of China.

Article 17 The case handling organ shall, after receiving a foreign country's request for criminal judicial assistance assigned by the competent authority, execute the request in accordance with the law, and report the execution result or circumstances that obstruct execution to the competent authority in a timely manner.

In the course of executing a request, the case handling organ shall protect the lawful rights and interests of the parties and other relevant persons, and protect personal information.

Article 18 Where a foreign country requests the use of evidentiary materials obtained through criminal judicial assistance for purposes other than the request for a specific case, the foreign affairs liaison authority shall forward the request to the competent authority, and the competent authority shall make a decision on whether to approve the application or not.

Article 19 The foreign relations agency shall promptly forward or to the requesting country after receiving the relevant notice or execution result of the competent authorities.

For cases in which the People's Republic of China provides criminal judicial assistance, the competent authorities may request foreign parties to report the outcome of the proceedings through the foreign relations agency.

If the foreign relations agency receive the relevant materials of the results reported by the foreign countries, the foreign relations agency shall promptly forward to the competent authorities; if they bring a criminal lawsuit against a citizen of the People's Republic of China, the Ministry of Foreign Affairs shall be notified.

### Chapter III Service of Documents

#### Section 1 Requesting a Foreign Country to Serve Documents

Article 20 Where the case handling agency needs foreign assistance to serve the summons, notice, indictment, judgment and other judicial documents, it shall produce written criminal judicial assistance request with relevant materials. After it is promptly approved by the competent authorities, the foreign relations agency shall make a request to a foreign country.

Article 21 In the case of a request to a foreign country for a service of documents, the written request shall state the name or address of the person to be served, the address to be served, and the relevant rights and obligations to be notified to this person.

#### Section 2 Requesting the People's Republic of China to Serve Documents

Article 22 Foreign countries may request the People's Republic of China to assist in the service of summons, notices, indictments, judgments and other judicial documents. The assistance of the People's Republic of China in the service of judicial documents does not constitute recognition of the legal effect of foreign judicial documents.

If a request for assistance to serve a summons in court is made, it shall be submitted within the time limit stipulated in the relevant treaty. If there is no treaty or the treaty does not have stipulation, the request shall be submitted no later than three months before the hearing date.

The People's Republic of China shall not be obliged to assist in the service of a summon of a citizen of the People's Republic of China where they are to be interrogated or to appear as a defendant.

Article 23 Where a foreign country requests the People's Republic of China to serve a document, the written request shall state the name and address of the person to be served, and the relevant rights and obligations to be notified to this person.

Article 24 The people's court or other handling agency responsible for the assistance in service of document shall promptly inform the foreign relations agency of the execution results through the competent authorities, and the foreign relations agency shall inform the requesting country. Unless they cannot be delivered, the receipt or other supporting documents signed by the person to be served shall be attached.

#### Chapter IV Investigation and Evidence Collection

##### Section 1 Requesting a Foreign Country to Conduct Investigation and Collect Evidence

Article 25 Where the case handling agency needs a foreign country to assist in investigation and evidence collection on the following matters, it shall produce written criminal judicial assistance request with relevant materials; and the foreign relations agency shall promptly submit the request to foreign country after the approval of the competent authorities:

- (1) Finding and identifying relevant personnel;
- (2) Inquiring and verifying the property and financial account information involved;
- (3) Obtaining and providing testimony or statements from the person concerned;
- (4) Obtaining and providing relevant documents, records, electronic data and articles;
- (5) Obtaining and providing appraisal opinions;
- (6) Investigating or inspecting places, objects, persons, and bodies;
- (7) Searching for persons, articles, dwellings and other relevant places;
- (8) Other matters.

When requesting foreign assistance to investigate and collect evidence, the case handling agency may simultaneously request that a staff member be present at the time of execution of the request.

Article 26 In the case of requesting investigation and evidence collection from a foreign country, the written request and accompanying materials shall state the following items according to necessity:

- (1) The name, gender, address, identity information, contact information of the respondent and other information that helps confirm the respondent;
- (2) Questions that need to be asked by the respondent;
- (3) The name, gender, address, identity information, contact information, appearance and behavioral characteristics of the persons to be searched for or identified, and other materials that are helpful for finding and identifying such person;
- (4) Specific information such as the ownership, location, characteristics, appearance and quantity of the property in question to be inquired and verified, and relevant information of the financial account to be inquired and verified;

- (5) Specific information on the holders, locations, characteristics, appearance and quantities of documents, records, electronic data and articles that need to be obtained;
- (6) Specific information of the object to be identified;
- (7) Specific information on places, items, etc. that need to be inspected or examined;
- (8) Specific information of the object to be searched;
- (9) Other materials which are helpful to execute the request.

Article 27 If the requested country requests the return of the evidence materials or articles provided by it, the case handling agency shall return it as soon as possible through the foreign relations agency.

## Section 2 Requesting the People's Republic of China to Conduct Investigation and Collect Evidence

Article 28 Foreign countries may request the People's Republic of China to assist in investigation and evidence collection on matters specified by Clause 1, Article 25 of this Law.

Where a foreign country requests investigation and evidence collection from the People's Republic of China, the written request and accompanying materials shall contain the matters specified in Article 26 of this Law according to needs.

Article 29 When a foreign country requests investigation and evidence collection from the People's Republic of China, it may simultaneously request that a staff member be present at the time of execution of the request. Those who have been approved to be present shall abide by the laws of the People's Republic of China and obey the arrangements of the competent authorities and the case handling agency.

Article 30 If the case handling agency requires the requesting country to guarantee the return of the evidentiary materials or articles provided by it, and the requesting country guarantees the return, the evidence and articles can be provided.

## Chapter V Arranging for a Witness to Testify or Assist in Investigation

### Section 1 Requesting a Foreign Country to Arrange for a Witness to Testify or Assist in Investigation

Article 31 If the case-handling agency needs foreign assistance in arranging witnesses or expert to testify in the People's Republic of China, testify by video or audio, or to assist in the investigation, it shall produce written criminal judicial assistance request with relevant materials. After the approval of the competent authorities, the foreign relations agency shall make the request to the foreign country concerned in a timely manner.

Article 32 To request a foreign country to arrange witnesses or experts to testify or assist in an investigation, the written request and accompanying materials shall state the following according to needs:

- (1) The name, gender, address, identity information, contact information and other materials that help to identify the witnesses and experts;
- (2) The purpose, necessity, time and place of the testimony or assistance in the investigation;
- (3) The rights and obligations of witnesses and experts;
- (4) Protection measures for witnesses and experts;

(5) Subsidies to witnesses and experts;

(6) Other materials that contribute to the execution of the request.

Article 33 The crimes committed by the witnesses or experts who come to the People's Republic of China to testify or assist in the investigation before the entry are not subject to prosecution before the departure; and their personal freedom is not restricted except for the enforcement of the crimes after the entry into the country.

After the time limit stipulated in the treaty or is notified that it is not necessary to continue to stay, if the witness or the appraiser does not leave within 15 days, the provisions of the preceding paragraph shall no longer apply, unless it is unable to leave the country due to force majeure or other special reasons.

Article 34 For witnesses and experts who come to the People's Republic of China to testify or assist in the investigation, the case handling agency shall grant subsidies according to law.

Article 35 If the person who comes to the People's Republic of China to testify or assist in the investigation is a detainee, the foreign relations agency shall agree in advance with the competent authorities and the requested country regarding the transfer of the detainee.

The competent authorities and the case handling agency shall abide by the contents of the agreement, detain the transferred person in accordance with the law, and return the person to the requested country in time after the testimony or assistance in the investigation.

## Section 2 Requesting the People's Republic of China to Arrange for a Witness to Testify or Assist in Investigation

Article 36 Foreign countries may request the People's Republic of China to assist in arranging witnesses or experts to testify in foreign countries or to testify by video or audio, or to assist in investigations.

Where a foreign country requests the People's Republic of China to arrange for witnesses or experts to testify or assist in the investigation, the written request and accompanying materials shall state the matters specified in Article 32 of this Law Article as needed.

The requesting country shall make a written undertaking regarding the content of the Clause 1, Article 33 of this Law.

Article 37 Where the witnesses or the experts agree in writing to give evidence or assists in the investigation, the case handling agency shall promptly notify the foreign relations agency of the wishes, requirements and conditions of the witnesses and experts, and the foreign relations agency shall notify the requesting country.

If the witnesses or experts are arranged to testify by video or audio, the competent authorities or the case handling agency shall send personnel to the scene; they shall timely stop any circumstances that damage the sovereignty, security and social public interests of the People's Republic of China or violate the basic principles the laws of the People's Republic of China.

Article 38 If the foreign countries request the detainee to be transferred overseas to testify or assist in the investigation, and guarantee that the detainee is sent back in time after the testimony or assistance in the investigation, the foreign relations agency shall seek the opinions of the competent authorities and the detainees. Where the competent authorities and the detainees agree to go abroad to testify or assist in the investigation, the foreign relations agency shall agree in advance with the competent authorities and the requesting country on matters relating to the transfer of detainees.

The period in which a detainee is detained in a foreign country shall be discounted to the sentence imposed on them in the People's Republic of China.

## Chapter VI Seizure, Impoundment and Freezing of Property Involved in a Case

### Section 1 Requesting a Foreign Country to Seize, Impound or Freeze the Property Involved in a Case

Article 39 The case handling agency that need foreign countries to assist in seizing, detaining, and freezing the properties involved shall produce written criminal judicial assistance request and attach relevant materials. After the competent authorities review and approve it, the foreign relations agency shall timely make the request to the foreign countries.

If a foreign country has special requirements for the assistance in seizing, detaining, and freezing the properties involved in the People's Republic of China, it may be approved without violating the basic principles of the laws of the People's Republic of China. Where a decision is required by the judicial authority, it shall be made by the People's court.

Article 40 When requesting foreign countries to seize, detain, and freeze the properties involved, the Written request and attached documents shall contain the following items:

- (1) The ownership certificate, name, characteristics, appearance and quantity of the properties involved that require seizure, detaining, and freezing;
- (2) The location where the properties involved are required to be seized, detained, and frozen. Where funds or other financial assets are deposited in a financial institution, the name, address and account information of the financial institution shall be specified;
- (3) A copy of the relevant legal instrument;
- (4) Legal provisions concerning the seizing, detaining, and freezing and the protection of the rights of interested of the interested parties;
- (5) Other materials that help to execute the request.

Article 41 When the time limit for the seizing, detaining, and freezing determined by a foreign country expires, if the case handling agency needs the foreign country to continue to seize, detain, and freeze the related properties, it should make another request to the foreign country.

If the case handling agency decides to seize, detain, and freeze the property involved, it shall timely notify the requested country.

### Section 2 Requesting the People's Republic of China to Seize, Impound or Freeze the Property Involved in a Case

Article 42 Foreign countries may request the People's Republic of China to assist in seizing, detaining, and freezing the properties involved within the territory of the People's Republic of China.

When foreign countries request the People's Republic of China to seize, detain, and freeze the properties involved, the written request and accompanying materials shall state the matters specified in Article 40 of this Law as needed.

Article 43 The competent authorities may, after reviewing the following conditions, agree to seize, detain, and freeze the properties involved, and arrange the execution by the case handling agency:

- (1) The seizing, detaining, and freezing are in accordance with the conditions laid down by the laws of the People's Republic of China;
- (2) The seizing, detaining, and freezing of the properties involved are related to the inquiry, investigation, prosecution and trial activities of the on-going criminal case in the requesting country;
- (3) The properties involved can be seized, detained, and frozen;

(4) The execution of the request does not affect the legitimate rights and interests of the interested party;

(5) The execution of the request does not affect the on-going inquiry, investigation, prosecution, trial and enforcement activities of the relevant authorities of the People's Republic of China.

The case handling agency shall promptly notify the foreign relations agency through the competent authorities, and the foreign relations agency shall inform the requesting country of the results of seizing, detaining, and freezing. When necessary, the case handling agency may take measures to deal with the properties under seizure, detaining, and freezing.

Article 44 When the period of seizing, detaining, and freezing expires, if the foreign country needs to continue to seize, detain, and freeze the properties involved, it shall make the request to the foreign relations agency again.

If the foreign country decides to release the seizing, detaining, and freezing, the foreign relations agency shall promptly notify the case handling agency to release it through the competent authorities.

Article 45 If the interested parties have objection against the seizing, detaining, and freezing, and after review, the case handling agency considers the seizing, detaining, and freezing does not satisfy the conditions provided by Clause 1, Article 43 of this Law, it shall report to the competent authorities for making a decision to lift the seizing, detaining, and freezing. The foreign relations agency shall be notified, and the requesting country shall be informed by the foreign relations agency. If there are objections against the handling of the case, the case handling agency may forward them to the foreign relations agency through the competent authorities, and the foreign relations agency shall inform the requesting country.

Article 46 In the event that the requesting country causes improper seizing, detaining, and freezing, and it causes damage to the legitimate rights and interests of the interested party, the case handling agency may request the requesting country to assume liability for compensation through the foreign relations agency.

## Chapter VII Confiscation and Return of Illegal Income and Other Property Involved in a Case

### Section 1 Requesting a Foreign Country to Confiscate or Return the Illegal Income and Other Property Involved in a Case

Article 47 If the case handling agency needs foreign assistance to confiscate the illegal income and other properties involved, the written criminal judicial assistance request shall be made with relevant materials, and the foreign relations agency shall promptly make a request to the foreign country after the approval of the competent authorities.

To request a foreign country to return the illegal income and other properties involved to the People's Republic of China or to return to the victim, the request may be made together with the request for confiscation to the foreign country, or be submitted separately.

If the foreign country has special requirements for returning illegal income and other such properties that have been seized, detained, and frozen, the requirements can be allowed as long as they do not violate the basic principles of the laws of the People's Republic of China. Where a decision is required by the judicial authority, the people's court shall make the decision.

Article 48 When requesting a foreign country for confiscation and return of illegal income and other properties involved, the written request and accompanying materials shall state the following as required:

(1) The names, characteristics, appearance and quantity of the illegal proceeds and other the properties involved;

(2) The location of the illegal income and other properties involved that needs to be confiscated and returned. Where funds or other financial assets are deposited in a financial institution, the name, address and account information of the financial institution shall be specified;

- (3) Reasons for confiscation, return and relevant ownership certificates;
- (4) A copy of the relevant legal instrument;
- (5) Legal provisions concerning the confiscation, return and protection of the rights of interested parties;
- (6) Other materials that contribute to the execution of the request.

Article 49 If the foreign country assists in the confiscation and return of illegal income and other properties involved, the foreign relations agency shall consult with the competent authorities on the transfer of the relevant property with the foreign country.

In the case of requesting foreign assistance for confiscation, return of illegal income and other properties involved, if the foreign country proposes sharing of the request, the amount or proportion of the sharing or the proportion shall be determined by the foreign relations agency in consultation with the competent authorities.

## Section 2 Requesting the People's Republic of China to Confiscate or Return the Illegal Income and Other Property Involved in a Case

Article 50 Foreign countries may request the People's Republic of China to assist in the confiscation and return of illegal income and other properties involved.

Where a foreign country requests assistance from the People's Republic of China for confiscation and return of illegal income and other properties involved, the written request and accompanying materials shall state the matters specified in Article 48 of this Law as required.

Article 51 The competent authorities may, after reviewing the following conditions, agree to assist in the confiscation of illegal income and other properties, and arrange for the case handling agency to implement it:

- (1) Confiscation of illegal income and other properties involved is in compliance with the conditions provided by the People's Republic of China;
- (2) Foreign countries fully protect the relevant rights of interested parties;
- (3) There are properties in the People's Republic of China that can be enforced;
- (4) The Written request and accompanying materials detail the ownership, name, characteristics, appearance and quantity of the property targeted for the request;
- (5) Confiscation cannot be performed in the requesting country or cannot be fully implemented;
- (6) Other conditions that the competent authorities consider necessary to be satisfied.

Article 52 When a foreign country requests for assistance in the confiscation of illegal income and other properties involved, the request may be refused in any of the following circumstances; and the reasons shall be explained:

- (1) The judicial authorities of the People's Republic of China or the third country has made effective judgments on the property against which the request is made, and have executed the judgments or are executing the judgments;
- (2) The property against which the claim is made does not exist, has been destroyed, lost, sold, or has been transferred, resulting in the inability to enforce, unless the request is confiscation of property after sales or the property after the transfer;

(3) The person against whom the request is made has an unliquidated debt or an unfinished lawsuit within the territory of the People's Republic of China;

(4) Other circumstances that may lead to refusal.

Article 53 If the foreign country that requests for the return of illegal income and other properties involved can provide true and sufficient evidence, and after review the competent authorities consider it to comply with the conditions stipulated by the laws of the People's Republic of China, they may agree to arrange the case handling agency to implement it. Before returning, the case handling agency may deduct the reasonable expenses incurred in executing the request.

Article 54 For foreign country that requests for assistance in the confiscation and return of illegal proceeds and other properties involved, the foreign relations agency may submit a request for sharing with the competent authorities. The amount or proportion of the sharing is determined by the foreign relations agency in consultation with the competent authorities.

## Chapter VIII Transfer of Sentenced Persons

### Section 1 Transfer of Sentenced Persons to a Foreign Country

Article 55 A foreign country may request the People's Republic of China to transfer a sentenced foreign person, and the People's Republic of China may request a foreign country to transfer a sentenced foreign person.

Article 56 The transfer of a sentenced person to a foreign country shall meet the following conditions:

- (1) The sentenced person is a national of the country;
- (2) The act of imposing a sentence on a sentenced person also constitutes a crime under the laws of that country;
- (3) The judgment of the sentenced person has been legally effective;
- (4) The sentenced person agrees to the transfer in writing; or because of the sentenced person's age, physical health or mental health, the transfer is necessary, and the transfer is approved by his agent in writing;
- (5) Both the People's Republic of China and the said country agree to transfer.

Transfer can be refused if one of the following conditions is true:

- (1) The sentenced person is sentenced to a suspended execution or life imprisonment, except when the transfer is reduced to fixed-term imprisonment at the time of request;
- (2) When the transfer is requested, the sentence of the sentenced person is less than one year;
- (3) The sentenced person has an unfinished lawsuit in the territory of the People's Republic of China;
- (4) Other situations where it is not appropriate to transfer.

Article 57 Where a request is made to transfer a sentenced person to a foreign country, the written request and accompanying materials shall state the following items as required:

- (1) the name of the requesting authority;
- (2) the name, sex, nationality, identity information and other information of the sentenced person who is requested to be transferred;

- (3) the place of sentence of the sentenced person;
- (4) the basis and reasons for requesting the transfer;
- (5) A written statement that the sentenced person or his agent agrees to transfer;
- (6) Other matters.

Article 58 The competent authorities should verify the willingness of the sentenced person on the transfer. If the foreign country requests staff to be sent to verify the willingness of the sentenced person on the transfer, the competent authorities may make arrangements.

Article 59 Where a foreign country proposes to the People's Republic of China to transfer a sentenced person, or if the competent authorities consider that it is necessary to submit a request to a foreign country for the transfer of the sentenced person, the competent authorities shall, in conjunction with the relevant competent authority, make a decision on whether to agree with the foreign request or making a request to foreign country. After making a decision on the transfer request made by a foreign country, the foreign relations agency shall notify the requesting country and the sentenced person in writing.

Article 60 The transfer of the sentenced person shall be implemented by execution agency specified by the competent authorities. The time, place, and manner of the transfer of the sentenced person shall be determined by the competent authorities in consultation with the foreign country.

Article 61 If the sentenced person files a complaint against the original effective judgment after the transfer, he shall submit the complaint to the people's court of competent jurisdiction of the People's Republic of China.

If the people's court changes or revokes the original effective judgment, it shall promptly notify the foreign country.

## Section 2 Transfer of Sentenced Persons to the People's Republic of China

Article 62 The People's Republic of China may request a foreign country to transfer a sentenced Chinese person, and a foreign country may request People's Republic of China to transfer a sentenced Chinese person. The specific conditions and procedures for the transfer are implemented in accordance with the relevant provisions of the Article 1 of this Chapter.

Article 63 After the sentenced person is transferred to China, the competent authorities shall specify the execution agency to detain the person first.

Article 64 The People's Procuratorate shall make an application for the conversion of penalties and attach relevant materials to the Intermediate People's Court at the location of the execution agency; the court shall make a penalty conversion ruling.

The People's Court shall, based on the facts ascertained by the judgment of the foreign court, make a penalty conversion ruling in accordance with the provisions of the Criminal Law. Where the nature and duration of the sentence imposed by a foreign court is in accordance with the laws of the People's Republic of China, it shall be converted according to the sentence and time limit; if the nature and duration of the sentence imposed by the foreign court does not comply with the laws of the People's Republic of China, the type and period for the sentence shall be determined in accordance with the following principles:

- (1) The converted penalty shall be as consistent with the sentence imposed by the foreign court;
- (2) The penalty after the conversion shall not be heavier in terms of the nature or the sentence than the sentence imposed by the foreign court, nor shall it exceed the maximum sentence imposed by the Criminal Law of the People's Republic of China for the same

type of crime;

(3) The penalty of deprivation of liberty shall not be converted into property punishment; and

(4) The converted penalty is not subject to the minimum sentence imposed by the Criminal Law of the People's Republic of China for the same type of crime.

If the sentenced person is detained before returning to China to serve his sentence, the days of detainment will be calculated as days of sentence after conversion.

The penalty conversion ruling made by the People's Court is final.

Article 65 The execution agency will implement the sentence on the sentenced person who is transferred back to China according to the penalty conversion ruling. The execution of penalties, commutation, parole, and temporary execution of supervision shall be handled in accordance with the laws of the People's Republic of China.

Article 66 A complaint against the judgment of the foreign court after the sentenced person is transferred back to China shall be filed with the foreign court of competent jurisdiction.

#### Chapter IX Supplementary Provisions

Article 67 The People's Republic of China and relevant international organizations that carry out criminal judicial assistance shall be governed mutatis mutandis to the provisions of this Law.

Article 68 The criminal judicial assistance requests submitted to the People's Republic of China or the documents and evidentiary materials provided at the request of the People's Republic of China shall be handled for notarization and certification in accordance with the provisions of the treaty. If there is no treaty or the treaty does not provide for it, it shall be handled under the reciprocity principles.

Article 69 For the purpose of this Law, "criminal judicial assistance treaties" refer to the criminal judicial assistance treaty concluded or coparticipated by the People's Republic of China and foreign countries, treaties on the transfer of sentenced persons or other treaties containing clauses on criminal judicial assistance and the transfer of sentenced persons.

Article 70 This Law shall come into force as from the date of promulgation.

[ CLOSE ] [ PRINT ]

