

THE PROCEDURE FOR COOPERATION BETWEEN STATES IN THE EXECUTION OF
PENAL SENTENCES ACT B.E. 2527

BHUMIBOL ADULYADEJ, REX.

Given on the 10th Day of September B.E. 2527

Being the 39th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have a law governing procedure for cooperation between states in the execution of penal sentences.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Parliament, as follows:

Section 1 This Act shall be called the “Procedure for Cooperation between States in the Execution of Penal Sentences Act B.E. 2527”.

Section 2¹ This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Section 3 All provisions of laws, rules, regulations and other announcements as specified herein which are contrary to or inconsistent with this Act shall be superseded by this Act.

Section 4 In this Act:

“The Transferring State” means the country which has transferred prisoners to the Receiving State.

“The Receiving State” means the country which has received prisoners from the Transferring State.

“Thai prisoner” means an individual holding Thai nationality, no matter whether such individual may hold any other nationality or not, who is subject to the Court’s judgment or final order of punishment and who is now undergoing the punishment in abroad.

“Foreign Prisoner” means an individual not holding Thai nationality who is subject to the Court’s judgment or final order of punishment and who is now undergoing the punishment in the Kingdom.

¹ The Government Gazette, Volume 101 Section 132 Special Edition, p.1 (1984, September 27)

“Punishment” means imprisonment or confinement and shall also include security measures, probation, procedure for juvenile offenders, parole, suspension of confinement and reduction of days in prison.

“Committee” means the Committee for Consideration of the Transfer of Prisoners.

“Competent Official” means a person appointed by the Minister for the execution of this Act.

Section 5 The Minister of Defence, the Minister of Foreign Affairs, the Minister of Interior, and the Minister of Justice shall be in charge under this Act; and each Minister shall have powers to appoint competent officials and to issue Ministerial Regulations for the execution of this Act, thus, on the matter relating to government services of such Ministry.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

CHAPTER 1 GENERAL

Section 6 The transfer of Thai prisoners in foreign countries to undergo continuous punishment in the Kingdom, or the transfer of foreign prisoners in the Kingdom to undergo continuous punishment in foreign countries shall be under the following criteria:

(1) The Transferring State and the Receiving State shall enter into a treaty for cooperation between States in the execution of penal sentences.

(2) The transfer of prisoners shall be approved by the Transferring State and the Receiving State and consented by prisoners to be transferred.

(3) Offences that Thai prisoners or foreign prisoners have undergone the punishment shall be offences with any count of punishment under the law of the Receiving State.

(4) Prisoners to be transferred shall not be subject to the criminal proceeding in other offences or in the process of retrial of criminal cases in the Transferring State.

(5) The transfer of prisoners shall be either beneficial to or in favor of such prisoners.

(6) Regarding the degree of impact of the transfer of prisoners on the issue of crimes and collective feelings of people in the Transferring State and the Receiving State, the nature and severity of the commission of offences shall be taken into account.

The provisions contained in (3) shall not apply in the event that such provisions have not been prescribed in a treaty between states of the Transferring State and the Receiving State, or there are conditions otherwise prescribed therein.

Section 7 All expenses relating to the transfer of prisoners shall be in accordance with those prescribed in the Ministerial Regulations.

Section 8 The transfer of prisoners under this Act shall not be prejudicing the rights of such prisoners to receive the result of the royal pardon, commutation of punishment and reduction of punishment by the Transferring State after the transfer thereof.

CHAPTER 2

THE COMMITTEE FOR CONSIDERATION OF THE TRANSFER OF PRISONERS

Section 9 A committee, namely, “Committee for Consideration of the Transfer of Prisoners” shall be established consisting of the Permanent Secretary for Justice, as the Chairman, the Judge Advocate General, the Chief Justice of the Criminal Court, the Chief Judge of the Central Juvenile Court, the Director-General of the Public Prosecution Department, the Director-General of the Police Department, the Commissioner of Corrections and the Director-General of the Department of Treaties and Legal Affairs, as members, the Director of the Penology Division, the Department of Corrections, as member and secretary, and the Director of the Treaty Division, Department of Treaties and Legal Affairs, as member and assistant secretary.

The Committee shall have powers and duties under this Act.

Section 10 A meeting of the Committee shall be attended by not less than half of the total members of the Committee to constitute a quorum.

In case, the Chairman of the Committee failed to attend the Meeting or being unable to perform his or her duties, the Meeting shall elect one member of the Committee to act as Chairman of the Meeting.

The adjudication of the Meeting shall be based on the majority votes.

One member of the Committee shall have one vote. In case of a tie, the Chairman of the Meeting shall have one additional and casting vote.

Section 11 The Committee shall have powers to appoint a subcommittee to take any action as assigned by the Committee.

Provisions contained in Section 10 hereof shall apply *mutatis mutandis* to a meeting of the subcommittee.

CHAPTER 3

THE TRANSFER OF THAI PRISONERS

Section 12 A Thai prisoner who intends to be transferred to undergo continuous punishment in the Kingdom shall submit an application and shall send documents and evidences as prescribed by the Committee to the competent official at the competent Royal Thai Embassy or the Royal Thai Consulate in the Transferring State or to the competent official at the Ministry of Foreign Affairs, as the case may be.

Section 13 In case, a Thai prisoner failed to submit an application in person or being a juvenile under the law governing the establishment of the Juvenile Court, then, the husband or the wife, relatives or stakeholder of such Thai prisoner shall have powers to submit an application under Section 12 in lieu of such Thai prisoner.

Section 14 In the event that the applicant under Section 12 or Section 13 failed to provide the supporting documents or evidences in person, then, the competent official shall provide such supporting documents or evidences.

Section 15 Upon receiving an application together with complete documents and evidences, the competent official shall send the application and such documents and evidences to the Secretary of the Committee to be proposed to the Committee for consideration.

The Committee shall consider the application and shall issue an order of approval or disapproval of transfer of Thai prisoners promptly, then, the Committee shall notify such order to the application through the Ministry of Foreign Affairs; and in the event that the Committee has issued its order of disapproval thereof because it was not in accordance with the criteria under this Act, then, the Committee shall clarify the reason of such order of approval thereof.

The order of the Committee shall be final.

Section 16 In the event that the Committee has issued its order of approval of transfer of Thai prisoners, the Committee shall submit the matter to the Ministry of Foreign Affairs to request for approval of transfer of such Thai prisoners from the Transferring State; and when the Transferring State has notified the result of consideration to the Ministry of Foreign Affairs, then, the Ministry of Foreign Affairs shall notify the result of consideration to the Committee and the applicant promptly.

Section 17 When the Committee has been notified by the Ministry of Foreign Affairs that the Transferring State has approved the request for transfer of Thai prisoners from the Transferring State under Section 16, the Committee shall carry on the transfer of such Thai prisoners promptly.

When Thai prisoners have travelled into the Kingdom, in the event that the court of the Transferring State has issued its judgment or order with punishment of imprisonment or detention, the competent official shall issue a written order to send such Thai prisoners to be detained at a place prescribed under the law governing the matter.

In case, such Thai prisoners are subject to conditions as per procedures for safety and probation, procedures for juvenile, parole and suspension of confinement, the procedures for such matter as prescribed in the related laws enforced in the Kingdom shall apply as may be reasonable.

Section 18 For the purpose of transfer of Thai prisoners to undergo continuous punishment in the Kingdom under this Act, it shall be regarded that the judgment or order of punishment of the court of the Transferring State shall be the judgment or order of punishment of a court which has jurisdiction in the Kingdom.

An appeal, Supreme Court appeal or request for retrial of a criminal case in a court which has jurisdiction in the Kingdom relating to the judgment or order of the court under Paragraph 1 may not be made.

Section 19 When it is agreed to receive the transfer of Thai prisoners, the Committee shall use documents and evidences relating to punishment as officially certified by the Transferring State as the criteria for consideration. In case, it appeared that the punishment under the judgment or order of punishment of the court of the Transferring State has agreed with the punishment under the applicable law of the Kingdom, then, the Committee shall issue a written order to be sent to the prison officer or the competent official who has powers to comply with procedures for safety and probation, procedures for juvenile, parole and suspension of confinement, as the case may be, for compliance with the related laws.

In case, it appeared that the punishment or conditions of punishment under the law of the Transferring State failed to agree with the punishment or conditions of punishment under the applicable law of the Kingdom, then, the Committee shall submit the matter to the public prosecutor in order to file a petition to the Criminal Court or the Central Juvenile Court for consideration and imposition of punishment or conditions of punishment in accordance with the applicable law of the Kingdom; provided that the punishment or conditions of punishment to be imposed shall not be severer than the punishment or conditions of punishment that the Thai prisoners shall undergo in the Transferring State.

In case, it appeared that the offence with punishment that Thai prisoners had undergone under the judgment or order of punishment of the court of the Transferring State was not an offence under the applicable law of the Kingdom, it shall be regarded that the fact that such Thai prisoners had undergone the punishment under such judgment or order was the conditions that the court shall have powers to issue an order for use of procedures for safety, and the court shall adjust the punishment according to such judgment or order as procedures for safety as the court may think fit but such punishment shall not be severer than the punishment or conditions of punishment that such Thai prisoners shall undergo in the Transferring State; provided that the procedures under Paragraph 2 shall apply *mutatis mutandis*.

The order of the Criminal Court or the Central Juvenile Court shall be final.

Section 20 All Thai prisoners who have been transferred to undergo continuous punishment in the Kingdom shall be regarded as absolute prisoners or people who are subject to an order for use of procedures for safety, probation, procedures for juvenile, parole and suspension of confinement under the applicable law of the Kingdom governing matter, as the case may be.

Section 21 Regarding royal pardon, commutation and reduction of punishment, parole, suspension of confinement and reduction of days in prison for Thai prisoners who have undergone continuous punishment in the Kingdom, it shall be in accordance with the applicable law of the Kingdom, unless otherwise prescribed in a treaty, it shall be in accordance with the provisions prescribed in such treaty.

Section 22 Regarding the undergoing of continuous punishment in the Kingdom, Thai prisoners who have been transferred shall receive benefits from events, as follows:

(1) Deduction of period of punishment that such Thai prisoners are undergoing under the law of the Transferring State until the date of receiving the transfer of prisoners.

(2) The royal pardon, commutation and reduction of punishment of the Transferring State only in portions applicable to such Thai prisoners.

(3) In case of subsequent issuing and provisions of law of the Transferring State specifying that the action which such Thai prisoner has undergone the punishment is no longer an offence; or it is provided in favor of such Thai prisoner.

(4) Correction, change or cancellation of judgments or punishment orders of the court of the Transferring State.

(5) Deduction of the period of time as from the date of receiving of transfer of such Thai prisoner until the date when such Thai prisoner has undergone the continuous punishment in the Kingdom.

When the provisions contained in Paragraph 1 have appeared to the Committee or upon request by the Thai prisoner or the person who has powers to file an application under Section 13, the Committee shall have powers to issue an order that such Thai person shall receive such benefits.

The order of the Committee shall be final.

CHAPTER 4 THE TRANSFER OF FOREIGN PRISONERS

Section 23 Regarding the submission of application for transfer of foreign prisoners to undergo continuous punishment in the Receiving State, the country intending to receive the transfer thereof shall submit an application through diplomatic methods as per the form and methods and documents and evidences as prescribed by the Committee to the competent official at the Ministry of Foreign Affairs.

Section 24 Upon receiving an application together with complete documents and evidences, the competent official shall consider submitting such application and documents and evidences to the Secretary of the Committee to be proposed to the Committee for consideration.

Section 25 The transfer of foreign prisoners may not be made in any of the following cases:

(1) When the punishment that foreign prisoners have undergone in whole or in part is imposed on the offence against the King, the Queen, princes and princesses, or on offence against national security in the Kingdom, or on offence against national security outside the Kingdom, or an offence under the law relating to the protection of national treasures with artistic value.

(2)² (a) Foreign prisoners have been imprisoned in the Kingdom for less than one-third of the total punishment of imprisonment as per the judgment or order of the court or for less than 4 years, whichever is less.

(b) Foreign prisoners have been imprisoned in the Kingdom for less than 8 years in the offence of production, sale, import for sale or possession for sale of narcotics under the Narcotics Act, and there was a final judgment or order of life imprisonment.

² Section 25(2) amended by the “Procedure for Cooperation between States in the Execution of Penal Sentences Act (No.2) B.E. 2530”.

(3) When the continuous punishment of imprisonment that foreign prisoners shall undergo in the Kingdom remained for less than 1 year of the total punishment of imprisonment under the judgment or order of the court.

Section 26 The Committee may not approve the transfer of foreign prisoners, in case, it is agreed that such transfer thereof may affect the security or safety of the Kingdom or may be against the public order.

Section 27 In case, any foreign prisoner shall be obliged to pay fines, to return property or to reimburse costs or to indemnify damages as per the penal sentences or order of the competent official, such foreign prisoner shall pay, return or indemnify the same until completion before the Committee shall issue its order of approval of such transfer.

Section 28 The Committee shall issue its order of approval or disapproval of the transfer of foreign prisoners and shall notify such order to the Receiving State through the Ministry of Foreign Affairs.

The order of the Committee shall be final and such order of approval of the Committee shall be regarded as evidence of transfer of foreign prisoners to the Receiving State.

CHAPTER 5

OPERATIONS RELATING TO THE TRANSFER AND ACCEPTANCE OF FOREIGN PRISONERS

Section 29 Regarding the acceptance of Thai prisoners and transfer of foreign prisoners, it shall be taken through the diplomatic method, thus, as per the regulations as prescribed by the Committee.

Section 30 Upon receiving the transfer of Thai prisoners in the Transferring State, the competent official shall manage such Thai prisoners to travel from the Transferring State and to enter the Kingdom promptly, thus, not exceeding 3 days as from the date of acceptance of transfer thereof, thus, not exceeding 3 days as from the date of acceptance of transfer thereof, unless otherwise having necessities, and upon travelling to the Kingdom, such Thai prisoners shall be subject to the punishment promptly.

Section 31 Upon the transfer of foreign prisoners, such foreign prisoners shall travel out of the Kingdom within 24 hours as from the date of completion of such transfer, except in the event that the Committee or the person assigned by the Committee to extend a period of time as may be necessary.

CHAPTER 6

STIPULATED PENALTY

Section 32 Any Thai prisoner who has escaped from custody during the travel from the Transferring State to the Kingdom, or any foreign prisoner who has escaped from custody before travelling out of the Kingdom shall be imprisoned for not exceeding 5 years or shall be fined for not exceeding 50,000 Baht.

In case, such offence under Paragraph 1 has been committed with violence or threatened with violence, or by accomplices of at least 3 people, such offender shall be punished with imprisonment of not exceeding 7 years or fines of not exceeding 70,000 Baht, or both.

In case, the offence under this Section has been committed by means of possession or use of firearms or explosives, such offender shall be punished by half of the severer punishment than those prescribed in the preceding 2 paragraphs.

Section 33 Any Thai prisoner who has resisted or failed to comply with the management of the competent officials under Section 17 or Section 30, or any foreign prisoner who has resisted or failed to comply with Section 31, shall be punished with imprisonment of not exceeding 1 year or fines of not exceeding 10,000 Baht.

Section 34 Offences under Section 32 or Section 33 relating to the Thai prisoners, despite having been committed out of the Kingdom, shall be regarded as having been committed in the Kingdom.

Section 35 The Committee shall have powers to compare offences under Section 33; and for this purpose, the Committee shall have powers to assign the competent official or the Inquiry Official to conduct the comparison thereof; whereas, the criteria for comparison or any conditions shall be prescribed so that the assigned person shall comply with the same as may be reasonable.

When the offender has paid the fines as imposed, it shall be regarded as settlement of the offence under the Criminal Procedure Code, and the transfer of prisoners shall be conducted.

In case, the offender has failed to pay fines as imposed, the Committee or the designated person shall send the offender to the Inquiry Official for further action.

Counter-Signature:

General Prem Tinsulanonda

Prime Minister

Note:- Reason for promulgation of this Act: Whereas, at present, there are Thai nationals who have undergone the punishment in foreign countries due to commission of offences in such foreign countries, and there are a lot of non-Thai nationals who have undergone the punishment in Thailand due to commission of offences in Thailand; therefore, it is deemed expedient to prescribe measures for transfer of such offenders to undergo continuous punishment in the country where such offenders have the nationality. For the purpose of organization of training for mental rehabilitation and reform of offenders in each country where such offenders have the nationality, therefore, it is necessary to enact this Act.

Procedure for Cooperation between States in the Execution of Penal Sentences Act (No.2) B.E. 2530.³

Section 2 This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Note:- Reason for promulgation of this Act: Whereas, the provisions of Section 25(2) of “Procedure for Cooperation between States in the Execution of Penal Sentences Act B.E. 2527” have prescribed the criteria that the transfer of foreign prisoners may not be made, in case, such foreign prisoners have undergone the punishment of imprisonment for less than one-third of the punishment under the judgment or for less than 4 years; however, the period of 4 years shall be changed to less than 8 years, in case, it was an offence of production, sale, import for sale or possession for sale of narcotics under the Narcotics Act, by taking hold of the punishment of life imprisonment as prescribed by law without taking account of severity of punishment that such person shall be adjudged which may cause unfair treatment to prisoners who have committed the same offences, but the court has considered that such person should not be punished with life imprisonment, and it is expedient to amend that such period of 8 years shall apply only in the event that the Court has adjudged for life imprisonment, therefore, it is necessary to enact this Act.

Amended by: Pattama

Checked by: Wasin

11th February 2010

Revised by: Pojanat

19th October 2017

³ The Government Gazette, Volume 104 Section 220 Special Edition, p.1 (1987, November 2)