

# Law on Extradition of the Accused, Convicted Individual and Legal Cooperation

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## CHAPTER ONE

### General Provisions

#### Article One

##### Basis

This law is enacted as per Articles 8 and 28 of the Constitution to regulate issues related to extradition of an accused, convicted individual and legal cooperation regarding cases involving Afghanistan and foreign countries.

#### Article Two

##### Objectives

Below are objectives of this law:

- 1- Cooperation with foreign nations in the detection of crimes, identification, arrest, investigation and trial of an accused.
- 2- Regulation of methods to request extradition of an accused, convicted individual as well as addressing related issues.
- 3- Regulation of handover, reception and transfer of an accused and convicted individual that are subject to extradition.
- 4- Seizure, freezing, confiscation and submission of documents, evidence, proceeds and assets related to the commission of crimes and related proceeds.
- 5- Transfer of prosecution including the [authority of] decision making and enforcing of judicial verdicts.
- 6- Compliance with extradition conventions and strengthening rule of law and international criminal justice.
- 7- Cooperation of Afghanistan with foreign countries to prevent the commission of crimes.

#### Article Three

##### Terms

The terms below are defined as follows [for the purpose of this law:]

- 1- **Extradition:** Requesting handover of the accused for prosecution or the convicted individual for imprisonment in relation to crimes committed.
- 2- **Legal cooperation:** Exchange of information, documents, evidence, sending witnesses and other evidence during detection, investigation and trial phases as well as during enforcement of judicial orders.
- 3- **Confiscation:** Permanent deprivation from possessing monies and assets as per order of a competent court of Afghanistan or a foreign country under which ownership of the monies

and assets along with their documents of ownership are transferred to the Afghan or a foreign government based on provisions of this law, extradition agreement or an international convention.

- 4- **Seizure:** Temporary keeping or control of money and assets based on the order of a competent court of Afghanistan or a foreign country.
- 5- **Freeze:** Impermanent postponement of a transaction, temporary prevention of modification, change, sale, losing and transfer of money and assets based on the order of a competent Afghan or a foreign court.
- 6- **Suspect:** A person who is under suspicion by Afghanistan or a foreign country for committing a criminal act and the crime is [formally] attributed to him/her.
- 7- **Accused:** A person who, based on evidence, is charged by Afghan or foreign authorities or a criminal case is filed against him in the court.
- 8- **Convict:** A person who is convicted by a final decision of an Afghan or a foreign court.
- 9- **Money and assets:** Any physical or non-physical, moveable and immovable assets, legal documents and evidence including electronic and digital evidence that prove ownership of or interest in assets.

#### **Article Four**

##### Legality of extradition

An accused [or]convict will be extradited, and legal cooperation between Afghanistan and other countries to address criminal cases, is to be provided based on treaties or conventions to which Afghanistan is a party.

#### **Article Five**

##### Sending/Accepting the request

A request to extradite an accused or convict, [or a request for] legal cooperation under this law is to be sent via the Ministry of Foreign Affairs to the [foreign country's] diplomatic mission [inside Afghanistan] or to the Foreign Ministry of the requesting country. A request of a foreign country in aforementioned circumstances is accepted through the same mechanism.

#### **Article Six**

##### Limitation of extradition

The extradited person is to be imprisoned or punished, investigated and tried only in relation to the crime [for which] he is being extradited.

#### **Article Seven**

##### Prohibition to extradite women and children

Women or children who are Afghan nationals, or a foreign stateless child, cannot be extradited to any foreign country, and shall be prosecuted pursuant to Afghan law.

#### **Article Eight**

##### Extradition of foreigner to a third country

A foreigner shall [only] be extradited to a third country if there is an existing treaty between Afghanistan and the foreigner's country.

## **CHAPTER TWO**

### **Extradition**

#### **Article Nine**

##### Mechanism for sending a request

- (1) The Attorney General shall decide whether to send a request seeking extradition of a suspect or accused from a foreign country, whereas acceptance of [such a] request sent by a foreign country is referred by the Attorney General [with a recommendation] and approved [or rejected] by the High Council of the Supreme Court. When a convict is also a suspect or an accused in a second crime, his extradition shall be subject to the same order [of the High Council of the Supreme Court].
- (2) Extradition of an Afghan who is convicted for imprisonment by a competent foreign court, or acceptance of a request from a foreign country for extradition of a foreigner who is convicted for imprisonment by a competent Afghan court, shall be decided by the Minister of Justice.
- (3) The Ministry of Foreign Affairs is required to send a request for extradition to relevant authorities of [the target country] in conformity with paragraphs 1 and 2 of this article.

#### **Article Ten**

##### Contents of the request and its attachments

- (1) The request for extradition and its attachments shall include:
  - a. Name and title of competent authority of Afghanistan [making the request].
  - b. Name and title of competent authority of the receiving country.
  - c. If the individual is an accused, an original or a verified copy of AGO's or the competent court's warrant for his arrest and extradition.
  - d. Explanation and details of the crime committed.
  - e. Explanation about degree of involvement of the individual in committing the crime.
  - f. If the individual is an accused, a copy of the indictment including the article that specifies the crime committed and prescribes the punishment for the crime.
  - g. Article of the law, agreement, or convention upon which extradition of the individual is requested.
  - h. Information about the identity of the individual for whom extradition is requested and any other type of data pertaining to his/her full identity, nationality, residence or occupation, or other evidence such as picture, fingerprint, DNA, blood group, and other information that shall help identify the criminal, [as well as] tools of commission, and benefits [money and assets] derived from commission of the crime.
- (2) The request for extradition of a convict shall also include, in addition to the provisions of sections a and b of paragraph (1) of this article, [information about] his full identity.

#### **Article Eleven**

##### Requirements for accepting the request

- (1) A request for extradition of an accused to be investigated or tried will be accepted for consideration under the following requirements:
  - a. The crime that the suspect or accused is being extradited for shall be mentioned in the extradition treaty.
  - b. Commission of the act shall be considered a crime in the laws of both Afghanistan and the foreign country, and the punishment for the act shall be [imprisonment for] more than a year in laws of both the countries.
  - c. [The party requesting extradition] shall commit to abide by the provisions of the UN Convention on Civil and Political Rights and UN Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment while investigating and trying the individual whose extradition is being requested.
  - d. [The party requesting extradition] shall commit to provide information regarding the process of investigation and trial, or any change in the status of the extradited individual.
  - e. Avoiding double jeopardy for the individual whose extradition is requested, based on a final verdict of the court in relation to the crime committed.
  - f. Compliance with provisions of paragraph (1) of Article 10 of this law.
- (2) A request for extradition of a convict for [purposes of ] imprisonment will be accepted for consideration provided the following requirements are met, in addition to compliance with the sections a, b and c of paragraph (1) of this article:
  - a. Conviction of the individual by a final verdict of the court [shall be] for more than one year of imprisonment
  - b. If sentenced to both imprisonment and a fine, [the money shall be] paid or a guarantee for payment of it [shall be received].
  - c. Commitment to avoid double jeopardy
  - d. Commitment to share information on any type of change [that may occur] in status of the convict.
  - e. Compliance with provisions of Article 10, paragraph (1) of this law.

## **Article Twelve**

### Time limit for sending the request

The Ministry of Foreign Affairs shall immediately send the request of extradition and its attachments to the relevant authorities after it is assured that the request abides by provisions of Articles 10 and 11 of this law.

## **Article Thirteen**

### Taking proper measure as per the request

- (1) When Afghanistan requests extradition of an accused from a foreign country, the Attorney General's Office collects the reasons and evidence regarding commission of the crime and sends the request for extradition to the Ministry of Foreign Affairs.
- (2) When a foreign country requests extradition of an accused from Afghanistan, the Attorney General's Office undertakes the following measures:
  - a. Review of the request based on the allegation attributed.
  - b. Collection of information about the personality and background of the accused to be submitted to the foreign country.

- c. Arrest of the individual based on an order of the court and notice to the accused of the allegation [against him].
  - d. An investigation of the suspect or accused.
  - e. Presenting the request for extradition to the Supreme Court.
- (3) The High Council of the Supreme Court may, upon request by the Attorney General's Office, issue an order to search the location where the arrest took place, other suspected places, and/or seize or freeze money recovered from the arrestee either during the arrest or as detected later.

## **Article Fourteen**

### Rights of arrestees

- (1) Any foreign citizen or a stateless individual residing in Afghanistan who, on the basis of a request from a third country, is arrested, taken into custody or detained, is entitled to the following rights:
- a. Immediate contact with the [diplomatic] mission of his country or any other person who has the authority to protect his rights.
  - b. Meeting between the stateless individual and the representative of the country where he has habitual residence.
  - c. Advise of rights under sections a and b of this paragraph.
- (2) When contact and meeting under sections a and b of this paragraph (1) are impossible, the Attorney General's Office shall take proper measures to ensure that a meeting between the arrested individual and a representative of the International Red Cross Committee occurs.

## **Article Fifteen**

### Notice in emergency situations

- (1) In an emergency situation, notice of extradition that is directly sent to MOFA via electronic means may be accepted. In that case, until a formal request of extradition and its attachments are received, [Afghanistan may] arrest the individual per order of a competent court issued pursuant to Article 10 of this law, and as a precautionary measure, take him into custody and then notify the requesting country of the matter. The [Afghan] Ministry of Foreign Affairs, in a similar situation, can also send notice of extradition to a foreign country in the same manner.
- (2) A prosecutor [then] conducts the required investigations after arrest of the individual and takes proper precautionary measures when necessary.
- (3) If [a formal] request for extradition and its attachments are not received [from the requesting country] within 30 days, the individual shall be released.

## **Article Sixteen**

### Taking temporary precautionary measures

- (1) When a foreign country requests [that Afghanistan] take temporary precautionary measures regarding an individual, the High Council of the Supreme Court takes proper actions as per laws of the land.
- (2) If the request of a foreign country to take temporary precautionary measures contradicts the laws of Afghanistan, the Attorney General's Office is not required to implement [the request]. Instead, it shall take proper measures abiding by the laws of Afghanistan.

## **Article Seventeen**

### Requesting additional information

- (1) When information in a request from a foreign country is not sufficient for Afghan judicial authorities to make a decision, the Attorney General's Office or the High Council of the Supreme Court can ask the requesting country for further details/explanations.
- (2) The Ministry of Foreign Affairs sends the decision of the Afghan judicial authorities within 14 days [of the date of the decision] to the requesting country [with instructions to] provide the [additional] details/explanations. If the individual is in custody, the time to respond after receiving the request cannot be more than 30 days. If a formal response is not received in thirty days, the arrested individual will be released.
- (3) When details and reasons are provided after release of the individual, the issue shall be addressed again as per provisions of this law.

## **Article Eighteen**

### Reviewing the request and decision making

If the Attorney General's Office believes that the request for extradition contains sufficient information, [and] after conducting [its own] investigation, it will send the request and its attachments, together with an acceptance or rejection recommendation letter, to the Supreme Court to make a decision. The High Council of the Supreme Court will then address the issue and will make a decision in the presence of the accused or his defense lawyer, and a representative of the Attorney General's Office.

## **Article Nineteen**

### Simultaneous request for extradition

- (1) If more than one country sends a request for extradition of an accused for committing identical crimes, the request of the country whose interest or citizens were first affected shall prevail.
- (2) If more than one country sends a request for extradition of an accused for different crimes, the request of the country whose interest or citizens were more severely affected shall prevail.

## **Article Twenty**

### Handing over the individual [in request]

If the High Council of the Supreme Court decides to extradite an individual, the handover shall occur in presence of a delegation consisting of representatives from the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Interior Affairs and the Attorney General's Office. The individual shall

be handed over to the diplomatic mission of the requesting country; if there is not any diplomatic mission of that country in Afghanistan, the individual shall be handed over to a diplomatic mission determined by the requesting country.

Extradition of a convict for the purpose of enforcement of the punishment will occur based on the decision of the Minister of Justice, and the mechanism to hand him over is subject to this [same] provision.

## **Article Twenty One**

### Returning the money and assets

- (1) If an accused is handed over to a foreign country, the money and assets [which were] derived from commission of crime(s) inside Afghanistan will also be given to the same country, as per provisions of this and other laws complying with rights of third person(s).
- (2) If the extradition of an accused to a foreign country does not take place despite an effective agreement or convention, the proceeds of the crime [related to the extradition request] shall still be ceded to the requesting country.
- (3) Money and assets that are inside Afghan territory, and are therefore subject to seizure/confiscation, may be temporarily held by the Afghan government or may be delivered to the country to which the accused is extradited.
- (4) When the laws of land or rights of a third person require that money and assets [seized pursuant to this law] be returned to the Afghan government, the foreign country shall, after [a formal] request from the Afghan government and completed the criminal proceedings, return the money and assets bearing all expenses of the delivery.

## **Article Twenty Two**

### Pardon, reduction in punishment and other facilities

When the extradited individual is convicted [and sentenced to] imprisonment, he can benefit from pardon decrees, reduction in punishment [rules] and other [such] facilities [given] under the laws of the land. Pardon [from payment of] fines is the exception to this rule, but still can occur upon an agreement with the foreign country.

## **Article Twenty Three:**

### Postponing the Extradition

If a foreign country is requesting the extradition of an accused that is being investigated or tried for commission of another crime, the extradition will be delayed until the final decision of the court is heard unless the High Council of the Supreme Court agrees on an immediate extradition or the issue is stipulated differently in the treaty.

## **Article Twenty Four:**

### Optional Rejection of the Extradition

- (1) The High Council of the Supreme Court can reject the extradition request of an accused for the following reasons:
  - a. If the crime is under prosecution in Afghanistan and the criminal procedure has begun but not concluded against the accused.
  - b. Considering the nature of the crime and interests of the Afghan Government, extradition is contradicted from the view point of the accused's old age, health conditions, or other humanitarian issues.
  - c. If the crime listed in the request for extradition of the accused is completely or partly committed in the territory of Afghanistan and the act is considered a crime under Afghan law.

- (2) If the person whose extradition is requested has been or is being tried in a special court, the request can be rejected by the High Council of the Supreme Court.

## **Article Twenty Five**

### Rejection of Extradition Request

- (1) The High Council of the Supreme Court may not issue an order of extradition when:
- a. There are enough reasons [to believe that] the request for extradition is to prosecute and punish for causes such as ethnicity, religion, nationality, tribe, political belief or social status, or the purpose of the request is to harm the reputation of the accused.
  - b. An Afghan court [has already] issued a final verdict on the crime which forms the basis for the extradition request.
  - c. The prosecution and implementation of the punishment is pardoned due to the expiration of a statute of limitation or a general pardon based on either Afghan or the requesting country's laws.
  - d. The act is committed outside the territories of Afghanistan and the requesting country, and [the act] is not prescribed as a crime under Afghan Laws.
  - e. The accused or convict faces torture, severe or inhuman or degrading punishment in the requesting country, or is [deprived of] a guarantee [to ensure] fair criminal procedures outlined in the [Afghan] Constitution, other enforced legislative documents, UN Convention on Civil and Political Rights and other international agreements to which Afghanistan is a party.
  - f. The requesting country has issued a verdict in absentia, or the convict was not notified of the trial, or [he was not given an opportunity to prepare] his defense, or [he was not given] the chance to appeal.
- (2) The High Council of the Supreme Court will reject the extradition request based on paragraph (1) of this article, [or] Article 24 of this law, and will send the case to the relevant authorities for prosecution.
- (3) If the Ministry of Foreign Affairs rejects the request for extradition, it shall notify the requesting authority within 14 days by sending a copy of the rejection.

## **CHAPTER THREE**

### **Legal Cooperation**

## **Article Twenty Six**

### Request for cooperation:

- (1) A request for legal cooperation shall be accepted and presented in the detection, investigation and trial stages, depending upon the particular situation, and in accordance with the recommendations from the Ministry of Interior, the Attorney General's Office and High Council of the Supreme Court, and can include the following:
- a. Collecting evidence or obtaining statements from relevant individuals.
  - b. Assisting in the submission of individuals under custody; summoning of other individuals to give evidence, and assisting in investigations with judicial authorities of the requesting country.
  - c. Sending and enforcing judicial verdicts.

- d. Searching for and confiscation of items.
  - e. Examining items and locations.
  - f. Providing the information and evidence of a crime.
  - g. Providing an original or verified copy of documents including bank statements, accounting documents, and other papers giving information on a company or its commercial activities.
  - h. Other parts of the jurisdiction provided that they are not in contrary with the provisions of this and other laws of land.
- (2) When the Ministry of Interior, the Attorney General's Office or High Council of the Supreme Court asks for legal cooperation from a foreign country, the Ministry of Foreign Affairs shall send the request and its attachments to the diplomatic mission of the relevant country as soon as possible.
- (3) A request for legal cooperation can be submitted in emergency circumstances through the Interpol, or directly by the competent authorities of the requesting country, to the Ministry of Interior or the Attorney General's Office via mail or other immediate delivery methods that provide receipts or other written records [of the delivery]. In such a case and until an [official] notice through the diplomatic mission of the requesting foreign country is received, no official response shall be given.
- (4) The Ministry of Foreign Affairs, once it receives the request, sends it for legal cooperation within 14 days to the Ministry of Interior, the Attorney General's Office or the Supreme Court.
- (5) The Ministry of Interior, the Attorney General's Office and the Supreme Court are required to process,[in accordance with law], the received request for legal cooperation within 60 days and shall make a decision in accordance with the provisions of this Law.

## **Article Twenty Seven**

### Conditions for legal cooperation

The request of a foreign country for legal cooperation will be accepted for consideration when it complies with sections b and c of paragraph (1) of Article 11 of this law, and when location of the arrest of the accused or location of commission of the crime [is in Afghanistan or the requesting country] or when the accused or the victim is a citizen of Afghanistan or the requesting country.

## **Article Twenty Eight**

### Contents of the request for legal cooperation and its attachments

- (1) A request for legal cooperation, in addition to the conditions set forth in paragraph (1) of Article 10 of this law, [shall] also include the following:
- a. [Detailed] explanation of the subject matter underlying the request for legal cooperation.
  - b. The date by which the requesting country expects the information to be returned.
  - c. Information on property, financial document(s), or bank statement(s) which are going to be inspected and investigated.

- d. Complete information regarding the identity of the accused, witnesses, and individuals who are to be investigated, [as well as] information about their residence and the questions to be asked of them.
- (2) Request for legal cooperation in certain cases shall also include the following:
- a. Specific direction as to how any temporary measures are to be enforced.
  - b. Explanation of the facts and reasons upon which the confiscation order was issued, and an explanation of how said order was obtained in a manner that is not inconsistent with Afghan law.
  - c. Information regarding the rights of third person(s) [affected by the request]and their [rights in any] receivables in monies, assets, and revenues derived[from any innocent third party interests].
- (3) The following shall be considered while requesting precautionary measures or confiscation:
- a. A verified copy of the verdict and legal grounds on which the verdict was issued.
  - b. Document that confirms the final verdict is not appealable.
  - c. Explanation on the limits for enforcing the verdict, and a description of the total amount of money requested to be recovered from the monies and assets.
  - d. If the contents outlined on the request for legal cooperation are not sufficient to process [the request] or make a decision, the requesting country may be asked for additional information and explanation.

## **Article Twenty Nine**

### Entities for Legal Cooperation

Entities for legal cooperation and their limits,[in accordance with law], are the Ministry of Interior, the Central Bank, the Attorney General’s Office and the Supreme Court in the following manner:

- a. In the detection stage, the Police agency in the jurisdiction in which the crime took place or the Financial Investigation Unit ,as outlined in Article 19 of the Anti-Money Laundering Law.
- b. In the investigation stage, the Prosecution Office in the jurisdiction in which the crime took place or the Prosecution Office where the monies and assets are located.
- c. In the trial stage, the court in jurisdiction in which the crime took place or the court where the monies and assets are located.

## **Article Thirty**

### Transfer and Submission of Documents and Evidence by Prosecution Office

The Attorney General’s Office can agree to the request of the requesting country in relation to legal cooperation, [and a request for] transfer and submission of documents and evidence[only] when:

- a. The documents and evidence are the tools used in commission of the crime, or are the tools needed to prove the crime.
- b. The evidence is not needed by an Afghan judicial authority for a pending Afghan trial or prosecution.
- c. The sending of the [the requested] evidence does not abuse rights of a third person(s).

- d. The sending of the [the requested] evidence will not unduly harm an innocent third party with an interest in said evidence.

### **Article Thirty One**

#### Request for Money and Asset Recovery

The Afghan government can request recovery of monies and assets [which have been] confiscated by a verdict of a relevant foreign court or can accept [a similar type of] request from a foreign country.

### **Article Thirty two**

#### Transfer and Submission of Documents and Evidence by the Court

- (1) The Court may, under the following circumstances, make decision about the sending of the requested items to the requesting country of assets, documents and evidence that have considerable [evidentiary] value and with no possibility of claim of right by a third person:
  - a. When the assets, evidence and documents are prohibited items, or are residues or tools needed to prove the commission of a crime, or are used in commission of a crime.
  - b. When documents, evidence and assets are the proceeds of a crime or were in possession of the accused during or after the arrest.
- (2) The Court can order, until it [formally] receives a request, freezing and confiscation of assets when necessary, as per notice of the requesting country. In this case, the freezing and confiscation of assets cannot continue for more than one month, except for [when] the requesting country provides the court with satisfactory reasons for an extension of the order [freezing or confiscating the assets].

### **Article Thirty Three**

#### Transfer of Moveable Assets and the Price of Immoveable Assets

Moveable assets of a citizen of Afghanistan or a foreigner which are confiscated based on the verdict of a competent court of a foreign country may be ceded to the requesting country. Immoveable assets are sold through a bidding process and the amount [received from the sale] shall be transferred to the foreign country. Based on an agreement, Afghanistan can be one of the stakeholders in the monies and assets that are located in Afghanistan and confiscated through a verdict of a foreign court.

### **Article Thirty Four**

#### Request made by more than one Country for Transfer of Documents, Evidence and Assets

- (1) When more than one country requests the transfer of documents and evidence or return of the assets derived from the same crime, the Attorney General's Office or the High Council of the Supreme Court can accept for consideration the request of the country whose interest or citizens were affected.
- (2) When more than one country requests the transfer of documents and evidence or the return of the assets derived from different crimes, the Attorney General's Office or the High

Council of the Supreme Court shall decide to accept the request of the country whose interest and citizens were more severely affected, considering the loss incurred to the victim. If the loss [incurred] is equal in all requesting countries, the request of the country that came first shall prevail.

### **Article Thirty Five**

#### Temporary Transfer of the Documents and Evidence

The Prosecution Office, before preparing the indictment, and the court, before addressing the case, can make a decision on [any] request for temporary transfer of the documents and evidence.

### **Article Thirty Six**

#### Postponement of proceedings

- (1) When prosecution of a suspect or accused on whom legal cooperation is requested has already started in Afghanistan, the request for legal cooperation may be postponed.
- (2) Postponement of request for legal cooperation shall not preclude resubmission of the request by the requesting country.

### **Article Thirty Seven**

#### Rejection or postponement of returning assets

If the assets to be frozen, seized, or confiscated, are related to a case under [Afghan] prosecution, the court can reject, or can postpone a request to send the items to the requesting country.

### **Article Thirty Eight**

#### Rejection of request for cooperation

- (1) The request for legal cooperation shall be rejected when:
  - a. The request is not presented according to the laws of the requesting country.
  - b. Accepting the request contradicts Afghan laws or disrupts civil order/safety of the society.
  - c. The case in relation to which legal cooperation is requested has already been decided by [an Afghan] court.
  - d. Taking the requested measures is contrary to the Afghan law, or it is not practical to take such measures in relation to the crime stated.
  - e. The request to implement the verdict is against the laws of Afghanistan.
  - f. The request to take measures or implement the verdict is based on race, religion, nationality, tribe, political belief, gender, or social status.
- (2) Bank privacy cannot be a reason to reject the request.
- (3) The relevant authorities of Afghan government shall notify the foreign country of the reason(s) for rejection of the request as soon as possible.

### **Article Thirty Nine**

#### Safety of the witness and expert

- (1) Witnesses and experts who, based on the request for legal cooperation of the Afghan judicial entities, show up [for legal cooperation] shall not be subject to prosecution or detention for crimes previously committed inside the Afghan territory.
- (2) Judicial authorities of Afghanistan commit to safety of the witnesses and experts under paragraph 1 of this Article. This safety [rule] shall be valid until 30 days after the date when a notice is issued stating that the witnesses and experts are no longer needed [for cooperation]. Circumstances outside their will shall be exception to this rule.

#### **Article Forty**

##### Testimony of the prisoner

- (1) A prisoner can be temporarily sent to testify before foreign judicial authorities except in the following circumstances:
  - a. The prisoner is needed to testify in a case under trial in an Afghan court.
  - b. Time to send and bring him back would exceed the remaining time of his sentence.
- (2) Prisoner who is requested from a foreign country to testify[in Afghanistan] shall be kept in prison and returned to the relevant country after testimony within the specified time limit.

#### **Article Forty One**

##### Participation of a foreign agent in investigation and trial stages

A judicial agent or the person who is assigned by the relevant authorities of a foreign country can participate in an investigation and trial stages, both to gather information and make sure [proper] investigative measures are taken.

#### **Article Forty Two**

##### Conditions to enforce a verdict

Verdict of a foreign court will be enforced when:

- a. The verdict is finalized as per the laws of the foreign country; [and]
- b. The act in relation to which the person is convicted is[also] considered a crime under Afghan law.

#### **Article Forty Three**

##### Circumstances when a foreign verdict can not apply

A foreign verdict does not apply if:

- a. An Afghan court has already issued a final decision on the same crime.
- b. The act on which [a foreign court] issued a decision is not considered a crime in Afghanistan.
- c. Prosecution of the crime is against the Afghan law(s) or the punishment is pardoned as per the law.
- d. The verdict of the foreign court is contrary to Afghan law or disrupts civil order/safety of [the society].

## **CHAPTER FOUR**

### **Final Provisions**

## **Article Forty Four**

### Necessity of privacy

When contents of the request are to be [kept] confidential, the relevant authorities are required to abide by [the rule]. If it is not possible to keep the contents confidential, the requesting authorities will be informed as soon as possible.

## **Article Forty Five**

### Delay in case referral

If the request of a foreign country disrupts the process of an investigation or proceedings, the Prosecution Office can delay referring the case to the investigation agent or to the court and shall immediately notify the requesting country of the situation.

## **Article Forty Six**

### Limitations to use evidence

It is forbidden for the Afghan authorities to use the evidence requested by a foreign country for the purposes other than what is specified for in the request, unless the evidence is so used in light of a prior consent of the requesting country. Investigations or proceedings conducted in contradiction with the provisions of this article are invalid.

## **Article Forty Seven**

### Difficulties in application of verdict

Difficulties in application of a foreign verdict are reported by the Attorney General's Office to the Supreme Court. The High Council of the Supreme Court, after reviewing the issues, shall make a decision on the matter.

## **Article Forty Eight**

### Reliability of documents

The request, its attachments, and other [related] documents are valid when they are presented as an attachment with the request and in one of the official languages of Afghanistan.

## **Article Forty Nine**

### Compliance with provisions of law

The Ministry of Foreign Affairs is required to abide by provisions of this law when entering into any agreement of extradition of an accused, convicted, or legal cooperation with foreign countries.

## **Article Fifty**

### Allocation of expenses

The requesting country is required to bear the expenses of any extradition, transfer, or request for legal cooperation.

## **Article Fifty One**

### Enactment

This law is enacted after approval of the National Assembly and ratification by the President and shall be published in the Official Gazette. When enacted, this law nullifies chapters 10 and 11, Articles 64 through 73 of chapter 12 of the Anti-Money Laundering Law published in Official Gazette No. 840 in 2004 and chapter 4 of the Law on Financing Terrorism published in Official Gazette No. 839 in 2004.