

THE MINISTRY OF PUBLIC SECURITY - THE MINISTRY OF NATIONAL DEFENSE - THE SUPREME PEOPLE'S COURT AND THE SUPREME PEOPLE'S PROCURACY

Joint Circular No. 04/2013/TTLT- BCA-BQP-TANDTC-VKSNDTC of May 30, 2013, guiding the transfer of inmates for assistance in investigation, prosecution or trial activities

In order to ensure proper implementation of the provisions of the Law on Execution of Criminal Judgments on the transfer of inmates from prisons, detention camps or custody houses for assistance in investigation, prosecution or trial activities; the Ministry of Public Security, the Ministry of National Defense, the Supreme People's Court and the Supreme People's Procuracy promulgate the Joint Circular guiding the transfer of inmates for assistance in investigation, prosecution or trial activities, as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Joint Circular guides the implementation of provisions on the transfer of inmates from prisons, detention camps or custody houses for assistance in investigation, prosecution or trial activities and the regime of incarceration and management during the time of transfer.

Article 2. Subjects of application

1. Procedure-conducting agencies or persons, criminal judgment execution management agencies and criminal judgment execution agencies at all levels, prisons, detention camps, custody houses and organizations and individuals involved in the transfer of inmates.
2. Inmates currently serving prison sentences in prisons, detention camps or custody houses; and sentenced persons with legally effective judgments and the courts' judgment execution decisions that are being held in detention camps or custody houses (below referred to as inmates).

Article 3. Principles of transfer of inmates

1. An inmate is only transferred under a written transfer order of a competent person. The transfer must be implemented for right persons and time written in transfer orders in accordance with the Law on Execution of Criminal Judgments and guidance of this Joint Circular.

2. The escort, management and incarceration and mechanisms and policies for inmates during the time of transfer must be implemented in accordance with the Law on Execution of Criminal Judgments, the guidance of this Joint Circular and other relevant laws.

Chapter II

PROCEDURES FOR TRANSFER, COMPETENCE TO ISSUE TRANSFER ORDERS, DELIVERY AND RECEIPT AND MANAGEMENT MECHANISMS FOR TRANSFERRED INMATES

Article 4. Sending of written requests for transfer

1. A procedure-conducting agency or person of the Ministry of Public Security, the Ministry of National Defense or the Supreme People's Procuracy, shall, when requiring the transfer of an inmate for assistance in investigation and prosecution activities, send a written request for the transfer to:

a/ The head of the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense for inmates in prisons and detention camps of the Ministry of Public Security or the Ministry of National Defense;

b/ The head of the criminal judgment execution agency of the provincial-level police department for inmates in detention camps of provincial-level police departments or inmates directly managed by criminal judgment execution agencies of district-level police offices;

c/ The head of the criminal judgment execution agency of the military zone for inmates in prisons or detention camps managed by military zones or the equivalent level (below referred to as military zones).

2. A procedure-conducting agency or person of the Supreme People's Court or central military court shall, when requiring the transfer of an inmate for assistance in appellate, cassation or re-opening trial, send a written request to the criminal-judgment execution agency of the provincial-level police department or the military zone of the place in which the first-instance trial was conducted, in order to issue a transfer order or request for the issuance of a transfer order.

3. A procedure-conducting agency or person of a provincial- or district-level police office, People's Procuracy or people's court shall, when requiring the transfer of an inmate in assistance for investigation, prosecution and trial activities, send a written request to the head of the criminal judgment execution agency of the same-level police office of the place in which the transfer-requesting agency is based, to issue a transfer order or a request for the issuance of a transfer order.

4. A procedure-conducting agency or person of military zone and a regional-level procedure-conducting agency or person shall, when requiring the transfer of an inmate, send a written Request to the head of the criminal judgment execution agency of the military zone of the place in which the transfer-requesting agency based, to issue a transfer order or request for the issuance of a transfer orders.

5. A written request for the issuance of an inmate transfer order must have the following details:

a/ Name of the transfer-requesting agency;

b/ Full name, year of birth, and registered place of residence of the inmate;

c/ The inmate's date of arrest, crime, and duration of imprisonment, and the number and date of the court 's judgment;

d/ This number and date of the Court's judgment execution decision;

dd/ Inmate's place of custody or prison;

e/ Purpose and duration of transfer, the assigned escorting units and the place of detention of the transferred inmate. Signature of a competent person and the seal of the transfer- requesting agency.

6. The written request for issuance of an inmate transfer order must be enclosed with the written request for the transfer by the procedure-conducting agency or person.

Article 5. Competence to issue transfer orders and requests for issuance of inmate transfer orders

1. The head of the criminal judgment execution management agency of the Ministry of Public Security shall issue transfer orders with respect to inmates in prisons and detention camps of the Ministry of Public Security.

2. The head of the criminal judgment execution management agency of the Ministry of National Defense shall issue transfer orders with respect to inmates in prisons and detention camps of the Ministry of National Defense.

3. Heads of criminal judgment execution agencies of provincial-level police departments shall issue transfer orders or requests for issuance of transfer orders as follows:

a/ Issue transfer orders with respect to inmates in prisons and detention camps of their localities;

b / Request the head of the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense to issue transfer orders with respect to inmates in prisons and

detention camps of the Ministry of Public Security or the Ministry of National Defense;

c/ Request heads of criminal judgment execution agencies of provincial-level police departments of other localities to issue transfer orders with respect to inmates being held in prisons and detention camps of local police departments;

d/ Request heads of criminal judgment execution agencies of military zones to issue transfer orders with respect to inmates in prisons and detention camps of military zones.

4. Heads of criminal judgment execution agencies of military zones shall issue transfer orders or request for issuance of transfer orders as follows:

a/ Issue transfer orders with respect to inmates in prisons and detention camps of military zones;

b/ Request the head of the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense to issue transfer orders with respect to inmates in prisons and detention camps of the Ministry of Public Security or the Ministry of National Defense.

c/ Request heads of criminal judgment execution agencies of provincial-level police departments to issue transfer orders with respect to inmates in prisons and detention camps of local police departments;

d/ Request heads of criminal judgment execution agencies of other military zones to issue transfer orders with respect to inmates in prisons and detention camps of those military zones.

Article 6. Transfer duration and extension of transfer duration

1. A procedure-conducting agency or person may, based on the investigation, prosecution and trial requirements, propose the transfer duration and extension of the transfer duration. The transfer duration and extension of this duration must not be longer than the remainder of the prison sentence of the transferred inmate.

The transfer duration and extension of the transfer duration are included in the period of serving the prison sentence, except for inmates who escape during the time of transfer.

2. When finding it necessary to extend the transfer duration, at least 7 (seven) days before the expiration of the transfer duration, the agency receiving the transferred inmate shall send a request to the agency that has issued the transfer order to extend the transfer duration. A written request

for extension of the transfer duration must clearly indicate the reason for and the length of the extension.

3. Within 3 (three) working days after receiving a written request for this" transfer of or an extension of the transfer duration for an inmate, a competent agency shall issue a transfer order or an order to extend the transfer duration. Such order must be sent to the places delivering and receiving the transferred inmate and the criminal execution management agency of the Ministry of Public Security or the Ministry of National Defense for monitoring

4. In case a competent court cancels the court's judgment or decision which has become legally effective, for re-investigation or retrial of the transferred inmate during the time of transfer, the agency receiving the transferred inmate shall not make a request for extension of the transfer duration but implement the regime of incarceration and management for such inmate in accordance with the law on the accused, defendants and persons held in detention or custody. In case such person is handed down a prison sentence in a retrial, after having the judgment execution decision, the agency receiving the transferred inmate shall carry out procedures for sending such person to serve the prison sentence as prescribed in Article 22 of the Law on Execution of Criminal Judgments.

Article 7. Return of transferred inmates

Upon the expiration of the transfer duration written in the transfer order or the transfer duration extension order or during the transfer or extended transfer, if the transfer is no longer needed, the agency receiving the transferred inmate shall:

1. Send a notice to the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense or the criminal judgment execution agency of the provincial-level police department or military zone which has issued the transfer order, and escort and deliver the transferred inmate together with related documents to the prisons, detention camp, or the criminal judgment execution agency of the district-level police office which delivered such inmate before the transfer.

2. In case an inmate is transferred for trial with another judgment and when this, judgment becomes legally effective with a combined prison sentence and a judgment execution decision, the agency receiving the transferred inmate shall send a notice to the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense or the criminal judgment execution agency of the provincial-level police department or military zone which has issued the transfer order and escort and deliver him/her together with related

documents to the prison or detention camp, or the criminal judgment execution agency of the district-level police office which delivered such inmate before the transfer.

3. In case an inmate who is transferred from a detention camp or a custody house, after being tried with another judgment which makes him/her no longer eligible to be employed in detention or custody work as prescribed in Clause 2, Article 171 of the Law on Execution of Criminal Judgments, the agency receiving the transferred inmate shall report to the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense for issuing a decision to send such inmate to prison to serve his/her sentence. The agency receiving the transferred inmate shall notify the agency delivering the transferred inmate of the sending of such inmate to prison.

4. Within 5 (five) working days after the expiration of the transfer duration or the extended transfer duration, if the agency that delivered the transferred inmate receives neither such inmate nor the order to extend the transfer duration nor a notice stating that he/she has been taken to another place to serve his/her sentence, it shall send a notice to the agency that received the inmate and the agency that issued the transfer order to request the return of such inmate or sending of the order to extend the transfer duration.

Article 8. Grant of certificates of complete serving of prison sentence to transferred inmates

1. Two months before a transferred inmate finishes his/her prison sentence (the sentence that he/she is serving) the prison or detention camp of the Ministry of Public Security or the Ministry of National Defense, or the criminal judgment execution agency of the provincial-level police department or the military zone which delivered the transferred inmate shall notify the ending date of his/her prison sentence as prescribed in Clause 1, Article 40, the Law on Execution of Criminal Judgments. On the final day of the prison sentence, the prison or detention camp of the Ministry of Public Security or the Ministry of National Defense or the criminal judgment execution agency of the provincial-level police department or the military zone which delivered the transferred inmate shall issue a certificate of complete serving of prison sentence to such inmate and notify such to the agency receiving such person and related agencies. The agency receiving such person shall immediately release him/her in accordance with Article 40 of the Law on Execution of Criminal Judgments.

2. In case a transferred inmate is being held in custody for assistance in investigation, prosecution or trial activities for another crime when the term

of his/her prison sentence ends, the prison or detention camp of the Ministry of Public Security or the Ministry of National Defense or the criminal judgment execution agency of the provincial-level police department or the military zone which delivered the transferred inmate shall issue a certificate of complete serving of prison sentence to such inmate, and notify such to the agencies issuing the transfer order and receiving such person, and related agencies specified in Clause 6, Article 40 of the Law on Execution of Criminal Judgments. After the new judgment becomes legally effective and a judgment execution decision is issued, the agency receiving and currently managing the transferred inmate shall not return such inmate to the agency that delivered him/her but carry out procedures to request the criminal judgment execution management agency of the Ministry of Public Security or the Ministry of National Defense to issue a decision to send him/her to prison to serve his/her sentence.

Article 9. Procedures for delivering, receiving and escorting transferred inmates

1. After receiving the inmate transfer order, the agency assigned to escort the transferred inmate shall send its officer bringing an introduction letter and the people's police identity card or the investigator card or officer or non-commissioned officer identity card (for officers and soldiers of the Ministry of National Defense) together with the transfer order to receive and escort such inmate. In case the transfer order is sent through the agency's channel, such order must be certified (with signature and seal) by the head of the agency receiving documents through such channel.
2. Wardens of prisons or detention camps and heads of criminal judgment execution agencies of district-level police offices shall check, make a minutes of the delivery and receipt of the transferred inmate, record it in the monitoring book and deliver such inmate with money and deposited possessions (if any) to the agency receiving, escorting and managing him/her..
3. In case an inmate named in the transfer order is seriously ill, escapes, is dead or suspended from serving his/her prison sentence, or had been taken to another place or freed under a competent person's decision and the delivery and receipt of such inmate cannot be carried out, the transfer order-implementing unit shall immediately notify such in writing to the agency requesting the transfer, the agency requesting the issuance of transfer order and the agency issuing the transfer order.
4. When the transferred inmate is delivered to the prison or detention camp or criminal judgment execution agency of the district-level police office to continue serving his/her prison sentence, a remark sheet on the

results of his/ her observance of regulations in prisons or detention camps and related materials during the time of transfer are required.

5. The receipt of the transferred inmate to the prisons, detention camp or custody house to continue serving his/her prison sentence complies with Article 26 of the Law on Execution of Criminal Judgments.

Article 10. The regime of incarceration and management for transferred inmates

The regime of incarceration and management for transferred inmates complies with the Law on Execution of Criminal Judgments; in case the transferred inmate is an accused or defendant in a case at the stage of investigation, prosecution or trial, the regime of incarceration and management complies with the law on detention and custody.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 11. Effect

This Joint Circular takes effect on July 15, 2013.

Previous guidelines of the Ministry of Public Security, the Ministry of Defense, the Supreme People's Court and the Supreme People's Procuracy on the transfer of inmates that are contrary to this Joint Circular are all annulled.

Article 12. Implementation responsibility

Responsible agencies, organizations and individuals of the Ministry of Public Security, the Ministry of National Defense, the people's courts, the military courts, the people's procuracies, and the military procuracies shall implement, and organize the implementation of, this Joint Circular.

Any problems arising in the course of implementation should be reported to the Ministry of Public Security, the Ministry of National Defense, the Supreme People's Court and the Supreme People's Procuracy for timely guidance.-

For the Minister of National Defense

Deputy Minister Senior Lieutenant General

NGUYEN THANH CUNG

For the Minister of Public Security Deputy

Minister Lieutenant General

LE QUY VUONG

For the President of the Supreme People's Court

Permanent Vice President

DANG QUANG PHUONG

For the Chairperson of the Supreme People's Procuracy

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