



(Unofficial Translation)

**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

# **Handbook On Extradition**

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## **Preface**

The problem of transnational crime, predominantly drug problems continue to be a serious threat to the peace of the country. It is also a problem that is related to nearby countries, countries in the region and around the globe. Thus, solving the problem of transnational crime and drugs, which includes suppressing and inspecting drug smuggling and trade as well as proceedings with drug cases requires close collaboration between countries. This is because drugs are widespread throughout Asia, countries in the region and around the globe. If any country that is a member of the ASEAN, other countries in the region and around the globe did not collaborate and help each other success in solving this problem will not occur, offenders would not be punished according to the law and would continue with their wrongdoing and create damage to lives and people forever. Cooperation to assist one another has been implemented through legal mechanisms primarily 1. Treaties, 2. Implementation of court decisions on these cases, 3. Cooperation in criminal matters, 4. Extradition and 5. Requests to other countries to proceed with criminal cases against offenders. For all those mechanisms, extradition has been one of the important measures against transnational crime and is used widely around the world.

Extradition is bringing an offender that has escaped and hidden in a foreign country to the country requesting them for criminal proceedings or for them to carry out their punishment in the territory of the other treaty Party according to a court decision due to an extraditable offense or offenses according to principles agreed in the treaty.

The extradition, for the enforcement of a punishment in the territory of the other treaty party, according to a court decision is the delivery of a convict that has escaped punishment after a court decision/judgment has been made legally binding or after the convict has been in a correction camp for some period of time then escaped and that this is not a transfer or relocation of a convict from one country to continue with the enforcement of a punishment in the other country.

Seeing this as essential, the Lao government holds that solving the problem of transnational crime generally via cooperation with foreign countries in the area of justice, specifically via extradition as such is appropriately seen as an important duty that proceeded the regional and international legal measures appropriately.

The Lao PDR is a Party to the international treaty/convention in the areas of transnational crime, corruption, terrorism, human rights, and drugs in the scope of the United Nations as well as ASEAN and is a Party to the treaty on extradition with Socialist Republic of Vietnam, People's Republic of China, the Kingdom of Thailand, Kingdom of Cambodia, Russian Federation and DPR of Korea.

The Lao PDR adopted the law on extradition in 2012 and determined that the Office of the Supreme People's Prosecutor is a central coordinating organization for extradition work, and the Vientiane Capital Office of the People's Prosecutor, central region Office of the People's Prosecutor are the organizations implementing the extradition requests. Vientiane Capital People's Court and central region People's Court are the organizations considering the requests for extradition from the foreign states by coordinating with the

Ministry of Public Security and Ministry of Foreign Affairs based on rights and duties of each ministry and organization.

Through actual implementation it is found that there are a lot of transnational crimes happening, but bringing offenders who have escaped to a foreign state to proceedings in the Lao PDR has been very minimal; there have been some cases of the extradition of a fugitive to a foreign state as requested, however the actual implementation has not complied with the procedures determined in the law and by treaty or when using the problem solving management approaches that are perceived to violate the laws as well as the treaties. All of these are due to many factors, but the key issue is because we have not had an instructive handbook on this issue that formulates through the joint research of many Parties. Therefore, the formulation of the handbook on extradition has been an urgent and necessary task in order to build a unified understanding for consideration of extradition, in order to bring offenders who have escaped to a foreign state to criminal proceedings in our country or the surrender offenders hidden in our country to proceed with a case in a foreign state efficiently, to ensure the directive of **“offenders must be punished, those who do not commit crime will not be punished”**, and to focus on building our state a state governed by law effectively, a people’s state by the people and truly for the benefit of the people.

Thus, for transnational criminals to receive their punishment according to the law, to ensure the success in criminal proceedings in our country, to protect the constitution and law as well as rights and benefits of the state-public; righteous benefits of citizens and to ensure peace and order of society, to heighten the quality of state management, social management by law effectively.

Seeing the importance of this work, the management of the Office of the Supreme People’s Prosecutor, Ministry of Public Security, People’s Supreme Court and other relevant parties has agreed to formulate this handbook on extradition as an important foundation for the implementation of relevant organizations in considering extradition accurately and uniformly nationwide. This handbook is funded by the [Handaisen](#) Foundation, Germany.

This handbook contains 3 parts, Part I Basic knowledge on extradition, Part II Consideration of extradition and Part III Request to a foreign state for extradition, along with forms, case studies, appendixes, vital contents regarding extradition that has been determined in laws and treaties on extradition which our country is a Party to are selected to explain and to guide to ensure the understanding and enhance the implementation capacity and to be a source of reference for the consideration of extradition of investigation-interrogation organizations, people’s prosecutor organizations, people’s courts and other participants, to bring offenders who have escaped to a foreign state and hidden in our country to proceedings and to ensure the implementation of law accurately and fairly; offenders must be punished according to law, those who do not commit crime will not be punished, to combat and suppress wrongdoings and transnational crimes to protect benefits of the state and public, rights and righteous benefits of citizen as well as educate the citizens to respect and implement the law and focus on building a peaceful and orderly society, creating the conditions for the Lao people of all ethnicities to fully participate in the protection and development of the nation.

## **Remark of the Handbook Formulation Committee**

On behalf of the handbook formulation committee, I am pleased to have researched and formulated this handbook on extradition successfully in accordance with the objective and targeted level.

The handbook on extradition has summarized the principles and actions relating to the basic knowledge on extradition, consideration of extradition, requests to the foreign state to deliver transnational criminals, case studies, forms and appendixes regarding extradition.

This handbook has an important meaning for the reason that it is an essential reference for the implementation and heightens the responsibility of a central coordinating organization, criminal proceedings organizations and other relevant organizations in extradition consideration, to bring offenders who have escaped to a foreign state and hidden in the Lao PDR to proceedings according to law and ensure the implementation of law accurately and fairly, offenders must be punished according to law, those who do not commit crime will not be punished.

In the formulation of this handbook on extradition, it is inevitable that there will be shortcomings in terms of contents, terms usage that might not be suitable or accurate, thus we are pleased to receive feedback, comments, instructions from users in the field, students, researchers and other readers in order to improve to a more complete, accurate, and consistent handbook in the next stage.

**Director of the Handbook Formulation Committee**

## **Remark of the Editing Committee**

In the age of globalization and international integration as nowadays the extradition work has played a crucial role in bringing offenders who have escaped to a foreign state or hidden in our country to proceedings and receive their punishment according to law, to ensure the success in criminal proceedings in our country, to protect the constitution and law as well as rights and benefits of the state-public; righteous benefits of citizen; to ensure peace and order of the society, to heighten the quality in state management, social management by law in our country effectively.

Therefore, this handbook on extradition is extremely significant to the implementation of the central coordinating organization, criminal proceeding organizations, and other relevant organizations in researching and considering extradition, heightening their responsibility continuously.

On behalf of the editing committee, I would like to sincerely congratulate the leading committee, research committee and handbook writing secretariat that have heightened their responsibility, and dedicated their strength and wisdom into successfully completing this handbook, which is an achievement and important document in the field of justice of our country, for a central coordinating organization and relevant organizations to use in researching and considering extradition, for researchers, students and other interested readers to use productively in the next stage.

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**Dr. Keth Kiattisak**

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## **Part I**

### **Basic Knowledge on Extradition**

#### **Chapter 1**

#### **General Knowledge**

##### **1. Meaning**

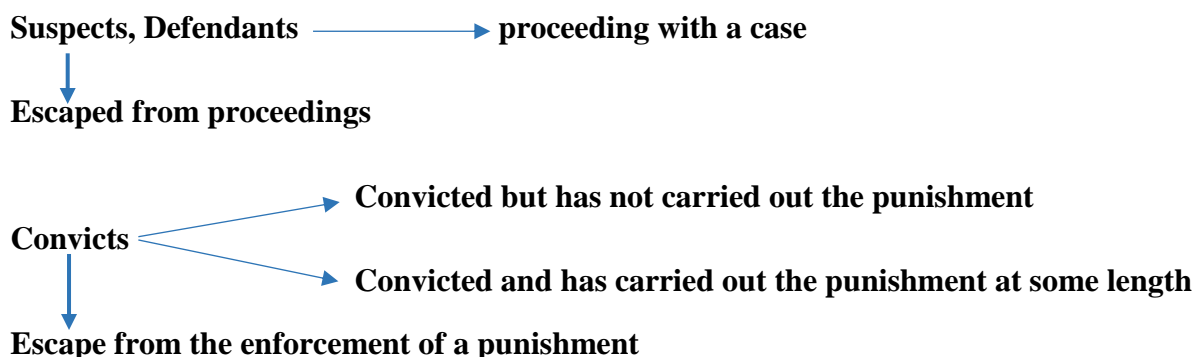
The fugitive is the person who is accused or convicted as a criminal offender in the foreign state but has escaped to the Lao PDR, or who is accused or convicted in the Lao PDR but has escaped to a foreign state<sup>1</sup> where the escape from the Lao PDR of the fugitive can take place during the process of investigation-interrogation, consideration of the office of people's prosecutor, people's court or during the enforcement of the punishment period.

Extradition is the delivery of wanted suspects or offenders by the Requested State to the Requesting State for criminal proceedings or for enforcement of a punishment in the Requesting State<sup>2</sup>.

In other words, extradition is an act of bringing an offender who has escaped and hidden in a foreign state to the Requesting State to proceedings and to enforcement of a punishment in the territory of another treaty Party according to the court decision due to an extraditable offense or offenses as per principles agreed in the treaty.

Therefore, extradition is not a criminal proceeding to convict the offender because in the consideration of extradition the relevant organizations consider only whether the requirements are met or complete for the extradition of a fugitive to the Requesting State without going in depth, and analyzing components of the offense as that is the right of the Requesting State.

##### **Fugitives**



The extradition of a person for enforcement of a punishment in the territory of the other treaty Party according to a court decision is the delivery of the convict who has escaped from the punishment after the court decision has been made legally binding or after the convict has been in a correction camp for some period of time then escaped and **that this is**

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<sup>1</sup> Article 2 Law on Extradition.

<sup>2</sup> Article 2 Law on Extradition.

**not a transfer or relocation of the convict from one country to continue their punishment in the other country.**

Participants in the request for extradition include the Requesting State and Requested State. The Requesting State is a state that requests another state to surrender wanted suspects or offenders for extradition; the Requested State is a state that another state requests for extradition.

## **2. Objective**

Extradition has the objective of bringing the person who is accused or convicted as a criminal offender in the foreign state but has escaped to the Lao PDR, or who is accused or convicted in The Lao PDR but has escaped to a foreign state to criminal proceedings or to enforcement of a punishment in The Lao PDR or in the Requesting State<sup>3</sup> in accordance with the law of the Lao PDR, international regulations, agreements and treaties that the Lao PDR is a Party to, focusing on combatting and suppressing transnational crimes, contributing to the efficient foreign cooperation in this field based on the foundation of respecting the unity, sovereignty, territorial integrity, equality and mutual benefits<sup>4</sup>.

## **3. Importance**

Extradition is extremely important to criminal proceedings, bringing offenders who have escaped to a foreign state to punishment according to law and not letting offenders avoid judicial proceedings, protecting rights and benefits of the state, society, rights and righteous benefits of citizens, focusing on building a peaceful and orderly society, increase legislation, building a state governed by law effectively step by step, contributing to a strong protection and development of the nation.

## **4. Evolution of extradition**

Extradition began in the period prior to the 18<sup>th</sup> century where some countries such as ancient Egypt, Greece, China and India perceived that extradition was a priority and consideration of the Requested State whether to hand over or not, when there had not been a specification of offense that prohibited the extradition. This may be due to extradition at that time having been a hand over of a fugitive to the Requesting State and the extradition process proceeded in a collaborative manner between states in order to bring offenders to punishment.

An extradition treaty was recorded the first time in the world approximately in 1280 BC where Pharaoh Ramses II of Egypt signed a peace treaty with King Hattusilis III of the Hittites after they were defeated in a war by Egypt, in this peace treaty it determined extradition of those wanted persons who had sought refuge in Egypt were to be given back.

In the past, the extradition process between countries did not have an established written treaty or agreement but had used the principle of cooperation assisting one another when none of the states placed any importance on extradition and the communication between states was not as developed and advanced as present.

Since the end of the 18<sup>th</sup> century until mid-19<sup>th</sup> century there has been the development on extradition between countries, where the majority of treaties formulated would related to the criminal offense such as murder, robbery, arrest of persons deserted from the army as at that time war had broken out in European countries continuously that the

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<sup>3</sup> Article 2 Law on Extradition.

<sup>4</sup> Article 1 Law on Extradition.



resistance to the government was perceived to be a political offense, and when persons escaped from the country there should not be an arrest to deliver to the Requesting State due to the perception that it was an action for the freedom of the country. Thus, there was the first treaty determining the non-extradition for political offenders, military offenders such as the extradition treaty between Belgium and France in 1834, after that in 1870 England promulgated the law on extradition and established extradition treaties with almost every country around the globe in which increased the works on extradition and has become the practice principle between countries in the form of treaty, agreement and domestic law of countries.

From the end of the 19 century to present, due to the progress in modern communication between countries, in all features i.e. land, water and air have been developed, that has created a channel for offenders to escape from one country to another easily and quickly, making it very difficult to trace offenders who have escaped to the other state to bring them to proceedings. Forms of crime have also evolved markedly until it becomes transnational criminal organizations where technology, modern telecommunication and communication system is used for the criminal coordination and cooperation, particularly in economic crime, drugs crime and terrorism. Those offenses affect the countries' stability and for that reason as a result countries must cooperate to combat and suppress such offenders by means of a treaty on extradition. Afterward in 1990 the United Nations has created a model of the treaty on extradition for countries to use as a template in drafting the domestic law and establishing the treaty on extradition together and accordingly.

The Lao PDR adopted the law on extradition on 2012<sup>5</sup>, determined the international cooperation in the law on criminal procedure and has established the treaty on extradition with countries such as SR Vietnam, PR China, K. Thailand, K. Cambodia, DPR Korea and Russian Federation and has been a Party to the bilateral treaties on mutual legal assistance in criminal matters with SR Vietnam, PR China and DPR Korea and treaties on mutual legal assistance in criminal matters of the ASEAN countries. This treaty is an open treaty to enable interested countries to propose to be a Party and it is not the ASEAN treaty because ASEAN is not an initiator of this treaty and ASEAN has not adopted the ASEAN treaty as their own. Additionally, The Lao PDR is also a Party to the United Nations convention against transnational organized crimes, treaty on terrorism, convention against corruption, treaties in the area of terrorism and ASEAN's convention on counter terrorism and other treaties relating to criminal matters.

## **5. Extradition Request**

### **5.1 A request**

The state wanting the fugitive for criminal proceedings or convicts to continue enforcement of a punishment in their own state must form a written request together with a complete set of supporting documents to present to the Requested State to consider extradition in accordance with a treaty that both are a party to as well as the law on extradition of each state.

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<sup>5</sup> Extradition Handbook, Organization of Supreme Prosecutor, K. Thailand, page 1; Stanbrook, I. AND Stanbrook, C., Extradition: Law and Practice (2<sup>nd</sup> ed. – Oxford, Oxford University Press, 2000), page 3.

In practice the central coordinating organization of the Requesting State will be the one forming a proposal letter or a request based on the proposal of the investigation-interrogation organization or relevant organization of their own state where the content of a request principally contains the following:

- Name of the requesting organization;
- Name and surname, age, gender, nationality, photograph, type and number of documents relating to the appearance or special characteristics, occupation and address or residence of the wanted person and other information of the person;
- Brief summary of the offense that brought the charges, date, time, place and result of the offense;
- Provisions of law relating to the accusation or charge, punishment and jurisdiction of the court of the Requesting State;
- Provisions of law relating the limitation of the prosecution or the limitation regarding the enforcement of a punishment.

The content of a request is specified in the treaty or law on extradition which principally contains the same content<sup>6</sup>.

In the request for extradition, there is a **regular extradition request** of the Requesting State that is submitted via diplomatic channels or submitted as per procedures and methods specified in the treaty and a **provisional arrest request** that is submitted via international police channels or other channels before a Requesting State forms a request for extradition officially.

## 5.2 Supporting Documents

In order for the request for extradition to be considered, the supporting documents of the request for extradition must be complete which principally consist of the following documents:

Supporting documents for the request for extradition for proceedings consists of the following:

- Copy of the arrest warrant of the prosecutor, court or other competent authorities of the Requesting State;
- Evidence that is a basis for the arrest and for proceedings in court against the person including the evidence indicating that the wanted person is the same person mentioned in the arrest warrant.

Supporting documents for the request for extradition for enforcement of a punishment consist of the following:

- Copy of court decision or judgment that is legally binding of the Requesting State;
- Evidence indicating that a person requested to be extradited is the same person mentioned in that legally binding decision or judgment;
- Certification on the period of time of the punishment previously carried out and the period of time of the punishment remaining according to the legally binding decision or judgment;

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<sup>6</sup> Article 7 Treaty on Extradition the Lao PDR-PR China; Article 7 Treaty on Extradition the Lao PDR-K. Cambodia.

- In the case of a decision in absentia, there must be a legal clarification or certification to ensure the wanted person can defend the case or has a chance to be reconsidered with their participation.

All the documents sent by the Requesting State according to Article 7 of law on extradition must be signed and sealed as well as translated into Lao or other languages as determined in the relevant treaty<sup>7</sup>.

The supporting documents are specified in the treaty and law on extradition which contain the following details:

### **Treaties**

#### **Treaty on Extradition between the Lao PDR and the Kingdom of Thailand**

##### **Article 7 Request for Extradition and Supporting Documents**

1. A request for extradition must be in writing and consists of the following documents:

- a. Clarification documents or other evidence that can be realized regarding the appearance and address of a person requested to be extradited;
- b. Clarification statement regarding the actual events of the case;
- c. Provisions of law determining the important component of the offense and charge for which extradition is requested;
- d. Provisions of law determining the punishment regarding the offense;
- e. Provisions of law determining the limitation of the prosecution or the enforcement of a punishment regarding the offense, if any.

2. A request for extradition regarding a person requested to be extradited for prosecution must consist of:

- a. Copy of the arrest warrant issued by the prosecutor, court or other competent authorities of the Requesting State;
- b. Evidence that is a basis for the arrest and proceedings in court against the person including the evidence indicating that a person requested to be extradited is the same person specified in the arrest warrant.

3. When a request for extradition relates to a person who has been convicted or mentioned in the legally binding decision or judgment as an offender, extra documents in addition to those mentioned in item 1 above must be included:

- a. Copy of court decision or judgment that is legally binding of the requesting party;
- b. Evidence indicating that a person requested to be extradited is the same person mentioned in that legally binding decision or judgment as being found guilty;
- c. Certification of time of a sentence that is already previously carried out according to the legally binding decision or judgment.

4. All the documents sent by the requesting party according to provisions of this treaty must be officially signed and sealed as well as translated into the language of the requested party or into English or French.

#### **Treaty on Extradition between the Lao PDR and Kingdom of Cambodia**

##### **Article 7 Request for Extradition and Supporting Documents**

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<sup>7</sup> Article 14 Law on Extradition.

1. A request for extradition must be in writing and consists of the following documents:

- a. Clarification documents or other evidence that can be realized regarding appearance and address of a person requested to be extradited;
- b. Clarification statement regarding the actual events of the case;
- c. Provisions of law determining the important component of the offense and charge for which the extradition is requested;
- d. Provisions of law determining the punishment regarding the offense;
- e. Provisions of law determining the limitation of the prosecution or the enforcement of a punishment regarding the offense, if any.

2. A request for extradition regarding a person requested to be extradited for prosecution must consist of:

- a. Copy of the arrest warrant issued by the prosecutor, court or other competent authorities of the Requesting State;
- b. Evidence that is a basis for the arrest and proceedings in court against the person including the evidence indicating that a person requested to be extradited is the same person specified in the arrest warrant.

3. When a request for extradition is relating to a person who has been convicted or there is a legally binding judgment stating that s/he is an offender, extra documents in addition to those mentioned in item 1 above must be included:

- a. Copy of court decision or judgment that is legally binding of the requesting party;
- b. Evidence indicating that a person requested to be extradited is the same person mentioned in that legally binding decision or judgment as being found guilty as mentioned in item 1 above;
- c. Certification of time of a sentence that is already previously carried out according to the legally binding decision or judgment;
- d. Statement of Legal clarification that a person can respond to prepare to defend the case or able to have a new decision determined in their presence if previously the person was sentenced in absentia.

4. All the documents sent by the requesting party according to provisions of this treaty must be officially signed and sealed as well as translated into the language of the requested party or into English.

### **Treaty on Extradition between the Lao PDR and PR China**

#### **Article 7 Request for Extradition and Supporting Documents**

1. A request for extradition must be in writing and consists of the following documents:

- a) Name of the requesting organization;
- b) Name and surname, age, gender, nationality, type and number of documents relating to the appearance, occupation, characteristics and address or residence of a person requested to be extradited and other information to assist with recognizing their appearance and being able to help finding the person;
- c) Clarification statement regarding the offense including time, place, acts and result of the offense;
- d) Content of the provisions of law on jurisdiction of the criminal court, determination of offense and determination of a punishment that can be applied for the offense; and

- e) Content of the provisions of law determining the limitation of the prosecution.
- 2. In addition to those specified in paragraph 1 of this Article
  - a) A request for extradition, aiming at proceeding the criminal case against a person requested to be extradited, must be sent with a copy of the arrest warrant that issued by competent authority of the requesting party as well; or
  - b) A request for extradition, aiming at executing the court decision toward a person requested to be extradited, must be sent with a copy of the effective court decision or judgment and a certification of time of a sentence that is already previously carried out.
- 3. A request for extradition and additional documents must contain signature or seal and be translated into the language of the requested party or into English.

### **Treaty on Extradition between the Lao PDR and Russian Federation**

#### **Article 7 Request for Extradition**

- 1. A request for extradition must be in writing from the central coordinating organization of the requesting party and send to the central coordinating organization of the requested party via diplomatic channels.
- 2. The requested party might receive a request for extradition to proceed as specified in a telegraph, facsimile, electronic letter or other form of communication. The requesting party will send the original copy of a request for extradition via diplomatic channels urgently after such form of communication is being used.
- 3. A request for extradition must include: a) Name of the requesting organization; b) Name and surname of a person requested to be extradited, details on nationality, residence or place, description relating to the appearance as much as possible as well as the photograph of the person, finger prints and other details to enable the search and identification of the person; c) Clarification statement regarding the event of the case that is a basis for the request for extradition of the person, specification of time and place of the offense that is a criminal punishable, characteristics of the offense and copy of documents used in proceedings and as evidence to prove the offense of the person; d) Authenticated copy of the provisions or contents of law that determined the offence and including the information regarding a provision on punishment for such offense; e) Authenticated copy of the provisions or contents of law regarding the limitations.
- 4. A request for extradition for proceedings including the documents and information specified in paragraph 3 of this Article should also include a copy of the arrest warrant that is issued by the competent authority of the Requesting Party.
- 5. A request for extradition for enforcement of court decision including the document and information specified in paragraph 3 of this Article should also include a copy of the final decision and a copy of the imprisonment sentence that has not been enforced.

#### **5.3 Request of Additional Information**

After the consideration of the request for extradition of the relevant parties, if the information is perceived to be insufficient the relevant parties can request for additional information as determined in the treaty or Article 13 and Article 14 of the law on extradition via the Ministry of Foreign Affairs, in the case where the request was sent via diplomatic channels or central coordinating organization, within 15 days or according to the period of time specified in the treaty. In the case where the Requesting State cannot deliver such additional information within the specified period of time, it is to assume that the Requesting

State has withdrawn their request voluntarily. However, the Requesting State has the right to request again as appropriate.

The request of additional information is determined in Article 8 of the treaty on extradition between The Lao PDR and K. Thailand; Article 8 of the treaty on extradition between The Lao PDR and K. Cambodia; Article 8 of the treaty on extradition between The Lao PDR and PR China; Article 9 of the treaty on extradition between The Lao PDR and Russian Federation; Article 63 of the treaty on justice cooperation in civil and criminal matters between The Lao PDR and SR Vietnam, with the following details:

**Treaty on Extradition between the Lao PDR and the Kingdom of Thailand**

**Article 8 Additional Information**

If the requested party considers that the information presented to include in a request for extradition is insufficient for the extradition to take place according to this treaty, such Party may request for additional information within the specified period of time. If the requesting party cannot deliver such additional information within the specified period of time, it is to assume that the requesting party has withdrawn their request voluntarily. However, the requesting party will not be denied the right to make a new request for the same purpose.

**Treaty on Extradition between the Lao PDR and Kingdom of Cambodia**

**Article 8 Additional Information**

If the requested party considers that the information presented to include in a request for extradition is insufficient for the extradition to take place according to this treaty, such Party may request for additional information within the specified period of time. If the requesting party cannot deliver such additional information within the specified period of time, it is to assume that the requesting party has withdrawn their request voluntarily. However, the requesting party will not be denied the right to make a new request for the same purpose.

**Treaty on Extradition between the Lao PDR and PR China**

**Article 8 Additional Information**

If the requested party perceives that the information included in the request for extradition is insufficient, they may request the additional information to be sent within thirty days. In accordance with a correct request of the requesting party, the specified period of time can be extended for fifteen days. If the requesting party cannot send such additional information within this period of time, it is to assume that the requesting party has withdrawn their request voluntarily. However, the requesting party will not be denied the right to make a new request for extradition for the same offense.

**Treaty on Extradition between the Lao PDR and Russian Federation**

**Article 9 Additional Information**

1. In the case where the requested party perceives that some information determined in the request for extradition is insufficient, may request the additional information to be sent as well as specifies the timeline to include that information.
2. If the person requested to be extradited is detained, and included additional information is still insufficient or is not received within the period of time specified by the requested party, the person will be discharged from detention. However, the release of the person

will not affect the detention of the person later when sufficient additional information or request for extradition relating to other criminal offense is received.

**Treaty on Justice Cooperation in Civil and Criminal Matters between the Lao PDR and SR Vietnam**

Article 63 Additional Documents in the Request for Extradition

If the request for extradition has not had completed the necessary information to proceed with the extradition, the Party that received the request have the right to request to the requesting party to add the information. The requesting party may request to extend the time to send the additional information but a maximum not to exceed two months.

The competent authority of the Party that received the request may stop the surrender of or the discharge of the detainee immediately if the necessary additional information is not received as determined in this Article.

**5.4 Translation**

A request for extradition including the supporting documents must be translated into the language determined in the treaty or law on extradition by the Requesting State such as English, French, Lao and etc., as well as signed and sealed to certify from the relevant parties.

The translation is determined in Article 7 item 4 Treaty on Extradition between The Lao PDR and the Kingdom of Thailand; Article 7 item 4 Treaty on Extradition between The Lao PDR and Kingdom of Cambodia; Article 7 item 3 Treaty on Extradition between The Lao PDR and PR China; Article 19 Treaty on Extradition between The Lao PDR and Russian Federation.

In the case where there is not a treaty on extradition or has not determined, the law on extradition is to be complied with.

**Treaty on Extradition between the Lao PDR and the Kingdom of Thailand**

Article 7 Request for Extradition and Supporting Documents

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4. All the documents sent by the requesting party according to provisions of this treaty must be officially signed and sealed as well as translated into the language of the requested party or into English or French.

**Treaty on Extradition between the Lao PDR and Kingdom of Cambodia**

Article 7 Request for Extradition and Supporting Documents

...

4. All the documents sent by the requesting party according to provisions of this treaty must be officially signed and sealed as well as translated into the language of the requested party or into English.

**Treaty on Extradition between the Lao PDR and PR China**

Article 7 Request for Extradition and Supporting Documents

...

3. A request for extradition and additional documents must contain a signature or seal and be translated into the language of the requested party or into English.

**Treaty on Extradition between the Lao PDR and Russian Federation**

Article 19 Language and Certification of Documents

1. Any document for the purpose of this treaty will be formulated in the language of the Party sending the documents and accompanied by the documents that have been translated into the language of the receiving Party or into English.
2. Any document including those translated into English for the purpose of this treaty will be signed and certified by the central coordinating organization or other competent authority, if corresponding, the Party sending those documents will not be certified as to legal correctness or certify the accuracy of documents in either case.

## **Treaty on Justice Cooperation in Civil and Criminal Matters between the Lao PDR and SR Vietnam**

Not determined.

### **Law on Extradition**

#### **Article 14 Supporting Documents**

.... All document sent by the Requesting State according to this Article or according to the treaty on extradition that The Lao PDR is a Party to must be signed and sealed as well as translated into Lao or other languages as determined in this treaty.

### **5.5 Request Channels**

In principle, the submission of the request for extradition from the Requesting State to The Lao PDR or from The Lao PDR to the Requested State must be conducted via diplomatic channels in the case where The Lao PDR does not have a treaty with. The submission of the request on extradition as per the treaty on extradition that The Lao PDR is a Party to must comply the mechanism determined in that treaty<sup>8</sup>.

For the purpose of this treaty, the Parties must communicate with each other via a designated organization except specified otherwise in this treaty. In designating such organization, the Parties must communicate via diplomatic channels. For The Lao PDR, the central coordinating organization is the office of the supreme people's prosecutor<sup>9</sup>.

### **5.6 Requests on Extradition from Multiple States**

When there are requests for extradition from two or multiple states at the same time wanting the same person for the same charge or different charge the Ministry of Foreign Affairs will be the one to decide the request from which state will be brought to consideration by taking into account principles or obligations determined in the treaty on extradition, time and place of the offense, level of danger of the offense, time when the request is received, nationality and permanent address of the wanted person, victims and objective of the extradition<sup>10</sup> in which the following principles must be complied:

- Check if the state requesting extradition has a treaty with The Lao PDR, if one of the Requesting States has a treaty with The Lao PDR that state will be considered first. For example, there are requests from the SR Vietnam and Malaysia, a request from the SR Vietnam will be considered first due to The Lao PDR and SR Vietnam has a joint treaty.
- Time and place of the offense;
- Level of danger of the offense;
- Time when the request is received;

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<sup>8</sup> Article 6 Law on Extradition.

<sup>9</sup> Article 35 Law on Extradition.

<sup>10</sup> Article 15 Law on Extradition.



- Nationality and permanent address of the wanted person;
- Victims;
- Objective of the extradition.

#### **6. Extradition Obligations**

Normally, a state does not have an extradition obligations to the other if such state does not have a joint treaty on extradition. In the case where both Parties do not have a joint treaty or have a joint treaty but reserved at non-compliance according to the principle of that treaty, then extradition can still be possible if the Requested State has agreed.

Treaties relating to extradition of The Lao PDR with foreign states include the United Nations multilateral treaties, ASEAN treaty and bilateral treaties that The Lao PDR is a Party to.

**United Nations multilateral treaties** that The Lao PDR is a Party to consist of:

- Convention against transnational organized crime, joined as a Party on the 26<sup>th</sup> September 2003;
- Protocol to prevent, suppress, and punish trafficking in persons, especially women and children, which is a supplementary to the convention against transnational organized crime, joined as a Party on the 26<sup>th</sup> September 2003;
- Protocol against the smuggling of migrants by land, sea, and air, which is supplementary to the convention against transnational organized crime, joined as a Party on the 26<sup>th</sup> September 2003;
- Protocol against the illicit manufacturing of and trafficking in firearms including their parts and components, which is a supplementary to the convention against transnational organized crime, joined as a Party on the 26<sup>th</sup> September 2003;
- Convention for the suppression of terrorist bombings, joined as a Party on the 22<sup>nd</sup> August 2002;
- Convention against corruption;
- Convention on offenses and certain other acts committed on board aircraft;
- Convention on the suppression of unlawful seizure of aircraft;
- Convention for the suppression of unlawful acts against the safety of civil aviation;
- Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents
- International convention against the taking of hostages;
- Convention for the suppression of terrorist bombings;
- Protocol on the suppression of unlawful acts of violence at airports serving international civil aviation;
- Single convention on Narcotic Drugs 1961 (ratified in 1973);
- Convention on psychotropic substances 1971 (ratified in 1977)
- Convention against illicit traffic in narcotic drugs and psychotropic substances 1988 (ratified in 2004);
- 1972 Protocol amending the single convention on narcotic drugs 1961 (ratified in 2009);

- Protocol to prevent, suppress, and punish trafficking in persons, especially women and children, which is a supplementary to the convention against transnational organized crime;
- Convention for the suppression of the traffic in persons and of the exploitation and prostitution of others;
- Supplementary convention on the abolition of slavery, the slave trade, institutions and practices similar to slavery

**Treaties Relating to Extradition for ASEAN** that The Lao PDR is a Party to consist of:

- Convention on counter terrorism;
- Convention against trafficking in persons, especially women and children 2015;
- Draft model of ASEAN extradition treaty.

**Bilateral Treaties** relating to extradition that The Lao PDR is a Party to consist of:

- Treaty on justice cooperation in civil and criminal matters Laos-Vietnam;
- Treaty on cooperation in the prevention, combating of human trafficking and protection of victims of human trafficking Laos-Vietnam;
- Treaty on extradition Laos-China;
- Treaty on extradition Laos-Cambodia;
- Treaty on extradition Laos-Thailand;
- Treaty on extradition The Lao PDR-DPR Korea.

The Lao PDR has signed the memorandum of understanding on combatting of illicit traffic in narcotic drugs and psychotropic substances and inspection of prohibited chemicals with countries such as: China, Cambodia, Cuba, India, Indonesia, Myanmar, the Philippines, Russia, Thailand and Vietnam.

## **7. Designation of Ad Hoc Committee**

In practice, when requesting extradition from a foreign state or requesting a foreign state for extradition, The Lao PDR may designate an ad hoc committee that comes from relevant parties for research and consideration to fully ensure the accuracy and effectiveness of the work, to protect rights and benefits of our country in the between-countries stage, that is regional and international. For example, the ad hoc committee of the Lao PDR that was designated to request for extradition from the Kingdom of Thailand in the case of Vangtao-Xongmek in 2000.

However, the designation of the ad hoc committee to assist in solving the task on extradition will not in any way affect the rights and duties of the relevant organizations in the consideration of extradition as determined in the law.

## **Chapter 2**

### **General Principles for Extradition**

#### **1. Meaning**

General principles for extradition are one of the principles of domestic and international law as determined in treaty as well as in the law on extradition of countries around the world that were determined as direct or indirect principles as appropriate and are also important principles of The Lao PDR, which are determined in the law on extradition as a foundational consideration of extradition for The Lao PDR. The principles consist of reciprocity, dual criminality, extraditable offenses, and a rule of specialty.

#### **2. Objective**

General principles on extradition are determined with an objective, and as an important foundation for the consideration of extradition, to ensure the application of law and treaty on extradition are correct and consistent.

#### **3. Importance**

General principles on extradition are important to the consideration of extradition, to ensure the application of law and treaty on extradition are correct and consistent, to fully protect the rights and benefits of The Lao PDR, foreign states and the fugitive.

#### **4. Principle of Reciprocity**

Principle of reciprocity is a principle used for countries that do not have a joint treaty. In the case where there is not a joint treaty, the request for extradition must specify in the content of the request clearly that the Requesting State will consider the request of the Requested State regarding extradition in the same manner as a reciprocity if the Requested State considers extraditing a person to them. However, the Requested State does not have an obligation to extradite a person to the Requesting State. In the case where domestic law determines that the Requested State will not consider the extradition of the foreign state, the principle of reciprocity can still be implemented.

**For the Lao PDR**, this principle is determined in Article 5 paragraph 2 of the law on extradition, which determined that “this law is applied for extradition in both cases where The Lao PDR is or is not a Party to the treaty on extradition”<sup>11</sup>. Thus, this means that The Lao PDR uses the following principle of reciprocity in accordance with the principle for extradition:

- Respect the unity, sovereignty, territorial integrity, not interfere with internal affairs of each other, cooperate and assist one another in justice matters;
- Respect and comply with the international agreements and treaties that The Lao PDR is a Party to;
- Must be offenses determined in the criminal law of the requesting and Requested State;
- Respect the dignity and freedom of the wanted person.

#### **5. Principle of Dual Criminality**

Principle of dual criminality is the offense in the state requesting a person for proceedings must also be an offense in the Requested State. In the consideration regarding

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<sup>11</sup> Article 5 Law on Extradition.

dual criminality the act of the offense must be considered to determine what the offense is in the law of the requesting and Requested State without looking at the elements of the offense, where the name of the offense may or may not be the same.

Example 1, A has murdered B intentionally, but the law of the Requesting State is divided on the cause of death of the person into two Articles where one of the Articles specifies that killing the person or causing the death of the person intentionally (killing) is the Article determined a general principle and the other one is (named) murder or causing the death of the person intentionally and murdering. Due to A causing B to die is a violation of the general principle the Requesting State therefore requests the Requested State to surrender A to proceed with a case of causing the death of the person intentionally. According to the law of the Requested State, causing the death of a person intentionally is determined in an Article that is murder. When looking at the act they appear to be the same in both states including the name of the Article being similar. Therefore, the offense has dual criminality even though the name of Article may or may not be the same.

Example 2, A the suspect got together with others in the sale and distribution of the information and card numbers of stolen credit cards and the suspect is also involved in the purchase of the information of the stolen credit cards where such conduct is in the form of online business and international business, the affected country has requested extradition of the suspect that has been hiding in the Lao PDR.

When receiving the request the Lao PDR must examine whether such an act as the criminal law has determined the name of the offense is the same as that in the Requesting State. From that event, it can be seen that the offense of the suspect follows the principle of dual criminality without considering the elements of offense and name of the charge at all.

Principle of dual criminality is a basic principle for extradition, which is found in the international treaty and is a well-known customary international law even though this principle is or is not determined clearly in the treaty or domestic law.

**For the Lao PDR** this principle is indicated in Article 7 paragraph 1 of the law on extradition, which determines that: “extraditable offenses must be offenses specified in the criminal law of the Lao PDR and of the Requesting State that are punishable by imprisonment for more than twelve months regardless of whether the criminal law of the Lao PDR or of the Requesting State determined the offenses are the same or not”<sup>12</sup>.

## **6. Extraditable Offenses**

Extraditable offenses are indicated in Article 7 of the law on extradition, which determined that:

*“the extraditable offenses must be the offenses specified in the criminal law of The Lao PDR and of the Requesting State that are punishable by imprisonment for more than twelve months regardless of whether the criminal law of The Lao PDR or of the Requesting State determined the offenses are the same or not.*

*In the case of the request for extradition for the enforcement of a punishment or continuing with an imprisonment sentence according to the court decision of the Requesting State, the extradition can be proceeded only when the remaining time of a sentence is not less than six months.*

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<sup>12</sup> Article 7 paragraph 1 Law on Extradition.

*If the request for extradition is related to the two or more offenses where each offense is the offense according to the law of the Requesting State and of The Lao PDR and at least one of the offenses has a requirement relating to time of a sentence as specified in paragraph one and two of this Article, The Lao PDR may agree to the extradition for all offenses”<sup>13</sup>.*

Extraditable offenses actually are requirements of extradition that the treaty or law on extradition has determined.

## **7. Principle of the Rule of Specialty**

Principle of the rule of specialty is one of the principles on extradition that determines the scope of proceedings or enforcement of a punishment against the extradited person in the Requesting State, that they must follow the contents, and objectives of the request in all aspects and they are absolutely not allowed to proceed with a case or enforce a punishment against the extradited person in the case that has not been requested. Meaning that when the Requesting State receives the extradited person, they must proceed with a case against the person only on the offense that has been requested except when a written consent is received from the Requested State. Additionally, this principle also extends the meaning to the principle which states that the Requesting State cannot also send the extradited person to a third state.

However, there are exceptions in this principle. In some treaty's, there is a specification that other cases can be proceeded with if the charge required for additional proceeding is a lighter charge than that of the requesting offense and is a charge as a result of the acts claimed to be the requesting offense and the Requested State has not determined that issue in the extradition.

**For the Lao PDR**, this principle is indicated in Article 25 of the law on extradition, which determines that: “the wanted person according to the request for extradition will not be proceeded with another case or punished for the another charge in the Requesting State and will not be sent to a third state except 1. If the Lao PDR has agreed to the other proceedings or enforcement of a punishment in the Requesting State based on the explanation and documents and various information sent by the Requesting State as determined in Article 13 and 14 of this law and the agreement of the wanted person regarding the other proceedings or enforcement of a punishment; 2. The person does not depart the territory of the Requesting State within thirty days after being discharged, but this timeline cannot be counted in the period of time the person cannot depart the territory of the Requesting State due to reasons not under his/her control such as a natural disaster; 3. After departing, the person returns to the territory of the Requesting State again voluntary”<sup>14</sup>.

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<sup>13</sup> Article 7 Law on Extradition.

<sup>14</sup> Article 25 Law on Extradition.

## **Chapter 3**

### **Requirements for Extradition**

#### **1. Meaning**

Extradition is a process of bringing an offender who has escaped and hidden in a foreign country to the justice process of the Requesting State for proceedings or enforcement of a punishment. In consideration, States have determined the principle regarding the extradition consideration in the treaties or in the law on extradition where this principle is called Extraditable Offense, which has already been explained in Chapter 2 of this Part, to explain in terms of requirements for extradition for a better understanding and a more convenient application. Meaning that an extradition will take place only when the request for extradition meets all the requirements determined in the treaty and law on extradition and is not in the grounds of extradition refusal.

#### **2. Objective**

Requirements for extradition is the principle determined with the objective of ensuring the application of law and treaty on extradition proceeded correctly and in accordance with the requirements determined in the law and by treaty.

#### **3. Importance**

Requirements for extradition are important to the application of law and treaty on extradition generally, to ensure the consideration of extradition proceeds correctly and in accordance with the requirements determined in the law and treaty, to fully protect rights and benefits of The Lao PDR, foreign states and fugitives.

#### **4. Type of Requirements for Extradition**

Requirements for extradition consist of requirements for bringing fugitives to proceed with their case and requirements for bringing them for enforcement or continuation of a punishment.

##### **4.1 Requirements for Extradition for Proceedings**

Extradition for proceedings must meet the requirements determined according to treaties or law where the details include the following:

- Dual criminality or an extraditable offense;
- Corresponding with the minimum penalty as determined in treaty or by law.

Dual criminality is an offense according to the law of the Requesting State and the Requested State as explained above. A minimum penalty is a punishment determined by treaty or domestic law.

For the Lao PDR, regarding dual criminality the law stated that: “the extraditable offense must be offense specified in the criminal law of The Lao PDR and of the Requesting State that determined an imprisonment punishment of more than twelve months regardless of whether the criminal law of the Lao PDR or of the Requesting State has determined the charge of the offense to be the same or not”<sup>15</sup>.

However, the minimum penalty that the law on extradition has determined can be brought as a requirement only when it does not conflict with the treaty on extradition. In the

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<sup>15</sup> Article 7 paragraph 1 Law on Extradition.

case where the treaty on extradition has specified separately, the treaty's specification will be complied with.

**Example:**

- Treaty on justice cooperation in civil and criminal matters between The Lao PDR-**SR Vietnam** relating to extradition has determined in Article 60 paragraph 1 that: “according to the purpose of this treaty the extraditable offenses are the offenses in which according to the law of the Parties may be sentenced to imprisonment for more than one year or more severe punishment”.
- Treaty on Extradition **Laos-China** has determined in Article 2 paragraph 1 that: “In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for **a period of more than one year or by a more severe punishment**”.
- Treaty on Extradition **Laos-Cambodia** has determined in Article 2 paragraph 1 that: “In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for **a period of more than one year or by a more severe punishment**”.
- Treaty on Extradition **Laos-DPR Korea** has determined in Article 32 paragraph 1 that: “the act of the person being extradited as per the request is an offense punishable according to the law of the Parties by imprisonment for **more than one year**”.
- Treaty on Extradition **Laos-Thailand** has determined in Article 2 paragraph 1 that: “In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment”.
- Treaty on Extradition **Laos-Russia** has determined in Article 4 paragraph 1 that: “for the purpose of this treaty, the extraditable offenses refer to the acts as specified in the law of both Parties as being criminal offenses and punishable by imprisonment for a minimum **period of one year or more severe**”.

**4.2 Requirements for Extradition for Enforcement of a punishment**

Requirements for extradition for enforcement of a punishment or continuing with an imprisonment sentence according to the court decision must meet the requirements according to the treaty or in law, which is determined as follows:

- Having a court order;
- The punishment decided by the court is imprisonment;
- Corresponding with the minimum penalty as by treaty and in law.

A court decision is a base requirement for extradition for enforcement of a punishment or for continuing with the enforcement of a punishment in the Requesting State, which sentenced imprisonment for the offense, whereby the remaining time of imprisonment to continue to be enforced in the Requesting State must not be less than six months.

However, the minimum penalty that the law on extradition has determined can be brought as a requirement only when it does not conflict with the treaty on extradition. In the case where the treaty on extradition has specified separately, the treaty's specification will be complied with.

**Example:**

- Treaty on justice cooperation in civil and criminal matters between The Lao PDR-SR **Vietnam** relating to extradition has determined in Article 60 paragraph 1 that: “handing over for the enforcement of the legally binding criminal decision will be proceeded only when the offender is sentenced for one year or more or a more severe punishment”.
- Treaty on extradition **Laos-China** has determined in Article 2 paragraph 2 that: “when there is a request for extradition for enforcement of court decision of the requesting party for any extraditable offense, such extradition for enforcement of decision can only happen when the **remaining time of a sentence is not less than six months**”.
- Treaty on Extradition **Laos-Cambodia** has determined in Article 2 paragraph 2 that: “the request for extradition of a person who has been by the court of the Party sentenced to imprisonment or detention in other form will take place if the **remaining period** of the enforcement of a punishment or detention in other form **is not less than six months**”.
- Treaty on Extradition **Laos-Thailand** has determined in Article 2 paragraph 2 that: “the request for extradition of a person who has been by the court of the Party sentenced to imprisonment or detention in other form can take place if the **remaining period** of the enforcement of a punishment or detention in other form **is not less than six months**”.
- Treaty on Extradition **Laos-DPR Korea** has determined in Article 32 paragraph 2 that: “for the extradition of imprisonment of an offender for the objective of carrying out the punishment in the country the person is a citizen of, **the remaining time of a sentence must be more than six months**”.
- Treaty on Extradition **Laos-Russia** has determined in Article 4 item 3 that: “in the case where there is a request on extradition of a person who has been sentenced to imprisonment by the court of the Party for any offenses that are consistent with this treaty, such request may be formed if the enforcement of a punishment remaining is at least 6 months counting from the date the decision on extradition is made, if the remaining time of a sentence is less than 6 month”.

Requirements for extradition for enforcement of a punishment is determined in the treaty and the law on extradition and that the details include the following:

#### **4.2.1 Requirements for Extradition for Enforcement of a punishment According to the Treaty**

##### **Treaty on Extradition between the Lao PDR and the Kingdom of Thailand**

###### **Article 2: Extraditable Offenses**

- In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment.
- The request for extradition of a person who has been by the court of the Party sentenced to imprisonment or detention in other form and will take place if the remaining period of the enforcement of a punishment or detention in other form is not less than six months.
- Determination that one act is an offense according to law of the Parties will not depending on whether the law of the Parties determined such act as being the same offenses or named the offense by the same name or not.



- When there is an extradition for one offense, there may be an extradition for another offense, which is stated in the request for extradition, regardless of the requirement relating to time as determined in item 1 and 2 of this Article.

**Treaty on Extradition between the Lao PDR and the Kingdom of Cambodia**

Article 2: Extraditable Offenses

- In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment.
- The request for extradition of a person who has been by the court of the Party sentenced to imprisonment or detention in other form will take place if the remaining period of the enforcement of a punishment or detention in other form is not less than six months.
- For the purpose of this Article the determination that one act is an offense according to law of the Parties will not depending on whether the law of the Parties determined such act as being the same offenses or named the offense the same name or not.
- When there is an extradition for one offense, there may be an extradition for another offense, which is stated in the request for extradition, whereby corresponding with all other requirements for extradition except the period of time of a punishment or detention as determined in item 1 and 2 of this Article.

**Treaty on extradition between the Lao PDR and PR China**

Article 2: Extraditable Offenses

- In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment for a period of more than one year or by a more severe punishment.
- When there is a request for extradition for enforcement of a court decision of the requesting party for any extraditable offense, such extradition for enforcement of that decision can only happen when the remaining time of a sentence is not less than six months.
- In determining any act is an offense according to law of the Parties determined in paragraph 1 of this treaty will not, depending on whether the law of the Parties, determine such act as being the same offense or named the offense the same name or not.
- If the request for extradition is relating to two or more acts where each act is an offense according to law of the Parties and at least one act is in the requirement relating to time of a sentence as specified in paragraph 1 and 2 of this Article, the requesting party may agree to the extradition for all of those acts.

**Treaty on Extradition between the Lao PDR and Russian Federation**

Article 4: Extraditable Offenses

- For the purpose of this treaty, the extraditable offenses refer to the acts as specified in the law of both Parties as being criminal offenses and punishable by imprisonment for a minimum period of one year or more severe.
- Any request for extradition that includes many different offenses punishable as determined in the law of both Parties, but there are some offenses that do not have all the requirements according to the measures for punishment as determined in paragraph 1 of

this Article, the requested party may also consider with their own authority regarding the related extradition towards those offenses.

- In the case where there is a request for extradition of a person who has been sentenced to imprisonment by the court of the Party for any offenses that are consistent with this treaty, such request may be formed if the enforcement of a punishment remaining is at least 6 months counting from the date the decision on extradition is made.
- Some differences in the legal meaning of some offenses should not be brought up as obstacles in proceeding with the request on extradition, if the offense stated in the request on extradition is a criminal offense as determined in the law of both Parties.

**Treaty on Justice Cooperation in Civil and Criminal Matters between the Lao PDR-SR Vietnam**

**Article 60 Requirements for extradition**

According to the purpose of this treaty the extraditable offenses are the offenses in which according to the law of the Parties may be sentenced to imprisonment for more than one year or a more severe punishment.

Handing over for the enforcement of the legally binding criminal decision will be proceeded with only when the offender is sentenced for one year or more or a more severe punishment.

**4.2.2 Requirements for Extradition for Enforcement of a punishment According to Law**

**Law on Extradition**

**Article 7 Extraditable Offenses**

The extraditable offenses must be the offenses specified in the criminal law of The Lao PDR and of the Requesting State that are punishable by imprisonment for more than twelve months regardless of whether the criminal law of The Lao PDR or of the Requesting State determines the offenses are the same or not.

In the case of the request for extradition for the enforcement of a punishment or continuing the enforcement of imprisonment according to the court decision of the Requesting State, the extradition can be proceeded with only when the remaining time of imprisonment is not less than six months.

If the request for extradition is related to two or more offenses where each offense is an offense according to the law of the Requesting State and of The Lao PDR and at least one of the offenses has a requirement for time of a sentence as specified in paragraph one and two of this Article, The Lao PDR may agree to the extradition for all offenses

## **Chapter 4**

### **Refusal of Extradition**

#### **1. Meaning**

The refusal of extradition is a consideration not to extradite according to the request of the Requesting State even though the requesting offense is an extraditable offense as determined in Article 7 of the law on extradition.

The refusal of extradition is determined in Article 8, 9, 10, 11 of the law on extradition or relevant Articles of the treaty on extradition or other treaties and consists of the following grounds:

- Political offense
- Military offense
- Extradition of own citizens (Nationality offense)
- Double Jeopardy Principle
- Limitations
- Amnesty and Pardon
- Decision in Absentia
- Case in the Jurisdiction of The Lao PDR
- Legality Principle
- Non-Discrimination Principle.

#### **2. Objective**

Refusal of extradition is a principle determined with the objective to ensure that the refusal of extradition is considered consistently with the principles that the law and treaties on extradition have specified.

#### **3. Importance**

Refusal of extradition is important to the application of law and treaty on extradition generally, to ensure the consideration of extradition proceeds correctly and in accordance with the principles on refusal of extradition as determined in the law and treaty, and to fully protect the rights and benefits of The Lao PDR, foreign states and fugitives.

#### **4. Grounds of Refusal of Extradition**

##### **4.1 Political Offenses**

The origin of political offenses has a historical meaning and are seen as an exception or important principle for refusal of extradition. This is due to politics or political offenses which directly affect and relate to the state authority, authority of the requesting and Requested States, which is an important reason that to refuse extradition.

Political offense has a wider meaning and a narrower meaning. In the wider meaning: “politics is the act and theory on influence towards people”, in the narrower meaning: “politics is the receiving of governing power and control of governing power-organizations for social check, particularly the state, the act in relation to the division of power and resources in the society that is social relations”. Therefore, political offenses must always have motive (political motive) and political purpose, which can be direct or indirect.

There are still different perspectives and comments regarding what political offense means due to our current governing/administrative system of the world that has been divided into two clear poles that is socialism and capitalism where political offenses can be direct political offenses and indirect political offenses as follows:

#### **4.1.1 Direct Political Offenses**

Direct political offenses are offenses towards sovereignty, stability, peace or order of the society such as: betrayal of the nation, revolt or espionage.

#### **4.1.2 Indirect Political Offenses**

Indirect political offenses are offenses that come from a political motive but at the same time also affects the rights of the individual and that motive comes before or above the intention in the offense. However, the consideration of whether it is a political offense or not is divided into the 3 following cases: 1) Involvement with political events; 2) Violation of the rights of an individual and 3) Political motive:

- **Involvement with Political Events**, used in England and the United States of American where the offense must involve political events such as: turbulence or creating political chaos. The offense for which the extradition is requested must involve chaos or be a part of such chaos and have a political motive or ideology. Case example such as where the Swiss government requested England to extradite a person who had murdered a member of parliament in Switzerland and the court of England decided not to extradite the fugitive using the mentioned principle.

- **Violation of the Rights of the Individual**, used in Belgium, Italy, Switzerland, German and France and determined in the law on extradition of France in 1927 which specified that the extradition will be refused if there is a reason indicating that the request for extradition is merely for a political purpose. The Court considers in relation to political offenses does not consider in relation to the motive of the offender, but considers from the characteristic of rights that are being violated or affected the political organizations of the state or of the individual.

- **Political Motive**, used in Switzerland to explain the relationship between the ideology of the offense and the result of offense and political objective such as in the case that the court of Switzerland decided in 1908 that of V.P. Wassilieff, three general principles led to believe that the offense is a political offense or not such as the offense is made with the object to help or with the belief that such a political objective will be successful, has the direct link to the offense that was made and the objective of offender been the changing of the political or social organizations of the state and political components this has a greater influence than the elements of the offense in general.

Another important case is that of Ktir, who had been requested to be extradited, the French national was a member of the Algerian National Liberation Front on the 14<sup>th</sup> November 1960 and had murdered another member in France due to their being suspected of being a traitor. The Court of Switzerland decided to extradite the offender due to their being unable to prove whether such act was a political offense or not.

#### **4.1.3 Transnational Crime**

In the past there has been an attempt to determine transnational crime as a political offense in order for it to be an exception of extradition due to transnational crime being an

offense towards humanity, but there is no uniformity. Therefore, not extraditing for the reason that transnational crime is a political offense is unreasonable.

#### **4.1.4 Political Offenses According to the Law of The Lao PDR<sup>16</sup>**

The law of The Lao PDR determines the political offenses in Section 1 of the Penal Code regarding offenses towards national peace as follows:

- Article 110 Betrayal of the nation
- Article 111 Treason/Insurgence
- Article 112 Being a spy
- Article 113 Territorial encroachment that affects national peace
- Article 114 Malice
- Article 115 Destruction
- Article 116 Destruction of state and societal affairs
- Article 117 Anti-The Lao PDR propaganda
- Article 118 Separation of solidarity
- Article 119 Espionage
- Article 120 (new) Terrorism
- Article 121 Destruction or invasion of temporary detention camps, prisons, re-education camps
- Article 122 Fleeing to the enemy, looking after a person who moves against The Lao PDR
- Article 123 Revelation of state secrets and secrets of the government
- Article 124 Gathering of groups of people to create chaos/sedition
- Article 125 Destruction, moving of border markers
- Article 126 Destruction, defamation of the national emblem and flag
- Article 127 Destruction, defamation of photographs of high-ranking leaders, national ancestors
- Article 128 Mobilizing people out of or bringing people into the country illegally
- Article 129 Making of counterfeit money or use of counterfeit money
- Article 130 Money laundering
- Article 131 Financing of Terrorism
- Article 132 production, possession, use of weapons of war or explosives illegally
- Article 133 Buying, selling, importing of weapons of war or explosives illegally
- Article 134 Theft, embezzlement, robbery of weapons of war or explosives
- Article 135 (new) Destruction of armory
- Article 136 Damaging of state weapons of war or explosives
- Article 137 Offenses in relation to chemical weapons
- Article 138 Production, possession of communication radio equipment illegally

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<sup>16</sup> Political offenses are offenses relating to peace, national stability whereby in the Penal Code of the Lao PDR these offenses are determined in Section one called offenses towards national peace.

- Article 139 (new) Establishment of self-defense forces and security forces without permission

#### **4.1.5 Political Offenses According to the Treaties**

Treaty on extradition between the Lao PDR and foreign countries such as the treaty on extradition Laos-Vietnam, Laos-China, Laos-Cambodia, Laos-Thailand have determined political offenses as a principle prohibiting extradition of fugitive to the Requesting State. In a case where it is a political offense and non-discrimination principle, which are grounds for refusal of extradition of the Requested State, with solid reasons will assume that the request for extradition of the Requesting State has the objective to proceed with a case against the fugitive based on the discrimination of race, religion, nationality and political views of the person:

- Article 3 item (a) of the treaty on extradition between the Lao PDR and PR China has determined reasons for refusal of extradition on political offenses that the extradition will be refused if the requested party had considered that the extraditable offense is a political offense or the Requested State has allowed asylum for the person requested to be extradited;
- Article 3 item (a) of the treaty on extradition between the Lao PDR and K. Cambodia has determined reasons for refusal of extradition on political offenses that the extradition will be refused, if the requested party had considered that the extraditable offense by the requesting party is a political offense, such political offense will not include murder or attempted murder or assault of a head of state, head of government or family members of the person;
- Article 3 item 1 of the treaty on extradition between the Lao PDR and K. Thailand has determined reasons for refusal of extradition on political offenses that the extradition will be refused, if the requested party had considered that the extraditable offense by the requesting party is a political offense, such political offense will not include murder or attempted murder or assault of a head of state, head of government or family members of the person;
- Article 5 item 1 of the treaty on extradition between the Lao PDR and Russian Federation has determined reasons for refusal of extradition on political offenses that the extradition will be refused, if the requested party had enough reasons to believe that the extradition is for the purpose of hunting or punishing a person due to the color of their skin, gender, religion, race, ethnicity or political beliefs of such person or such person has been tortured or from a damage due to one of these reasons;
- Treaties on extradition between the Lao PDR and SR Vietnam, the Lao PDR and DPR Korea have not determined the refusal of extradition by political offenses.

#### **4.1.6 Interpretation of Political Offenses**

Interpreting whether an act or conduct is a political offense or not is the interpretation of the relevant treaty of the Lao PDR or law on extradition according to the principle for law interpretation by taking into account the definition of political offense mentioned above.

The case of the Lao PDR, there was a request for extradition by the Lao PDR requesting Thailand to hand over 17 fugitives that committed the offense in Vangtao-

Xongmek checkpoint in 2002 whereby Thailand made a decision to refuse the extradition for political reasons, the case contained the following details:

The event occurred on the 3<sup>rd</sup> July 2000, at 15.15 pm 17 offenders holding weapons of war entered Vangtao checkpoint of The Lao PDR, dismantled, destroyed government office spaces, government official houses and fired their guns to threaten people such as: currency exchange unit of the Bank of The Lao PDR, border demarcation office, tax office and private shop of Pasasok company and took many government officials and employees of private company hostages for the negotiation with the public security officers. Vangtao public security officer of The Lao PDR shouted telling the defendants to release the hostages, lay down their weapons and hand themselves over to the authority but they did not comply and also shot at the officers of The Lao PDR. The officers then shot back for self-protection; as a result 6 people were killed, among them there were 2 Lao people and 4 Thai people, whereby the remaining defendants escaped to the territory of Thailand. After the event, the officers of The Lao PDR seized weapons and two money bags that contained Thai currency of 700,000 Baht and 900,000 Baht. After that The Lao PDR requested their extradition for robbery of government and peoples assets a charge that was consistent with the Penal Code of K. Thailand determined in Article 340 of Penal Code of K. Thailand.

Court of Thailand considered the case No. 6872/2546 and made a decision to refuse the extradition according to the request of The Lao PDR due to such act being a political offense, Thai nationals (for offenders with Thai nationality) according to the law on extradition of the Kingdom of Thailand. In addition, The Lao PDR and K. Thailand did not have a joint treaty on extradition.

The primary level court of Thailand doubted the testimony of many witnesses that testified regarding this event. One year after the event occurred there was only one soldier with the rank of lieutenant who had testified ten days after the event but the primary level court believed the defendants' witnesses that included the Thai police performing their duty at the border and had asked the people and believed the testimony of the defendants and from their conduct it was then considered that there was a special intention and not robbery. If that was a robbery, there would be a rush to complete the act and then flee as fast as possible but all the defendants together with the rest returned to occupy the area and took officials hostages and changed the Lao national flag; seen that such acts had the intention to use force or threatened the Lao government to comply with defendants' request in changing the governing system to a democratic system therefore it was not for the purpose of personal benefits in gaining assets, in their opinions they were acts for the country and for the benefit of the public therefore it was considered to have acted with political will, it was a political offense in which the court of appeal also agreed with all the decisions of the primary level court.

Court interpreted the political offense based on the definition relating to extradition whereby the political motive and political purpose from the testimony of the witnesses were used as a foundation of their interpretation.

#### **4.2 Military Offenses<sup>17</sup>**

Military offenses are seen as a pretext in the refusal of extradition and seen as customary international law due to the objective of extradition being to project and suppress general crimes. Therefore, the term military offenses must not be the general offense of the Requesting State and such offenses must not be criminal offenses between countries. Military offenses are offenses in relation to military discipline or specific law on military or escaping from military service, failure to comply with the order of the commander.

The law of The Lao PDR determines military offense in Chapter 13 as follows:

- Article 398 (new) Avoidance of military obligations
- Article 399 (new) Obstructing, concealing or covering up other persons from military obligations
- Article 400 (new) Escaping from military obligations
- Article 401 (new) Committing offenses within the camps, military deployment or mobilization
- Article 402 (new) Escaping from the military
- Article 403 (new) Failure to comply with the order
- Article 404 (new) Inadvertent issuance of orders
- Article 405 (new) Obstructing the performance of duties and responsibilities
- Article 406 (new) Neglecting or hurting a commander
- Article 407 (new) Severe physical punishment or punishment that brings shame on subordinates
- Article 408 (new) Surrender to the enemy
- Article 409 (new) Delivering military information to the enemy or volunteering to serve the enemy while being prisoners of war
- Article 410 (new) Abandoning their duty at the battlefield
- Article 411 (new) Avoidance of duty
- Article 412 (new) Revealing military secrets, gathering, selling or destroying of military documents intentionally
- Article 413 (new) False reporting
- Article 414 (new) Violation of combat readiness rules
- Article 415 (new) Violation of regulations regarding security compliance
- Article 416 (new) Violation of security regulations during training or combat
- Article 417 (new) Violation of regulations regarding use of weapons of war or explosives
- Article 418 (new) Theft or destruction of strategic documents, military tactics, weapons of war or explosives
- Article 419 (new) Inadvertent damage of weapons of war, strategic documents, military tactics

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<sup>17</sup> Penal Code of the Lao PDR.



- Article 420 (new) Violation of policy implementation on the wounded and the dead during combat operations
- Article 421 (new) Collection or destruction of war awards
- Article 422 (new) Abuse of prisoners of war or enemy soldiers who surrender
- Article 423 (new) Pretending to be a military officer.

#### **4.3 Extradition of Own Nationals (Nationality offense)**

The pretext in the Requested State of not having the right to extradite their own nationals to another country for proceedings has been one of the pretexts given by a Requested State which has prohibited the extradition of their own nationals by determining it in the constitution, law and treaties. The reason is due to the idea of protecting its own citizens that by proceeding with the case in the country that they are a citizen of will deliver more protection of their rights and less chance of discrimination. However, the treaties on extradition also tend to indicate towards proceeding with their own case, if there is no extradition of their own nationals to another country.

This principle of not handing over their own nationals to another country, to countries that have law on extradition, is often considered a customary international law so that there is a refusal on extradition of their own nationals. However, sometimes there is a problem in interpreting the meaning regarding when to consider what nationality a person has, past practice was to consider while the request took place so that it will be in line with protection purposes.

For the law of the Lao PDR, treaty on extradition between the Lao PDR and PR China has indicated regarding the obligation to proceed with a case against the nationals of the requested party that if extradition is not possible as per the request of the requesting party according to Article 3 of the treaty on extradition, the requested party must send the case to their competent authority to proceed with the criminal case in accordance with the domestic law of the country. Therefore, to serve this purpose the requesting party must provide documents and evidence relating to that case to the requested party.

Treaty on extradition between the Lao PDR and K. Cambodia has indicated relating to the extradition of their own nationals that each Party has the right to refuse to extradite a person of their own nationality. In the case where there is a refusal of extradition, the requested party must present that case to their competent authority to prosecute and try the case according to the request of requesting party, by having the requesting party send documents and evidence on the case to the requested party. Even it determines in that manner, the requested party will not present that case to their competent authority to prosecute and try the case if the requested party had no authority to proceed with the case against such an offense.

Treaty on extradition between the Lao PDR and K. Thailand has indicated relating to the extradition of their own nationals that each Party has the right to refuse the extradition of a person of their own nationality. In the case where there is a refusal of extradition, the requested party must send that case to their competent authority to prosecute and proceed with the case according to the request. To serve this purpose, the requesting party will send documents and evidence to them. Even if determined so, the requested party will not present

that case to their competent authority to prosecute and try the case if they had no authority to consider/try such an offense.

- Article 61 item 1 (a) of the treaty on justice cooperation in civil and criminal matters between The Lao PDR and SR Vietnam has determined the refusal on the request for extradition of a person of their own nationality that the extradition will be refused if *a person extradited is a citizen of the requested party*;
- Article 3 item (d) of the treaty on extradition between The Lao PDR and PR China has determined that the extradition will be refused if *a person requested to be extradited is a citizen of the requested party according to the law of the requested party*;
- Article 33 item 1 of the treaty between The Lao PDR and DPR Korea on mutual legal assistance in civil and criminal matters has determined on the refusal of extradition that the extradition will be refused *if a person being extradited is a citizen of the requested party*;
- Article 5 item 1 of the treaty on extradition between The Lao PDR and K. Thailand has determined that *each party has the right to refuse the extradition of a person of their own nationality*;
- Article 5 item 1 of the treaty on extradition between The Lao PDR and K. Cambodia has determined that each party *has the right to refuse to extradite a person of their own nationality*;
- Article 5 item 1 of the treaty on extradition between The Lao PDR and Russian Federation has determined that *the extradition will not happen if a wanted person is a citizen of the requested party*.

#### **4.4 Double Jeopardy Principle**

This principle comes from the Roman language that a person should not be put in danger twice for one offense. This principle is also considered a customary international law and has been determined in the international regulations on political rights and citizen rights in which The Lao PDR is a party to with other countries, bilateral treaties and law which determined the principle for not proceeding with the same case twice.

- Article 61 item (b) of the treaty on justice cooperation in civil and criminal matters between The Lao PDR and SR Vietnam has determined on double jeopardy that the request will be refused in the case that a person conducting the offense in the same case whereby the requested party had adjudicated or had had a criminal decision that was legally effective or had had a case settling order;
- Article 3 item 5 of the treaty on extradition between The Lao PDR and K. Thailand has determined on double jeopardy that “the requested party had already judged or adjudicated, which was binding on the person requested to be extradited before there was a request for extradition”.
- Article 33 item 2 of the treaty on extradition between The Lao PDR and DPR Korea has determined on double jeopardy as general principle that it is not possible to proceed with the case according to the law of the requested party, if the age of litigation is over or the case is closed;

- Article 3 item (f) of the treaty on extradition between The Lao PDR and PR china has determined on double jeopardy that the requested party had issued a legally binding decision or proceedings of a person requested to be extradited had ended for extraditable offense.
- Article 3 item 5 of the treaty on extradition between The Lao PDR and K. Cambodia has determined on double jeopardy that that “the requested party had already judged or adjudicated, which was binding on the person requested to be extradited before there was a request for extradition”.
- Article 5 item 2 of the treaty on extradition between The Lao PDR and Russian Federation has determined on double jeopardy that if an offense for which extradition is requested pursuant to the law of the requested party had been carried out all or in part in the territory of the requested party.

Additionally, Article 8 item 4 of the law on extradition of The Lao PDR has determined on double jeopardy that the court of The Lao PDR had judged or adjudicated regarding the wanted person for the same offense before the request for extradition.

#### **4.5 Limitations**

Limitations are period of time for bringing offenders for proceedings or bringing convicts for enforcement of a criminal punishment as determined by the law of the Requesting State.

Limitations include criminal prosecution limitations and enforcement of court decision limitations.

The consideration of limitations is based on the law of the Requesting State. Therefore, when the limitation is over the Requested State can refuse the extradition.

**Example**, in 2017 State A has requested that State B extradite offender C for proceedings in the Requesting State on murder charges for C in 2000. According to the law of A where criminal prosecution limitations are 20 years for a serious offense including murder. Criminal prosecution limitations for prosecution proceedings for this murder case runs from 2000 to 2019 when the limitations are over.

**Example**, A a drugs convict had been arrested in 1999 and been sentenced to 20 years in prison in State B in 2000. After carrying out a sentence for five years A has broken out of prison and escaped to State C. State B requested that State C handed over A to continue carrying out a sentence in State B in full.

Limitations for the enforcement of a punishment for drugs case in State B is 20 years, counting from the date A was arrested onwards. The enforcement of court decision limitations will end in 2018 notice that the limitations have not ended yet.

**To The Lao PDR, Prosecution Limitations** are determined in Article 31 of the Penal Code as follows: “criminal prosecution limitations are a period of time for criminal prosecutions, which is specified in the criminal law, if exceeding such time period, criminal prosecution cannot be filed against offenders.

Criminal prosecution limitations consist of the followings:

- One year for minor offenses;
- Seven years for minor-major offenses;
- Fifteen years for serious crime offenses.

Criminal prosecution limitations shall be counted from the date offenses took place onwards. In the case where there is a new offense within specified limitations of previous offense, the prosecution limitations shall be counted from the date the new offense took place onwards. In the case of avoidance of proceedings, limitations will be counted from the date offenders presented themselves or are arrested onwards.

Criminal prosecution limitations determined in Article 31 of the code of this law will not be used in genocide offenses and offenses towards national peace as determined in Chapter 1 Part II of the code of this law except for offenses of counterfeiting money or using counterfeit money and money laundering.

Enforcement of a court decision limitations are determined in Article 99 of the Penal Code in which punishment imposed on offenders cannot be carried out if exceeding the following time period:

- One year for minor offenses;
- Seven years for minor-major offenses;
- Fifteen years for serious crime offenses.

Enforcement of a court decision limitations shall be counted from the date the decision is absolutely valid onwards. In the case where there is a new offense -within specified enforcement of a court decision limitations- on top of the previous offense, the limitations shall be counted from the date the new offense took place onwards. In the case of avoidance of a punishment within specified enforcement of a court decision limitations, such limitations shall be counted from the date offenders presented themselves or are arrested onwards.

#### **4.6 Amnesty and Pardon**

Amnesty and Pardon are the authority of the executive or head of state particularly whereby a ground for refusal of extradition however must clearly specify that the Amnesty and Pardon are announced by the supremacy of the requesting country only.

#### **4.7 Decision in Absentia**

Normally the Requested State will not interfere with the process of proceedings in absentia of a defendant unless noted that the proceedings truly put the defendant at a disadvantage. Currently, most of treaties and law on extradition have indicated that the process of considering the case in absentia of a defendant is an unfair consideration and will not extradite to the Requesting State.

- Treaty on justice cooperation in civil and criminal matters between the Lao PDR and SR Vietnam has not determined on a decision in absentia;
- Treaty between the Lao PDR and DPR Korea on mutual legal assistance in civil and criminal matters has not determined on a decision in absentia;
- Treaty on extradition between the Lao PDR and K. Thailand has not determined on a decision in absentia;
- Article 3 item 6 of the treaty on extradition between the Lao PDR and K. Cambodia has determined on a decision in absentia that the request for extradition is formulated by the requesting party on the basis of a decision in absentia except the requesting party guarantees that the requested person will have a chance once extradited to be re-judged/sentenced in their presence.

- Article 3 item (g) of the treaty on extradition between the Lao PDR and PR China has determined on a decision in absentia that the request for extradition is formulated by the requesting party on the basis of a decision in absentia except the requesting party guarantees that the requested person will have a chance to be re-judged in their presence.

In a case where the treaty has not determined regarding this issue, the law on extradition will be brought as a reference in court consideration of extradition. Article 8 item 5 of the law on extradition of the Lao PDR indicates on a decision in absentia that the extradition will be refused if the court decision of the Requesting State had proceeded in absentia except where the Requesting State has guaranteed that the requested person will have a chance to fight the case fairly and will be re-judged with the person present.

#### **4.8 Jurisdiction of the Lao PDR**

The extradition will be refused if the court of the Lao PDR has jurisdiction to consider the case with the request for extradition as determined in the treaties between the Lao PDR and foreign nations and law on extradition as follows:

- Article 4 item 1 of treaty on extradition between The Lao PDR and PR China has determined the refusal of extradition if the requested party has the authority to proceed with the case according to the domestic law of the country against extraditable offenses and is proceeding or will proceed with a case against the person found for that offense;
- Article 4 item 1 of treaty on extradition between The Lao PDR and K. Cambodia has determined the refusal of extradition if the requested party has the authority to proceed with a case according to the domestic law of the country against extraditable offenses and is proceeding or will proceed with the case against the person found for that offense;
- Article 4 item 1 of treaty on extradition between The Lao PDR and K. Thailand has determined the refusal of extradition if the requested party has the authority to proceed with the case according to the domestic law of the country against extraditable offenses and is proceeding or will proceed with a case against the person found for that offense;
- Treaties on extradition between The Lao PDR and SR Vietnam, DPR Korea, Russian Federation have determined clearly.

In a case where the treaty has not determined regarding this issue, the law on extradition will be brought as reference in court consideration of extradition. Article 10 item 1 of the law on extradition has determined that the extradition may be refused if the Lao PDR has the jurisdiction according to law to proceed with a case against any offense referred to in the request for extradition and will proceed with a case against the wanted person.

#### **4.9 Legality Principle**

This principle is a principle for legal accuracy even though the treaty has not indicated at the time of the offense, such conduct will not be considered a crime under the law of any of the Requesting States or Requested States. This principle is a principle for legal accuracy. The consideration of extradition must be carried out on the basis of the treaties and law of two countries as a foundation, meaning that they must proceed consistently with the principles the treaties and law have determined.

#### **4.10 Non-Discrimination Principle**

Non-discrimination principle is one of the principles that lead the refusal of extradition is a principle relating to the protection of basic rights or human rights of citizens.

This principle is an international principle that is generally accepted and determined in treaties and law of countries.

- Article 3 item 2 of the treaty on extradition between The Lao PDR and K. Cambodia has determined the refusal of extradition if the requested party has a strong reason to assume that the request for extradition has the objective to proceed with the case or execute the punishment towards the person requested to be extradited due to the race, nationality, religion or political view or the condition of the person requested for proceedings will be affected due to the reasons above;
- Article 3 item 2 of the treaty on extradition between The Lao PDR and K. Thailand has determined the refusal of extradition if the requested party has a strong reason to assume that the request for extradition has the objective to proceed with a case or to enforce a punishment against the person requested to be extradited due to the race, nationality, religion or political view or the condition of the person requested for proceedings will be affected due to the reasons above;
- Article 3 item (b) of the treaty on extradition between The Lao PDR and PR China has determined the refusal of extradition if the requested party has a strong reason to believe that the person requested to be extradited may have been proceeded with the case or executed the punishment due to the race, religion, nationality, gender, political view of the person or the person will be tried unfairly due to any of those reasons;
- Article 5 item 1 (c) of the treaty on extradition between The Lao PDR and Russian Federation has determined the refusal of extradition if the requested party had enough reasons to believe that the request for extradition is for the purpose of hunting or punishing a person due to the color of the skin, gender, religion, race, ethnicity or political belief of such person or such person has been tortured or from suffering damage due to one of these reasons;
- Treaties between The Lao PDR and SR Vietnam, and DPR Korea have not determined.

In a case where the treaty has not determined regarding this issue, the law on extradition will be brought as reference in court consideration of extradition. Article 10 item 3 of the law on extradition has determined that the extradition may be refused if The Lao PDR notices that the extradition may not be consistent with humanity reasons due to issues of race, nationality, religion, ethnicity, gender, social or economic status of the wanted person or that they may be tortured or treated inhumanely.

## **Chapter 5**

### **Law Interpretation**

#### **1. Law Interpretation**

Interpretation is an art and process of translating or determining the meanings of law, intentions, contracts or the other written documents<sup>18</sup>, is a translation of events or conducts into law to determine what such events or conducts are in terms of law or what the legal meanings are, which is a duty of individuals, entities or organizations using law in the daily life, performance of their duties. Law interpretation consists of interpretation of law and interpretation of treaty.

Jurists who have no knowledge about theoretical principles and methods of law interpretation are the same as chefs who can cook only by relying on textbooks. However, a person can memorize, repeat the recipes like a parrot to become a good chef, but these approaches are not only extremely difficult, they also make people no longer have their own mind. Similarly, it is a situation of forensic science studies. Jurists that memorize and repeat different comments, views on law but not remember the formulas, models, textbooks regarding the issue, and when solving a real case they will only be able to solve the problem that they know. Conversely, any jurist who has learned about theoretical principles and methods of law interpretation, it is noticeable very quickly that different comments, views on law often it is not a matter of something else, but a result of different interpretations by different interpretation methods. This method will save not only the effort of the work that is not necessary but will also help to train you to better solve problems or cases that you have never seen before.

#### **2. Objective**

Law interpretation has the objective to ensure the application of law of individuals, entities or organizations in general, specifically the application of law or treaty on extradition is correct and consistent with law and treaties specified, to fully and fairly protect rights and benefits of the Lao PDR, foreign states and fugitives.

#### **3. Importance**

Law interpretation is important to the application of law of individuals, entities or organizations in general, specifically the application of law or treaty in consideration of extradition of the central coordinating organization and relevant organizations of the Requested States, the Requesting States is correct and consistent with law and treaties specified.

#### **4. Treaty Interpretation**

Principles for treaty interpretation are indicated in Article 31 to 33 of Vienna Convention on the Law of Treaties that treaty should be interpreted with sincerity and comply with principles for interpretation that is the interpretation according to words, expressions of the law contents by considering the purpose and intention of founders of the treaty, additionally by taking into account the negotiation background of that treaty, the comments of the executives and the subsequent implementation, customary international law and

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<sup>18</sup> Black Law Dictionary, printed 1997, page 566.

general law principles in which in principle the treaty has no retroactive effect except where separately specified.

## **5. Law Interpretation<sup>19</sup>**

### **5.1. Purpose and Function of Law Interpretation**

The competence of the state governed by the rule of law determines the principles that must be met to ensure that social cohesion is harmonious and lively, connected. These principles have become the essence of all social spheres in life and established their binding into a legal system. Conversely, such a legal system would be very useful if the target of the law, the person who implements the law knows what the law requires them to do. When in doubt about the use of the law the user of the law must find out whether that law will be used and how it will be used. This approach called interpretation regardless of whether the interpretation is done by subjective contemplation according to the intention of the legislators or by being objective according to the intention of the law, as a target of the interpretation or not. We may ask not to explain yet whether to take this model or what approach as a choice. The following will explain the methods of law interpretation.

### **5.2. Which Interpretation Method Traditionally Used**

On the basis of the principle of adhering to and respecting the law of the judges, which is determined in Article 20 item III and Article 3 item I of the Constitution of FR Germany, it is not allowed to interpret the law arbitrarily, which must only be in accordance with the recognized principles. Mr. Friedrich Carl von Savigny (1779-1861) four interpretation methods have been traditionally practiced and are as follows:

- Interpretation according to words, expressions of the law (wording);
- Interpretation according to system of the law;
- Interpretation according to history the origin of the law;
- And interpretation according to sense and purpose of the law.

#### **5.2.1 Interpretation According to Words, Expressions of the Law**

The interpretation according to words, expressions according to grammatical principles or the interpretation according to the meaning is the beginning of law interpretation. In this case, the decisive issue is whether the legal content can be used according to its words, expressions (literally) with the first glance or not. For this purpose we are divided into three groups such as positive, negative and neutral. Positive group, the content of the law is clear and can be clearly seen from the words, expressions of the content of the law without any further interpretation. Negative group, certainly can see that the content of the law does not cover the issues that need to be applied where the words, expressions are clearly expressed without any doubt. Neutral groups are the contents of the law with vague statements, it is not clear whether the content of the law can be applied to the issues that need it or not.

How this issue will affect the application of the law, there is an example of the application of Article 946 of the German Code of Civil Procedure for you to see. According to the Article, the landowner (the owner of the land use right under the law of The Lao PDR) will have the ownership of the property as well if the property is attached to the land in a way

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<sup>19</sup> Law interpretation by Prof. Dr. Florian Bien, Lecturer in Global Economic Law, International and Civil Law Arbitrator, University of Würzburg, Germany.



that has become an integral part of the land. Pursuant to Article 94 item I 1 of the German Civil Code, property becomes an integral part of land if the property is solidly and permanently attached to the land. On the other hand, property will not be a significant component of land if the property is attached to land truly, but attached for temporary objectives and goals only. According to Article 95 item I 1 of the German Civil Code, the shoes of a construction worker are a good example that those shoes are attached to the land temporarily and will never be a significant component of land, no matter how deep the shoes sink into the mud (positive group). Additionally, there are also things that are temporarily attached to the land, such as concrete poles of landowners' flags, and statues of football fans who want to demonstrate honesty and loyalty forever (negative group). On the other hand, it is not clear whether the child's swing set is attached to the land temporarily or not if this swing set is attached to the land in the garden for only the period of childhood.

From this example, it can be seen that the interpretation of the neutral group in some cases still does not help in interpreting the content of the law that needs to be used as well as it should be, it is necessary to add other interpretation methods to help.

### **5.2.2 Interpretation According to the System of the Law**

Interpretation according to the system of the law is the law interpreted by looking at the law systematically and not in isolation, meaning that looking at all law contents systematically linking them to the content in other principles that determined the general issue, and see if the content of this law can be applied according to the location in the law. The meaning of the word location in the law can be seen in the table of contents of the Civil Code, which consists of five parts: general provisions, debts, rights to assets, family and inheritance and sections, items in each section. When it is seen where the content of the law in that law is, in what part, section or item that will indicate on the application of this law as well although words, expressions of the law content do not provide the information about their use. We can see clearer if we look at issue in the view of a flying bird. For example, no one would have thought to use the criminal law on buying-selling contract or issuance of a building permit. This issue includes the issue raised about the application of the law principles that exist in the same law, for instance, anyone who examines the property-asset lease/rent will not find a solution to their problem in the content of law on loan agreement. In fact, it is not uncommon that in any field of law the structure of such law must be looked at as well.

For example, when looking at Article 550, the first sentence of the German Civil Code, some of you may have the immediate view that a bicycle rental agreement must be in writing, this is due to Article 550 the first sentence of the Civil Code determines only 'property-asset lease/rent' without going into details of what the property-asset is. But when we look at this section, it is only about the lease/rent of an apartment or house. Therefore, the lease/rent that needs to be in writing according to this Article is of an apartment or house only, which cannot be used in the case of bicycle rental.

### **5.2.3 Interpretation According to History the Origin of the Law**

Interpretation according to history the origin is looking at the origin of the contents and principles of that law then try to look for clues to interpret that at the time of the issuance of this law, the law issuer wanted to categorized the contents and principles of this law in the neutral group or not. In the case where the legislators had improved the law in a direction in

which to eliminate or add to the law contents, which will lead to the interpretation in the way that contradict or not contradict with the that neutral group. Also, we will see the views of the legislators in law documents whether or not the application of this law content covers the issue raised or related issue.

For example, Company A raised sheep for wool to make sweaters since 1977. In 1998, the law had been improved by determining that commercial vertebrates farming must be licensed with the exception of animals for agricultural use. The company did not comply and received an order from the local management organization to close that activity. The company filed a lawsuit with administrative court and management court. Supreme management court must interpret whether sheep farming is a farming of animals for agricultural use according to Article 11 item I 3 (a) law on animal protection. As determined as an exception that does not require the company to be licensed. But when looking at the intention of the legislators, it is clear that they want *“the farming for wool/fur to make sweaters to be licensed, due to most people do not know in depth about animal farming. In this case, it will contradict the intention of the legislators if ruled that such farming is a farming of animals for agricultural use”*. Therefore, sheep farming has become farming that needs to obtain permission even though these animals will be used in agriculture.

#### **5.2.4 Interpretation According to Sense and Purpose of the Law**

This interpretation is the interpretation whether a law content, principle can be used with an issue according to the sense and purpose of the law. A good example is Article 1357 of the German Civil Code. According to this Article, the transactions carried out by one of the husband and wife couple to meet necessary needs of the livelihood of that family will make the other couple responsible automatically for the transactions their partner carried out without meeting all requirements of representative according to Article 164 item I 1 of the German Civil Code. Initially, the provision of this Article was to ensure the wives, which often were housewives without assets, can buy things to serve the family without having to worry too much about on coming debts and the husbands who were rich with assets then had the joint responsibility to pay the debts of the contract party due to the purchase transactions for the family of the wives according to Article 1357 of the German Civil Code.

#### **5.2.5 Application of Related Legal Provisions (Analogy)**

In law interpretation, there may be cases where some contents, principles of law sometimes cannot resolve the issue raised. At this point, the principle of application of related legal provisions will play a role to address the shortcomings of the words, expressions that are the contents, principles of the law which have too narrow character or meaning so that they cannot resolve the issue raised. According to the principles, application of related legal provisions will be allowed when there are no principles regarding the issue determined in the law and there are similar conditions of benefit.

For example, the right to demand a cessation of the violations and no actions to be carried out that could lead to future violations such as Article 12 the right on name, Article 862 the right to demand a cessation of possession violations and Article 1004 the right to demand a cessation and repeal of ownership violations of the German Civil Code are good examples of the application of related legal provisions. According to words, expressions of Article 1004 of the German Civil Code which only determines rights of the owners but does not determine other absolute rights of the owners for example hierarchy, rights over the land.

Article 12, 862 and Article 1004 the German Civil Code have the same content and purpose that is the protection of rights and benefits of the owners of the right, the same as Article 12 Rights of the owners of the name, Article 862 Rights of the possessors and Article 1004 Rights of the owners, from the harassment of persons without the right by giving two following rights (1) to stop the violation or harassment and (2) right to demand a suppression of future harassment. In protecting their own rights, the owners of the right have the right to demand a cessation of present harassment and certain future harassment.

According to the principle of application of related legal provisions, this civil code does not determine the principle of protection of other absolute rights from violations. However when comparing the conditions it is seen that other absolute rights have similar conditions of benefit. Therefore, when such right is violated their right can be exercised by referring to Article 12, 862 and 1004 of the German Civil Code as related legal principles.

#### **6. Jurisdiction and Scope of Interpretation**

The interpretation of law is the jurisdiction of the courts in various levels in order to apply law in the consideration of cases being brought to courts accurately, fairly, consistently with the contents, principles of law specified. In interpretation and case consideration of the courts, if the law that they are applying contradict the constitution, the court must suspend proceedings and propose to the constitutional court to issue an order of agreement regarding the consistency with the constitution of the law according to Article 100 of the Constitution.

In principle, the courts have jurisdiction in considering, adjudicating, judging the case by the interpretation of law, but such interpretation is not allowed that the courts interpret the law in the direction that will emerge a new principle the same as law, which will be a violation of principle of jurisdiction/authority division. When the constitutional court observes that the law contradicts the constitution, the court must rule that the law principle contradicts the constitution, as well as give an opinion on which principle is consistent with the constitution as a foundation for the legislature organization to improve the law to be consistent with the current situation.

**To summarize**, the law interpretation is the theoretical principle, is an inevitably vital interpretation method of society in the state ruled by law thus this requires everyone in the society in general, specifically prosecutors, judges, government employees that are directly responsible for law implementation to deeply adhere to the law interpretation principles and methods, to ensure that law interpretation in our country is correct, consistent and able to integrate efficiently with the region and internationally. Only when we can do that, the application of law in our country will be correct and consistent, heighten the role of the government in state administration, govern the society with law effectively, protect rights and righteous benefits of the citizens, increase administrative legislations, address negative phenomenon, contribute to reducing rumors on the performance of duties of our government organizations, society has peace, order, national economy is developed and progresses continuously.

## **Chapter 6**

### **Relation between International Law and Domestic Law**

#### **1. Meaning**

Law are the important tool to determine and adjust social relation; the relation between state and state is determined by the law between countries or international law, the relation between government organizations in their respective fields and between state and citizens is determined by the constitution and management law or administrative law and the relation between individual and individual is determined by the civil law and is a foundation for the movement of actors in various relations. Therefore, a correct understanding regarding the relation between law especially between the international law and domestic law is extremely important and necessary for the performance of duties of law protection organizations especially the courts to ensure the case consideration is accurate and fair.

The international law adjust and manage the relation between states. The states are actors in international law. When a joint treaty is formed such treaty will be binding on states Parties and states have the obligations to implement the treaty that they are party to sincerely, fully and promptly. Therefore, states with the intention to create a treaty or join a treaty, convention must alter/improve their domestic law in accordance with that treaty or convention to ensure that their implementation of international obligations is complete and effective.

In the case where international law or treaties and domestic law contradict one another, the international law or treaties must be applied as a foundation, but must not contradict the constitution. In relation to this issue, law on international treaties and agreements has determined that “In a case where the legislations of The Lao PDR and treaty that The Lao PDR is a party to have a different provision on the same issue, it is to implement according to the provisions of that treaty, except for the constitution. Based on the requirements, contents and nature of the treaty when considering to accept the implementation of the treaty obligations the National Assembly, National Assembly Committees, government must agree or propose to establish, improve, cancel domestic legislations in order to implement the treaty or to agree to implement parts or all in the case where the provisions of the treaty is detailed and clear enough for the implementation”<sup>20</sup>.

Even though international law are being used as foundation in the consideration of relevant domestic organizations, the questions raised are whether courts or relevant domestic organizations can use international law in their case consideration if the issue brought to court is determined in the international law but there has not been any domestic law determines on such issue.

#### **2. Objective**

The knowledge on the relation between international law and domestic law has the objective to ensure the application of law and treaties in general, specifically law and treaties on extradition is correct and consistent particularly on the questions raised whether the international law or treaties will be used as a foundation in the consideration of extradition.

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<sup>20</sup> Article 8 Law on International Treaties and Agreements.

### **3. Importance**

The knowledge on the relation between international law and domestic law is important to the application of law and treaties on extradition in general, the consideration of extradition of the central coordinating organizations, relevant organizations of The Lao PDR is correct, fair, to fully protect the rights and benefits of The Lao PDR, foreign states and fugitives.

### **4. Theories Regarding Relation between International Law and Domestic Law**

International documents as well as countries has given three basic views on the relation between international law and domestic law as follows:

#### **4.1 Dualist School**

According to the dualist school, international law or treaties and domestic law are two different systems whereby international law do not embed in the domestic legislations of a country and cannot be used to resolve the domestic issues of a country, meaning that courts cannot take international law as a basis for the consideration of cases brought to courts and domestic law cannot also be used in the determination of the relationship between countries or international relations. Therefore, in order to ensure the implementation of the international obligations, a state must use domestic law to guarantee implementation. For example, when state A established the treaty on extradition with state B, the court cannot take the treaty on extradition with state B as the basis for the consideration of extradition that state B is requesting. Therefore, in order to implement such treaty, state A must issue an additional domestic law on extradition.

#### **4.2 Monist School**

According to the monist school, international law or treaties and domestic law are the same legal system and can be implemented directly without having the law to guarantee such. For example when state A established the treaty on extradition with state B, the court can take the treaty on extradition with state B as a basis for the consideration of extradition that state B is requesting without making an additional domestic law on extradition.

#### **4.3 Theory on Validity and Indirect Applicability**

According to the theory on validity and indirect applicability, international law are valid in the system of the domestic law, but cannot be used in the case consideration of the courts directly. Therefore, to be able to be used in the consideration of the courts there must be specific domestic law to guarantee such. For example, a request for compensation on sex violations in WWII, the Japanese court considered such case based on the domestic law as a foundation for their consideration, but did rule on the issue consistent with the international law.

### **5. Determination of Law of the Lao PDR**

To The Lao PDR, the constitution has not determined clearly regarding such relation; law on international treaties and agreements also has not stated how international treaties or international law are classified in the legislative hierarchy and whether courts can use international law in their case consideration. Law on criminal procedure amended version 2017 has determined in relation to Justice international cooperation that: “in carrying out the justice assistance, the competent authority to proceed with the criminal case of The Lao PDR must comply with the international treaty that The Lao PDR is a party to and must be consistent with this law. Justice assistance may be focused on extradition, confiscation or

seizure of suspects or defendants, provision of criminal information, evidence and materials that are related to the case, implementation of court decisions, cooperation against transnational crime and etc.”<sup>21</sup>. On such foundation, courts can use international law or international treaties in the consideration of extradition as well as justice cooperation.

According to the theories, in principle The Lao PDR uses the monist school, except for the consideration of justice cooperation including extradition where The Lao PDR uses the dualist school, meaning that courts and relevant organizations of The Lao PDR can use the law on criminal procedure and international law as a basis for its case consideration.

**To summarize**, when considering extradition it is to implement in accordance with the treaty even though such an issue is not determined in the treaties or law. In a case where the treaties do not determine on the issue about to be considered, but the law on extradition has determined it is to implement according to the law on extradition.

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<sup>21</sup> Article 270-273 Law on Criminal Procedure

## **Chapter 7**

### **Evidence in Extradition Cases**

#### **1. Meaning**

Evidence in extradition cases is the factual information that verifies in accordance with requirements, grounds of refusal of extradition and postponement of the delivery of the fugitives contained in the request and supporting documents or from the submissions of the Requesting State and collections of the Ministry of Foreign Affairs, Office of Supreme People's Prosecutor, Ministry of Public Security, Vientiane Capital Office of People's Prosecutor, Vientiane Capital People's Court, central region Office of the People's Prosecutor, central region People's Court as well as Investigation-Interrogation Organization, Office of People's Prosecutor and People's Court according to procedures of the consideration of extradition or criminal proceedings.

#### **2. Objective**

Evidence in extradition cases is intended to be used to verify whether the request on extradition that has been requested or the request from The Lao PDR to a foreign state for extradition meets or has all the requirements, is subject to grounds of refusal of extradition, postponement of delivery of fugitives, according to the treaty, law on extradition.

#### **3. Importance**

Evidence in extradition cases plays an important role and determines the success of the consideration of extradition and the request to the foreign states for extradition, for all levels of consideration from Ministry of Foreign Affairs, Office of Supreme People's Prosecutor, Ministry of Public Security, Vientiane Capital Office of People's Prosecutor, Vientiane Capital People's Court, central region Office of the People's Prosecutor, central region People's Court as well as Investigation-Interrogation Organization nationwide.

#### **4. Types of Evidence**

Evidence in extradition cases is basically comprised of documentary and personal evidence only.

The evidence includes the binding evidence, which is the evidence that verifies that the case meets or has all the requirements, no cases of refusal of extradition as determined in the treaty, law on extradition.

The evidence includes the untied evidence, which is the evidence that verifies that the case is not complete or meets all the requirements, is subject to grounds of refusal of extradition as determined in the treaty, law on extradition

In the consideration of extradition both binding evidence and untied evidence must be sought at the same time.

##### **4.1. Documentary Evidence**

The documentary evidence is the evidence obtained from the request and supporting documents and other documents of the Requesting State, of the Lao PDR for instance of the central coordinating organization, competent authority and other relevant organizations such as: designated letter to issue arrest warrant, proposal, arrest warrant, arrest record, testimony of fugitive, witness, comments of experts, court decision, certificate of enforcement of a punishment, health certificate of the convict, passport, identification card, household

registration book, photographs, report on fugitive biography verification, provisions of law, treaty of the Requesting State as well as The Lao PDR.

#### **4.2 Personal Evidence**

The personal evidence is the evidence obtained from the testimony of fugitives, witnesses, comments from experts or specialist to verify the uniqueness, identity of offenders or other issues relating to the consideration of extradition.

#### **5. Evidence Preparation**

In the consideration of the extradition Office of Supreme People's Prosecutor, Investigation-Interrogation Organization and other relevant organization in general, Vientiane Capital Office of People's Prosecutor, Vientiane Capital People's Court, central region Office of the People's Prosecutor, central region People's Court must prepare, assess/evaluate the evidence to verify their prosecution order/indictment, statement, decision, judgment that stated whether the request for extradition meets requirements, is subject to grounds for refusal, and that the evidence consists of the following details:

##### **5.1 Characteristic Verifying Evidence**

Evidence to verify the uniqueness include:

- Testimony of offenders that is obtained from the testimony taking of officers who made the arrest of the fugitive, staff of the office of prosecutor who took the testimony;
- Certification, verification of fugitive biography;
- Household registration book;
- Passport, travel document;
- Identification card;
- Photograph;
- Mark, appearance and etc.

##### **5.2 Requirements for Extradition Verifying Evidence**

Evidence to verify the requirements for extradition consist of the following:

- A request with evidence that are the basis for the arrest and proceedings in court against the person and etc.;
- Supporting documents include supporting documents of the request for extradition for proceedings, which consist of arrest warrant of the prosecutor, court or other competent authorities of the Requesting State; supporting documents of the request for extradition for enforcement of a punishment consist of copy of decision or judgment that is legally binding of the Requesting State; certification on the period of time of a sentence previously carried out and the period of time of a sentence remaining according to the legally binding decision or judgment, in the case of a decision in absentia, there must be a legal clarification or certification to ensure the wanted person can defend the case or has a chance to be reconsidered with their participation;
- Articles in the criminal law of the Requesting State and the Requested State regarding the offences;
- Relevant treaty or other legislations.



### **5.3 Refusal Verifying Evidence**

Evidence to verify the refusal of extradition consist of the following:

- Document verifying nationality;
- Evidence, information regarding political, military offences, human rights violations, humanitarian violations;
- Decision to verify that the court of The Lao PDR had absolutely adjudicated or judged on the wanted person for the same offence before the request for extradition of the person;
- Clarification statement to verify that the proceedings or enforcement of a punishment regarding the offence requesting for extradition is void according to law of the Requesting State and of The Lao PDR;
- Clarification statement to verify that the decision of the court of the Requesting State is carried out in absentia except the Requesting State guarantees that the wanted person will have a chance to defend the case fairly and will be reconsidered again with their participation;
- Clarification statement with articles in the criminal law to verify that the limitations of the proceedings or enforcement of a punishment in the Requesting State is over.
- Refusal of extradition or extradition with conditions such as: the decision of the two central coordination organizations of the Requesting State and the Lao PDR regarding the extradition after the proceedings that is ongoing is ended, is terminated; confirmation of the Requesting State regarding the re-judgment by the presence of the defendant in a case of decision in absentia.

### **5.4 Documents**

- Supporting documents for the request for extradition for proceedings consist of the following:
  - Copy of the arrest warrant of the prosecutor, court or other competent authorities of the Requesting State;
  - Evidence that is a basis for the arrest and proceedings in court against the person including the evidence indicating that the wanted person is the same person stated in the arrest warrant.
- Supporting documents for the request for extradition for enforcement of a punishment consist of the following:
  - + Copy of court decision or judgment that is legally binding of the Requesting State;
  - + Evidence indicating that a person requested to be extradited is the same person mentioned in that legally binding decision or judgment;
  - + Certification on enforcement of a punishment;
  - + In the case of a decision in absentia, there must be a legal clarification or certification to ensure the wanted person can defend the case or has a chance to be reconsidered with their participation.

The documents and evidence must be prepared completely as well as arranged in order and to be used conveniently, to ensure the decision consideration of extradition of the court is accomplished in accordance with the objectives and targeted level set forth.

**To summarize**, evidence in extradition cases is important and is a foundation for the accurate and fair consideration of extradition and request to foreign states for extradition, for all levels of consideration from Ministry of Foreign Affairs, Office of Supreme People's Prosecutor, Ministry of Public Security, Vientiane Capital Office of People's Prosecutor, Vientiane Capital People's Court, central region Office of the People's Prosecutor, central region People's Court as well as Investigation-Interrogation Organization, to fully protect the rights and benefits of the Lao PDR, foreign states and fugitive.

## **Chapter 8**

### **Extradition (Surrender of a Fugitive)**

#### **1. Meaning**

Extradition/surrender of fugitive is an actual implementation of extradition (surrendering of a fugitive) along with properties to the Requesting State pursuant to court decision, is the implementation of the legally binding court decision.

After the decision or judgment of the court is legally binding, the Ministry of Foreign Affairs must coordinate with other competent authorities of the Lao PDR to prepare and conduct the delivery of a wanted person to the Requesting State within thirty days or within the period of time specified in the treaty on extradition, counting from the date the decision or judgment is read<sup>22</sup>.

In conducting the surrender of fugitive the relevant organizations of the Lao PDR agree and discuss with the Requesting State regarding various issues that one of those is postponement of extradition, delivery of property and other issues that both Parties are interested in.

#### **2. Objective**

The surrender of a fugitive has the objective to deliver the fugitive to the Requesting State according to the court decision that must be conducted consistently and fully according to the court decision.

#### **3. Importance**

The surrender of a fugitive is very important to the implementation of the treaty as well as obligations between countries of the Lao PDR completely, to protect rights and benefits of the Lao PDR, foreign states and fugitive fully.

#### **4. Postponement of Surrender**

When a wanted person is being proceeded with a case or executing a punishment in the Lao PDR for the offence that is not the offence stated in the request for extradition, the Lao PDR may postpone the delivery of the person until the proceedings ends or a punishment has been executed partially or all according to the legally binding decision of judgment. The Ministry of Foreign Affairs must notify the Requesting State regarding such postponement. If the postponement causes the limitation of the prosecution to end or may be an obstacle to the investigation-interrogation of the Requesting State on the extraditable offence, the Lao PDR may extradite the wanted person temporarily to the Requesting State and the Requesting State must send that wanted person back according to the period and conditions that both Parties have agreed on<sup>23</sup>.

#### **5. Case Consideration in the Requesting State**

A wanted person according to the request for extradition will not be proceeded with another case or punished for another offence in the Requesting State and will not be sent to a third state except:

1). The Lao PDR agrees with the other proceedings or enforcement of a punishment in the Requesting State on the basis of an explanation and documents submission along with

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<sup>22</sup> Article 22 Law on Extradition.

<sup>23</sup> Article 24 Lao on Extradition.

other information of the Requesting State as determined in Article 13 and 14 of the law on extradition and agreement of the wanted person regarding that other proceedings or enforcement of other punishment;

2). The person does not depart the territory of the Requesting State within thirty days after being discharged, but this timeline cannot be counted in the period of time the person cannot depart the territory of the Requesting State due to reasons not under his/her control such as natural disaster;

3). After departing, the person returns to the territory of the Requesting State again voluntarily<sup>24</sup>.

#### **6. Delivery of Property**

If the Requesting State request for the delivery of the property found in the territory of The Lao PDR, which is the evidence relating to the case or obtained from the offence, and the law of The Lao PDR authorized to deliver this property, when there is a surrender of fugitive The Lao PDR will also deliver property confiscated or seized to the Requesting State according to the legally binding court decision or judgment.

Such property delivery will not affect the legal right of the Lao PDR or Requesting State or third party that may claim ownership of this property. When there is a claim of ownership and a decision or judgment on the right to this property in the territory of The Lao PDR the Requesting State must deliver the received property back to The Lao PDR promptly<sup>25</sup>.

#### **7. Authorization for Transit**

In the case where there is a surrender of wanted person through the territory of The Lao PDR from extraditing state to the Requesting State, Requesting State or extraditing state must seek the authorization for transit from the Ministry of Foreign Affairs of The Lao PDR. Ministry of Foreign Affairs coordinating with relevant organizations considers granting the authorization for transit within fifteen days from the date the request is received<sup>26</sup>.

#### **8. Expenses of Extradition**

Expenses of extraditing a fugitive from the territory of The Lao PDR to the Requesting State namely expenses of confiscation, seizure, delivery of property and arrest, expenses of transit through the territory of the Lao PDR and document translation are borne by the Requesting State.

Expenses of proceeding with the request for extradition of The Lao PDR are borne by The Lao PDR.

In the case where treaty on extradition has determined with regard to expenses in processing the extradition as something else, it is to implement according to that treaty<sup>27</sup>.

#### **9. Notification of Proceedings Result**

The Requesting State must notify The Lao PDR promptly regarding proceedings or enforcement of a court decision towards the wanted person that has been surrendered according to the request or regarding the transfer of the wanted person to a third state<sup>28</sup>.

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<sup>24</sup> Article 25 Law on Extradition.

<sup>25</sup> Article 26 Law on Extradition.

<sup>26</sup> Article 27 Law on Extradition.

<sup>27</sup> Article 28 Law on Extradition.

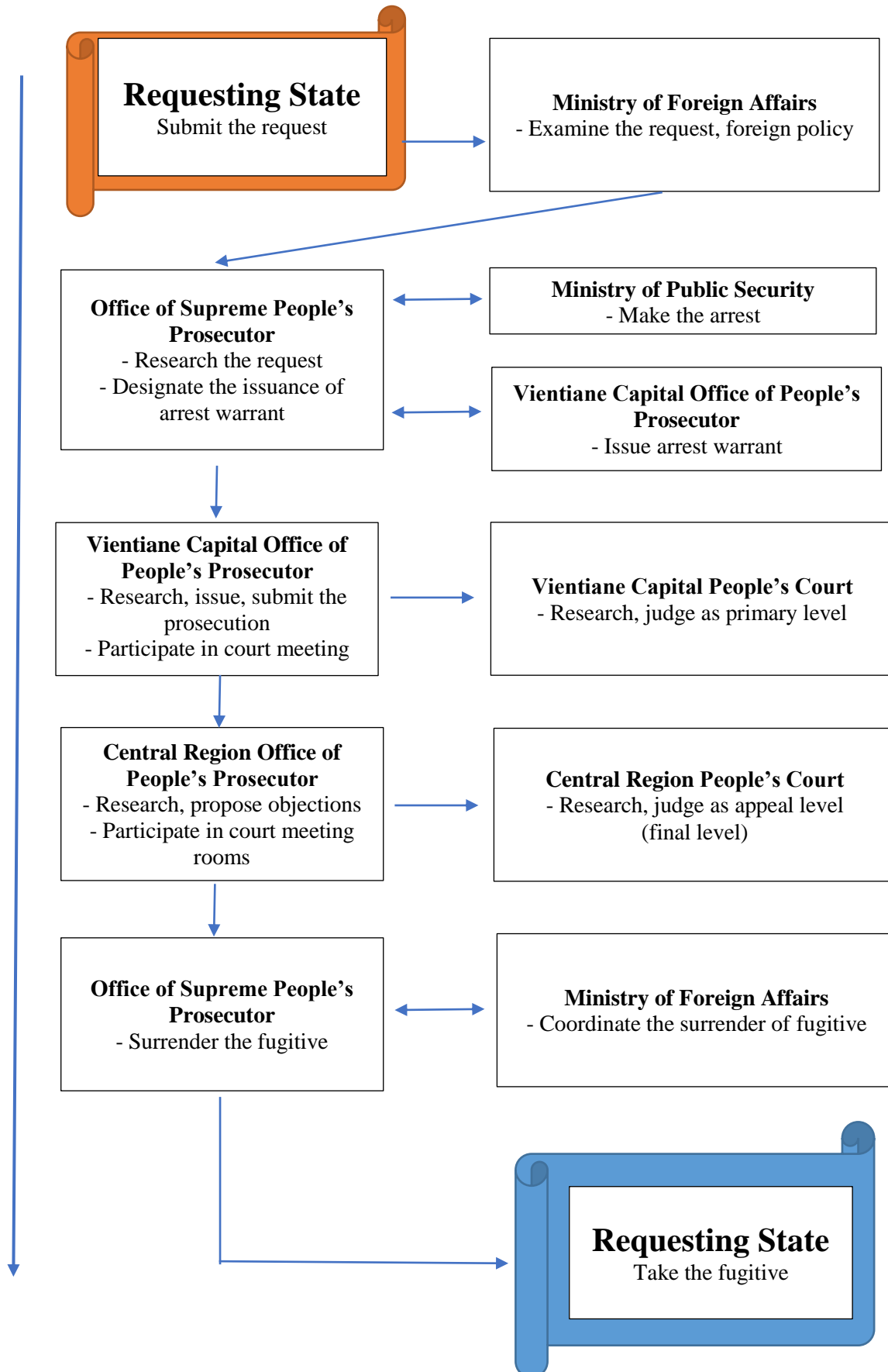
<sup>28</sup> Article 29 Law on Extradition.



**Party II**  
**Consideration of Extradition**

## Diagram (Part II)

### Consideration of the request for extradition (suspects, defendants or convicts) of the Lao PDR



## **Chapter 1**

### **The Consideration of the Ministry of Foreign Affairs**

#### **1. Consideration Procedures of the Ministry of Foreign Affairs**

The consideration of the Ministry of Foreign Affairs is the consideration of the request for extradition after receiving the request through the diplomatic channel such as embassy, consulate of the Lao PDR overseas or through the diplomatic channel of the Requesting State in the Lao PDR sent directly to the Ministry of Foreign Affairs. In summary, the procedures are divided into two main parts:

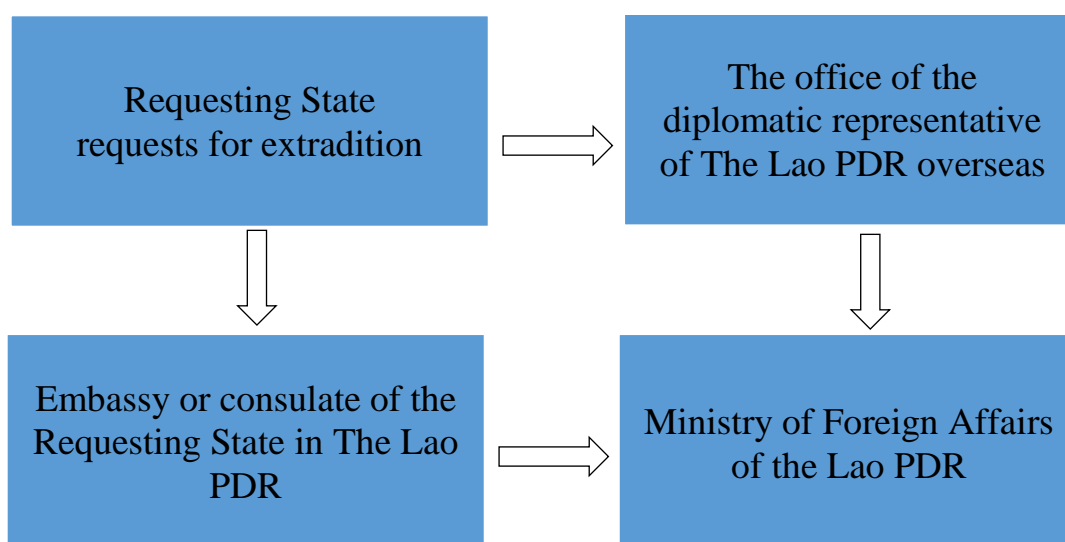
##### **1.1 Overseas**

The Requesting State for extradition will send the request to the office of the diplomatic representative of The Lao PDR overseas or embassy or consulate of the Requesting State in The Lao PDR. The office of the diplomatic representative of the Lao PDR overseas in the Requesting State will receive the request of that state and will have the duty to examine whether the set of documents from the relevant agency of that country is complete and meets all the requirement according to the treaty or law.

After that, the office of the diplomatic representative of The Lao PDR overseas (embassy or consulate of the Lao PDR overseas) will send the relevant documents in the request for extradition to the Ministry of Foreign Affairs.

#### **Diagram 1**

#### **Consideration Procedures of the Ministry of Foreign Affairs**



##### **1.2 Domestic**

Based on the single window approach of the Ministry of Foreign Affairs, the Ministry's Cabinet Office will forward such documents received from the office of the diplomatic representative of The Lao PDR overseas or embassy or consulate of the Requesting State in the Lao PDR to the Treaties and Law Department, which is a central department managing extradition works after receiving relevant documents from the

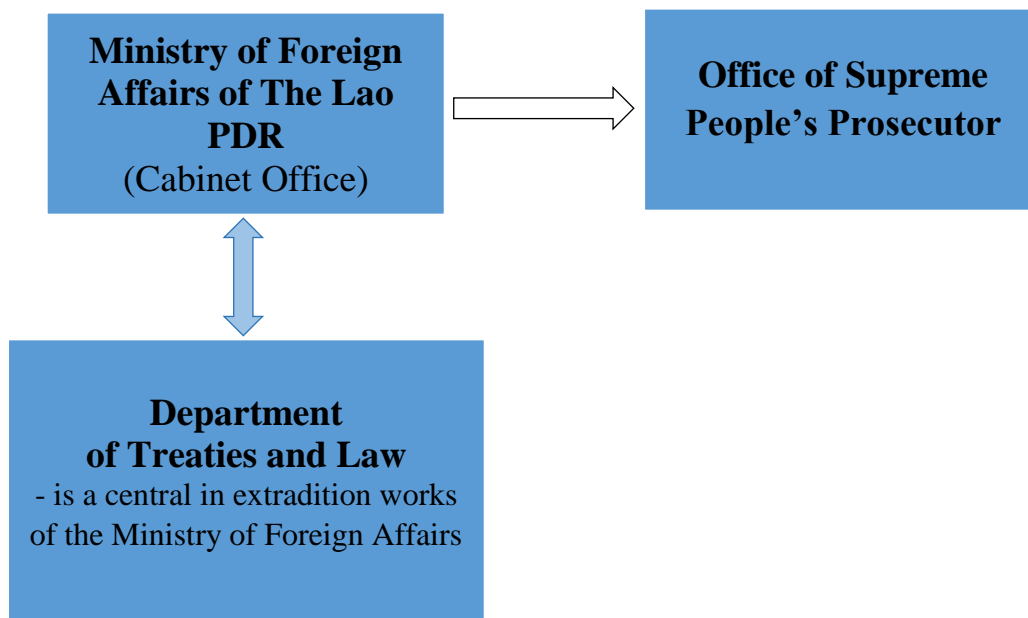


Requesting State. After the consideration, the documents will be forward to relevant departments for comments, mainly political comments as well as the consistency with The Lao PDR foreign policy and other relevant issues, then summarized as views of the Ministry of Foreign Affairs to be presented to the executive of the Ministry for direction before sending the documents to the Office of Supreme people's Prosecutor to consider according their rights and roles.

In the consideration of the request of foreign states, Treaties and Law Department has the following roles and responsibilities for extradition works:

- Research, comment in terms of relevant domestic law, bilateral and multilateral treaties;
- Liaise and coordinate with the Requesting State on extradition;
- Receive and examine the request for extradition from the Requesting State then forward the request for extradition to the Office of Supreme People's Prosecutor;
- Coordinate, monitor, notify the Requesting State regarding result of the consideration of the request for extradition;
- Coordinate with the consulate on the surrender of fugitive.

**Diagram 2**  
**Consideration Procedures of the Ministry of Foreign Affairs**



## **2. Rights and Duties of the Ministry of Foreign Affairs**

In the consideration of extradition the Ministry of Foreign Affairs has the following rights and duties:

- Research and comment on the policies, legislations and regulations involving the extradition works according to the scope of their responsibility;
- Liaise and coordinate with the Requesting State or Requested State on extradition;
- Receive and examine the request for extradition from the Requesting State then forward the extradition requesting documents to the Office of Supreme People's Prosecutor;

- Examine, send the request and necessary documents for extradition to the Requested State;
- Manage the surrender of fugitive and properties by coordinating with other competent authorities of The Lao PDR;
- Coordinate and monitor the extradition proceedings result towards the wanted person with the Requesting State as well as notify the result of such proceedings to relevant sectors and parties to acknowledge;
- Notify the result of the extradition proceedings to the Requested State;
- Participate in the negotiation, discussion and comment on the bilateral or multilateral treaty on extradition according to the designation of the government;
- Liaise and cooperate with foreign states on extradition according to their responsibility;
- Summarize and report on extradition works to the higher authority;
- Implement other rights and duties as determined in the regulation<sup>29</sup>.

**To summarize**, in the consideration of extradition, the Ministry of Foreign Affairs has the rights and duties in the examination of the extradition requesting documents especially the examination of supporting documents, the request for additional information necessary in the consideration of extradition of relevant organizations of the Lao PDR, the implementation of the foreign policy of the Lao PDR, the consideration and forward of documents to the Office of Supreme People's Prosecutor.

### **3. Examination of Extradition Requesting Documents**

After receiving the request from foreign state, the Ministry of Foreign Affairs must examine the request and supporting documents that are enclosed with case file thoroughly such as whether the request of the related state organization that is requesting is a competent authority, supporting documents such as arrest warrant of office of prosecutor, court or other competent authorities is complete or not, sending of documents is correct as per procedures or document sending channel or not, the documents are translated into the languages determined in the treaty or law. In general, the Ministry of Foreign Affairs will implement some of the tasks as follows:

- Examination of the request for extradition by examining the consistency with the foreign policy, extradition and refusal of extradition principles;
- Supporting document examination;
- Request of additional information;
- Forward of documents to the central coordination organization;
- Notification of result of the consideration of extradition.

#### **3.1 Consistency with the Foreign Policy**

After receiving the request from the foreign states, the Ministry of Foreign Affairs must examine whether such request is consistent with the foreign policy of the Lao PDR where the Treaties and Law Department is a central organization in researching, examining the request and supporting documents in the beginning then send the documents to the relevant organizations for political comments as well as comments on the cooperation

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<sup>29</sup> Article 33 Law on Extradition.

between The Lao PDR and the Requesting State by considering the main roles of the Ministry of Foreign Affairs that has the duty to build and maintain the relationship between the Lao PDR and foreign states according to the general policy of the Party and government: “Increase friends, reduce enemies” to ensure the consideration or non-consideration of the request for extradition of the foreign states does not affect or has an impact on the relationship between the Lao PDR and the Requesting State in which, this is an overall duty that the Ministry of Foreign Affairs must consider specially.

**Based on the above foundation**, in the examination of such request, the Ministry of Foreign Affairs must consider the foreign policy of the Lao PDR that is determined in the constitution that: *“the Lao People’s Democratic Republic implements a peace, unity, friendship and cooperation foreign policy; expand the relation and cooperation with all countries on the principle of respecting the unity, sovereignty, territorial integrity, not interfere in each other’s internal affairs, equality and mutual benefits.*

*The Lao People’s Democratic Republic supports the people’s fight in the world for peace, national unity, democracy and social prosperity”<sup>30</sup>.*

At the same time, it must re-examine how consistent the Lao PDR’s conduct is towards friendly/allied countries, strategic allies and socialist countries such as SR Vietnam, PR China and towards capitalist countries based on the conduct of cooperation that has been done.

The consideration and comments of the Ministry of Foreign Affairs will be extremely important to the consideration of extradition when there is a request for extradition that relates to political offences, whereby the meaning regarding political offences and determinations regarding political offences in the Penal Code of the Lao PDR is explained in the previous part.

**To summarize**, the consideration of the Ministry of Foreign Affairs is based on the constitution as well as the conduct of the bilateral relationship by considering the main roles of the Ministry of Foreign Affairs that has the duty to build and maintain the relationship between The Lao PDR and foreign states according to the general policy of the Party and government set forth “Increase friends, reduce enemies”, to ensure the consideration or non-consideration of such request for extradition does not affect or has an impact on the relationship between The Lao PDR and the Requesting State.

For example, PR China requested that the Lao PDR extradite a citizen of Vietnam for a murder case proceedings who had escaped and hidden in The Lao PDR that had committed the crime in PR China for a murder case proceedings. *In this case, should The Lao PDR accept the request for consideration or not, if it is to accept the request for consideration, how should it have the appropriate method to maintain a great relationship between The Lao PDR and SR Vietnam and PR China.* Extraditing a citizen of a nation for proceedings in other country may have an impact on feelings, understanding of the country that the fugitive is a citizen of. Therefore, the consideration whether to extradite the Vietnamese citizen to PR China must take into account our national foreign policy specially.

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<sup>30</sup> Article 12 Constitution.

### **3.2 Principles of Extradition**

When found that the request for extradition is consistent with the foreign policy of The Lao PDR, the Ministry of Foreign Affairs must examine whether the request is consistent with the principles for extradition determined in the treaties as well as law.

Principles for extradition, The Ministry of Foreign Affairs will examine based on the consistency with the principles determined in the treaties as well as law on extradition (Article 4 and Article 7). Related Articles in a specific treaty, bilateral treaty on extradition between The Lao PDR and K. Thailand (Article 2), between The Lao PDR and Cambodia (Article 2), between The Lao PDR and PR China (Article 2), between The Lao PDR and Russian Federation (Article 4) and treaty on justice cooperation in civil and criminal matters between The Lao PDR and SR Vietnam (Article 60) with the treaty as well as law of The Lao PDR whereby that offence must be the offences specified in the criminal law or other law of both Parties that are punishable by imprisonment regardless of whether the criminal law of both countries will determine the offenses are the same or not and the extradition will proceed only when such request is consistent with the requirements the treaties and law specified.

### **3.3 Refusal of Extradition**

After examining the request for extradition, the Ministry of Foreign Affairs must examine whether such request is subject to refusal of extradition as determined in the treaty or law on extradition by search to see if that offence is the political, military offence, the fugitive is a Lao citizen or foreign citizen residing in The Lao PDR, whether The Lao PDR has the authority to proceed with the case that is being requested or is proceeding with case against the fugitive and etc.<sup>31</sup>

### **4. Examination of Supporting Documents**

Once the request has been examined, the Ministry of Foreign Affairs must examine the supporting documents whether the request for extradition from the Requesting State is complete as determined in the treaty as well as law on extradition of The Lao PDR where all the documents sent by the requesting Party must be signed and sealed as well as translated into Lao or other languages as determined in the treaty or law on extradition in which the details are explained in item 5.2 of Chapter 1, Part I.

### **5. Request for Additional Information**

After the consideration of extradition request from the foreign states, when found that the information is insufficient the Ministry of Foreign Affairs must request for additional information, which will be for a period of 15 days or according to the time specified in the treaty. If the requesting party cannot deliver such additional information within the specified period of time, it is to assume that the requesting party has withdrawn their request voluntarily. However, the requesting party will not be denied the right to make a new request for the same purpose.

Based on the treaty, the request for additional information is determined in Article 8 of the treaty on extradition between The Lao PDR and K. Thailand; Article 8 of the treaty on extradition between The Lao PDR and Cambodia; Article 8 of the treaty on extradition between The Lao PDR and PR China; Article 9 of the treaty on extradition between The Lao

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<sup>31</sup> Related Articles of bilateral treaties and Article 8, 9, 10, 11 Law on Extradition.

PDR and Russian Federation; Article 63 of the treaty on justice cooperation in civil and criminal matters between The Lao PDR and SR Vietnam.

**6. Forward of the Request to the Central Coordination Organization**

Once the request and supporting documents have been examined and found that they are correct and do not contradict the foreign policy of The Lao PDR as well as principles for extradition, the Ministry of Foreign Affairs will send the request to the Office of Supreme People's Prosecutor to carry out the procedures for consideration of extradition according to their scope of right and duties as determined in the law and treaty.

## Chapter 2

## The Consideration of the Office of Supreme People's Prosecutor

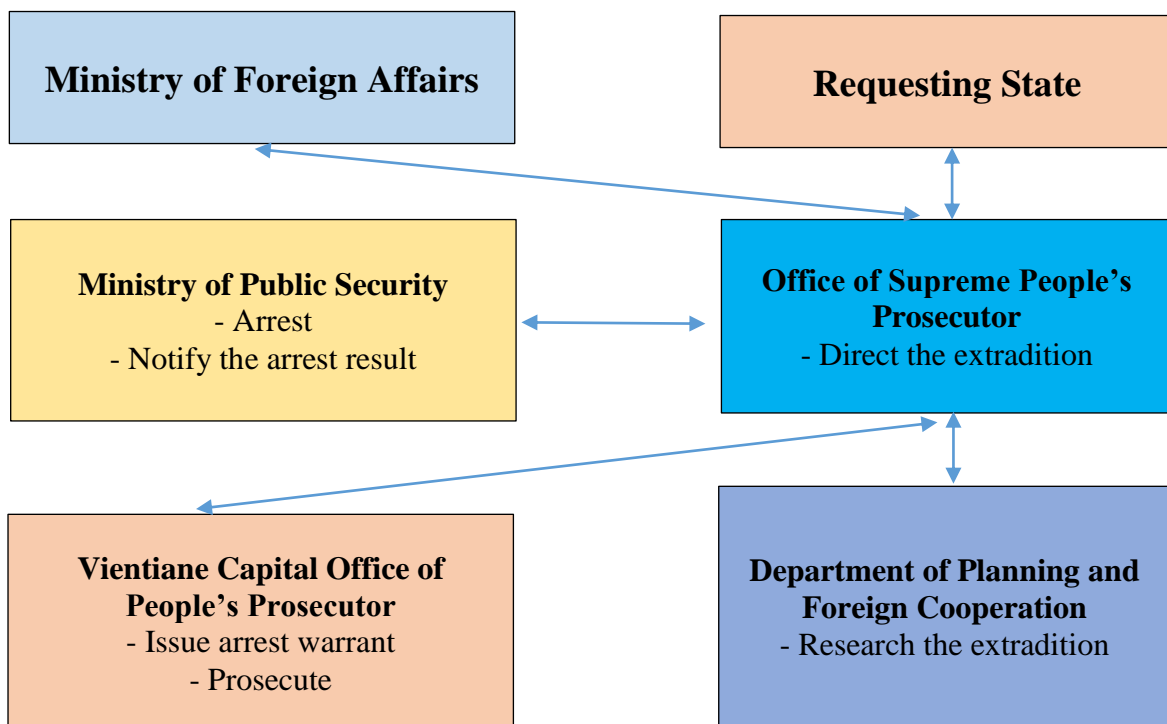
## 1. Consideration Procedures of the Office of Supreme People's Prosecutor

After the Office of Supreme People’s Prosecutor received the request for extradition from the Ministry of Foreign Affairs or the Requesting State, the executive of the Office of Supreme People’s Prosecutor will direct the department of planning and foreign cooperation to assign the prosecutor or technical staff to research on the request for extradition of the foreign state.

Once found all the requirements are met, Vientiane Capital Office of People's Prosecutor will be assigned to issue the arrest warrant, research and prosecute the fugitive for the People's Court to decide according to the treaty and law; the Ministry of Public Security will be assigned to make the arrest and take the testimony of the fugitive and gather other evidence then notify the result of the arrest to the Office of Supreme People's Prosecutor immediately.

## Diagram

## Consideration Procedures of the Office of Supreme People's Prosecutor



## 2. Rights and Duties of the Office of Supreme People's Prosecutor

In managing the extradition works, the Office of Supreme People's Prosecutor has the following rights and duties:

- Research and comment on the policies, legislations and regulations involving the extradition works according to the scope of their responsibility;
- Be a centre for coordinating with other sectors on extradition;

- Direct, lead and check Vientiane Capital Office of People's Prosecutor and the central region Office of People's Prosecutor in the issuance of the arrest warrant, temporary detention, discharging, gathering of information/evidence, confiscation, seizure of properties that involve with an offence of a wanted person according to the request for extradition, case summary and indictment, statement and objections of the Office of People's Prosecutor of lower level;
- Notify the Ministry of Foreign Affairs regarding the adjudication or judgment on extradition;
- Collect data, statistics on extradition to inform the relevant organizations;
- Participate in the surrender-receive of fugitive and properties by coordinating with the competent authorities of The Lao PDR;
- Participate in the negotiation, discussion and comment on bilateral and multilateral treaty on extradition;
- Liaise and cooperate with foreign states on extradition according to their scope of responsibility;
- Summarize and report on extradition works to the higher authority;
- Implement other rights and duties as determined in the regulation<sup>32</sup>.

### **3. Examination of the Request and Supporting Documents**

Once assigned, the prosecutor or responsible staff of the department of planning and foreign cooperation will research, examine the request and supporting documents enclosed with the request thoroughly such as whether the request of the related state organization that is requesting is a competent authority, supporting documents such as arrest warrant of office of prosecutor, court or other competent authorities is complete, sending of documents is correct as per procedures or document sending channel, the documents are translated into the languages determined in the treaty or law by considering the objective of the request for extradition for proceedings or enforcement of a punishment, the request for extradition is normal or urgent-temporary, the channel used to send the request for extradition is correct, there is a treaty as the basis for extradition, organization sending the request for extradition is a competent authority, the request is correct according to principles for extradition or is subject to refusal of extradition, In a case where the request is sent to the Office of Supreme People's Prosecutor as a central coordination organization, the request will be sent to the Ministry of Foreign Affairs to consider, the request and supporting document is translated to the language specified, the information regarding special marks and features and photograph or physical appearance of the fugitive is clear, there are requests regarding the same offence or the same fugitive from many states or not, where the requirements, principles, procedures must be researched and implemented as determined in the law and treaty on extradition strictly.

In the case where the request and supporting documents have the contents that are unclear, incomplete, insufficient, the additional information must be requested.

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<sup>32</sup> Article 35 Law on Extradition.

Once the request and supporting documents are examined and found correct according to the requirements and procedures determined in the treaty or law, the Office of Supreme People's Prosecutor must proceed with the next step.

#### **4. Consideration of Extradition**

##### **4.1 Objective of the Request of Extradition**

Prosecutors of the department of planning and foreign cooperation who are responsible must examine the objective of extradition accurately whether the Requesting State for extradition is intending to bring the fugitive hidden in the Lao PDR proceedings or enforcement of a criminal punishment in the Requesting State.

##### **4.2 Normal or Urgent-Temporary Extradition**

Prosecutors of the department of planning and foreign cooperation who are responsible must examine what the types of the request are in which the request for extradition consists of **the normal request for extradition** of the Requesting State where the documents requesting for extradition are complete and sent through the diplomatic channel or sent according to the procedures specified in the treaty, and **the request for provisional arrest** through the international police channel or other channel before the Requesting State completes the normal request for extradition officially.

In the case of a normal request for extradition, the Requesting State will complete the documents and send through the diplomatic channel or send through another channel specified in the treaty. Once found that the documents are complete and correct, the Office of Supreme People's Prosecutor will assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant within 7 days.

In the case of the request for provisional arrest, once the arrest request is received, the Office of Supreme People's Prosecutor will research and assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant within 3 days<sup>33</sup>.

##### **4.3. Request for Extradition Sending Channels**

Prosecutors of the department of planning and foreign cooperation who are responsible must examine whether the request for extradition sending channel is correct according to the request for extradition sending channels not through the diplomatic channel or sending directly to the central coordination organization as specified in the treaty. In the case where the request sending is incorrect, the Office of Supreme People's Prosecutor must send the request back to the Requesting State to submit the request through the channels specified.

##### **4.4 Basis of Treaties of Extradition**

Prosecutors of the department of planning and foreign cooperation who are responsible must examine what the basis of the treaty of the consideration of request for extradition of the foreign state is or whether the Requesting State and The Lao PDR have a joint treaty. In the case where The Lao PDR and the Requesting State have a joint treaty, the consideration of extradition is to be implemented according to the principles that the treaty or law on extradition have determined.

In the case where there is no joint treaty, The Lao PDR will consider the request on the basis of the law on extradition of The Lao PDR.

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<sup>33</sup> Article 17 Law on Extradition.



#### **4.5 Organization Sending the Request for Extradition**

Prosecutors who are responsible must examine whether the organization sending the request for extradition is a competent authority as determined in the treaty or law of the Requesting State.

In the case where the requesting organization is not a competent authority, The Lao PDR will not consider such request due to the request formed by a non-competent authority is an illegitimate request, void and has no legal effect.

#### **4.6 Principles for Extradition and Grounds of Refusal of Extradition**

Prosecutors who are responsible must examine whether the request for extradition is carried out consistently with the requirements and principles that the treaty or law on extradition determined, by considering the principles determined in the law on extradition such as: the extradition must be carried out according to the principles indicating in the treaty such as respecting the unity, sovereignty, territorial integrity, not interfere in each other's internal affairs; respecting and implementing the agreements and treaties that The Lao PDR is a Party to; must be offences specified in the criminal law and respecting the dignity and freedom of the wanted person<sup>34</sup>; be the request on extraditable offences and no reasons of refusal of extradition such as: political, military offences<sup>35</sup>; The Lao PDR has the right and power by law to proceed with a case against an offence referred to in the request for extradition and will proceed with a case against the wanted person; The Lao PDR is proceeding with the case against the person requested to be extradited for the same offence; The Lao PDR notices that the extradition may not be consistent with humanity reasons due to issues of race, nationality, religion, ethnicity, gender, social or economic status of the wanted person that they may be tortured or treated inhumanely<sup>36</sup>.

In a case where the request is incorrect, not complete, the Office of Supreme People's Prosecutor will not consider the request and notify the Requesting State to acknowledge.

#### **4.7 Proposal for the Ministry of Foreign Affairs' Consideration**

After the request has been sent to the Office of Supreme People's Prosecutor as the central coordination organization without sending it through the diplomatic channel or Ministry of foreign Affairs, the Office of Supreme People's Prosecutor must send the request and copy of documents to the Ministry of foreign Affairs to research-consider whether the request is consistent with the foreign directives of the Lao PDR. After the document is examined, the Ministry of Foreign Affairs notify the Office of Supreme People's Prosecutor of their comments in writing to proceed according to the procedures the law have determined.

#### **4.8 Translation of the Request into Lao Language**

Prosecutors who are responsible must examine whether the request and supporting documents have been translated into the language determined in the treaty or law. In the case they have not been translated into the specified language, the Requesting State must first translate them correctly.

#### **4.9 Mark-Appearance and Photograph of Fugitive**

Prosecutors who are responsible must examine whether the information needed on mark-appearance and photograph of the fugitive for verification and identification of the

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<sup>34</sup> Article 4 Law on Extradition.

<sup>35</sup> Article 8 Law on Extradition.

<sup>36</sup> Article 10 Law on Extradition.

fugitive submitted is clear and distinct. In a case where this information is not clear, the Requesting State must add more information.

#### **4.10 Requests from Many States**

Prosecutors who are responsible must examine whether the request for extradition is in relation to the same offence or the same fugitive from many states. The case where there are requests from many states, we must consider the request that The Lao PDR is obliged to first, time and place of the offence and etc. respectively that are determined in the treaty and law as follows:

- Principles or obligations determined in the treaty on extradition;
- Time and place of the offence;
- Level of danger of the offence;
- Request receiving time;
- Nationality and address of the wanted person;
- Victims and objective of extradition.

#### **5. Designation for the Issuance of Arrest Warrant**

Through research and having found that the request for extradition meets the requirements and there are no cases for refusal of extradition, the Office of Supreme People's Prosecutor will assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant for the wanted person within seven days from the date the request is received from the Ministry of Foreign Affairs to send to Vientiane Capital People's Court to decide on extradition<sup>37</sup>.

In an urgent case, the Requesting State may request for the provisional arrest or temporary detention of the wanted person before sending the request for extradition officially through the diplomatic channel or according to the treaty on extradition. When the request is received, the Ministry of Foreign Affairs will send it to the Office of Supreme People's Prosecutor to assign the Vientiane Capital Office of People's Prosecutor to issue the arrest warrant within three days according to procedures of the law on criminal proceeding of The Lao PDR<sup>38</sup>.

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<sup>37</sup> Article 17 paragraph 1 Law on Extradition.

<sup>38</sup> Article 17 paragraph 4 Law on Extradition.

**Form Template:** Designation Letter for the Issuance of Arrest Warrant



**Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity**

Office of Supreme People's Prosecutor

No.....

Date:.....

**Designation Letter**

- Pursuant to Article 27 item 16 of Law on Office of People's Prosecutor, Amended Version 2017
- Pursuant to Article 17 paragraph 1 of Law on Extradition
- Pursuant to Letter from the Ministry of Foreign No....., dated.....

The Office of Supreme People's Prosecutor has researched the request for extradition of the PR China requesting a fugitive name Mr. or Ms. ...., age....., occupation....., Race....., Nationality....., Religion....., ID Card No....., Passport No....., dated....., issued by....., presently reside or lives in village ....., Unit....., District....., Province/Vientiane Capital, to consider surrendering the person for proceedings in (country)....., for (offence)..... or for enforcement of a punishment according to the decision of .....Court, No....., dated.....

The requirements are found to be complete, this letter therefore designate Vientiane Capital Office of People's Prosecutor to issue the arrest warrant for the fugitive according to Article 17 paragraph 1 of Law on Extradition and send the warrant to the Office of Supreme People's Prosecutor urgently.

**Director of Office of Supreme People's Prosecutor**  
Signature and Seal

## **Chapter 3**

### **The Consideration of Vientiane Capital Office of People's Prosecutor**

After receiving the documents from the Office of Supreme People's Prosecutor, Vientiane Capital Office of People's Prosecutor must formulate the case file on extradition with a file number, and a date according to the date and time the documents reach the office then conduct the research, examination of the documents and consider the request for extradition according to the treaty and law.

#### **1. Examination of the Request and Supporting Documents**

Vientiane Capital Office of People's Prosecutor, after it has been designated by the Office of Supreme People's Prosecutor must assign a prosecutor to be responsible for examining the request and supporting documents that are enclosed with case file thoroughly such as whether the request of the related state organization that is requesting is a competent authority, supporting documents such as arrest warrant of office of prosecutor, court or other competent authorities is complete, sending of documents is correct as per procedures or document sending channel, the documents are translated into the languages determined in the treaty or law<sup>39</sup>.

In a case where Vientiane Capital Office of People's Prosecutor found that the request does not have enough information, the report will be made to the Office of Supreme People's Prosecutor to propose to the Ministry of Foreign Affairs to request for additional information for the arrest or temporary detention of the wanted person<sup>40</sup>.

#### **2. Consideration of Extradition**

##### **2.1 Issuance and Delivery of Arrest Warrant**

###### **2.1.1 Research on Issuance of Arrest Warrant**

Through the research it is found that the request for extradition meets the requirements and does not fall within the grounds refusal of extradition, Vientiane Capital Office of People's Prosecutor must issue the arrest warrant for the wanted person (fugitive) urgently and issue temporary detention order after being notified and designated to issue such order.

###### **2.1.2 Contents of Arrest Warrant**

**The arrest warrant for extradition** has the different contents and objective from the contents and objective of the arrest for the general criminal proceeding. The arrest of fugitive is the surrender of the fugitive to the Requesting State for proceedings or enforcement of a punishment according to the legally binding decision without going in depth, and analyzing components of the offense of the offender or fugitive in which the offence of the person overseas is only the requirement lead to the arrest of the person to hand over to the Requesting State. Therefore, the contents and references of the arrest warrant must be based on the law on extradition, where the method of making the arrest must be carried out in accordance with the general principles of the law on criminal procedure.

###### **2.1.3 Delivery of Arrest Warrant**

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<sup>39</sup> Article 13, 14 Law on Extradition.

<sup>40</sup> Article 17 paragraph 2 Law on Extradition.

After the arrest warrant has been issued, Vientiane Capital Office of People's Prosecutor must send the warrant to the Office of Supreme People's Prosecutor to hand over to the Ministry of Public Security to arrest the fugitive.

## **2.2 Fugitive Testimony Taking**

The investigator-interrogator or prosecutor who is designated is a person taking the testimony of the fugitive. The contents of the testimony of the fugitive is the information or evidence regarding the uniqueness or identity of the fugitive especially the biography of the fugitive such as: name, surname, place of birth, family relations, father, mother, children, address, mark-appearance, evidence or overall information on the offence committed overseas as indicated in the request without going in depth and asking about the information to point out the elements of the offence.

When taking the testimony, the staff must inform the fugitive of the objective of testimony taking as well as making a record; once the testimony taking is completed, the staff must read as well as sign as evidence.

After being notified that the fugitive has been arrested, the prosecutor in charge must examine the testimony and arrest record regarding the fugitive that they received from the investigator-interrogator. If found that additional testimony is needed, the prosecutor must inform the investigation-interrogation organization to bring the fugitive to Vientiane Capital Office of People's Prosecutor to take the testimony or the prosecutor can take the testimony at the prison camp.

In a case where the fugitive gives unclear, incomplete information regarding their uniqueness or identity, this must be reported to the Office of Supreme People's Prosecutor to coordinate with the Ministry of Public Security, public security headquarter or the department of home affairs of the related province to prove the fugitive's biography urgently.

## **2.3 Temporary Detention**

After the arrest of the fugitive, the person will be detained for the period of time the treaty or law on extradition has specified where Vientiane Capital Office of People's Prosecutor is assigned to issue temporary detention order without the temporary discharge.

## **2.4 Discharge**

When the arrest and temporary detention of the wanted person have been done according to the request, if the Requesting State has not sent the request along with supporting documents officially according to law on extradition within sixty days from the date of the arrest and temporary detention or according to the period of time specified in the treaty on extradition that temporary detainee must be discharged.

In the case where there is a release of a person being arrested or temporarily detained according to paragraph 4 of Article 17 of law on extradition, the Requesting State cannot request for an arrest of the person due to the reason requested previously, but the Requesting State still has the right to request for extradition normally.

The wanted person who has been arrested and temporarily detained will not be a temporary discharge until there is a legally binding decision or judgment of the court on extradition<sup>41</sup>.

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<sup>41</sup> Article 17 Law on Extradition.

When there is no requirement to temporarily detain the fugitive due to the Requesting State is no longer submitting the request for extradition or there is a court decision not allowing the extradition, Vientiane Capital Office of People's Prosecutor must issue the temporary discharge order for the fugitive then send it to the Office of Supreme People's Prosecutor to hand over to the Ministry of Public Security to discharge the fugitive.

## **2.5 Evidence Preparation**

After testimonies of the fugitive were taken, the prosecutor in charge must prepare necessary evidence for the prosecution or consideration of extradition of the people's court.

The evidence that are basis for the prosecution or consideration of the court basically are those documentary evidence obtained from the Requesting State, fugitive's testimonies, official documents of relevant organizations of The Lao PDR on the fugitive and etc. In terms of physical evidence, often they are not used.

Therefore, the evidence that must be prepared are documents to verify the requirements of extradition, refusal of extradition and documents verifying the identity of the fugitive including the request for extradition and supporting documents that the Requesting State has submitted, the details are as follows:

- Evidence verifying uniqueness (identity) of the fugitive;
- Requirements of extradition;
- Refusal of extradition;
- Request for extradition and supporting documents.

Regarding those documents and evidence, the details have been explained in Part I, the prosecutor in charge must prepare a complete set of documents as well as arrange in order and to be used conveniently to ensure the consideration and decision of extradition of the court is accomplished in accordance with the objectives and targeted level.

## **2.6 Preparation of Indictment and Statement to the Court**

After gathering the documentary and other evidence, the prosecutor in charge must prepare the indictment and the statement to be submitted to court for consideration within the period of thirty days from the date the fugitive is arrested<sup>42</sup>.

### **2.6.1 Indictment**

The indictment is a proposal letter of the office of people's prosecutor for the court to consider the extradition or to consider whether to extradite the fugitive to the Requesting State or not without going in depth to consider the offence of the fugitive in the requesting country.

Therefore, the indictment must be based on the treaty mainly as well as law on extradition of The Lao PDR, and must have a complete contents and brief by indicating that the request for extradition meets all the requirements of extradition, does not fall within the grounds of refusal or extradition with conditions.

### **2.6.2 Statement**

The statement to the court is a clarification report, explaining legal position, causes and effects regarding the requirements of extradition of the Director of Vientiane Capital Office of People's Prosecutor to Vientiane Capital People's Court on the basis of the evidence they gathered for the court to consider the extradition. Meaning that the statement

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<sup>42</sup> Article 18 Law on Extradition.

must explain the requirements or refusal of extradition or extradition with conditions without going in depth to clarify, explain, or identify in regard to the offence which needs to be in writing and signed by the Director of Vientiane Capital Office of People's Prosecutor.

The statement consists of the three following parts: Introduction, Case Contents, and Proposal.

### **3. Indictment Submission to Court**

After all the documents including evidence information (indictment, statement, supporting documents, treaty, relevant law and etc.) have been prepared, Vientiane Capital Office of People's Prosecutor must submit the indictment within the period of thirty days from the date of the arrest of the fugitive for the court to decide according to law that includes the following documents:

- Indictment;
- Statement;
- Request;
- Supporting documents;
- Arrest Warrant of Vientiane Capital Office of People's Prosecutor
- Arrest record;
- Testimonies to the police officers;
- Testimonies to the prosecutors;
- Penal Codes of the Lao PDR and Requesting State;
- Related treaty;
- Other documents.

### **4. Prosecutor Designation**

After the indictment, statement including the evidence information (request, supporting documents, testimony, arrest record and other documents) have been prepared, the director of the office of people's prosecutor must designate a prosecutor to participate in the court meeting room and present the statement to court, which in principle must be a staff member in charge of researching the case file of extradition or another prosecutor who understands the case, treaty and law on extradition very well.

### **5. Court Meeting Room Participation and Statement Presentation to Court**

A prosecutor that has been designated to participate in the court meeting room for consideration of extradition must carry out the following tasks:

- Prepare documents for meeting participation such as: indictment, statement, request, supporting documents, arrest warrant of Vientiane Capital Office of People's Prosecutor, arrest record, testimony of the policy officers, testimony of the prosecutors of the fugitive;
- Prepare legislations such as:
  - + Treaty between the Lao PDR and Requesting State;
  - + Law on extradition of the Lao PDR;
  - + Penal Code of the Lao PDR and Requesting State;
  - + Law on criminal procedure of the Lao PDR;
  - + and other documents.

- Prepare and hold the decision on designation for court meeting room participation;
- Research the case file of extradition thoroughly;
- Protect the indictment and present to court the view of Vientiane Capital Office of People's Prosecutor on extradition;
- Propose the objections to a court decision on not extraditing the fugitive in the case where the court considers not to extradite the fugitive.

In the court meeting room participation each time, the designated prosecutor must wear the uniform and attach the badge of the office of people's prosecutor. At the same time, s/he must comply with the regulations on court meeting rooms and times strictly.

After completing the court meeting room participation, s/he must report to request for direction from the director of Vientiane Capital Office of People's Prosecutor in each period regularly.



**Form Template:** Arrest Warrant



**Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Arrest Warrant**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 17 paragraph 1 of Law on Extradition;
- Pursuant to the Assignment of the Director of Office of Supreme People's Prosecutor, No...../OSPP, dated.....

Director of Vientiane Capital Office of People's Prosecutor has researched the request for extradition and supporting documents contained in the request thoroughly to find that the requirements are met therefore the warrant is issued to arrest Mr. or Ms. ...., age....., Race....., Nationality....., Occupation....., Residing in Village....., Unit....., District....., Province....., ID Card No....., Issued by....., Passport No....., issue date....., expire date....., Issued by.....

- Charged with: fugitive according to Article 17 paragraph 4 of law on extradition.

Therefore, Director of Vientiane Capital Office of People's Prosecutor issues the warrant to arrest Mr. or Ms. ...., where officer ..... to bring the person for the consideration of extradition of fugitive to the Requesting State according to the treaty and law.

This warrant is effective from the date it is signed.

Director of Office of People's Prosecutor

**Form Template:** Arrest Warrant (Example)



**Lao People's Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Arrest Warrant**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 17 paragraph 1 of Law on Extradition;
- Pursuant to the Assignment of the Director of Office of Supreme People's Prosecutor, No...../OSPP, dated.....

Director of Vientiane Capital Office of People's Prosecutor has researched the request for extradition and supporting documents contained in the request thoroughly to find that the requirements are met, therefore the warrant is issued to arrest Mr. ...A., age 23 , Nationality...Thai., Occupation...Laborer..., Passport No....., issue date....., expire date....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, Currently residing in the Village of Phontongsavath, Unit....., House No..., District Chanthabouly, Vientiane Capital

- Charged with: being a fugitive.

Therefore, Director of Vientiane Capital Office of People's Prosecutor issues the warrant to arrest Mr. ....A....., where officer of General Police Department, Ministry of Public Security to bring the person for the consideration of extradition of fugitive to the Requesting State according to the treaty and law.

This warrant is effective from the date it is signed.

Director of Office of People's Prosecutor

**Form Template:** Testimony Taking



**Lao People's Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Testimony Record**

**No. of Time:.....**

- At Vientiane Capital Office of People's Prosecutor, date.../.../..... time..... hour  
.....minutes;

- The Prosecutor, Mr./Ms. ...., Position.....,  
Responsibility....., together with Mr./Ms. .... Position.....,  
Responsibility....., working at ..... have taken the testimony of  
Mr. or Ms. ...., Date of Birth....., age...., Occupation....., Race.....,  
Nationality....., Religion....., Educational level....., Professional  
level....., ID card....., Passport No....., Issue date....., Expiry date....., Issued  
by....., Phone No....., Birth Village ....., District.....,  
Province/Capital....., Country....., Currently resides or lives in village lives in  
village ....., Unit....., District....., Province/Capital.....;

- Charged with: being a fugitive.

- Date, month, year of arrest ..... according to the arrest record ....., dated ....  
.....

**- Content of the detailed testimony**

Question/Answer: .....

Question/Answer: .....

Testimony taking ended at ..... hour .....minutes, without any force, threats and  
beating, or torture of any kind. Every word have been read and found to be true in accordance  
with the fact, therefore it is signed as evidence.

Prosecutor

Recorder

Person Giving Testimony  
Signature and Thumb Print

**Form Template:** Temporary Detention Order (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Temporary Detention Order**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 17 paragraph 5 of Law on Extradition;
- Pursuant to the Assignment of the Director of Office of Supreme People's Prosecutor, No...../OSPP, dated.....

Director of Vientiane Capital Office of People's Prosecutor research does find that the requirements are met, therefore the order is issued to temporarily detain Mr. A, age 23, Nationality Thai, Occupation Laborer, Passport No....., Issue date....., Expire date....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, Currently residing in the Village of Phontongsavath, Unit...., House No....., District Chanthabouly, Vientiane Capital.

- Charged with: being a fugitive according to Article 17 paragraph 5 of law on extradition.
- Arrested: 1<sup>st</sup> February 2018.
- Detention Facility: Phontong Prison Camp.

Therefore, Director of Vientiane Capital Office of People's Prosecutor issues the order to temporary detain Mr. A for the period ..... days, from ...../...../..... to ...../...../..... according to the treaty/law on extradition.

This order is effective from the date it is signed.

Director of Office of People's Prosecutor  
Signature and Seal

**Form Template:** Discharge Order (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Discharge Order**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 17 paragraph 5 of Law on Extradition;
- Pursuant to the Assignment of the Director of Office of Supreme People's Prosecutor, No...../OSPP, dated.....

Director of Vientiane Capital Office of People's Prosecutor has researched to find that the requirements are met, therefore the order is issued to discharge Mr. A, age 23, Nationality Thai, Occupation Laborer, Passport No....., Issue date....., Expire date....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, Currently residing in the Village of Phontongsavath, Unit...., House No....., District Chanthabouly, Vientiane Capital.

- Charged with: fugitive according to Article 17 paragraph 5 of law on extradition.
- Arrested: 1<sup>st</sup> February 2018.
- Temporary Detained: 1<sup>st</sup> February 2018.
- Detention Facility: Phontong Prison Camp.

Therefore, Director of Vientiane Capital Office of People's Prosecutor issues the order to discharge Mr. A from ...../...../.....; assigns the responsible team of the prison camp..... to discharge the person according to regulations.

This order is effective from the date it is signed.

Director of Office of People's Prosecutor  
Signature and Seal

**Form Template:** Indictment (Example)



**Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Indictment**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Request for Extradition of Kingdom of Thailand, No....., dated.....

Director of Vientiane Capital Office of People's Prosecutor has thoroughly researched the request of the Kingdom of Thailand dated 1<sup>st</sup> December 2017 that is requesting Mr. A, the fugitive, arrested on 1<sup>st</sup> February 2018, now at Detention Facility: Phontong Prison Camp to find the requirements are met, therefore orders to indict for Vientiane Capital People's Court to decide regarding the extradition of the fugitive to the Requesting State according to the treaty and law.

**Director of Office of People's Prosecutor  
Signature and Seal**

The fugitive is notified  
of this Order  
on .....  
Signature and Thump Print

**Form Template:** Statement



**Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Statement**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Case file on Extradition No....., dated.....

**between**

Director of Vientiane Capital Office of People's Prosecutor..... Plaintiff;

Mr. or Ms. ...., Age....., Nationality....., Occupation....., Currently residing in the Village of ....., Unit...., House No....., District....., Province....., ID Card No....., Issued by....., Passport No....., Issue date....., Expire date....., Issued by.....  
Defendant;

Mr. or Ms. ...., Age....., Nationality....., Occupation....., Currently reside in Village....., Unit....., House No....., District....., Province.....  
Lawyer

- Charged with: .....
- Arrested on: .....
- Detention Facility: .....

**Case Contents**

In the section of Case Contents, write about the receipt of a request and activities of various organizations since receiving the request from the Requesting State, where it has been through the research of the Ministry of Foreign Affairs, the research of the Office of Supreme People's Prosecutor, the assignment of the Office of Supreme People's Prosecutor to Vientiane Capital Office of People's Prosecutor to issue the arrest warrant, the issuance of an arrest warrant, the arrest by the Ministry of Public Security, Headquarters and the fugitive's testimony taking to determine the uniqueness of the fugitive.

**Comment**

Through the examination, research of the request and the supporting documents, evidence information, comprehensively completely, and objectively

Found that Mr. or Ms....., ID Card No....., dated....., Passport No....., Issue date .... (personal information) where there is a mark, appearance..... is truly a wanted person according to the testimony of the person to the interrogator, Investigation-Interrogation Organization, Vientiane Capital Public Security Headquarter, dated....., Passport, ID Card No....., where there is **the evidence verifying the uniqueness (identity) of extradition (must indicate the uniqueness or identity of the fugitive that s/he is truly a wanted person)**

Found that the requesting offence is an extraditable offence according to Article .... of Treaty between the Lao PDR and ..... the Requesting State or Law on Extradition due to the requesting offence is an offence according to Article ..... of the Penal Code of the Lao PDR and Article .... of the Criminal Law of the Requesting State where there is **the evidence or documents verifying the requirements of extradition (must indicate that the requesting offence is an extraditable offence).**

Found that the request does not fall within grounds of refusal of extradition according to Article ... of Treaty between the Lao PDR and ..... the Requesting State or Law on Extradition or has **the evidence verifying the refusal of extradition. (If the extradition shall be refused, must indicate the reason causing the refusal of extradition).**

Found that the request is not the case of extradition according to Article .... of Treaty between the Lao PDR and ..... the Requesting State or Law on Extradition where there is **the evidence verifying the refusal of extradition or extradition with conditions. (Must indicate the reason of extradition with conditions).**

Found that the limitation of the indictment of the offence to the court is not expired yet according to the Penal Code of the requesting country where there is **the evidence verifying the limitation of the indictment or enforcement of a punishment.**

The Requesting State has requested for the extradition for two or more offences where each offence is an offence according to the law of the Requesting State and The Lao PDR and at least one offence, **when research is done**, found to have a requirement regarding the time of a sentence according to Treaty or Law on Extradition.

Found that there is a request for property that is the evidence, found that there is a request if the request for extradition according to Article .... of Treaty between the Lao PDR and ..... the Requesting State or Law on Extradition **has had a decision or certification on rights of the Requesting State or a third party.**

Found that the request for extradition from the Kingdom of Thailand meets the requirements according to Article 2 of the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, Article 7 of Law on Extradition and no cases of refusal, therefore agrees to the extradition of the fugitive to the Requesting State according to the request.

### **For this reason**

Director of Vientiane Capital Office of People's Prosecutor therefore presents the statement to Vientiane People's Court to decide on the extradition of a wanted person according to the treaty and law.



(Unofficial Translation)

**Director of Office of People's Prosecutor**  
**Signature and Seal**

**Form Template:** Statement (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Statement**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Extradition Case file No....., dated.....

**between**

Director of Vientiane Capital Office of People's Prosecutor..... Plaintiff;

Mr. A , Age 23, Nationality Thai, Occupation Laborer , Passport No....., Issue date..., Expire date....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, Currently residing in the Village of Phontongsavath, Unit....., House No....., District Chanthabouly, Vientiane Capital

....., Defendant;

Ms. E , Age 30 , Nationality Lao , Occupation Lawyer , Currently residing in the Village of Thongsangnang, Unit 2 , House No., District Chanthabouly , Vientiane Capital..... Lawyer

- Charged with: being a fugitive
- Arrested on: 1 February 2018
- Detention Facility: Phontong Prison Camp.

**Case Contents**

The Lao PDR has received a request from the Kingdom of Thailand on the 1<sup>st</sup> December 2017 through the Ministry of Foreign Affairs of the Lao PDR, whereby requesting the Lao PDR to extradite Mr. A, age 23, Nationality Thai to proceed with a case against the person for the murder of Ms. C according to Article 288 of Penal Code of the Kingdom of Thailand, whereby Mr. A has been married to Ms. D, residing in the Village of Phontongsavath, Unit..., District Chantabouly, Vientiane Capital.

After the Office of Supreme People's Prosecutor received the request from the Ministry of Foreign Affairs, on the 15<sup>th</sup> January 2018, Vientiane Capital Office of People's Prosecutor was assigned to issue the arrest warrant and the person was arrested on the 25<sup>th</sup>

January 2018, as well the testimony of the person was taken according to regulations, currently the person has been detained in Phongtong Prison Camp.

### **Comment**

Through the examination, research of evidence information, documents included in the record comprehensively, completely and objectively on the basis of the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, Penal Code, Law on Criminal Procedure as well as other law of both countries

Found that Mr. A , age 23 , Nationality Thai , Occupation Laborer , Passport No....., Issue date ...., Expire date ...., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, testimony of the person according to the testimony record, dated 28 January 2018 of Vientiane Capital Public Security Headquarter, marriage certificate between Mr. A and Ms. D No....., dated.....

Found that the murder of Ms. C is an extraditable offence according to Article 2 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, 1999, which determined that *“In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment”*. The murder of Ms. C is an offence that the Criminal Law of the Kingdom of Thailand determines in Article 288 punishable by imprisonment from fifteen years to death penalty and that offence is an offence the Penal Code of the Lao PDR determines in Article 188 punishable by imprisonment from ten years to death penalty.

Found that the murder of Ms. C by Mr. A is an offence that cannot refuse the request for extradition of the Kingdom of Thailand due to such offence is not a political, military offence or the offence affecting human rights or humanity.

Found that the Lao PDR has no jurisdiction to proceed with a case for such conduct or is proceeding with the case against Mr. A in any way and the person is not a Lao citizen, additionally the limitation of indictment of that offense has not expired yet as determined in Article 95 of Penal Code of the Kingdom of Thailand.

Found that the request for extradition from the Kingdom of Thailand meets the requirements according to Article 2 of the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, Article 7 of Law on Extradition and no cases of refusal, therefore agrees to the extradition of fugitive to the Requesting State according to the request.

### **For this reason**

Director of Vientiane Capital Office of People’s Prosecutor therefore presents the statement to Vientiane People’s Court to decide on the extradition of Mr. A, the fugitive according to the treaty and law.

**Director of Office of People’s Prosecutor**  
**Signature and Seal**

**Form Template:** Decision (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Decision**

of Director of Vientiane Capital Office of People's Prosecutor

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition

Director of Vientiane Capital Office of People's Prosecutor decides

**Article 1** Designate Mr./Ms. .... Level Three Prosecutor to participate in the proceedings at Vientiane People's Court for the consideration on extradition case No. 88/OPP, dated 25 December 2017

**Between**

Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A, age 23, Nationality Thai , Occupation Laborer , Passport No....., Issue date ....., Expire date ....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, Currently reside in Village Phontongsavath, Unit....., House No....., District Chanthabouly, Vientiane Capital  
....., Defendant;

Ms. E , Age 30 , Nationality Lao , Occupation Lawyer , Currently residing in the Village of Thongsangnang, Unit 2 , House No., District Chanthabouly , Vientiane Capital..... Lawyer.

**Article 2** Court, fugitive and other parties involved must acknowledge and implement according to each other rights and duties.

**Article 3** This decision is effective from the date it is signed.

**Director of Office of People's Prosecutor**  
**Signature and Seal**

## **Chapter 4**

### **The Consideration of the Ministry of Public Security**

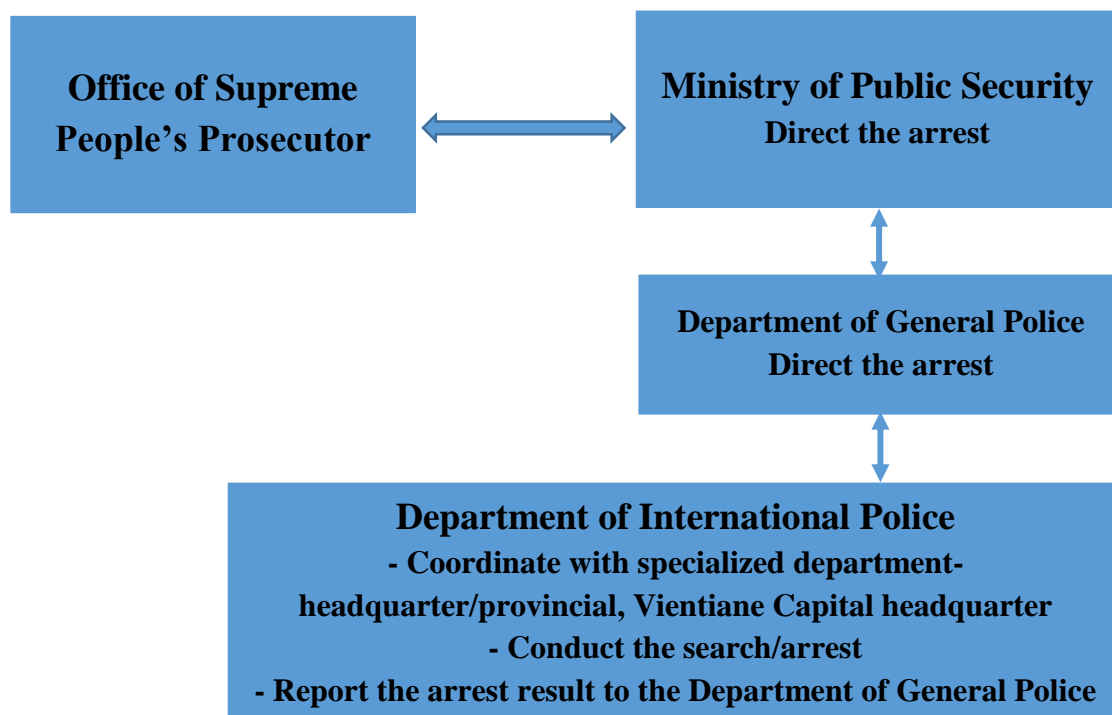
#### **1. Consideration Procedures of the Ministry of Public Security**

After receiving the proposal letter of the Office of Supreme People's Prosecutor along with the arrest warrant, the executive of the Ministry of Public Security directs the Department of General Police on the arrest of the fugitive by assigning such task to the Department of International Police to implement.

Once assigned, the Department of International Police must coordinate with specialized department-headquarters, relevant provincial public security headquarters to conduct the search and arrest the fugitive.

After arresting the fugitive, the Department of International Police must report the arrest result to the Department of General Police to report to the Ministry's executive, then report the arrest result to the Office of Supreme People's Prosecutor in the next stage as determined in the law and treaty.

**Diagram**  
**Procedures of the Ministry of Public Security**



#### **2. Rights and Duties of the Ministry of Public Security**

In managing the works on extradition the Ministry of Public Security has the following rights and duties:

- Research and comment on the policies, legislations and regulations involving the extradition works according to the scope of their responsibility;

- Direct and support the implementation of the request for extradition according to the scope of their responsibility;
- Arrest, detain, temporarily detain or discharge a wanted person as specified in the arrest warrant and notify Vientiane Capital Office of People's Prosecutor;
- Gather the evidence information and confiscate or seize the property relating to the case according to the request for extradition correctly and consistently with the law on criminal procedure;
- Participate in the negotiation, discussion and comment on the bilateral or multilateral treaty on extradition;
- Participate in the surrendering and taking over of fugitive including property by coordinating with other competent authorities of the Lao PDR;
- Liaise and cooperate with foreign states on extradition according to their responsibility;
- Summarize and report on extradition works to the higher authority;
- Implement other rights and duties according to the assignment of the government or as determined in the regulation<sup>43</sup>.

### **3. Arrest**

After receiving the coordination of the fugitive arrest responsible team from the Department of the General Police, Ministry of Public Security, the relevant provincial or district public security headquarters must cooperate in the arrest according to the principles determined in the law on criminal procedure, particularly regarding the forms and methods in arresting the fugitive.

A wanted person that has been arrested and temporarily detained is not allowed a temporary discharge until there is a legally binding/final decision or judgment of the court on extradition<sup>44</sup>.

#### **3.1 Form of the Arrest**

The arrest of the fugitive is the arrest where there is an arrest warrant from the Vientiane Capital Office of People's Prosecutor<sup>45</sup> only, meaning that there is no arrest according to the order of the court, there is no arrest in the case of a face to face offence similar to an arrest in a criminal proceeding.

#### **3.2 Method of the Arrest**

The law on extradition has not determined the arrest method. Therefore, the arrest of the fugitive must be carried out according to the methods and principles that the law on criminal procedures has specified<sup>46</sup>.

#### **3.3 Arrest of Buddhist Monk or Novice**

The arrest of a Buddhist monk or novice, the abbot or representative must be notified to arrange for them to leave the monkhood first. In the case of the arrest of a monk of another religion, the chief who is responsible of that religion must also be notified.

In making the arrest, the officer must read the arrest warrant and explain the objective, the right to fight the case, to the fugitive. After arresting the suspect, the investigator-

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<sup>43</sup> Article 34 Law on Extradition.

<sup>44</sup> Article 17 paragraph 7 Law on Extradition.

<sup>45</sup> Article 17, 31 Law on Extradition.

<sup>46</sup> Article 139, 141 Law on Criminal Procedure.

interrogator must take the testimony of the arrested person immediately. The arrest must proceed by a method and form appropriate to the characteristic of the offence and the person being arrested. Beating and torturing of the arrested person is not allowed. The arrest, regardless of any case, must be notified to the family, village administration, office, organization or enterprise that the person associated with within twenty four hours as well as notified of their detention facility<sup>47</sup>.

### **3.4 Arrest Record**

In either case, the arrest must be recorded as evidence. The arrest record must indicate name, surname, title, position, duty and place of work of the investigator-interrogator, as well as name, surname, age, occupation, title, position, duty and address of the arrested person, date, time and place of arrest, objective of the arrest. The arrest record must indicate name, quantity, type, weight, quality, defect and other appearances of the property that belongs to the arrested person. The property that is the legal belongings of the arrested person must be returned to the family of the person in full and in original condition as well, a delivery-receipt record must be made in the presence of the arrested person. In a case where the property that is the belongings of the arrested person are not in full or not in original condition, the officer protecting that property will have the criminal responsibility as determined in the Penal Code. Once the arrest record is made, it must be read to the arrest participants, they then sign and print their thumbs<sup>48</sup>.

### **4. Fugitive Testimony Taking**

Testimony taking is the fugitive's testimony taking by an investigator-interrogator or prosecutor who is designated.

The contents of the testimony of the fugitive is the information or evidence regarding the uniqueness or identity of the fugitive especially the biography of the fugitive such as: name, surname, place of birth, family relations, father, mother, children, address, mark-appearance, evidence or overall information on the offence committed overseas as indicated in the request without going in depth and asking about the information to point out the elements of the offence.

When taking the testimony, the staff must inform the fugitive of the objective of testimony taking as well as making a record; once the testimony taking is completed, the staff must read as well as sign as evidence.

After being notified that the fugitive has been arrested, the prosecutor in charge must examine the testimony and arrest record regarding the fugitive that they received from the investigator-interrogator. If found that additional testimony is needed, the prosecutor must inform the investigation-interrogation organization to bring the fugitive to Vientiane Capital Office of People's Prosecutor to take the testimony or the prosecutor can take the testimony at the prison camp.

In a case where the fugitive gives an unclear, incomplete information regarding their uniqueness or identity, this must be reported to the Office of Supreme People's Prosecutor to coordinate with the Ministry of Public Security, public security headquarter or the department of home affairs of the related province to prove the fugitive's biography urgently.

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<sup>47</sup> Article 139 Law on Extradition.

<sup>48</sup> Article 141 Law on Criminal Procedure Amended Version 2017.

### **5. Designation of Translator, Lawyer**

In making the arrest, taking the testimony of fugitive or witness who does not know Lao language, there must be the designation of a translator as determine in Article 72 and 74 of law on criminal procedure amended version 2017.

The fugitive has the right to have a lawyer to defend their rights and righteous benefits in the consideration of extradition even though the law on extradition has not determined.

### **6. Treatment and Death of Fugitive**

If the fugitive is insane, has illness, has transmittable disease and etc., the person must be treated in a facility according to the regulations where it must be carried out as determined in Article 265-269 of law on criminal procedure amended version 2017.

If the fugitive had passed away, there must be an autopsy and recorded according to the regulations as determined in Article 131 and 132 of law on criminal procedure amended version 2017 as well as reported to the Office of Supreme People's Prosecutor to notify the relevant office of people's prosecutor and people's court to close the consideration of extradition then notify the Ministry of Foreign Affairs and the Requesting State.

In the case where the death of the fugitive is a criminal offence, the offender must be prosecuted according to law.

### **7. Notification of Arrest Result**

When receiving the fugitive, the Ministry of Public Security must notify the arrest result along with documents (fugitive testimony, arrest record, ID card, passport and etc.) to the Office of Supreme People's Prosecutor in order for the Office of Supreme People's Prosecutor to notify Vientiane Capital Office of People's Prosecutor to prepare the submission of the indictment of the fugitive to Vientiane Capital People's Court to consider according to the treaty and law.



**Form Template:** Arrest Record



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Public Security Headquarter.....  
Division/Unit of Investigation-Interrogation of Extradition Case

**Arrest Record**

- Pursuant to Article 17 paragraph 4 of Law on Extradition;
  - Pursuant to Article 139 and 141 of Law on Criminal Procedure Amended Version 2017;
  - Pursuant to the Arrest Warrant of Vientiane Capital Office of People's Prosecutor, No....., dated.....
  - At ..... date...../...../..... time.....hr.....mins, Village ..... Unit.....District.....Province/Vientiane Capital.....
  - The investigator-interrogator Mr....., title....., Responsibility....., at Headquarter....., together with Mr. ....title..., Responsibility....., at Headquarter....., have arrested the fugitive:
    - Name and Surname Mr. or Ms....., Date of Birth....., Age....., Occupation ....., Race....., Nationality....., Religion....., ID Card....., Passport No....., Issue date....., Expire date....., Issued by....., Telephone.....; Currently reside or live in the Village of....., Unit.....District.....Province/Vientiane Capital.....;
    - The person has the following belongings:.....
- Before making the arrest, the Arrest Warrant is read to the person as well as notify him/her the right to fight the case.
- The officers did not force, threaten or beat/torture in any way; the record is read and found to be correct as per the true, therefore the signatures are signed as evidence.

Fugitive

Investigator-Interrogator

Recorder

Signature and Thumb Print

**Form Template:** Testimony Taking



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Public Security Headquarter.....  
Division/Unit of Investigation-Interrogation of Extradition Case

**Record**

**Fugitive Testimony**

Testimony No of Time.....

- At public security headquarter ....., date....../...../....., time... .hr... mins;  
- The investigator-interrogator Mr....., title....., Responsibility....., at Headquarter....., together with Mr. ....title..., Responsibility....., at Headquarter.....

Has taken the testimony of Mr. or Ms. ...., Date of Birth....., Age....., Occupation ....., Race....., Nationality....., Religion....., Educational Level ....., Professional Level....., ID Card....., Passport No....., Issue date....., Expire date....., Issued by....., Telephone.....; Birth Village....., District....., Province....., Currently reside or live in the Village of....., Unit.....District.....Province/Vientiane Capital.....;

- Name and Surname of Biological Father or Step-Father....., age....., occupation ....., live in the Village of ....., Unit...., District....., Province/Vientiane Capital.....;

- Name and Surname of Biological Mother or Step-Mother ....., age....., occupation ....., live in the Village of ....., Unit...., District....., Province/Vientiane Capital.....;

- Name and Surname of Husband or Wife ....., age....., occupation ....., live in the Village of ....., Unit...., District....., Province/Vientiane Capital.....;

- Biological sibling, total.....people ....., Name, Occupation, Address.....

- Date, Month, Year of Arrest....., to be extradited to country..... according to the request No....., dated.....

- I may testify according to the true regarding the request to the officers that.....

Testimony taking ends at .... hr.....mins, without forcing, threatening or beating/torturing in any way. Every word has been read and found to be true/correct, therefore the signatures are signed as evidence.

Investigator-Interrogator

Recorder

Person giving testimony  
(signature and thumb print)



## **Chapter 5**

### **The Consideration of Vientiane Capital People's Court**

After receiving the case file on extradition from Vientiane Capital Office of People's Prosecutor, the court clerk will assign a number to it and date the record according to date and time the case file arrived at Vientiane Capital People's Court, then send it to the court president to research according to the treaty and law and consider within thirty days from the date the case file is received.

#### **1. Consideration Principles of Court on Extradition**

The consideration of extradition cases by the court must comply with the basic principles determined in the law on extradition as follows:

- Respect the unity, sovereignty, territorial integrity, not interfere with internal affairs of each other, cooperate and assist one another in justice matters;
- Respect and comply with the international agreements and treaties that The Lao PDR is a Party to;
- Must be offenses determined in the criminal law of the requesting and Requested State;
- Respect the dignity and freedom of the wanted person<sup>49</sup>.

**In addition, the criminal trial** basically must be conducted directly, orally, openly, with arguments, continuously, without changing the court panel however the extradition proceedings will not be opened allowing only the persons involved to participate in the consideration and will not allow society or interested persons to participate as with any other proceedings.

**The participants** in the extradition proceedings in the court meeting room will consist of only the court panel, court clerks, Directors of office of the people's prosecutor, police officers, wanted person, lawyers, translators, representatives of the embassy or consulate of the Requesting State and officials from other competent authorities of the Lao PDR<sup>50</sup>.

#### **2. Case Consideration of Vientiane Capital People's Court**

##### **2.1 Rights of the Court in the Consideration of Extradition**

The consideration of extradition is the jurisdiction of Vientiane Capital People's Court<sup>51</sup> that will consider as the primary level court and the central region people's court is considered as the appeal and final level court without additional consideration level as cancellation<sup>52</sup>. The decision of the central region people's court is a final and absolute decision.

In the consideration of extradition, Vientiane Capital People's Court has the following rights:

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<sup>49</sup> Article 4 Law on Extradition.

<sup>50</sup> Article 18 Paragraph 2 Law on Extradition.

<sup>51</sup> Article 19 Law on Extradition.

<sup>52</sup> Article 21 Law on Extradition.

1. Examine whether a person being indicted and brought before court is a wanted person according to the request for extradition;
2. Examine whether the offense indicated in the request for extradition is an extraditable offense according to the law of extradition;
3. Examine that the offense does not fall within the grounds of refusal of extradition as determined in Article 8, 10 and 11 of the law on extradition.

In a case where the court found that there is a reason for extradition, the court will decide to extradite the fugitive and once the decision is effective, the delivery of fugitive who is to be extradited can proceed within thirty days from the date the decision is read.

In a case where the court found that there is no reason for extradition as treaty and law have determined or there is not enough information to verify whether a person being indicted and brought before court is a wanted person, the court will decide not to extradite the person<sup>53</sup>.

## **2.2 Acceptance of Case for Consideration**

The people's court will consider the extradition case only when there is an indictment to court from the office of people's prosecutor.

After the president of Vientiane Capital People's Court receives the case file from the Director of Vientiane Capital Office of People's Prosecutor, s/he will hand over the case file to a judge to be in charge of examining the supporting documents and evidence included in the case file completely, thoroughly, comprehensively and objectively, those being the indictment, statement, arrest warrant, testimony, arrest record, the request, and whether supporting documents are translated correctly as determined by treaty and law<sup>54</sup>.

## **2.3 Case Research**

In a case where Vientiane Capital People's Court has found that the request does not have enough information, Vientiane Capital People's Court will send the case file back to the Director Vientiane Capital Office of People's Prosecutor to recollect the information or evidence or the court will propose the Vientiane Capital Office of People's Prosecutor to report to the Office of Supreme People's Prosecutor to request the Ministry of Foreign Affairs for additional information<sup>55</sup>.

In a court proceedings, the designated judge may take the testimony from the fugitive or witnesses, experts or collect other additional evidence necessary for the proceedings and must also examine the evidence that is the basis for the consideration of the court, principally, are the documentary evidence or documents received from the Requesting State, testimony of the fugitive, official documents from relevant organizations of the Lao PDR regarding the fugitive and etc. that is a foundation for the consideration of the court, as well as examines whether a person indicted and brought before court is a wanted person according to the request for extradition; examine whether the offense indicating in the request for extradition is the extraditable offense according to this law; examine that the offense does not fall within the grounds of refusal of extradition as determined in Article 8, 10 and 11 of the law on extradition.

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<sup>53</sup> Article 19 Law on Extradition.

<sup>54</sup> Article 13, 14 Law on Extradition.

<sup>55</sup> Article 17 paragraph 2 Law on Extradition.

Therefore, the evidence that must be prepared is the documents to verify the requirements of extradition, refusal of extradition and documents verifying the identity of the fugitive including the request for extradition and supporting documents that the Requesting State has sent, where the details consist of the following:

- Evidence verifying the uniqueness (identity) of the fugitive;
- Evidence or documents verifying in relation to extradition;
- Evidence of the refusal of extradition;
- Request and supporting documents.

Regarding the mentioned documents and evidence, the details have been explained in Part I of this handbook. Therefore, to ensure the consideration of extradition of the court is accomplished in accordance with the objectives and targeted level set forth the judge in charge of the case must research the evidence, documents included in the case file thoroughly and deeply, assuring the accuracy and justice. The documents that need to be paid attention to researching are as follows:

- Indictment of the Director of Vientiane Capital Office of People's Prosecutor;
- Statement of the Director of Vientiane Capital Office of People's Prosecutor;
- Request from the Requesting State;
- Supporting Documents;
- Arrest warrant of the Director of Vientiane Capital Office of People's Prosecutor;
- Arrest record;
- Testimony of the fugitive to the officers;
- Testimony of the fugitive to the prosecutors;
- Testimony of the fugitive to the court judge;
- Penal Codes of the Lao PDR and Requesting State;
- Related treaty;
- Other documents.

When the research is completed, the judge in charge must report to the executive and prepare to bring the case to trial in the court meeting room.

#### **2.4 Preparation for Court Trial**

When found that the indictment of the Director of Vientiane Capital Office of People's Prosecutor has a reason, the president of Vientiane Capital People's Court will issue the order to bring the case for consideration, the order designating court panel to judge, the order designating a translator (in a case where there is not a translator) as well as determines date, time, place, prepares to issue summons and invitations to the parties involved in a case where proceeding to participate in the court meeting room fully as follows:

##### **- Issuance of order to bring the case for consideration**

When found that the indictment of the Director of Vientiane Capital Office of People's Prosecutor has a reason, the president of Vientiane Capital People's Court will issue the order to bring the case for consideration to ensure that the case consideration is legal.

##### **- Designation of court panel, translator**

After the issuance of order to bring the case for consideration, the president of Vientiane Capital People's Court must designate the court panel to consider the case in the

court meeting room. In a case where it is found that there is not a translator, a translator must be designated.

**- Issuance of order to bring the fugitive to court**

After determining date, time and place of the judgment, the president of Vientiane Capital People's Court will issue the order for the prison warrants to bring the fugitive to court.

**- Determination of date, time, place; issuance of summons, invitations**

The judge in charge will determine the date, time and place then hand over to the court clerk to issue the summons, invitations for the participants of the case consideration to fully participate in the court meeting room on extradition.

The court panel of extradition case consideration consists of three judges and one court clerk. The rights and obligations of the court panel are to comply with the law on criminal procedure version 2017.

After the court clerk has issued the summons, invitations, and notices, the court clerk must monitor whether each party has received them. On the day, before entering the judge bench, the court clerk must check and liaise on more details regarding the sent summons, invitation and notices, then report to the head of the court panel that will attend the meeting that day; if there is a request for suspension, postponement or other issues, the court clerk must also report to the head of the court panel to consider the mentioned issues whether it is reasonable or not, and to inform the applicant.

**2.5 Court Trial**

**2.5.1 Regulations on Court Trial**

After announcing the opening of the court meeting room, the chairman of the court panel must announce the list of names of the court panel, prosecutor, court clerk, case that will be brought for consideration, right to object to the court panel or member of the court panel, prosecutor, court clerk, expert and translator to the participants in the proceedings.

If there is an objection to the judge, which is one or all of the members of the court panel, chairman of the court panel must close the court meeting room temporarily to consider and agree on the issue according to the law on criminal procedure version 2017. After that, the chairman of the court panel asks for the biography of the defendant, notifies the indictment of the prosecutor regarding extradition of the person, then the court panel will hear the testimony of the witnesses and other participants respectively.

At the court meeting room, the court panel and participated prosecutor have the right to ask the participants additional questions with the permission of the chairman of the court panel.

**2.5.2 Evidence Presentation at Court meeting room**

The court panel brings the evidence to present at the court meeting room then open to the plaintiff, fugitive or lawyers to argue according to the permission of the chairman of the court panel.

**Prosecutor** is responsible for bringing evidence, articles of the treaty, articles of relevant law, passport, ID card, photographs, testimonies, documents or other evidence to present to court to verify:

- Uniqueness, identity of the fugitive;

- Requirements of extradition;
- No grounds of refusal as determined by the treaty and law on extradition.

**A wanted person, lawyer** are responsible for bringing evidence to present to court to verify:

- that s/he is not the wanted person according to the request by clarifying the true uniqueness, identity;
- the requirements of extradition are not met;
- there are grounds of refusal as determined by the treaty and law on extradition.

When the argument is ended, the chairman of the court panel suggests the prosecutor to present the statement, then will allow the defendant or his/her lawyer to have comments as the last person, then the chairman of the court panel will close the argument and announce a temporary closure to consider the case in a secret meeting room.

During the court trial, if there is a need to change the court panel, a retrial must proceed as determined in the law on criminal procedure.

### **2.5.3 Decision**

Decision must be based on the relevant treaties and law on the basis of the accuracy of the evidence presented to court as determined in the law on extradition and law on criminal procedure.

Decision must be done thoroughly, comprehensively, completely and objectively based on the evidence and result of the court trial mainly to enable the correct and fair judgment. In making a decision, the court panel at the judge's bench must hold a majority vote by having the least qualified member of the court panel to comment and vote first where the chairman of the court panel will be the last to comment and vote, any person not agreeing with the majority vote can express their comment in writing in the case file for a higher level court to consider in the case of appeals.

**In a case where the court found that there is a reason for extradition**, the court will decide to extradite the fugitive and once the decision is legally binding, the delivery of a fugitive who is decided to be extradited can be proceeded within thirty days from the date the decision is read.

**In a case where the court found that there is not a reason for extradition** as treaty and law have determined or there is not enough information to verify whether a person being indicted and brought before court is a wanted person, the court will decide not to extradite the person<sup>56</sup>.

### **2.5.4 Decision Announcement**

After considering and deciding in the secret meeting room, the chairman and members of the court panel bring the decision to be announced at the court meeting room as well as notify the defendant and plaintiff the rights to objections and appeals. If the decision cannot be announced that day, it can be postponed to another day but no later than 7 days.

### **2.5.5 Drafting of a Decision**

Court decision is the court agreement that explains a legal position, cause and effect on the requirements of extradition of Vientiane Capital People's Court on the basis of the

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<sup>56</sup> Article 19 Law on Extradition.



evidence presented to court by the Director of Vientiane Capital Office of People's Prosecutor and defendant for court to consider, meaning that the decision must explain, rule the requirements, grounds of refusal of extradition or extradition with conditions without going in depth to analyze the offense and must be in writing and signed by the chairmen of the court panel that performed the judge.

The decision includes Introduction, Case Contents, Rulings and Decision part.

### **3. Objections and Appeals**

#### **3.1 Person/Entity with the Right to Objection and Appeal**

##### **- Person/Entity with the rights to objections to court decision**

The Director of Vientiane Capital Office of People's Prosecutor has the right to propose the objection to the decision not to extradite the fugitive, but must consider within three days from the date the decision is read whether to propose objections. If no objection is proposed within the specified time mentioned the detainee must be discharged immediately.

If Vientiane Capital Office of People's Prosecutor has proposed objections to court decision, they must propose the Central Region Office of People's Prosecutor to submit the Objections within thirty days from the date the decision is read.

##### **- Person/Entity with the right to appeal**

A wanted person has the right to appeal against the court decision to extradite the fugitive and must send the request for the appeal to the Central Region People's Court within thirty days from the date the decision is read.

#### **3.2 Proposal of Objection and Request for Appeal<sup>57</sup>**

##### **3.2.1 Objection Proposal**

The proposal of objection to the decision not to extradite the fugitive to the Requesting State must be made in writing to Vientiane Capital People's Court and that must show what is in the decision that contradicts the treaty or law on extradition, Penal Code of the Lao PDR and Requesting State such: a wanted person, requirements of extradition, refusal of extradition and other issues that are the basis for the court to make an incorrect decision.

##### **3.2.2 Request for Appeal**

The request for Appeal of the court decision to extradite the fugitive must be made in writing to Vientiane Capital People's Court and that must show what is in the decision that contradicts the treaty or law on extradition, Penal Code of the Lao PDR and Requesting State such: a wanted person, requirements of extradition, refusal of extradition and other issues that are the basis for the court to make an incorrect decision.

##### **3.2.3 Period of Time for Filing Objections and Appeals**

**The period of time for filing objections** is 3 days from the date the decision is read. If Vientiane Capital Office of People's Prosecutor has proposed objections to the court decision, they must propose the the Central Region Office of People's Prosecutor to submit the Objections within 30 days from the date the decision is read.

**The period of time for filing appeals** is 30 day from the date the decision is read.

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<sup>57</sup> Article 20 Law on Extradition.



**Form Template:** Decision (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital People's Court  
Criminal Court Panel  
Primary Level

No...../PL. J.  
Date:...../...../.....

**Decision**

Criminal court panel of Vientiane Capital People's Court consists of:

Mr./Ms. .... Chairman;  
Mr./Ms. .... Member;  
Mr./Ms. .... Member;

Seated with Mr./Ms. .... Court clerk.

In the presence of Mr./Ms. .... Representative of the Director of Vientiane Capital Office of People's Prosecutor.

Has opened the court meeting room at.... hour of date.....month.....year....., at the court meeting room room of Vientiane Capital People's Court to consider the extradition case No....., date.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ....., Expire date ....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village lives in village: Phontongsavath, Unit:....., House No....., District: Chanthabouly, Vientiane Capital ..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

**Court**

In the name of Lao People's Democratic Republic

Based on the duties and authorities of the people's court according to Law on People's Court Amended Version 2017;

Has notified the name and surname of the court panel, representative of the Director of Vientiane Capital Office of People's Prosecutor, court clerk to the defendant;

Has notified the rights to objections to the court panel, representative of the Director of Vientiane Capital Office of People's Prosecutor, court clerk or one of the members of the court panel to the defendant;

Has notified of the right to fight the case to the defendant;

Has listened to the statement of the Director of Vientiane Capital Office of People's Prosecutor;

Has listened to final comments of the defendant.

### **Case Contents**

See the indictment and statement of the Director of Vientiane Capital Office of People's Prosecutor No. 9/OPP.VT., dated 1/1/2018 and No. 91/OPP.VT., dated 1/1/2018 with the contents stated that the Lao PDR received the request from the Kingdom of Thailand on 1 December 2017 through the Ministry of Foreign Affairs of the Lao PDR, requesting the Lao PDR to extradite Mr. A, Age 23, Nationality Thai for proceedings in the Kingdom of Thailand for the murder of Ms. C according to Article 288 of Penal Code of the Kingdom of Thailand. Currently, Mr. A is married to Ms. D, lives in village Phontongsavath, Unit..., District Chanthabouly, Vientiane Capital. After the Office of Supreme People's Prosecutor received the request from the Ministry of Foreign Affairs on the 15<sup>th</sup> January 2018, the Vientiane Capital Office of People's Prosecutor was assigned to issue the arrest warrant and the person was arrested on the 25<sup>th</sup> January 2018, the testimony was taken. Presently, the person is detained in Phontong prison camp. After that, the Director of the Vientiane Capital Office of People's Prosecutor proceeded with the indictment by giving the reason that the extradition of Mr. A for proceedings according to the request of the Kingdom of Thailand met the requirements, no grounds of refusal of extradition, therefore they propose the court to consider according to the treaty and law.

See the testimony of Mr. A, the defendant, dated 30/2/2018 that he is not a person the Kingdom of Thailand is requesting and the indictment of the Vientiane Capital Office of People's Prosecutor to extradite him for proceedings in Thailand has no reason due to him not committing the offence, extradition requirements are not met, lack of prosecution limitation, therefore he proposes for the court to consider.

### **Rulings**

Through the examination and research of evidence information and documents included in the case file as well as the result of the court trial

Found that the Lao PDR received the request from The Kingdom of Thailand on the 1<sup>st</sup> December 2017 through the Ministry of Foreign Affairs of the Lao PDR, requesting the Lao PDR to extradite Mr. A, age 23, nationality Thai to proceed with a case against the person in the Kingdom of Thailand for the murder of Ms. C according to Article 288 of Penal Code of the Kingdom of Thailand. Currently, Mr. A is married to Ms. D, lives in village

Phontongsavath, Unit..., District Chanthabouly, Vientiane Capital. After the Office of Supreme People's Prosecutor received the request from the Ministry of Foreign Affairs on the 15<sup>th</sup> January 2018, the Vientiane Capital Office of People's Prosecutor was assigned to issue the arrest warrant and the person was arrested on the 25<sup>th</sup> January 2018 as well as the testimony been taken. Presently, the person is detained in Phontong prison camp.

Found that Mr. A is truly a wanted person according to the request of the Kingdom of Thailand based on the passport No..., Issue date..., Expire date..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, the testimony of the person according to the testimony record dated 28 January 2018 conducted by Vientiane Capital public security headquarter, and a marriage certificate between Mr. A and Ms. D No..., dated.....

Found that the murder of Ms. C is an extraditable offence according to Article 2 item 1 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, 1999 whereby determined that: *"In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment"*. The murder of Ms. C is an offence that the criminal law of the Kingdom of Thailand indicates in Article 288 is punishable by imprisonment from fifteen years to the death penalty and that offence is an offence of the Penal Code of the Lao PDR which determines in Article 188 is punishable by imprisonment from ten years to the death penalty.

Found that the murder of Ms. C by Mr. A is an offence that cannot refuse the request for extradition of the Kingdom of Thailand due to such offence not being a political, military offence or the offence affecting human rights or humanity.

Found that the Lao PDR has no jurisdiction to proceed with a case against such an offence or is proceeding with the case against Mr. A in any way and the person is not a Lao citizen, additionally the limitation of indictment of that offense has not been expired yet as determined in Article 95 of the Penal Code of the Kingdom of Thailand.

Found that the indictment of the Director of Vientiane Capital Office of People's Prosecutor has reasons.

See Article 2, 3, 4, 5 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand

See Article 7, 8, 9, 10, 11, 17, 18, 20 of the Law on Extradition.

See Article 188 of the Penal Code of the Lao PDR;

See Article 139, 141, 270, 271, 273 of the Law on Criminal Procedure Amended Version 2017.

See Article 2, 3, 4, 5 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand;

### **For this reason**

Criminal court panel of Vientiane Capital People's Court hereby decide in the presence of the plaintiff, defendant and relevant organizations.

According to the case status: accept the indictment of the Director of Vientiane Capital Office of People's Prosecutor for consideration.

According to case contents: the indictment has enough reasons.

Decide: state that, extradite Mr. A, the fugitive to the Kingdom of Thailand according to the request.

Has notified the plaintiff, if dissatisfied with the decision, the plaintiff has the rights to propose the objections within three days from the date the decision is read and must propose the central region office of people's prosecutor to submit the objections within thirty days from the date the decision is read.

Has notified the fugitive, if dissatisfied with the decision, the fugitive has the right to appeal and must send the request for appeal to a central region people's court within thirty days from the date the decision is read.

**Chairman of Court Panel**  
**Signature and Seal**

**Court Clerk**

**Form Template:** Order to bring the fugitive to court (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital People's Court  
Criminal Court Panel

No.....

Date:.....

**Order**

**To bring the fugitive to court**

**To:** Director of Detention and Correction Department, Ministry of Public Security

**Re:** Bring the defendant to court

- Pursuant to Article 66 and 175 of Law on Criminal Procedure Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Indictment of Director of Vientiane Capital Office of People's Prosecutor No...., dated.....;
- Pursuant to case file No....., dated.....

**Between**

Director of Vientiane Capital Office of People's  
Prosecutor.....Plaintiff;

Mr. A, age 23, nationality Thai .....Defendant.

**Criminal Court Panel of Vientiane Capital People's Court orders**

**Article 1** The responsible team of Phontong prison to bring the defendant to court at 8:30 o'clock on 30 September 2018 at the meeting room of the central region people's court according to the following list of names:

Mr. A, age 23, Nationality Thai, Occupation Laborer, Passport No....., Issue date ....., Expire date ....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, , currently lives in the Village: of Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

**Article 2** This order is effective from the date it is signed.

**Director of Criminal Court Panel**

*Person acknowledged the order,*

*date..... month September year 2018*  
*(signature and name)*



**Form Template:** Order to bring the extradition case for consideration (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital People's Court

No.....

Date:.....

**Order**

**To bring the extradition case for consideration**

- Pursuant to Article 167 of Law on Criminal Procedure Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Indictment of Director of Vientiane Capital Office of People's Prosecutor No....., dated.....;
- Pursuant to the research of the criminal court panel

To ensure the extradition case carries out correctly according to the treaty and law on extradition

**The President of Vientiane Capital People's Court orders**

**Article 1** Bringing the extradition case No....., dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ....., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village lives in village: Phontongsavath, Unit:..., House No....., District: Chanthabouly, Vientiane Capital ..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.  
for consideration.

**Article 2** The criminal court panel to determine date, time, place of court meeting room, relevant individuals, organizations to participate the court meeting room appropriately.

**Article 3** This order is effective the date it is signed.

**President of the Court**

Signature and Seal

*Person acknowledged the order,  
date..... month September year 2018*

*(signature and name)*

**Form Template:** Invitation (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital People's Court  
Criminal Court Panel  
Court Clerk

No.....  
Date:.....

**Invitation**

**To: Director of Vientiane Capital Office of People's Prosecutor**

- Pursuant to Article 44 of Law on People's Court Amended Version 2017;
- Pursuant to Article 167 of Law on Criminal Procedure Amended Version 2017
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Indictment of Director of Vientiane Capital Office of People's Prosecutor No...., dated.....;

Criminal Court Panel of Vientiane Capital People's Court agrees to open the court meeting room at 8:30 o'clock on 30 September 2018 at the court meeting room of Vientiane Capital People's Court to consider the extradition case No...../PL.J, dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No...., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital  
..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

You are hereby invited to participate in the court meeting room according to the date, time and place above.

**Court Clerk**

*Person acknowledged the order,  
date..... month September year 2018  
(signature and name)*

**Form Template:** Invitation (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital People's Court  
Criminal Court Panel  
Court Clerk

No.....  
Date:.....

**Invitation**

**To: Ambassador of the Kingdom of Thailand in the Lao PDR**

- Pursuant to Article 44 of Law on People's Court Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Indictment of Director of Vientiane Capital Office of People's Prosecutor No...., dated.....;

Criminal Court Panel of Vientiane Capital People's Court agrees to open the court meeting room at 8:30 o'clock on 30 September 2018 at the court meeting room of Vientiane Capital People's Court to consider the extradition case No...../PL.J, dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No...., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital  
..... Defendant;

Ms. E, age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

You are hereby invited to participate in the court meeting room according to the date, time and place above.

**Court Clerk**

*Person acknowledged the order,  
date..... month September year 2018  
(signature and name)*

**Form Template:** Order on Designation of Judges (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital People's Court

Criminal Court Panel

Court Clerk

No.....

Date:.....

**Decision on Designation**

Of Judges and Court Clerk for the Consideration of Extradition

- Pursuant to Article 59 of Law on Criminal Procedure Amended Version 2017;
- Pursuant to Result of the Extradition Case Research according to the Indictment of Director of Vientiane Capital Office of People's Prosecutor No...., dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No...., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently living in Village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital .....  
Defendant;

**President of Vientiane Capital People's Court decides to issue the order**

- Article 1** Designating the judges and court clerk for the consideration of the case on (date)....., in which consist of the following names:
1. Mr./Ms. .... Chairman;
  2. Mr./Ms. .... Member;
  3. Mr./Ms. .... Member;
  4. Mr./Ms. .... Court Clerk.
- Article 2** The persons with names listed above to coordinate with criminal court panel, relevant individuals and organization to determine time, date and place appropriately.
- Article 3** This order is effective the date it is signed.

**President**

**Form Template:** Objections Notice of the Director of Vientiane Capital Office of People's Prosecutor (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date:.....

**Objections Notice**

**To:** President of Vientiane Capital People's Court

**Re:** Proposal of objection to the Decision of Vientiane Capital People's Court

- Pursuant to Article 33 item 10 of Law on People's Prosecutor Amended Version 2017;
- Pursuant to Article 20 paragraph 1 of Law on Extradition;
- Pursuant to the decision of Vientiane Capital People's Court, which ruled on (date).....

The Director of Vientiane Capital Office of People's Prosecutor proposes to object the decision of Vientiane Capital People's Court, which ruled on (date)....., regarding the consideration of extradition.

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ....., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in Village: Phontongsavath, Unit:..., House No....., District: Chanthabouly, Vientiane Capital .....  
Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in Village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

The Objections of the central region office of people's prosecutor will be submitted to the central region people's court within the period of time determined by the treaty and law.

Therefore, the objections to the decision of Vientiane Capital People's Court is hereby proposed according to the rights and duties.

**Director of Office of People's Prosecutor**  
**Signature and Seal**

**Form Template:** Proposal to Central Region Office of People's Prosecutor (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date:.....

**Proposal**

**To:** Director of Central Region Office of People's Prosecutor

**Re:** Submission of Objections to the Decision of Vientiane Capital People's Court

- Pursuant to Article 33 item 10 of Law on People's Prosecutor Amended Version 2017;
- Pursuant to Article 20 paragraph 2 of Law on Extradition;
- Pursuant to the decision of Vientiane Capital People's Court, which ruled on (date).....
- Pursuant to the Objection Notice of Vientiane Capital Office of People's Prosecutor No....., dated.....

The Director of Vientiane Capital Office of People's Prosecutor is honor to inform you that Vientiane Capital Office of People's Prosecutor has proposed to object the decision of Vientiane Capital People's Court, which ruled on ....., regarding the consideration of extradition

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ....., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No....., District: Chanthabouly, Vientiane Capital .....  
Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

Therefore, you are hereby proposed to submit the objections to central region people's court within the period of time determined by the treaty and law.

**Director of Office of People's Prosecutor**  
**Signature and Seal**





**Form Template:** Request for Appeal (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Vientiane Capital  
Chanthabouly District  
Phontongsavath Village

**Request for Appeal**

**To:** President of Vientiane Capital People's Court, respectfully

**Re:** Request for Appeal of the decision of Vientiane Capital People's Court

- Pursuant to Article 20 paragraph 3 of Law on Extradition;
- Pursuant to the decision of Vientiane Capital People's Court, which ruled on (date).....

I, Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital, Defendant would like to appeal the decision of Vientiane Capital People's Court, which ruled on (date)..... regarding the consideration of extradition

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;

I .....Defendant;

Due to the decision to extradite me to the Kingdom of Thailand of Vientiane Capital People's Court is considering violating the treaty and law for the following reasons:

1. I am truly Mr. A but not Mr. A, a wanted person according to the request of the Kingdom of Thailand truly according to ID card No....., Issue date....., Expire date....., issued by Chanthabouly Public Security Headquarter, a person's testimony according to the testimony record dated ..... of Vientiane Capital Public Security Headquarter, marriage certificate between Mr. A and Ms. D No....., dated.....
2. I am a Lao citizen, bearer of ID card No....., Issue date....., Expire date....., issued by Chanthabouly Public Security Headquarter in which according to Article 5 of the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, I cannot be extradited to the Kingdom of Thailand.
3. The Lao PDR has jurisdiction to proceed with the case against the offence due to I am a Lao citizen.

4. The limitation for the murder case prosecution in the Kingdom of Thailand is 20 years according to Article 95 of Penal Code of Thailand in which according to the calculation the prosecution limitation has ended on (date).....

Therefore, the appeal of the decision of Vientiane Capital People's Court is hereby requested and I would like to propose you to consider according to law.

Phontongsavath Village, date    /    / 2018

**Village Chief**

**Applicant**

## **Chapter 6**

### **The Consideration of Central Region Office of People's Prosecutor**

#### **1. Examination of a Decision, Request and Supporting Documents**

After receiving the case file of Vientiane Capital Office of People's Prosecutor, a staff member in charge must examine the decision, request and supporting documents included in the case file, objections and other documents thoroughly, by assigning the work to a prosecutor to be in charge to examine whether the request of the related state organization that is requesting is a competent authority, supporting documents such as arrest warrant of office of prosecutor, court or other competent authorities is complete, sending of documents is correct as per procedures or document sending channel, the documents are translated into the languages determined in the treaty or law<sup>58</sup>.

In the examination, attention must be paid to the name of the requesting organization, clarification documents or other basis information on name and surname, age, gender, nationality, photograph, type and number of documents relating to appearance or special characteristics, occupation and address that can be realized of a person requested to be extradited, brief clarification statement regarding the actual events of the case, provisions of law relating to charges or offences, limitation of the prosecution or enforcement of extraditable punishment, then conduct the research, examine the documents and consider the request for extradition according to the treaty and law determined.

In a case where it is found that the request does not have enough information, the report will be made to the Office of Supreme People's Prosecutor to propose to the Ministry of Foreign Affairs to request for additional information.

In the research of the case file, central region prosecutor assigned must carry out the following four main tasks:

- Preparation and submission of Objections to the central region people's court;
- Preparation of evidence and statement;
- Participation in the court meeting room and presentation of statement to court.

#### **2. Preparation and Submission of Objections to Court**

After receiving the objection notice enclosed in the case file, Central Region Office of People's Prosecutor must prepare and submit the Objections to the Central Region People's Court within thirty days from the date the decision is announced.

The contents of the Objections must indicate that the decision is carried out without being consistent with the treaty and law such as court trial violates the trial procedures and is not consistent with the requirements of extradition, or there is no grounds of refusal of extradition. The Objections is a summary of treaty and law violations of the court without going in depth to explain the detailed contents where the detailed explanation will be stated clearly in the statement to court of the office of people's prosecutor.

After preparing the Objections, Central Region Office of People's Prosecutor must submit the Objections with supporting documents completely within the period of time the law specified.

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<sup>58</sup> Article 13, 14 Law on Extradition.

### **3. Preparation of Evidence**

After preparing and submitting the Objections, the prosecutor in charge must prepare the evidence necessary to defend the Objections or the consideration of extradition of the people's court completely.

The evidence that are a basis for the objection proposal or consideration of the court basically are the documentary evidence obtained from the Requesting State, fugitive's testimonies, official documents of relevant organizations of the Lao PDR on the fugitive and etc.

Therefore, the evidence that must be prepared are documents to verify the requirements of extradition, refusal of extradition and documents verifying the identity of the fugitive including the request for extradition and supporting documents that the Requesting State has submitted, the details are as follows:

- Objections and evidence that are the basis for Central Region Office of People's Prosecutor's objections;
- Evidence verifying uniqueness (identity) of the fugitive such as:
- Requirements of extradition;
- Refusal of extradition;
- Request for extradition and supporting documents.

Regarding those documents and evidence, the details have been explained in Part I, the prosecutor in charge must prepare a complete set of documents as well as arrange in order and to be used conveniently to ensure the consideration and decision of extradition of the court is accomplished in accordance with the objectives and targeted level.

### **4. Preparation of Statement to Court**

After gathering the documentary evidence and other evidence, the prosecutor in charge must prepare the statement to court.

The statement to the court is a clarification report, explaining legal position, causes and effects regarding the requirements of extradition of the Director of Vientiane Capital Office of People's Prosecutor to Vientiane Capital People's Court on the basis of the evidence they gathered. Meaning that the statement must explain the requirements or refusal of extradition or extradition with conditions without going in depth to clarify, explain, or identify in regard with the offence which needs to be signed by the Director of Vientiane Capital Office of People's Prosecutor.

The statement of Central Region Office of People's Prosecutor is a statement indicating the violations of treaty and law of the decision of Vientiane Capital People's Court:

- Violation of law in such approach as in the court trial process there is a procedural or trial basic principle violations;
- Violation of law's contents such as requirements and principles of extradition.

### **5. Designation of Prosecutor**

After preparing the statement along with the evidence (request, supporting documents, testimony, arrest record and other documents), the director of the office of people's prosecutor must designate a prosecutor to participate in the court meeting room and to present the statement to court, which in principle must be a staff member in charge of researching the

case file of extradition or another prosecutor who understands the case, treaty and law on extradition very well.

**6. Court meeting room Participation and Statement Presentation to Court**

A prosecutor that has been designated to participate in the court meeting room for consideration of extradition must carry out the following tasks:

- **Objections and evidence** that are basis for the objection;
- Prepare documents for meeting participation such as: indictment, statement, request, supporting documents, arrest warrant of Central Region Office of People's Prosecutor, arrest record, testimony to the policy officers, testimony to the prosecutors;
- Prepare legislation such as:
  - + Treaty between the Lao PDR and the Requesting State;
  - + Law on extradition of the Lao PDR;
  - + Penal Code of the Lao PDR and Requesting State;
  - + Law on criminal procedure of the Lao PDR;
  - + and other documents
- Prepare and hold the Decision on designation for court meeting room participation;
- Research the case file of extradition thoroughly;
- Protect the objections and statement to the court in relation to the view of Central Region Office of People's Prosecutor on extradition.

In the court meeting room participation each time, the designated prosecutor must wear the uniform and attach the badge of office of people's prosecutor. At the same time, s/he must comply with the regulations on court meeting room and time strictly.

**Form Template:** Objections of Central Region Office of People's Prosecutor (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region Office of People's Prosecutor

No.....

Vientiane Capital, date:.....

**Objections**

**To:** President of Central Region People's Court

**Re:** Objections to the Decision of Vientiane Capital People's Court

- Pursuant to Article 33 item 9 of Law on People's Prosecutor Amended Version 2017;
- Pursuant to Article 20 paragraph 2 of Law on Extradition;
- Pursuant to the decision of Vientiane Capital People's Court, which ruled on (date).....

The Director of Central Region Office of People's Prosecutor proposes to object the decision of Vientiane Capital People's Court, which ruled on (date)....., regarding the extradition.

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... plaintiff;

Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital .....  
Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: fugitive
- Arrested: .....
- Detention Facility: Phontong Prison Camp.

Found that the decision not to extradite the defendant (Mr. A) to the Kingdom of Thailand of the Vientiane Capital People's Court according to the Indictment of Vientiane Capital Office of People's Prosecutor is a consideration that is inaccurate, violates the treaty and law.

Therefore, the objections to the decision of Vientiane Capital People's Court is hereby proposed for your consideration.

(Unofficial Translation)

**Director of Office of People's Prosecutor**  
**Signature and Seal**

**Form Template:** Statement (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region Office of People's Prosecutor

No.....

Vientiane Capital, date:.....

**Statement**

- Pursuant to Article 33 item 9 of Law on People's Prosecutor Amended Version 2017;
- Pursuant to Article 20 paragraph 2 of Law on Extradition;
- Pursuant to Objections to the Decision of Vientiane Capital People's Court of Central Region Office of People's Prosecutor No....., dated.....
- Pursuant to Extradition Case File No....., dated .....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... plaintiff;

Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital .....  
Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: being a fugitive
- Arrested: 1 February 2018
- Detention Facility: Phontong Prison Camp.

**Case Contents**

The Lao PDR has received a request on the 1<sup>st</sup> December 2017 from the Kingdom of Thailand through the Ministry of Foreign Affairs of the Lao PDR, whereby requesting the Lao PDR to extradite Mr. A, age 23, Nationality Thai to proceed with a case against the person for the murder of Ms. C according to Article 288 of Penal Code of the Kingdom of Thailand. Mr. A has been married to Ms. D, residing in Village Phontongsavath, Unit..., District Chanthabouly, Vientiane Capital.

After the Office of Supreme People's Prosecutor received the request from the Ministry of Foreign Affairs, on the 15<sup>th</sup> January 2018, Vientiane Capital Office of People's



Prosecutor was assigned to issue the arrest warrant and the person was arrested on the 25<sup>th</sup> January 2018, as well testimony of the person was taken according to regulations, currently Mr. A has been detained in Phongtong Prison Camp.

Vientiane Capital Office of People's Prosecutor proceeded with the indictment on extradition for Vientiane Capital People's Court to consider on the 24<sup>th</sup> February 2018.

Vientiane Capital People's Court decided to refuse the extradition for the reason that the limitation of prosecution had expired on the 20<sup>th</sup> January 2018 based on Article 3 item 4 of Treaty on Extradition between Laos-Thailand and Article 95 of Penal Code of the Kingdom of Thailand.

### **Case Outline**

See the decision of Vientiane Capital People's Court No.1/PL.J., dated 1/1/2015 stated that: the indictment of Vientiane Capital Office of People's Prosecution (Plaintiff) has enough reasons; to extradite Mr. A for proceedings for murder charge according to Article 288 of Penal Code of the Kingdom of Thailand as requested.

See the request for appeal of Mr. A (Defendant) dated....., claimed that he is not the person the Kingdom of Thailand is requesting and the indictment Vientiane Capital Office of People's Prosecution to extradite him for proceedings in Thailand has no reason due to he did not commit the offence, extradition requirements are not met, lack of limitation of prosecution, therefore he proposes for the court to consider.

### **Comment**

Through the examination, research of decision of Vientiane Capital People's Court, request and supporting documents, evidence information gathered on the basis of the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, Law on Extradition, the Penal Code and other related law of both countries

Found that the decision of Vientiane Capital People's Court to refuse the extradition of the defendant (Mr. A) is incorrect according to law due to the limitation of the prosecution of the murder case of Mr. A is fifteen years according to Article 91 item 3 of Penal Code of Thailand, where according to the calculation the limitation of the prosecution begins on the 1<sup>st</sup> November 2016 and will end on the 30<sup>th</sup> October 2066.

Found that Mr. A , is truly a wanted person according to the request of Thailand according to Passport No....., Issue date ....., Expire date ....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, testimony of the person according to the testimony record dated 28 January 2018 by Vientiane Capital Public Security Headquarter, marriage certificate between Mr. A and Ms. D No....., dated.....

The murder of Ms. C is an extraditable offence according to Article 2 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, 1999, which determined that *"In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment"*. The murder of Ms. C is an offence that the Criminal Law of the Kingdom of Thailand determines in Article 288 punishable by imprisonment from ten years

to fifteen years and the Penal Code of the Lao PDR determines in Article 188 paragraph 1 punishable by imprisonment from ten years to fifteen years.

The murder is not the reason the request is being refused due to such offence is not a political, military offence or the offence affecting human rights or humanity.

The Lao PDR has no jurisdiction to proceed with the case for such an offence or is proceeding with the case against Ms. C in any way and the person is not a Lao citizen.

Found that the indictment of Vientiane Capital Office of People's Prosecution meets the requirements according to Article 2 of the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, Article 7 of Law on Extradition and no cases of refusal, as a result the decision not to extradite the fugitive of the court is incorrect according to the treaty and law.

**For this reason**

Director of Centre Part Office of People's Prosecutor hereby presents the statement to object the decision of Vientiane People's Court to court of appeal of Central Region People's Court to consider and decide on the extradition of Mr. A according to the treaty and law.

**Director of Office of People's Prosecutor  
Signature and Seal**

**Form Template:** Decision (ຂໍ້ຕົກລົງ)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region Office of People's Prosecutor

No.....

Date:..../..../.....

**Decision**

Of Director of Central Region Office of People's Prosecutor

- Pursuant to Article 33 item 9 of Law on People's Prosecutor Amended Version 2017;
- Pursuant to Article 20 paragraph 2 of Law on Extradition

**Director of Central Region Office of People's Prosecutor decides**

**Article 1** Designating Mr./Ms....., a level three prosecutor to participate in the proceedings at the Central Region People's Court for the consideration of extradition case No....., dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No...., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital .....  
Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

**Article 2** Court, fugitive and all relevant parties to acknowledge and implement in accordance with their rights and duties.

**Article 3** This order is effective the date it is signed.

**Director of Office of People's Prosecutor**  
**Signature and Seal**

## **Chapter 7**

### **The Consideration of Central Region People's Court**

After receiving the Objections from Central Region Office of People's Prosecutor, the Central Region People's Court must research and consider the Objections or request for an appeal within fifteen days from the date of receiving the Objections or request for appeal<sup>59</sup>, research, prepare and bring the case regarding the request for extradition for consideration as determined by the treaty and law.

#### **1. Consideration Principles of the Court on Extradition**

Principles of case consideration of the court are to comply strictly with the basic principles determined in the law on extradition by "respect the unity, sovereignty, territorial integrity, not interfere with internal affairs of each other, cooperate and assist one another in justice matters; respect and comply with the international agreements and treaties that The Lao PDR is a Party to; must be offenses determined in the criminal law of the requesting and Requested State; respect the dignity and freedom of the wanted person<sup>60</sup>" as well as other principles mainly the principle of reciprocity, principle of dual criminality, extraditable offenses, and the rule of specialty.

**The criminal trial** basically must be conducted directly, orally, openly, by allowing only persons involved to participate in the case consideration, with arguments, continuously, and without changing the court panel. Therefore, the trial of an extradition case will not be open and will not allow society or interested persons to participate as with any other proceedings.

**The participants** in the extradition proceedings in the court meeting room will consist of only the court panel, court clerks, Directors of office of people's prosecutor, police officers, wanted person, lawyers, translators, representatives of the embassy or consulate of the Requesting State and officials from other competent authorities of the Lao PDR<sup>61</sup>

#### **2. Period of Time of Case Consideration**

The period of time for case consideration of Central Region People's Court is 15 days from date receiving Objections or request for appeal<sup>62</sup>.

#### **3. Consideration of Extradition**

##### **3.1 Consideration Rights of Central Region People's Court**

Central Region People's Court has the right to examine the decision of Vientiane Capital People's Court regarding correctness in accordance with the criminal law, law on criminal procedure and this law including the reasons for the decision on extradition<sup>63</sup>.

##### **3.2 Acceptance of a Case for Consideration**

Central Region People's Court must assign the research work on Objections of Central Region Office of People's Prosecution or a request for appeal of a fugitive by assigning them to a Judge to be in charge in examining the decision of Vientiane Capital People's Court, Objections of Central Region Office of People's Prosecution, supporting documents and evidence enclosed with the case file thoroughly such as indictment, statement,

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<sup>59</sup> Article 20 paragraph 4 Law on Extradition.

<sup>60</sup> Article 4 Law on Extradition.

<sup>61</sup> Article 18 paragraph 2 Law on Extradition.

<sup>62</sup> Article 20 paragraph 4 Law on Extradition.

<sup>63</sup> Article 21 paragraph 1 Law on Extradition.

arrest warrant, testimony, arrest record, request, supporting documents; documents are translated into the languages determined in the treaty and law<sup>64</sup>.

Based on Article 214 paragraph 1 of law on criminal procedure amended version 2017 in which determines that the court of appeal will consider the case only when there is a request for appeal or objections. Therefore, after the Central Region People's Court examined the Objections to the decision on extradition thoroughly, the court might take additional testimony from the fugitive or witness, expert or gather other evidence necessary for proceedings, then agree to bring the case for consideration.

### **3.3 Type of Judgment of Central Region People's Court**

The Judgment of Central Region People's Court consists of the following:

1. Endorse in accordance with the decision of Vientiane Capital People's Court entirely;
2. Change the decision of Vientiane Capital People's Court and judge to extradite or not extradite the fugitive.

In a case where the court judges not to extradite the fugitive, the person must be discharged immediately.

### **3.4 Case Research**

During the proceedings in court, the judge in charge may take additional testimony from the fugitive or witness, expert or gather other evidence necessary for proceedings and must also examine the evidence that is the basis for the consideration of the court. Principally, they is documentary evidence or documents obtained from the Requesting State, fugitive's testimonies, official documents of relevant organizations of the Lao PDR on the fugitive and etc, as well as examine whether a person being indicted and brought before court is a wanted person according to the request for extradition; examine whether the offense stated in the request for extradition is an extraditable offense according to this law; examine that the offense does not fall within the grounds of refusal of extradition as determined in Article 8, 10 and 11 of the law on extradition.

Therefore, the evidence that must be prepared are the documents to verify the requirements of extradition, refusal of extradition and documents verifying the identity of the fugitive including the request for extradition and supporting documents that the Requesting State has sent, where the details consist of the following:

- Evidence verifying the uniqueness (identity) of the fugitive;
- Evidence or documents verifying the requirements of extradition;
- Evidence of the refusal of extradition;
- Request and supporting documents.

Regarding the mentioned documents and evidence, the details have been explained in Part I of this handbook. Therefore, to ensure the consideration of extradition of the court is accomplished in accordance with the objectives and targeted level set forth the judge in charge of the case must research the evidence, documents included in the case file thoroughly and deeply, assuring accuracy and justice. The documents that need to be paid attention to for research are as follows:

- Objections;

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<sup>64</sup> Article 13, 14 Law on Extradition.

- Decision;
- Indictment;
- Statement;
- Request;
- Supporting Documents;
- Arrest warrant of Vientiane Capital Office of People's Prosecutor;
- Arrest record;
- Testimony to the officers;
- Testimony to the prosecutors;
- Testimony to the court judge;
- Code of criminal law of the Lao PDR and Requesting State;
- Related treaty;
- Other documents.

When the research is completed, the judge in charge must report to the executive and prepare to bring the case to trial in the court meeting room.

### **3.5 Preparation for Court Trail**

When found that the indictment of the Director of Vientiane Capital Office of People's Prosecutor, Objections of Central Region People's Court or a request for appeal has a reason, the president of Central Region People's Court will issue the order to bring the case for consideration, the order designating the court panel to judge, the order designating a translator (In a case where there is not a translator) as well as determines date, time, and place, prepares to issue summons and invitations to the parties involved In a case that is proceeding to participate in the court meeting room fully as follows:

#### **- Issuance of order to bring the case for consideration**

When found that the indictment of the Director of Vientiane Capital Office of People's Prosecutor, Objections of Central Region People's Court or request for appeal is complete, the president of Central Region People's Court will issue the order to bring the case for consideration to ensure that case consideration is legal.

#### **- Designation of court panel, translator**

After the issuance of the order to bring the case for consideration, the president of Central Region People's Court must designate the court panel to consider the case in the court meeting room. In a case where it is found that there is not a translator, a translator must be designated.

#### **- Issuance of order to bring the fugitive to court**

After determining date, time and place of the consideration, the president of Central Region People's Court will issue the order for the prison warrants to bring the fugitive to court.

#### **- Determination of date, time, place; issuance of summons, invitations**

The judge in charge will determine the date, time and place then hand over to the court clerk to issue the summons, invitations for the participants of the case consideration to participate in the court meeting room on extradition fully.

The court panel of the extradition case consideration consists of three judges and one court clerk. The rights and obligations of the court panel are to comply with the law on criminal procedure version 2017.

After the court clerk has issued the summons, invitations, and notices, the court clerk must monitor whether each party has received them. On the day, before entering the judge's bench, the court clerk must check and liaise on more details regarding the sent summons, invitation and notices, then report to the president of the court panel that will attend the meeting that day; if there is a request for suspension, postponement or other issues, the court clerk must also report to the head of the court panel to consider the mentioned issues whether it is reasonable or not, and to inform the applicant.

### **3.6 Court Trial**

#### **3.6.1 Regulations on Court Trial**

After announcing the opening of the court meeting room, the chairman of the court panel must announce the list of names of the court panel, prosecutor, court clerk, the case that will be brought for consideration, right to object to the court panel or member of the court panel, prosecutor, court clerk, expert and translator to the participants for the proceedings.

If there is an objection to the judge, which is one or all of the members of the court panel, chairman of the court panel must close the court meeting room temporary to consider and agree on the issue according to the law on criminal procedure version 2017. After that, the chairman of the court panel asks for the biography of the defendant, notifies the indictment of the prosecutor regarding extradition of the person, then the court panel will hear the testimony of the witnesses and other participants respectively.

At the court meeting room, the court panel and participating prosecutor have the right to ask the participants additional questions with the permission of the chairman of the court panel.

#### **3.6.2 Evidence Presentation at Court meeting room**

The court panel brings the evidence to present at the court meeting room then open to the plaintiff, fugitive or lawyers to argue under the supervision of the chairman of the court panel.

**Prosecutor** is responsible for bringing evidence, articles of the treaty, articles of relevant law, passport, ID card, photographs, testimonies, documents or other evidence to present to court to verify:

- Uniqueness, identity of the fugitive;
- Requirements of extradition;
- No grounds of refusal as determined by the treaty and law on extradition.

**A wanted person, lawyer** are responsible for bringing evidence to present to court to verify:

- that s/he is not the wanted person according to the request by clarifying the true uniqueness, identity;
- the requirements of extradition are not met;
- there are grounds of refusal as determined by the treaty and law on extradition.

When the argument is ended, the chairman of the court panel suggests the prosecutor to present the statement, then will allow the defendant or his/her lawyer to have comments as

the last person, then the chairman of the court panel will close the argument and announce a temporary closure to consider the case in a secret meeting room.

During the court trial, if there is a need to change the court panel, a retrial must proceed as determined in the law on criminal procedure.

### **3.6.3 Judgment**

Judgment must be based on the relevant treaties and law on the basis of accuracy of the evidence presented to court as determined in the law on extradition and law on criminal procedure.

Judgment must be done thoroughly, comprehensively, completely and objectively based on the evidence and result of the court trial mainly to enable the correct and fair judgment. In making a judgment, a majority vote must be held by having the least qualified member of the court panel to comment and vote first where the chairman of the court panel will be the last to comment and vote, any person not agreeing with the majority vote can express their comment in writing in the case file for the higher level court to consider in the case of appeals or objections.

**In a case where the court found that there is a reason** for extradition, the court will decide to extradite the fugitive and once the decision is legally binding, the delivery of the fugitive to be extradited can proceed within thirty days from the date the decision is read.

**In a case where the court found that there is not a reason for extradition** as treaty and law have determined or there is not enough information to verify whether a person being indicted and brought before court is a wanted person, the court will decide not to extradite the person<sup>65</sup>.

### **3.6.4 Judgment Announcement**

After considering and deciding in the secret meeting room, the chairman and members of the court panel bring the judgment to announce at the court meeting room, if the judgment cannot be announced that day, it can be postponed to another day but no later than 7 days.

### **3.6.5 Drafting of Judgment**

Court judgment is the court agreement that explains the legal position, cause and effect on the requirements of extradition of Central Region People's Court on the basis of the evidence presented to court by the Director of Central Region Office of People's Prosecutor and defendant for the court to consider, meaning that the judgment must explain, rule on the requirements, grounds of refusal of extradition or of extradition with conditions without going in depth to analyze the offense and must be in writing and signed by the chairmen of the court panel.

The judgment includes Introduction, Case Contents, Rulings and Judgment part.

## **4. Result of the Judgment**

The judgment that the Central Region People's Court agrees to is a final agreement. Meaning that the judgment that the Central Region People's Court had agreed to will not have any reason to abolish it and is effective from the date the judgment is announced.

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<sup>65</sup> Article 19 Law on Extradition.



In the case where it has been judged not to extradite the fugitive, the wanted person is to be discharged immediately<sup>66</sup>.

The immediate discharge is a release of the fugitive without any delay, not any obstructions, procedures in between, regardless of any reason, meaning after there is a judgment not to extradite a fugitive to the foreign state according to the request for extradition, the release process will be approached according to the regulations on detention by bringing the person back to the detention facility for instruction, making records, filling out the necessary release documents and releasing the person.

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<sup>66</sup> Article 21 paragraph 4 Law on Extradition.

**Form Template:** Judgment



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region People's Court  
Criminal Court Panel  
Appeal Level

No...../AP. J.  
Vientiane Capital, Date:.....

**Judgment**

Criminal court panel of Central Region People's Court consists of:

Mr./Ms. .... Chairman;  
Mr./Ms. .... Member;  
Mr./Ms. .... Member;

Seated with Mr./Ms. .... Court clerk.

In the presence of Mr./Ms..... Representative of Vientiane Capital Office of People's Prosecutor.

Has opened the court meeting room at.... hour of date....month.....year....., at the court meeting room of Central Region People's Court to consider the extradition case No....., date.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No....., Issue date ....., Expire date ....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:....., House No....., District: Chanthabouly, Vientiane Capital  
..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

**Court**

In the name of Lao People's Democratic Republic

Based on the roles, rights and duties of the people's court according to Law on People's Court Amended Version 2017;

Has notified the name and surname of the court panel, court clerk, Director of Central Region Office of People's Prosecutor to the defendant;

Has notified the rights to objections to the court panel, court clerk or one of the members of the court panel to the defendant;

Has notified the right to fight the case to the defendant;

Has listened to the statement of the Director of Central Region Office of People's Prosecutor;

Has listened to final comments of the defendant.

### **Case Contents**

See the indictment of Vientiane Capital Office of People's Prosecutor No....., dated 1/1/2018 and statement of Vientiane Capital Office of People's Prosecutor No....., dated 1/1/2018 stated that the Lao PDR received the request from the Kingdom of Thailand on 1 December 2017 through the Ministry of Foreign Affairs of the Lao PDR, requesting the Lao PDR to extradite Mr. A, Age 23, Nationality Thai for proceedings in the Kingdom of Thailand for the murder of Ms. C according to Article 288 of Penal Code of the Kingdom of Thailand. Currently, Mr. A is married to Ms. D, lives in Village Phontongsavath, Unit..., District Chanthabouly, Vientiane Capital. After the Office of Supreme People's Prosecutor received the request from the Ministry of Foreign Affairs on the 15<sup>th</sup> January 2018, the Vientiane Capital Office of People's Prosecutor was assigned to issue the arrest warrant and the person was arrested on the 25<sup>th</sup> January 2018 and the testimony was taken as per the regulations. Presently, the person is detained in Phontong prison camp. After the arrest, Vientiane Capital Office of People's Prosecutor proceeded with the indictment by giving the reason that the extradition of Mr. A for proceedings according to the request of the Kingdom of Thailand met the requirements of no grounds of refusal of extradition, therefore they propose the court to consider according to the treaty and law.

See the testimony of Mr. A, the defendant, dated 30/2/2018 claimed that he is not the person the Kingdom of Thailand is requesting and the indictment of the Vientiane Capital Office of People's Prosecutor to extradite him for proceedings in Thailand has no reason due to he did not commit the offence, extradition requirements are not met, lack of prosecution limitation, therefore he proposes the court to consider.

### **Case outline**

See the decision of Vientiane Capital People's Court No.1/PL.J., dated 1/1/2015 stated that the indictment of Vientiane Capital Office of People's Prosecution (Plaintiff) has enough reasons; to extradite Mr. A for proceedings for murder charge according to Article 288 of Penal Code of the Kingdom of Thailand as requesting.

See the request for appeal of Mr. A (Defendant) dated 30/2/2018, giving the reason that he is not the person the Kingdom of Thailand is requesting and the indictment Vientiane Capital Office of People's Prosecution to extradite him for proceedings in Thailand has no reason due to he did not commit the offence, extradition requirements are not met, lack of limitation of prosecution, therefore he proposes the court to consider.

See the statement of Director of Central Region Office of People's Prosecutor No...., dated....., stated that the request for appeal of Mr. A, the fugitive, dated 30/2/2018 does not

have enough reason. The decision of the Primary Level, Vientiane Capital People's Court No....., dated..... is correct.

### **Rulings**

Through the examination and research of evidence information and documents included in the case file as well as the result of the court trial

Found that the request for appeal of Mr. A, the fugitive, dated 30/2/2018 complies with the period of time determined by law, the court therefore accepts the request for consideration.

Found that the Lao PDR received the request from the Kingdom of Thailand on the 1<sup>st</sup> December 2017 through the Ministry of Foreign Affairs of the Lao PDR, requesting the Lao PDR to extradite Mr. A, age 23, nationality Thai to proceed with a case against this person in the Kingdom of Thailand for the murder of Ms. C according to Article 288 of Penal Code of the Kingdom of Thailand. Currently, Mr. A is married to Ms. D, lives in Village Phontongsavath, Unit..., District Chanthabouly, Vientiane Capital. After the Office of Supreme People's Prosecutor received the request from the Ministry of Foreign Affairs on the 15<sup>th</sup> January 2018, the Vientiane Capital Office of People's Prosecutor was assigned to issue the arrest warrant and the person was arrested on the 25<sup>th</sup> January 2018 and the testimony was taken. Presently, the person is detained in Phontong prison camp.

Found that Mr. A is truly a wanted person according to the request of the Kingdom of Thailand based on the passport No..., Issue date..., Expire date..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, the testimony of the person according to the testimony record dated 28 January 2018 conducted by Vientiane Capital public security headquarter, marriage certificate between Mr. A and Ms. D No....., dated.....

Found that the murder of Ms. C is an extraditable offence according to Article 2 item 1 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, 1999 whereby determined that: *"In this treaty the extraditable offenses are offenses under the law of the Parties punishable by imprisonment or detention in other form for a period of more than one year or by a more severe punishment"*. The murder of Ms. C is an offence that the criminal law of the Kingdom of Thailand indicates in Article 288 punishable by imprisonment from fifteen years to death penalty and that offence is an offence the Penal Code of the Lao PDR determines in Article 188 punishable by imprisonment from ten years to death penalty.

Found that the murder of Ms. C by Mr. A is an offence that cannot refuse the request for extradition of the Kingdom of Thailand due to such offence not being a political, military offence or the offence affecting human rights or humanity.

Found that the Lao PDR has no jurisdiction to proceed with the case against such offence or is proceeding with the case against Mr. A in any way and the person is not a Lao citizen, additionally the limitation of indictment of that offense has not been expired yet as determined in Article 95 of Penal Code of the Kingdom of Thailand.

Found that the request for appeal of Mr. A (Defendant) does not have enough reason;

Found that the statement of the Director of Central Region Office of People's Prosecutor has reasons.

See Article 2, 3, 4, 5 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand

See Article 7, 8, 9, 10, 11, 17, 18, 20 of Law on Extradition.

See Article 188 of Penal Code of the Lao PDR;

See Article 139, 141, 270, 271, 272, 273 of Law on Criminal Procedure.

**For this reason**

Criminal court panel of Central Region People's Court hereby judge in the presence of the plaintiff, defendant and relevant organizations.

**According to case outline:** accept the request for appeal of Mr. A, fugitive, dated..... for consideration.

**According to case contents:** state that the request for appeal of Mr. A, Defendant, No..... does not have reasons.

**Judge:** Endorse in accordance with the decision of Vientiane Capital People's Court No....., dated.....

The judgment of Central Region People's Court is a final agreement and is effective from today on wards.

**Chairman of Court Panel**  
**Signature and Seal**

**Court Clerk**

**Form Template:** Order to bring the indictment for consideration (Example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region People's Court

No.....

Date:.....

**Order**

**To bring the indictment for consideration**

- Pursuant to Article 167 of Law on Criminal Procedure Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to the Indictment of Vientiane Capital Office of People's Prosecutor No...., dated.....;
- Pursuant to the research of the criminal court panel

To ensure the extradition case carries out correctly according to the treaty and law on extradition

**The President of Central Region People's Court orders**

**Article 1** Bringing the extradition case No...../PL.J, dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No...., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital ..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.  
for consideration.

**Article 2** The criminal court panel to determine date, time, place of court meeting room, relevant individuals and organizations to participate in the court meeting room appropriately.

**Article 3** This order is effective the date it is signed.

**President of the Central Region People's Court**

*Person acknowledged the order,  
date..... month September year 2018*

*(signature and name)*

**Form Template:** Decision on Designation of Judges and Court Clerk for Consideration of Extradition



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region People's Court

No.....

Date:.....

**Decision on Designation**

Of Judges and Court Clerk for the Consideration of Extradition

- Pursuant to Article 167 of Law on Criminal Procedure Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to Objections of Central Region Office of People's Prosecutor No..., dated...;
- Pursuant to Case File No...../PL.J, dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , ..... Defendant.

Charged with: Being a Fugitive.

**President of Central Region People's Court decides**

**Article 1** Designating the judges and court clerk for the consideration of extradition case at the court meeting room on the 30<sup>th</sup> September 2018, in which consist of the following names:

5. Mr./Ms. .... Chairman;
6. Mr./Ms. .... Member;
7. Mr./Ms. .... Member;
8. Mr./Ms. .... Court Clerk.

**Article 2** The persons with names listed above to coordinate with criminal court panel, relevant individuals and organization to determine time, date and place appropriately.

**Article 3** This decision is effective the date it is signed.

**President of the Central Region People's Court**



**Form Template:** Order to bring the fugitive to court



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region People's Court  
Criminal Court Panel

No.....

Date:.....

**Order**

**To bring the fugitive to court**

**To: Director of Detention and Correction Department, Ministry of Public Security**

**Re: Bring the fugitive to court**

- Pursuant to Article 66 and 175 of Law on Criminal Procedure Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to Objections of Central Region Office of People's Prosecutor No..., dated...;
- Pursuant to case file No....., dated.....

**Between**

Director of Vientiane Capital Office of People's  
Prosecutor.....Plaintiff;

Mr. A, .....Defendant.

**Criminal Court Panel of Central Region People's Court orders**

**Article 1** The responsible team of Phontong prison to bring the defendant to court at (time) ..... on (date) ..... at the meeting room of the central region people's court according to the following list of names:

1. Mr. A, age 23, Nationality Thai, Occupation Laborer, Passport No....., Issue date ....., Expire date ....., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, , currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital, Defendant

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

**Article 2** This order is effective from the date it is signed.

**Director of Criminal Court Panel**

*Person acknowledged the order,  
date..... month September year 2018*

*(signature and name)*

**Form Template:** Invitation



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region People's Court  
Criminal Court Panel  
Court Clerk

No.....  
Date:.....

**Invitation**

**To: Director of Central Region Office of People's Prosecutor**

- Pursuant to Article 44 of Law on People's Court Amended Version 2017;
- Pursuant to Article 167 of Law on Criminal Procedure Amended Version 2017
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to Objections of Central Region Office of People's Prosecutor No..., dated....;

Criminal Court Panel of Central Regional People's Court agrees to open the court meeting room at 8:30 o'clock on the 30<sup>th</sup> September 2018 at the court meeting room of Central Region People's Court to consider the extradition case No...../PL.J, dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No...., Issue date ...., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No...., District: Chanthabouly, Vientiane Capital ..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

You are hereby invited to participate in the court meeting room according to the date, time and place above.

**Court Clerk**

*Person acknowledged the order,  
date..... month September year 2018  
(signature and name)*

**Form Template:** Invitation



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Central Region People's Court

Criminal Court Panel

Court Clerk

No.....

Date:.....

**Invitation**

**To: Ambassador of the Kingdom of Thailand in the Lao PDR**

- Pursuant to Article 44 of Law on People's Court Amended Version 2017;
- Pursuant to Article 18 paragraph 1 of Law on Extradition;
- Pursuant to Objections of Central Region Office of People's Prosecutor No..., dated....;

Criminal Court Panel of Central Region People's Court agrees to open the court meeting room at (time) ..... on (date) ..... at the court meeting room of Central Region People's Court to consider the extradition case No...../PL.J, dated.....

**Between**

The Director of Vientiane Capital Office of People's Prosecutor ..... Plaintiff;  
Mr. A , age 23 , Nationality: Thai , Occupation: Laborer , Passport No..., Issue date ....., Expire date ..., Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, currently lives in village: Phontongsavath, Unit:..., House No..., District: Chanthabouly, Vientiane Capital ..... Defendant;

Ms. E , age 30 year, Nationality: Lao , Occupation: Lawyer , currently lives in village: Thongsangnang, Unit 2 , House No..., District: Chanthabouly , Vientiane Capital.....Lawyer.

- Charged with: being a fugitive
- Arrested: 1<sup>st</sup> February 2018.
- Place of Detention: Phontong Prison Camp.

You are hereby invited to participate in the court meeting room according to the date, time and place above.

**Court Clerk**

*Person acknowledged the order,  
date..... month September year 2018  
(signature and name)*

## **Chapter 8**

### **Surrender of Fugitive**

After the decision or judgment is legally binding, the Office of Supreme People's Prosecutor as a central coordinating organization must propose to the Ministry of Foreign Affairs or coordinates directly with a central coordinating organization of the Requesting State to prepare and proceed to surrender the wanted person to the Requesting State within 30 days or within the period specified in the treaty on extradition from the date the decision or judgment is read.

#### **1. Preparation of Surrender**

##### **1.1 Agreement on Surrender**

The Ministry of Foreign Affairs must agree with the Requesting State on the surrender preparation as follows:

- Fugitive;
- Participants in the surrender;
- Date, time, place of the surrender;
- Surrender memorandum and other matters.

##### **1.2 Participants**

###### **The Lao PDR's part:**

- Office of Supreme People's Prosecutor;
- Ministry of Public Security;
- Ministry of Foreign Affairs;
- Ministry of Justice.

###### **Requesting State:**

- Relevant organizations of the Requesting State;
- Embassy of the Requesting State in the Lao PDR.

##### **1.3 Place of the Surrender**

Place of the surrender is the international airport or checkpoint of the Lao PDR or other places as agreed.

##### **1.4 Surrender documents**

The Office of Supreme People's Prosecutor must prepare the surrender memorandum where there is a discussion and agreement regarding the contents of the documents.

Surrender memorandum must be in writing which determines 1) references such as treaty on extradition and decision of Vientiane Capital People's Court, judgment of Central Region People's Court; 2) objective and target of the surrender along with detail information (fugitive and properties that are evidence); 3) handing over party, taking party; 4) date, time, place of the surrender; 5) health (with health certificate).

#### **2. Handing Over-Taking Formality**

The surrender formality is organized to be consistent with the protocol of the Lao PDR and internationally where there are flags of both countries and signing of the surrender memorandum. The surrender formality consists of the following procedures:

- Welcoming expression by delegates of both sides;
- Introduction of objective and delegates of both sides;

- Introduction in regard to the request process in brief;
- Expression of gratitude of the Requesting State for the result of the request process;
- Formal conclusion and blessings of the Lao PDR's delegates;
- Signing of the memorandum and handing over of the fugitive.

### **3. Not Taking the Fugitive**

The Requesting State must take the fugitive within the agreed period. In the case where the Requesting State does not take the fugitive without a reason within the period agreed or as specified in the treaty and later on requesting for the extradition of the person for the same offense, the extradition is to be refused. In this case, the competent authority of the Lao PDR must discharge the wanted person immediately after the period indicated ends.

If the Requesting State cannot take or the Lao PDR cannot hand over the wanted person within the specified period due to a reason beyond the control of the Requesting State or of the Lao PDR such as natural disaster, the Lao PDR or the Requesting State must notify each other immediately to agree on the date, time, place and other issues relating to extradition.

### **4. Postponement of Surrender**

When a wanted person is being proceeded with (before the court) or is continuing a punishment in the Lao PDR for the offence that is not the offence indicated in the request for extradition, the Lao PDR may postpone the delivery of the person until any proceedings ends or a punishment has been executed partially or all according to the decision or judgment that is legally binding. The Ministry of Foreign Affairs must notify the Requesting State regarding such postponement.

If it is found that the postponement may cause the limitation of prosecution to end or may be an obstacle for the investigation-interrogation of the Requesting State on the extraditable offence, the Lao PDR may extradite the wanted person temporarily to the Requesting State and the Requesting State must send that wanted person back according to the period and conditions that both Parties have agreed on.

### **5. Expenses**

Expenses of extraditing a fugitive from the territory of The Lao PDR to the Requesting State namely expenses of confiscation, seizure, delivery of property and arrest, expenses of transit through the territory of the Lao PDR and document translation are borne by the Requesting State. In the case where a treaty on extradition has determined the expenses in processing the extradition as something else, it is to be implemented according to that treaty.

Expenses of compliance with the request for extradition of the Lao PDR are borne by the Lao PDR. Transportation expenses and transit expenses associate with transporting or taking of extradited person are borne by the requesting Party.

### **6. Notification of Proceedings Result**

The Requesting State must notify the Lao PDR promptly regarding proceedings or enforcement of court a decision towards the wanted person that has been surrendered according to the request or regarding the transfer of the wanted person to a third state.



**Form Template:** Surrender of Fugitive Memorandum

**Surrender of Fugitive Memorandum**

- Pursuant to Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, 1998;
- Pursuant to Request for Extradition of Thailand, No...../SP, dated 9/9/2016;
- Pursuant to Decision of Vientiane Capital People's Court, No....., dated..... or Judgment of Central Region People's Court, No....., dated.....

At (time)..... of (date)..... at Wattay International Airport, Vientiane Capital, The Lao PDR, there has been a Formality of Handing over-Taking of the fugitive Mr. A, age 23, Nationality Thai for proceedings for murder according to Article 288 of Penal Code of the Kingdom of Thailand with the participation of the delegates of the Lao PDR and the Kingdom of Thailand, the details are as follows:

**A. Participants**

**1. The Lao PDR's Delegates**

- Director General or Deputy Dir. Gen. of Department of Planning and Foreign Cooperation, Office of Supreme People's Prosecutor;
- Director General or Representative of Department of International Police, General Police Department, Ministry of Public Security;
- Director General or Representative of Department of Treaties and Law, Ministry of Foreign Affairs/Consular Department, Ministry of Foreign Affairs;
- Director General or Representative of Department of Planning and Foreign Cooperation, Ministry of Justice.

**2. The Kingdom of Thailand's Delegates**

- Director General or Representative, Department of International Prosecutor, Office of Supreme Prosecutor, the Kingdom of Thailand;
- Representative of National Police Agency, the Kingdom of Thailand;
- Representative of Relevant Organization;
- Representative of Embassy of the Kingdom of Thailand in the Lao PDR.

**B. Fugitive**

Mr. A, age 23, Nationality Thai, Passport No.....9, Issued by Ministry of Foreign Affairs of the Kingdom of Thailand, issue date 9/9/2011, expire date 9/9/2020, Occupation Laborer, Currently, lives in village Phontongsavath, Unit....., House No....., District Chanthabouly, Vientiane Capital.

**C. Date, Time, Place of Surrender**

- Time: 19.00 o'clock
- Date: 19/9/2019
- Place: Wattay International Airport

**D. Health of the Fugitive**



The health of Mr. A is good according to the health certificate of Mahosot Hospital, No....., dated.....

Both Parties read and agreed then together signed.

The Lao PDR's Head of Delegates                      The Kingdom of Thailand's Head of Delegates

Enclosed Documents:

- Decision, Judgment
- Taking a person out of detention camp record
- Certificate on punishment enforcement
- Health Certificate

**Form Template:** Order to bring the fugitive for surrender



**Lao People's Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

Office of Supreme People's Prosecutor

No.....

Date.....

## **Order**

**to bring the fugitive for surrender**

**To: Director of Department of Detention Camps, Ministry of Public Security**

**Re: Bringing the fugitive for surrender**

- Pursuant to Article 33 item 9 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 22 of Law on Extradition;
- Pursuant to Decision of Court.....

### **Office of Supreme People's Prosecutor orders**

**Article 1** The responsible team of Phontong prison to bring the fugitive for surrender at 8:30 o'clock on 30 September 2018 at Wattay International Airport according to the following list of names:

Mr. A, age 23, Nationality Thai, Occupation Laborer, live in Udon, Unit..., House No..., District Udon, Province Udon, Thailand, Currently lives in village Phonhong, District Phonhong, Province Vientiane.....  
Fugitive.

**Article 2** To make a record on taking the fugitive out of the detention camp.

**Article 3** This order is effective from the date it is signed.

**Director of Office of Supreme People's Prosecutor**

*Person acknowledged the order,*

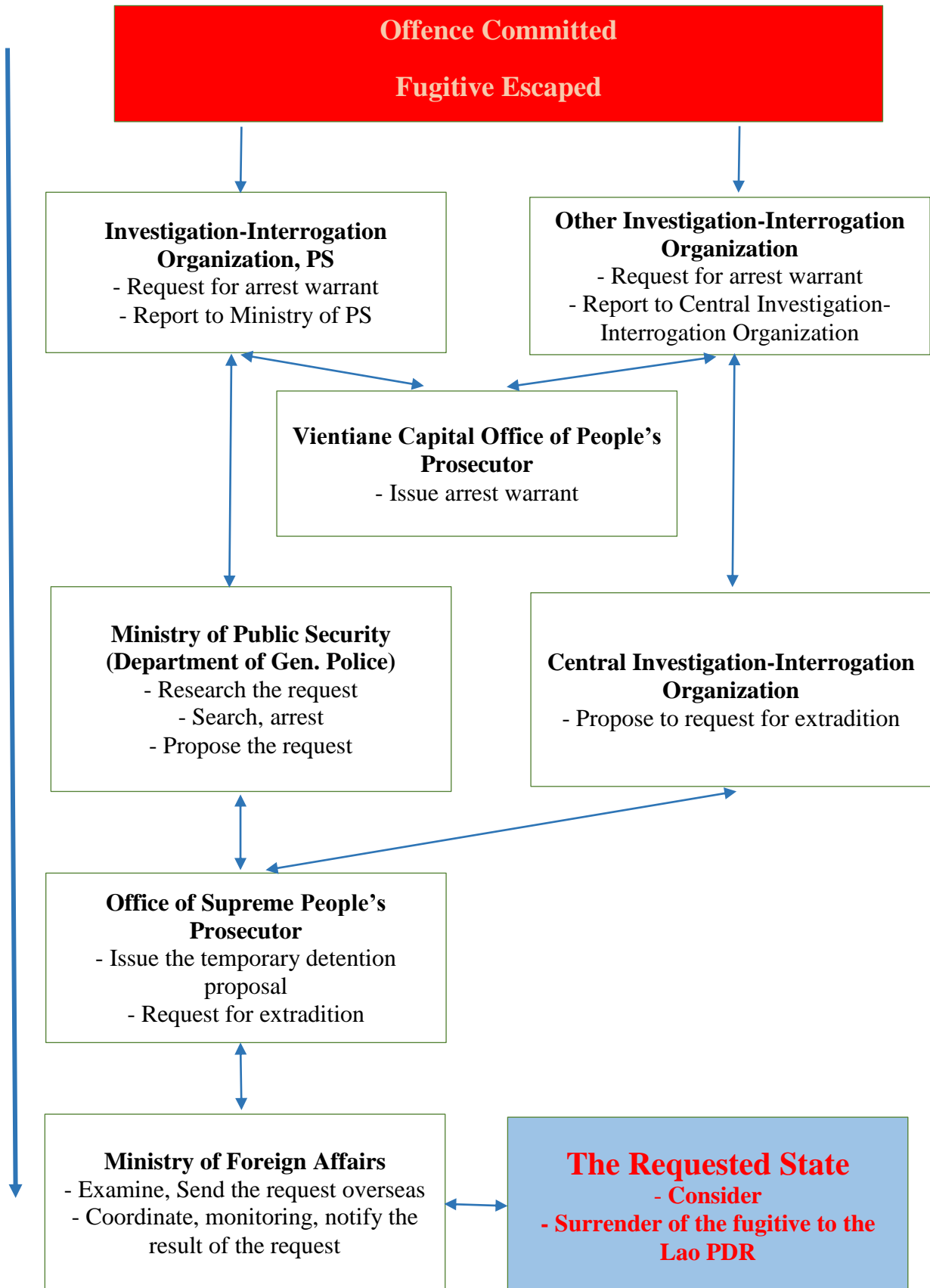
*date..... month September year 2018*

*(signature and name)*

**Part III**  
**Requesting the Foreign State for Extradition**

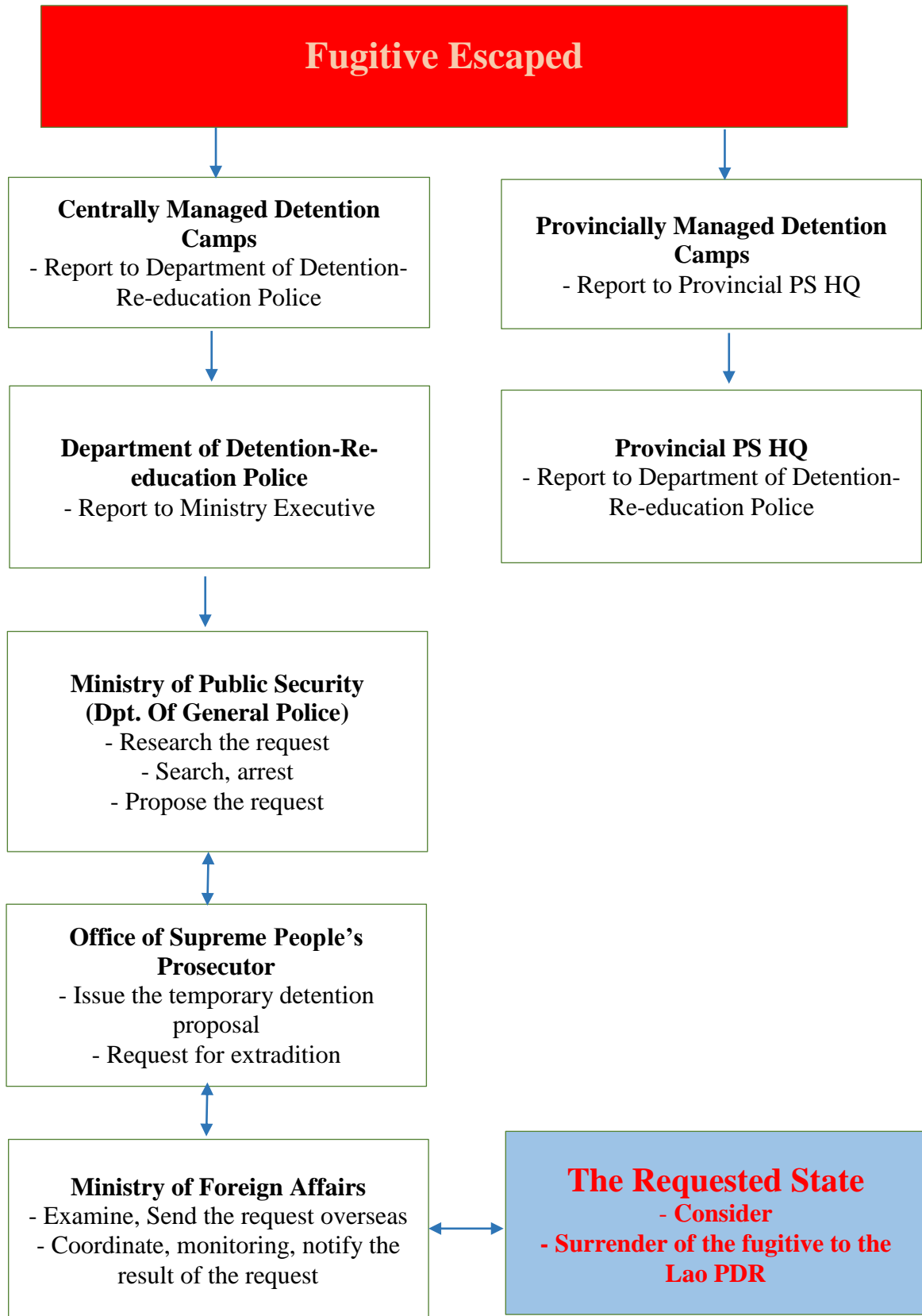
## Diagram

The requests of the Lao PDR to the foreign state for extradition (of suspect, defendant)



## Diagram

The requests to the foreign state for extradition (of convict)<sup>67</sup>



<sup>67</sup> Introduce in Chapter 5 of this Part.

## **Chapter 1**

### **The Consideration of the Investigation-Interrogation Organizations**

#### **1. Investigation-Interrogation of Offences**

After the event of an offence, the investigation-interrogation organizations must conduct the investigation-interrogation urgently by using principles, methods, measures determined in law on criminal procedure to bring the offender to justice according to law.

The investigation-interrogation organizations<sup>68</sup> in the Lao PDR consist of the following:

- Police Investigation-Interrogation Organization;
- Military Investigation-Interrogation Organization;
- Customs, Tax Investigation-Interrogation Organization;
- Forestry Investigation-Interrogation Organization;
- Anti-Corruption Investigation-Interrogation Organization;
- Investigation-Interrogation Organization of other parties determined in the law.

In the case where it is known that the offender has escaped from the proceedings, the investigation-interrogation organizations must report to the higher authority and prepare the evidence information for the extradition urgently such as: information indicating the uniqueness of the fugitive, requirements of extradition, special extradition case as determined in the treaty, address of the fugitive overseas, according to the actual conditions or through the direction of the executive management.

#### **2. Collection of Information, Address, Photograph of Fugitive<sup>69</sup>**

Once clearly known that the offender has escaped overseas, the investigation-interrogation organizations must collect the information by themselves, through their executive management or other channels regarding address or resident, photograph of the offender overseas urgently, to ensure the proceedings against the person is accomplished and as a basis for the request for extradition to the Requested State. When the information is complete and clear, it is useful for the Requested State in learning the position and location of a wanted person as locating any person's position in any state could be a process that uses large amount of time and budget.

##### **2.1 Information Indicating, Verifying the Identity of a Fugitive in the Lao PDR**

The information indicating, verifying the fugitive in the Lao PDR consists of household registration book, passport, travel document and photographs, mark-appearance, special physical points and other information regarding the identity of the fugitive. The information on the offender's real name and nick names.

##### **2.2 Information Indicating, Verifying the Identity of a Fugitive Overseas**

The information indicating, verifying the fugitive overseas consists of: whether the offender has changed the name, has new household registration book, passport, travel document, photographs of the person overseas and etc.

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<sup>68</sup> Article 46, Law on Criminal Procedure.

<sup>69</sup> UNODC Mutual for Mutual Legal Assistance and Extradition, page 62-63.

### **2.3 Information on Address Overseas**

The information on an address overseas consists of the resident or refuge of a fugitive such as hotels, guesthouses, restaurants and other accommodations.

### **2.4 Information Collection Method**

The information collection can be carried out through the following official and unofficial channels:

#### **Information collection through unofficial channels**

- **Relatives of the damaged persons** or victims from the offence, civil damaged persons or other persons can provide the information regarding the fugitive in the country or overseas.
- Informal inquiry for assistance through the contact of staff, International Police Department, Ministry of Public Security through the International Police channel (INTERPOL) by Red Notification or Blue Notification if conditions are met.

#### **Information collection through official channels**

- **Requesting for cooperation in criminal matters** according to a treaty on justice cooperation in criminal matters that the Lao PDR is a Party to.
- **Requesting for cooperation in criminal matters with countries that The Lao PDR does not have a treaty** on justice cooperation in criminal matters **with** the foreign countries voluntarily.

The collection of information, address, photographs of the fugitive, shall be provided to the Requested State as much as possible, by using all efforts, measures to assure that the fugitive is truly in the territory of the Requested State before formulating an official request for extradition.

The investigation-interrogation organizations of the Lao PDR must try to collect various information including the information on position, location of the fugitive overseas as quickly as possible. Once certainly located the position, location of the fugitive must be reported to their executive urgently to prepare the request for extradition.

### **3. Request for an Arrest Warrant of a Fugitive**

Once clearly known that the offender has escaped overseas the investigation-interrogation organizations must request for an arrest warrant from Vientiane Capital Office of People's Prosecutor as a basis for the request for extradition according to regulations<sup>70</sup>.

### **4. Summary of Case File**

Criminal proceedings in the investigative-interrogative phase is a phase within the responsibility of the investigation-interrogation organizations, which is a phase of finding the offense and bringing the real offender to justice according to law that will begin by issuing the investigation-interrogation opening order, conducting investigation-interrogation by using the investigative-interrogative method and preventative measures as determined in the law. The investigation-interrogation will end when director of the investigation-interrogation organization or officer of investigation-interrogation organization, director of office of prosecutor or staff of office of prosecutor complete the investigation, then the summary of case file must be formulated along with the result of the investigation-interrogation to send to

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<sup>70</sup> Article 31 paragraph 1 Law on Extradition.

the office of prosecutor. The summary of the result of the investigation-interrogation is comprised of the following contents<sup>71</sup>:

- Event of the offence;
- Evidence certifying the offence;
- Comments regarding the investigation-interrogation;
- Preventative measures previously practiced;
- Seized property in the case and application of seizure and confiscation measures to ensure the enforcement of the court decision;
- Reason and basis of the prosecution including the proposal on case resolution.

**In principle**, after the investigation-interrogation is completed, the investigation-interrogation organizations must summarize the case file then send it to the office of people's prosecutor to prosecute the offender for a court to judge according to law. However, concerning the request for extradition, when it is clearly known that the offender has escaped overseas, the investigation-interrogation organizations must request for an arrest warrant from Vientiane Capital Office of People's Prosecutor, summarize the case file as a basis for the research on, and request for extradition in the next stage.

Therefore, the investigation-interrogation organizations must summarize the initial case file to prepare for the request for extradition.

### **5. Request for Extradition**

When collected, the information regarding the offence that is able to verify the offence and offender completely and clearly such as information on identity, address of the fugitive overseas, requirements, grounds for refusal of extradition according to the treaty that the Lao PDR is a Party, penal code of the Lao PDR and of the foreign state as well as the law on extradition, the investigation-interrogation organizations must report regarding extradition to their executive management or central coordinating organization on extradition for consideration.

The Vientiane Capital and provincial police investigation-interrogation organizations are to report to and request for direction from the executive of the Ministry of Public Security through Department of General Police, Ministry of Public Security.

Customs, forestry and other provincial investigation-interrogation organizations are to report to and request for direction from Central investigation-interrogation organizations to agree and propose the request for extradition to the Office of Supreme People's Prosecutor for consideration.

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<sup>71</sup> Handbook on Criminal Procedure in the Lao PDR, 1<sup>st</sup> Edition, 2014, page 114.



**Form Template:** Report of the Vientiane Capital, Provincial Public Security Headquarter



**Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity**

Vientiane Capital Public Security Headquarter

No.....

Vientiane Capital, Date:.....

**Report**

**To:** Director of General Police Department, Ministry of Public Security, respectfully

**Re:** Report on the Result of Ms. D's procedural murder case

- Pursuant to Penal Code;
- Pursuant to Law on Criminal Procedure;
- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Actual Case Proceedings

Vientiane Capital Public Security Headquarter (Vientiane Capital PSH) is honored to report the result of the procedural murder case of Ms. D, a person of Dongpalaep Village, Chanthabouly District, Vientiane Capital, the details are as follows:

**1. Event Section**

At 19:30 O'clock on 10/1/2005 Chanthabouly PSH had been notified of the murder of a person in Dongpalaep Village Chanthabouly District, Vientiane Capital, subsequently the interrogator was designated along with the forensic staff, Department of Forensic, Ministry of Public Security to inspect the location of the incident and found that the deceased was Ms. D, age 33, Occupation Garment Worker, Dongpalaep Village Chanthabouly District, Vientiane Capital.

Through the inquiry of a person in the room next door named Ms. A, stated that she lived in the room next to Ms. D's and knew that Ms. D's place of birth was Chaeng Village, Phonhong District, Vientiane Province, that she was single, but had two boyfriends that had been coming and going, one of them named Mr. E, Phonpapao Village, Sisattanak District, Vientiane Capital; and the other one named Mr. G, a person of Savang Village, Chanthabouly District, Vientiane Capital. Before the incident, she was having dinner with her husband Mr. O and heard the noise of Ms. D arguing with a man, but didn't pay any attention, because such event always happened. After that the noise quieted down, she and Mr. O walked out to have a look and saw Ms. D lying in blood dead in the room where there was a man running out of the room, they subsequently notified the Savang Village authority about the incident.

Through the inspection of the location of incident, the officers found a knife with blood staining, it was subsequently kept correctly according to the techniques then sent to prove the finger prints of a person using that knife, and found the finger prints of a person

that after the verification were found to match with the finger print (right thumb) of Mr. G that the interrogator of Chanthabouly District had collected in his base and the blood on the knife is of Ms. D.

Vientiane Capital PSH had issued a summons to Mr. O and Mr. E, eyewitnesses to testify where both testified that they lived next to Ms. D's room and were having dinner; suddenly they heard the argument noise between Ms. D and a man with familiar voice similar to the voice of Mr. G and then the noise had gone quiet so they went to look and saw a man wearing white shirt, black trousers similar to Mr. G running out of Ms. D's room but was not sure because it happened very fast and the light is not very bright.

Chanthabouly PSH therefore reported to Vientiane Capital PSH to open the investigation-interrogation, proposed to issue the warrant to arrest Mr. G to Vientiane Capital Office of People's Prosecutor for the murder of Ms. D according to Article 88 of Criminal Law Amended Version 2005.

Through the arrest and could not find Mr. G, subsequently the information was collected to search for the person's address where the inquiry was made of the information on immigration and invited Mr. T, a guardian of Mr. G to testify to the officers then they knew that the person had escaped from the Lao PDR on 15/1/2005 to A Village, Khongjiem District, Ubonratchathani Province, Thailand.

Vientiane Capital PSH had proposed to Department of General Police to collect the immigration information of Mr. G to find the person departed through Lao-Thai Friendship Bridge by Vego truck, silver color, register plate AA...., Vientiane Capital, borne passport No.. Issued by Ministry of Foreign Affairs, Expire date 1/1/2020, but did not know which country the person was in; at the same time the household registration book, ID card, photograph of Mr. G were collected, after the examination of mark, appearance of Mr. G, it is found that Mr. G had black mark on his left thigh, there was a metal rode implanted in his right leg due to broken leg from the vehicle crash accident.

## **2. Comments Section**

Through the evidence assessment such as: 1). Thumb print collected from the knife used to murder Ms. D and the blood stain on the knife that was of Ms. D; 2). Testimony of Mr. E and Mr. O that were the witnesses that heard and saw the incident of the offender escaping, found that there is strong evidence to indicate that Mr. G had used the knife to stab in Ms. D's stomach intentionally causing the person to die at the scene. Such conduct is an offence of murder (complete component of the offence) according to Article 88 of Criminal Law Amended Version 2005.

## **3. Proposal Section**

Due to Mr. G having escaped overseas such as A Village, Khongjiem District, Ubonratchathani Province, Thailand and to ensure the proceedings is accomplished we hereby propose to the Director of General Police Department, Ministry of Public Security to consider and request the Kingdom of Thailand to extradite Mr. G, a fugitive to the Lao PDR for a proceedings according to law.

Therefore, the report is for you to acknowledge and give guidance as appropriate.

Respectfully Yours,

Director of Public Security Headquarter

**Enclosed Documents:**

1. Investigation-interrogation opening order
2. Inspection of location of incident record
3. Knife and blood stain verification report
4. Witnesses' testimonies
5. Photographs of location of incident
6. Report of Immigration Police Department
7. Information regarding the identity of Mr. G
8. Household registration book
9. ID Card
10. Passport

## **Chapter 2**

### **The Consideration of Vientiane Capital Office of People's Prosecutor**

#### **1. Issuance of Arrest Warrant**

After receiving the proposal to issue the warrant to arrest the fugitive from the relevant investigation-interrogation organization, Vientiane Capital Office of People's Prosecutor must issue the arrest warrant urgently.

Fugitive arrest warrant is a specific arrest warrant as determined in Article 31 of Law on Extradition to be included in the request for extradition of the Lao PDR to the Requested State and only Vientiane Capital Office of People's Prosecutor has the authority to issue such warrant.

In the case where there is an arrest warrant, which has been issued by the relevant office of people's prosecutor or people's court, that won't make the Vientiane Capital Office of People's Prosecutor's fugitive arrest warrant is dropped due to the arrest warrant for the offender according to law on criminal procedure that the relevant office of people's prosecutor or people's court issued is the arrest warrant for offenders in the Lao PDR and does not include the arrest of the fugitive, which is a separate matter.

#### **2. Contents of Arrest Warrant**

The arrest warrant for the request for extradition contains different contents and objectives from the contents and objective of the arrest for general criminal proceedings. The arrest of the fugitive is to surrender the offender or fugitive to the Requesting State for proceedings or for the enforcement of a punishment where the decision is legally binding, without going in depth, analyzing the elements of offence of the offender or fugitive in which the person's offence overseas is only a requirement leading to his/her arrest to be sent to the Requesting State. Therefore, the contents and basis of the arrest warrant must be based on the law on extradition. However, the arrest method is to comply with the principles or general principles of law on criminal procedure.

#### **3. Delivery of Arrest Warrant**

After issuing the arrest warrant, the Director of the Vientiane Capital Office of People's Prosecutor must send the arrest warrant to the Office of Supreme People's Prosecutor or relevant organization to formulate the request for extradition as determined in Article 13 and Article 14 of law on extradition.

**Form Template:** Arrest Warrant



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Office of People's Prosecutor

No.....

Vientiane Capital, date.....

**Arrest Warrant**

- Pursuant to Article 33 item 10 of Law on Office of People's Prosecutor, Amended Version 2017;
- Pursuant to Article 31 paragraph 1 of Law on Extradition;
- Pursuant to the Proposal of Investigation-Interrogation No....., dated.....

Director of Vientiane Capital Office of People's Prosecutor has researched the case file thoroughly and found that the requirements are met therefore the warrant is issued to arrest Mr. or Ms. ...., age....., Race....., Nationality....., Occupation....., Reside in Village....., Unit....., District....., Province ....., ID Card No....., Issued by....., Passport No....., issue date....., expire date....., Issued by.....

- Charged with: .....according to Article.....of Penal Code.

Therefore, Director of Vientiane Capital Office of People's Prosecutor issues the warrant to arrest Mr. or Ms. .... as a basis for requesting the person to be proceeded with the case in the Lao PDR according to law.

This warrant is effective from the date it is signed.

Director of Office of People's Prosecutor

## **Chapter 3**

### **The Consideration of Ministry of Public Security**

#### **1. Consideration Procedures of the Ministry of Public Security**

##### **1.1 The Case Where the Overseas Address of the Fugitive Is Known**

Once clearly known that the suspect or convict (fugitive) has escaped overseas, Vientiane Capital/Provincial police investigation-interrogation organization must report such information to the Department of General Police as well as all the documents in the case file in order to assign the task to the International Police Department to research according to the treaty and law.

When found that the requirements are met, the International Police Department must report to the Department of General Police in order to report and request for direction from the executives of the Ministry of Public Security in proposing the Office of Supreme People's Prosecutor to assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant and request for extradition according to the treaty and law at the next stage.

##### **1.2 The Case Where the Overseas Address of the Fugitive Is Unknown**

In a case where it is known that the fugitive has escaped overseas but did not know the overseas address of the person clearly and it is necessary to issue the Red document (to search and arrest the fugitive) and for the foreign state to arrest and detain the fugitive temporarily when the fugitive is found and to ensure the person does not escape, the International Police Department must report to the Department of General Police urgently in order to report and request for direction from the executives of the Ministry of Public Security in proposing to the Office of Supreme People's Prosecutor to assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant and formulate the proposal for the foreign state to arrest and detain the fugitive temporarily.

Once received the proposal for the foreign state to arrest and detain the fugitive temporarily from the Office of People's Prosecutor, the International Police Department must issue the Red document to trace and search and arrest the fugitive through the International Police channel.

After being notified of the arrest of the fugitive, the Ministry of Public Security will report the result of such arrest to the Office of Supreme People's Prosecutor in order to formulate an official request for extradition to the Requested State and to take the person for proceedings or enforcement of a punishment according to law.

#### **2. Document Examination**

After receiving the request from the public security headquarter, the Ministry of Public Security with the International Police Department as a center in researching the request for extradition must examine the documents they received thoroughly whether the request can be carried out with a success based on the summary of the case file, information on uniqueness, address of the fugitive, treaty, Penal Code of the Lao PDR and of the requested countries as foundations as follows:

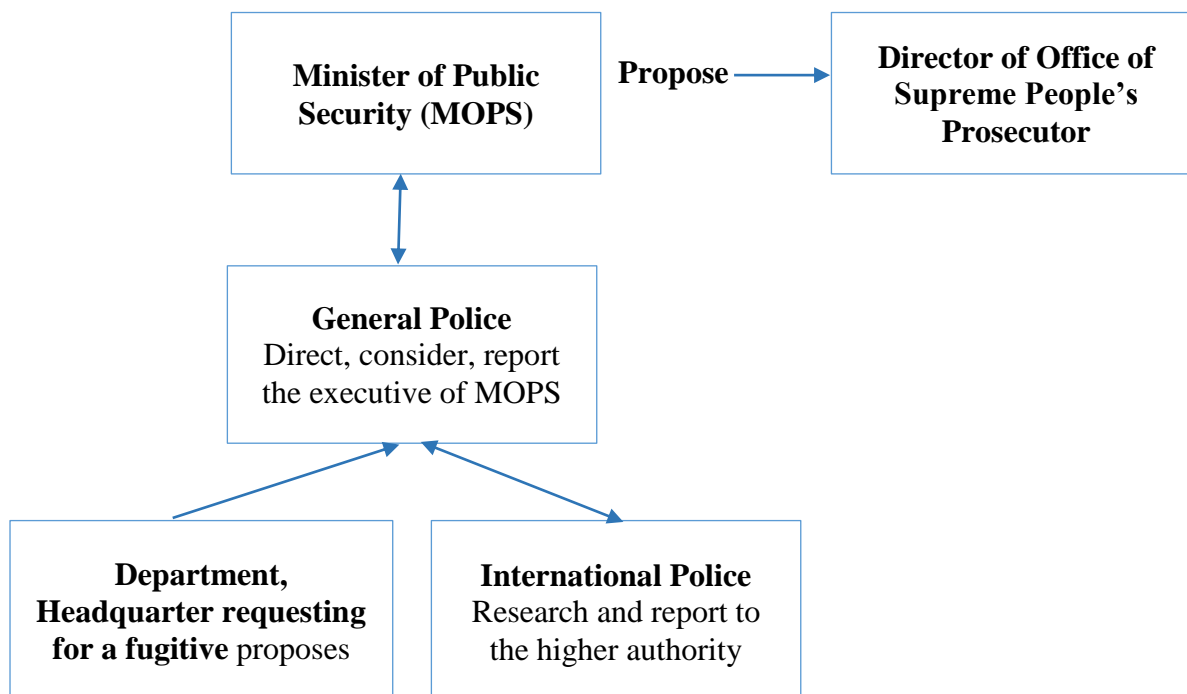
- The offence (determination and event summary of the offence, accusation, Articles as basis of the accusation, elements of the offence, orders, other documents in the case file

including the evidence that is a basis for the prosecution and criminal trial/consideration in the Lao PDR ) in order to be a basis of the request for extradition efficiently;

- Requirements, grounds of refusal of extradition as determined in the treaty, law on extradition, Penal Code, law on criminal procedure of the Lao PDR and of the Requested State in which the details are explained in Part I and Part II of this Handbook.

## Diagram

### Internal Procedures of the Ministry of Public Security



### 3. Formulation of Proposal for the Request for Extradition

Once researched and found that the requirements are met for the request for extradition, the Ministry of Public Security will formulate a proposal to the Office of Supreme People's Prosecutor to consider according to the relevant treaty and law in the next stage.

**Form Template:** Proposal for the Request for Extradition



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Ministry of Public Security

No.....

Vientiane Capital, date.....

**Proposal**

**To:** Director of Office of Supreme People's Prosecutor

**Re:** Request for Extradition

- Pursuant to Article 30, 31 of Law on Extradition;
- Pursuant to Report of Vientiane Capital Public Security Headquarter No. 01/PS.VT, dated 1 January 2018

The Ministry of Public Security is honored to inform you that at 19:30 O'clock on 10/1/2005 Chanthabouly PSH had been notified of the murder of Ms. D, age 33, Occupation Garment Worker, Dongpalaep Village Chanthabouly District, Vientiane Capital.

Through the inspection of the location of incident, the officers had collected the evidence such as a knife with blood staining that after the verification was found to have matched the right thumb print of Mr. G that the interrogator of Chanthabouly District had collected in his evidence base and the blood on the knife was that of Ms. D.

Vientiane Capital PSH opened the investigation-interrogation, took the testimonies of witnesses that had known and seen the event and found that there was strong evidence indicating that Mr. G had used the knife to stab in Ms. D's stomach intentionally causing the person to die at the scene. Such conduct is a murder offence (meet all elements of the offence) according to Article 88 of Criminal Law Amended Version 2005, consequently it is proposed that Vientiane Capital Office of People's Prosecutor issues the warrant to arrest Mr. G for murder according to Article 88 of Criminal Law Amended Version 2005.

Through the arresting process, Mr. G could not be found, subsequently the information was collected to search for the person's address where the inquiry was made of immigration information and Mr. T, a guardian of Mr. G was invited to testify to the officers then the officer knew that the person had escaped from the Lao PDR on 15/1/2005 to A Village, Khongjiem District, Ubonratchathani Province, Thailand, departing through Lao-Thai Friendship Bridge Checkpoint by Vego truck, silver color, register plate AA9999, Vientiane Capital, bearing the passport No 111, Issued by Ministry of Foreign Affairs, Expire date 1/1/2020.



Therefore, to ensure that the proceedings is accomplished the Ministry hereby proposes to you to consider and request the Kingdom of Thailand to surrender Mr. G, a fugitive to the Lao PDR for the proceedings according to law.

**Minister**

Sign and Seal

**Enclosed Documents:**

11. Vientiane Capital PSH report
12. Investigation-interrogation opening order
13. Inspection of location of incident record
14. Knife and blood stain verification report
15. Witnesses' testimonies
16. Photographs of location of incident
17. Report of Immigration Police Department
18. Information regarding the identity of Mr. G
19. Household registration book
20. ID Card
21. Passport

## **Chapter 4**

### **The Consideration of Urgency Request for Extradition**

#### **1. Urgency Request for Extradition**

The urgency request for extradition is a request to the foreign state to arrest the fugitive that is appearing or present in the Requested State or is departing the Requested State before an official request for extradition. The urgency request for extradition is the tracing and arresting of the offender or fugitive who has escaped overseas for proceedings or for enforcement of a punishment in the Lao PDR without the knowledge of the overseas address of the fugitive. The urgency request for extradition is also one of the official requesting methods and will be carried out in the case where the document preparation such as the request, supporting documents is not timely and to ensure the fugitive is not on the move or escapes from where the person is found.

The urgency request for extradition is the same as the regular request for extradition as explained in Chapter 1 of this Part but the difference from the regular requesting case is that there is a request to arrest the offender before the official request to surrender the person. After requesting and arresting the fugitive, the Requesting State must send the request and supporting documents to the Requested State with the period the treaty or law on extradition specified.

After knowing that the fugitive has escaped from the Lao PDR but did not know which country the person has been hiding in, the address of the fugitive must be searched urgently through official and unofficial channels as well as report the status of the proceedings and information collection to the higher authority and central coordinating organization to acknowledge in each period. However, this urgency request for extradition can only be made when it is known that the offender has been presence in some place in the foreign country.

When the Requested State has arrested and temporarily detained a wanted person according to the urgency request for extradition, but if the Requesting State has not submitted a request for extradition along with supporting documents officially according to the law on extradition within the period of sixty days from the date of arrest and temporary detainment or according to the period specified in the treaty on extradition, the detainee must be discharged<sup>72</sup>.

#### **2. Consideration of Provincial Public Security Headquarter**

After knowing that the fugitive has escaped overseas but did not know which country the person traveled to, the relevant district, provincial PS headquarter must report to the Ministry of Public Security to trace the person and request for an urgent arrest by providing the necessary documents such as summary of a case file, investigation-interrogation opening order, records and other documents relating to the proceedings to give directions and search for the fugitive according to their scope of responsibilities.

#### **3. Consideration of Ministry of Public Security**

After receiving the report from Vientiane Capital, Provincial PS headquarter, the Ministry of Public Security must research to:

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<sup>72</sup> Article 17 paragraph 5 Law on Extradition.

- Issue the fugitive tracing document through the International Police channel by issuing the search and tracing of a person warrant or through the criminal cooperation mechanism as determined by the treaty;
- Report the Office of Supreme People's Prosecutor on the status of the case and search for the fugitive in each period in order for Office of Supreme People's Prosecutor to draft and prepare the request for provisional arrest to the state the fugitive had been appearing in or will be appearing in the future;
- After knowing the address of the person, the Office of Supreme People's Prosecutor must be proposed to request in urgency for extradition.

#### **4. Consideration of Office of Supreme People's Prosecutor**

When receiving a proposal from the Ministry of Public Security, the Office of Supreme People's Prosecutor must consider regarding the formulation of the request for provisional arrest to the state the fugitive had been appearing in or will be appearing in the future suitably, then deliver the request for provisional arrest to the Ministry of Public Security to upload onto the Interpol website for tracing and arresting the fugitive, through the diplomatic channel or other working channels according to specific professional principles of the Ministry of Public Security.

#### **5. Request Formulation and Consideration on Extradition**

When receiving the notification from the Requested State that the fugitive has been arrested, the Office of Supreme People's Prosecutor must compose a request for extradition and supporting documents completely as determined by treaty or law to send to the requested country for consideration where the detail is explained above.

When receiving the fugitive, the Office of Supreme People's Prosecutor will hand over the person to the relevant organization to proceed according to the objective stated in the request for the foreign state to consider that is for the fugitive to be prosecuted or to execute the punishment or to continue the punishment according to the court decision.

**Form Template:** Proposal report of Provincial PSH (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Vientiane Capital Public Security Headquarter

No.....

Vientiane Capital, Date:.....

**Report**

**To:** Director of General Police Department, Ministry of Public Security

- **Re:** Report on the Result of Ms. D's procedural murder case Pursuant to Penal Code;
- Pursuant to Law on Criminal Procedure;
- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Actual Proceedings

Vientiane Capital Public Security Headquarter is honored to report the result of a procedural murder case that of Ms. D, a person of Dongpalaep Village, Chanthabouly District, Vientiane Capital, the details are as follows:

**1. Event Section**

At 19:30 O'clock on 10/1/2005 Chanthabouly PSH had been notified of the murder of a person in Dongpalaep Village Chanthabouly District, Vientiane Capital, subsequently the interrogator was designated along with the forensic staff, Department of Forensic, Ministry of Public Security to inspect the location of the incident and found that the deceased was Ms. D, age 33, Occupation Garment Worker, Dongpalaep Village Chanthabouly District, Vientiane Capital.

Through the inquiry of a person in the room next door named Ms. A, stated that she lived in the room next to Ms. D's and knew that Ms. D's place of birth was Chaeng Village, Phonhong District, Vientiane Province, that she was single, but had two boyfriends that had been coming and going, one of them named Mr. E, Phonpapao Village, Sisattanak District, Vientiane Capital; and the other one named Mr. G, a person of Savang Village, Chanthabouly District, Vientiane Capital. Before the incident, she was having dinner with her husband Mr. O and heard the noise of Ms. D arguing with a man, but didn't pay any attention, because such an event always happened. After that the noise quieten down, she and Mr. O walked out to have a look and saw Ms. D lying in blood dead in the room where there was a man running out of the room, they subsequently notified Savang Village authority about the incident.

Through the inspection of the location of incident, the officers found a knife with blood staining, it subsequently was kept correctly according to the techniques then sent to prove the finger prints of the person using that knife, and they found the finger prints of a person that after the verification were found to match with the finger print (right thumb) of

Mr. G that the interrogator of Chanthabouly District had collect in his base and the blood on the knife is of Ms. D.

Vientiane Capital PSH had issued a summons to Mr. O and Mr. E, eyewitnesses to testify where both testified that they lived next to Ms. D's room and were having dinner; suddenly they heard the argument noise between Ms. D and a man with familiar voice similar to the voice of Mr. G and then the noise had gone quiet so they went to look and saw a man wearing white shirt, black trousers similar to Mr. G running out of Ms. D's room but was not sure because it happened very fast and the light was not very bright.

Chanthabouly PSH therefore reported to Vientiane Capital PSH to open the investigation-interrogation, proposed to issue the warrant to arrest Mr. G to Vientiane Capital Office of People's Prosecutor for the murder of Ms. D according to Article 88 of Criminal Law Amended Version 2005.

Through the arresting process, Mr. G could not be found, subsequently the information was collected to search for the person's address where the inquiry was made of immigration information and Mr. T, a guardian of Mr. G was invited to testify to the officers then they knew that the person had escaped from the Lao PDR on 15/1/2005 but did not know to which country.

Vientiane Capital PSH had proposed to Department of General Police to collect the information of Mr. G and had obtain the followings: passport No. 111, issued by Ministry of Foreign Affairs, expire date 1/1/2020; the household registration book No. 267, issued by Chanthabouly District PSH; ID card; photograph of Mr. G, regarding mark Mr. G has black mark on his left thigh, there was a metal rode implanted in his right leg due to broken leg from the vehicle crash accident.

## **2. Comments Section**

Through the evidence assessment such as: 1). Thumb print collected from the knife used to murder Ms. D and blood stain on the knife that was of Ms. D; 2). Testimony of Mr. E and Mr. O that were the witnesses that heard and saw the incident of the offender escaping, found that there is strong evidence to indicate that Mr. G had used the knife to stab in Ms. D's stomach intentionally causing the person to die at the scene. Such conduct is a murder offence (meet all elements of the offence) according to Article 88 of Criminal Law Amended Version 2005.

## **3. Proposal Section**

Due to Mr. G has escaped overseas without knowing the exact address and to ensure the procedural murder case is accomplished the Headquarter is hereby proposing to Director of General Police Department, Ministry of Public Security to consider tracing and search for the person and propose that the Office of Supreme People's Prosecutor requests the state where a fugitive has been appearing to surrender Mr. G, a fugitive to the Lao PDR for proceedings according to law.

Therefore, the report is for you to acknowledge and give guidance as appropriate.

Respectfully Yours,

Director of Public Security Headquarter

**Enclosed Documents:**

22. Investigation-interrogation opening order
23. Inspection of location of incident record
24. Knife and blood stain verification report
25. Witnesses' testimonies
26. Photographs of location of incident
27. Report of Immigration Police Department
28. Information regarding the identity of Mr. G
29. Household registration book
30. ID Card
31. Passport

**Form Template:** Initial report on the case that will be requesting for extradition (example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Ministry of Public Security

No.....

Vientiane Capital, date.....

## Report

**To:** Director of Office of Supreme People's Prosecutor

**Re:** Initial report on the case that will be requesting for extradition

- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Report of Vientiane Capital Public Security Headquarter No..., dated...

The Ministry of Public Security is honor to inform you that at 19:30 O'clock on 10/1/2005 Chanthabouly PSH had been notified of the murder of Ms. D, age 33, Occupation Garment Worker, Dongpalaep Village Chanthabouly District, Vientiane Capital.

Through the inspection of the location of incident, the officers had collected the evidence such as a knife with blood stain that after the verification was found to have matched the right thumb print of Mr. G that the interrogator of Chanthabouly District had collect in his evidence base and the blood on the knife was that of Ms. D.

Vientiane Capital PSH opened the investigation-interrogation, took the testimonies of witnesses that had known and seen the event and found that there was strong evidence indicating that Mr. G had used the knife to stab in Ms. D's stomach intentionally causing the person to die at the scene. Such conduct is a murder offence (meet all elements of the offence) according to Article 88 of Criminal Law Amended Version 2005, consequently it is proposed that Vientiane Capital Office of People's Prosecutor issues the warrant to arrest Mr. G for murder according to Article 88 of Criminal Law Amended Version 2005.

Through the arresting process, Mr. G could not be found and did not know where the person has escaped to in which the General Police Department, Ministry of Public Security is collecting the information to search for the person and if there is any progress, the Office of Supreme People's Prosecutor will be reported to immediately.

Therefore, to ensure the proceedings is accomplished the Ministry is hereby proposing to you to consider regarding the request to the state where Mr. G, a fugitive has been appearing to surrender the person to the Lao PDR for proceedings according to law.

**Minister**  
Sign and Seal

**Enclosed Documents:**

- 32. Vientiane Capital PSH report
- 33. Investigation-interrogation opening order
- 34. Inspection of location of incident record
- 35. Knife and blood stain verification report
- 36. Witnesses' testimonies
- 37. Photographs of location of incident
- 38. Report of Immigration Police Department
- 39. Information regarding the identity of Mr. G
- 40. Household registration book
- 41. ID Card
- 42. Passport



**Form Template:** Proposal request for provisional arrest and detention (example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Ministry of Public Security

No.....

Vientiane Capital, date.....

**Proposal**

**To:** Director of Office of Supreme People's Prosecutor

**Re:** Provisional Arrest and Detention

- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Report of Vientiane Capital Public Security Headquarter No..., dated...
- Pursuant to Report of Department of General Police, Ministry of Public Security, No....., dated.....

The Ministry of Public Security is honor to inform you regarding the murder case of Ms. D, age 33, Occupation Garment Worker, Dongpalaep Village Chanthabouly District, Vientiane Capital, after receiving the report from Vientiane Capital PSH No....../PS.VT, dated 1/1/2018 regarding the escape of Mr. G, charged with murder offence according to Article 88 of Criminal Law Amended Version 2005, the Department of General Police had collected the information to search for the person's address where the inquiry was made of immigration information and Mr. T, a guardian of Mr. G was invited to testify to the officers then they knew that the person had escaped from the Lao PDR on 15/1/2005 to A Village, Khongjiem District, Ubonratchathani Province, Thailand, departing through Lao-Thai Friendship Bridge Checkpoint by Vego truck, silver color, register plate AA9999, Vientiane Capital, bearing the passport No 11111, Issued by Ministry of Foreign Affairs, Expire date 1/1/2020.

Therefore, to ensure the proceedings is accomplished and the capture of the suspect on time, the Ministry is hereby proposing to you to consider and request the Kingdom of Thailand for the provisional arrest and detention of Mr. G, then surrender the person to the Lao PDR for proceedings according to law.

**Minister**

Sign and Seal

**Enclosed Documents:**

- Report of Immigration Police Department;
- Report of the Embassy of the Lao PDR in Thailand.

**Form Template:** Request for provisional arrest and detention (example)



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Office of Supreme People's Prosecutor of the Lao PDR

No.....

Vientiane Capital, date.....

**Request**

**To: H.E.....**

**Re:** Request for Provisional Arrest and Detention

- Pursuant to Article 9 paragraph 1 of Treaty on Extradition between the Lao PDR and the Kingdom of Thailand;
- Pursuant to Article 35 item 2 of Law on Extradition;
- Pursuant to Arrest Warrant of Vientiane Capital Office of People's Prosecutor No....., dated.....

Office of Supreme People's Prosecutor of the Lao PDR as central coordinating organization on extradition of the Lao PDR is honored to propose to the central coordinating organization on extradition of the Kingdom of Thailand to consider and arrest and detain a fugitive temporarily who is appearing in the territory of the Kingdom of Thailand in order to bring the person for proceeding procedural murder case according to law of the Lao PDR; the person's name is Mr. G, age 35, occupation Garment Worker, of Savang village, Chanthabouly district, Vientiane Capital, is charge with the murder of Ms. D according to Article 88 of Criminal Law Amended Version 2005 and has escaped from the Lao PDR on 15/1/2005 through Lao-Thai Friendship Bridge Checkpoint by Vego truck, silver color, register plate AA9999, Vientiane Capital, bearing the passport No 11111, Issued by Ministry of Foreign Affairs, Expire date 1/1/2020.

Therefore, the request is presented to you and hopefully you will consider as appropriate.

**Director of Office of Supreme People's Prosecutor**  
Signature and Seal

Enclosed document:

- Arrest Warrant

## **Chapter 5**

### **The Consideration of Request for Extradition for Enforcement of a punishment**

#### **1. Request for Extradition for Enforcement of a punishment**

The request for extradition for enforcement of a punishment is a request to the foreign state to arrest a convict that has escaped from executing the punishment that has not been executed or has been executed for some time in the detention-correction camp of the Lao PDR and that is appearing or is present in the Requested State or is departing the Requested State with the official request for extradition.

The request for extradition for enforcement of a punishment can be made in urgency or in regular, normal form.

#### **2. Consideration of Detention Camp Responsible Team**

##### **2.1 In a case where the Overseas Address of a Convict Is Known**

After having precise information that a convict who escaped from the detention camp has escaped and hidden in a foreign country, the relevant detention camp must report the escape to their own higher authority urgently.

In a case where the detention camp that a convict has escaped from is under the management of the Department of Detention-Correction Police, the detention-correction camp must report to the Department of Detention-Correction Police to propose to the General Police Department to consider regarding the request for extradition.

In a case where the detention camp that a convict has escaped from is under the management of Vientiane Capital or Provincial PS Headquarter, the detention-correction camp must formulate a report for Vientiane Capital or Provincial PS Headquarter to then report to the Department of Detention-Correction Police to consider proposing to the General Police Department to carry out according to the procedures of the request for extradition.

The documents that are put together and are enclosed consist of the following:

- Court Decision;
- Certificate of enforcement of a punishment;
- Certificate of the Immigration Police Department;
- Information regarding the overseas address of the convict;
- Witnesses' testimonies;
- Copy of the household registration book;
- Copy of the ID card;
- Copy of the passport;
- Other relevant documents.

##### **2.2 In a case where the Overseas Address of a Convict Is Unknown**

In a case where the overseas address of a convict is unknown, the General Police Department must be reported to or proposed to in order to consider and request for guidance from the executives of the Ministry of Public Security to gather the information on the

convict's address overseas on time. At the same time, the coordination with the Office of Supreme People's Prosecutor takes place in order to prepare in time.

After the General Police Department, Ministry of Public Security has traced and knows of the address of the convict, which is about to escape, and do not have enough time to put together a complete set of documents, the Ministry of Public Security is to propose to the Office of Supreme People's Prosecutor to proceed with the urgency request for extradition in which consists of the following documents:

- Proposal of the Ministry of Public Security;
- Court Decision;
- Certificate of enforcement of a punishment;
- Certificate of the Immigration Police Department;
- Witnesses' testimonies;
- Copy of the household registration book;
- Copy of the ID card;
- Copy of the passport;
- Information on the uniqueness of the convict;
- Photographs;
- Other documents.

(Details are explained in Chapter 9 of this Part).

### **3. Consideration of Ministry of Public Security**

After receiving the report from Detention-Correction Police Department, the General Police Department, Ministry of Public Security directs the International Police Department to research to propose to the Office of Supreme People's Prosecutor to form a request for extradition to the state where the convict has been appearing.

### **4. Consideration of Office of Supreme People's Prosecutor**

#### **4.1 Assignment for the Issuance of an Arrest Warrant**

After research and having found that the request for extradition meets the requirements and no grounds of refusal of extradition, the Office of Supreme People's Prosecutor must assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant for the wanted person<sup>73</sup>.

#### **4.2 Documents Preparation of Urgency Cases**

When found that the proposal to request the foreign state for extradition of the Detention-Correction Police Department, Ministry of Public Security has proposed does not have clear information specifically when it is unknown which country the fugitive has escaped to or it is known that the fugitive has escaped to a country, but necessary that the foreign state arrests the person temporarily in order not to let the person escape according to the proposal of the Ministry of Public Security, the Office of Supreme People's Prosecutor must assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant then issue the proposal to the foreign state for the provisional arrest and detention in order for the Ministry of Public Security to collect the information regarding the fugitive's address overseas and issue the arrest notification through the Interpol mechanism; as well as notify

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<sup>73</sup> Article 31 Law on Extradition.

the Ministry of Foreign Affairs, Embassy of the Lao PDR in the Requested State to coordinate and monitor with the relevant organizations of the Requested State.

#### **5. Request for Extradition**

After the foreign state has made the arrest and notified the Lao PDR, the Office of Supreme People's Prosecutor will form the request for extradition and supporting documents officially for the foreign state to consider according to the treaty and law.

When receiving the fugitive, the Office of Supreme People's Prosecutor will hand over the fugitive to the Ministry of Public Security to proceed according to the objective of extradition that is to execute the punishment in accordance with the court decision.

**Form Template:** Report of Detention-Correction Camp under the management of  
Department of Detention-Correction Police (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Department of Detention-Correction Police

Phontong Detention Camp

No.....

Vientiane Capital, Date:.....

**Report**

**To:** Director of Department of Detention-Correction Police

**Re:** Escape from Phontong Detention Camp to the Foreign Country of Convict (Mr.  
O)

- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Decision of Vientiane Capital People's Court No..../PL.CC, dated.....;
- Pursuant to the Inspection of the Party Committee-Commanding Committee and Technical Staff of Phontong Detention Camp

Phontong Detention Camp is honored to report to you, Director of Department of Detention-Correction Police regarding the escape from the enforcement of a punishment of a convict at Phontong Detention Camp on 1/1/2017 which through the inspection of the Party Committee-Commanding Committee, information gathering, coordination with the village authority and relevant organizations found that the person has escaped to hide in the foreign state, the details are as follows:

- Name and Surname: Mr. O, date of birth 01/01/1991, place of birth Houyhong village, Chanthabouly district, Vientiane Capital; current address: Sibounheuang village, Chanthabouly district, Vientiane Capital; arrested on 01/04/2014 for the murder offence according to Article 88 of Criminal Law 2005, Vientiane Capital People's Court decided an imprisonment punishment of 15 years according to the Decision No...../PL.CC, dated 01/01/2015;
- Carrying out a sentence from 1/4/2014 to 1/01/2017, total time of sentence carried out is 2 years 9 months; remaining sentence is 12 years 3 months.
- The person has escaped to a foreign country on 01/01/2017, hidden in A village, C district, Y province, K country; bearing the passport No. 111111, dated 09/01/2017 issued by Ministry of Foreign Affairs, expire date 08/01/2027.

Due to the person having escaped and hidden in a foreign country and to ensure that the sentence continue to be served, you are hereby proposed to consider to coordinate with

the relevant organizations to request K country to surrender Mr. O to the Lao PDR to continue serving his sentence according to law.

Therefore, this report is for you to acknowledge and give guidance for the practice.

**Director of Phontong Detention Camp**

**Enclosed Documents:**

1. Court decision;
2. Certificate of enforcement of a punishment;
3. Certificate of the Immigration Police Department;
4. Witnesses' testimonies;
5. Copy of the household registration book;
6. Copy of the ID card;
7. Copy of the passport;
8. Information on the uniqueness of the convict;
9. Photographs.

**Form Template:** Report of Detention-Correction Camp under the management of Vientiane Capital or Provincial Public Security Headquarter (Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Provincial Public Security Headquarter

.....Detention Camp

No.....

At....., date:.....

**Report**

**To:** Director of .....Provincial Public Security Headquarter

**Re:** Escape from ..... Detention Camp to the Foreign Country of Convict (Mr. O)

- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Decision of ..... People's Court No..../PL.CC, dated.....;
- Pursuant to the Inspection of the Party Committee-Commanding Committee and Technical Staff of ..... Detention Camp

Phontong Detention Camp is honor to report to you, Director of Vientiane Capital PSH regarding the escape from the enforcement of a punishment of a convict at ..... Detention Camp on ..... in which through the inspection of the Party Committee-Commanding Committee, information gathering, coordination with the village authority and relevant organizations found that the person has escaped to hide in the foreign state, the details are as follows:

- Name and Surname: Mr. O, date of birth 01/01/1991, place of birth Houyhong village, Chanthabouly district, Vientiane Capital; current address: Sibounheuang village, Chanthabouly district, Vientiane Capital; arrested on 01/04/2014 for the murder offence according to Article 88 of Criminal Law 2005, Vientiane Capital People's Court decided an imprisonment punishment of 15 years according to the Decision No...../PL.CC, dated 01/01/2015;
- Carrying out a sentence from 1/4/2014 to 1/01/2017, total time of sentence carried out is 2 years 9 months; remaining sentence is 12 years 3 months.
- The person has escaped to a foreign country on 01/01/2017, hidden in A village, C district, Y province, K country; bearing the passport No. 111, dated 09/01/2017 issued by Ministry of Foreign Affairs, expire date 08/01/2027.

Due to the person has escaped and hidden in a foreign country and to ensure that the sentence is continue to be served, you are hereby proposed to consider to coordinate with the relevant organizations to request K country to surrender Mr. O to the Lao PDR to continue serving his sentence according to law.

Therefore, this report is for you to acknowledge and to give guidance for practice.



**Director of ..... Detention Camp**

**Enclosed Documents:**

1. Court decision;
2. Certificate of enforcement of a punishment;
3. Certificate of the Immigration Police Department;
4. Witnesses' testimonies;
5. Copy of the household registration book;
6. Copy of the ID card;
7. Copy of the passport;
8. Information on the uniqueness of the convict;
9. Photographs.

**Form Template:** Report of Vientiane Capital or provincial Public Security Headquarter  
(Example)



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Ministry of Public Security

Champasak Province Public Security Headquarter

No.....

Nakhonpakse, Date:.....

**Report**

**To:** Director of Department of Detention-Correction Police

**Re:** Escape from Bangyo Detention Camp to the Foreign Country of Convict (Mr. W)

- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to Decision of Champasak People's Court No..../PL.CC, dated.....;
- Pursuant to the Report of the Director of Bangyo Detention Camp No..., dated.....

Champasak Province PSH is honored to report to you, Director of Department of Detention-Correction Police regarding the escape from the enforcement of a punishment of a convict at Bangyo Detention Camp on .../.../..... in which through the inspection of the Party Committee-Commanding Committee, information gathering, coordination with the village authority and relevant organizations found that the person has escaped to hide in the foreign state, the details are as follows:

- Name and Surname: Mr. W, date of birth 01/01/1991, place of birth Mouang village, Sanasomboun district, Champasak Province; current address: Houydeua village, Nakhonpakse district, Champasak Province; arrested on 01/04/2014 for the murder offence according to Article 88 of Criminal Law 2005, Champasak Province People's Court decided an imprisonment punishment of 15 years according to the Decision No...../PL.CC, dated 01/01/2015;
- Carrying out a sentence from 1/4/2014 to 1/01/2017, total time of sentence carried out is 2 years 9 months; remaining sentence is 12 years 3 months.
- The person has escaped to a foreign country on 01/01/2017, hidden in A village, C district, Y province, K country; bearing the passport No. 111, dated 09/01/2017 issued by Ministry of Foreign Affairs, expire date 08/01/2027.

Due to the person has escaped and hidden in a foreign country and to ensure that the sentence serving continuation is accomplished, you are hereby proposed to consider to coordinate with the relevant organizations to request K country to surrender Mr. O to the Lao PDR to continue serving his sentence according to law.

Therefore, this report is for you to acknowledge and to give guidance for practice.

**Director of Provincial PSH**

**Enclosed Documents:**

1. Court decision;
2. Certificate of enforcement of a punishment;
3. Certificate of the Immigration Police Department;
4. Witnesses' testimonies;
5. Copy of the household registration book;
6. Copy of the ID card;
7. Copy of the passport;
8. Information on the uniqueness of the convict;
9. Photographs.

**Form Template:** Proposal of Department of Detention-Correction Police



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Ministry of Public Security

Department of Detention-Correction Police

No.....

Vientiane Capital, Date:.....

**Proposal**

**To:** Director of General Police Department

**Re:** Request for Extradition

- Pursuant to Article 30 and 31 of Law on Extradition;
- Pursuant to the Report of Champasak Province PSH No..../PL.CC, dated.....;
- Pursuant to the Research and Agreement of Party Committee-Commanding Committee, Department of Detention-Correction Police

The Department of Detention-Correction Police is honored to propose to you, Director of General Police Department to consider regarding the request for extradition of a convict escaped from Bangyo Detention Camp of Champasak Province PSH in which according to the information the person has escaped to A village, C district, Y province, K country. The details are available in these enclosed documents.

Therefore, this is to propose to you to consider as appropriate.

**Director of Department of Detention-Correction**  
**Police**

## **Chapter 6**

### **The Consideration of the Office of Supreme People's Prosecutor**

After receiving the proposal from the Ministry of Public Security, the Office of Supreme People's Prosecutor will direct the Department of Planning and Foreign Cooperation to assign tasks to a prosecutor or technical staff to be responsible for and research the request for extradition to prepare various documents such as the request for extradition and supporting documents.

#### **1. Researching the Request for Extradition**

After receiving the assignment from the executives of the Office of Supreme People's Prosecutor, a prosecutor in charge must research the extradition thoroughly and prepare the documents on the request.

In the research, must research the requirements of extradition by considering whether to send an urgency request (request for provisional arrest and detention In a case where the request and supporting documents cannot be submitted on time) or a regular request, principles, requirements and refusal of extradition according to treaty, Penal Code, law on criminal procedure, law on extradition of the Lao PDR and of the Requested State.

#### **2. Documents Preparation of Regular Cases**

When found the requirements are met, a prosecutor in charge must prepare the following request and supporting documents:

##### **2.1 Request**

The request for extradition must be made in writing and contains the following contents<sup>74</sup>:

- Name of requesting organization, which is the Office of Supreme People's Prosecutor of the Lao PDR;
- Name and surname, age, gender, nationality, photograph, type and number of documents relating to the appearance or special characteristics, occupation and address or residence of the wanted person and other information of the person, explanation on uniqueness of the fugitive by indicating the specific characteristics to identify the person including the person's overseas address;
- Brief summary of the offense that stated the charges, date, time, place and result of the offense, stating in accordance to the case file summary of the investigation-interrogation organizations;
- Provisions of law relating to the accusation or charge, punishment and jurisdiction of the Requesting State, Articles of Penal Code or other law regarding the offence and limitation.

##### **2.2 Supporting Documents**

A prosecutor in charge must provide a complete set of enclosed documents of the request for extradition as follows:

##### **1) Documents for the request for extradition for a proceedings:**

- Arrest warrant of Vientiane Capital Office of People's Prosecutor;

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<sup>74</sup> Article 13 Law on Extradition.

- Information on uniqueness, address, photograph of the fugitive;
- Articles of Penal Code on the offence, limitation.

**2) Documents for the request for extradition for enforcement of a punishment:**

- Court decision or judgment that is legally binding of the Lao PDR;
- Certification on punishment previously executed and the punishment remained if some has been executed;
- Relevant Articles of Penal Code on limitation of the punishment enforcement.

All documents must be signed and sealed as well as languages determined or in English.

**3. Documents Preparation in Urgency Cases**

When found that the proposal to request the foreign state for extradition of the Detention-Correction Police Department, Ministry of Public Security has proposed have unclear information specifically when it is unknown that which country the fugitive has escaped to or it is known that the fugitive has escaped to a country, but necessary that the foreign state arrests the person temporarily in order not to let the person escape, the Office of Supreme People's Prosecutor must assign Vientiane Capital Office of People's Prosecutor to issue the arrest warrant then issue the proposal for the provisional arrest and detention in order for the Ministry of Public Security to collect the information regarding the fugitive's address overseas and issue the arrest notification through the Interpol mechanism as well as notify the Ministry of Foreign Affairs, Embassy of the Lao PDR in the Requested State to coordinate and monitor with the relevant organizations of the Requested State actively.

**4. Request for Extradition**

After the foreign state has made the arrest and notified the Lao PDR, the Office of Supreme People's Prosecutor will form the request for extradition and supporting documents officially for the foreign state to consider according to the treaty and law.

**Form Template:** Request for Extradition



**Lao People's Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

Office of Supreme People's Prosecutor

No.....

Vientiane Capital, Date:.....

**Request for Extradition**

**To:** Director of the Office of Supreme Prosecutor of the Kingdom of Thailand

**Re:** Request for Extradition of Mr. G, a fugitive, to the Lao PDR

Office of Supreme People's Prosecutor of the Lao PDR, which is a central coordinating organization on extradition of the Lao PDR, is honored, in reference to the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand 1999, to request the extradition of Mr. G, a fugitive, a Lao citizen, bearer of passport No...., issued by the Ministry of Foreign Affairs The Lao PDR, expire date 1/1/2020 who is charged with the offence committed in the Lao PDR and has escaped to the Kingdom of Thailand from the Lao PDR.

Mr. G is a wanted person, for the prosecution of a murder offence according to 88 of criminal law of the Lao PDR 2005. For such offence, the Lao PDR's criminal law determines punishable by imprisonment from ten years to death penalty

**1. Brief Case Contents Section**

According to the information of the investigation-interrogation organizations of the Lao PDR that has been gathered indicates that at 19:30 O'clock on 10/1/2005 Chanthabouly PSH had been notified of the murder of a person in Dongpalaep Village Chanthabouly District, Vientiane Capital, subsequently the interrogator was designated along with the forensic staff, Department of Forensic, Ministry of Public Security to inspect the location of the incident and found that the deceased was Ms. D, age 33, Occupation Garment Worker, Dongpalaep Village Chanthabouly District, Vientiane Capital.

Through the inquiry of a person in the room next door named Ms. A, stated that she lived in the room next to Ms. D's and knew that Ms. D's place of birth was Chaeng Village, Phonhong District, Vientiane Province, that she was single, but had two boyfriends that had been coming and going, one of them named Mr. E, Phonpapao Village, Sisattanak District, Vientiane Capital; and the other one named Mr. G, a person of Savang Village, Chanthabouly District, Vientiane Capital. Before the incident, she was having dinner with her husband Mr. O and heard the noise of Ms. D arguing with a man, but didn't pay any attention, because such events always happened. After that the noise had quieten down, she and Mr. O walked out to have a look and saw Ms. D lying in blood dead in the room where there was a man running out of the room, they subsequently notified Savang Village authority about the incident.

Through the inspection of the location of incident, the officers found a knife with blood staining, it subsequently was kept correctly according to the techniques then sent to prove the finger prints of the person using that knife, and found finger prints of a person that after the verification were found to match with the finger print (right thumb) of Mr. G that the interrogator of Chanthabouly District had collected in his base and the blood on the knife is of Ms. D.

Vientiane Capital PSH had issued a summons to Mr. O and Mr. E, eyewitnesses to testify where both testified that they lived next to Ms. D's room and were having dinner; suddenly they heard the argument noise between Ms. D and a man with familiar voice similar to the voice of Mr. G and then the noise had gone quiet so they went to look and saw a man wearing white shirt, black trousers similar to Mr. G running out of Ms. D's room but was not sure because it happened very fast and the light was not very bright.

Chanthabouly PSH therefore reported to Vientiane Capital PSH to open the investigation-interrogation, proposed to issue the warrant to arrest Mr. G to Vientiane Capital Office of People's Prosecutor for the murder of Ms. D according to Article 88 of Criminal Law Amended Version 2005.

Through the arresting process, Mr. G could not be found, subsequently the information was collected to search for the person's address where the inquiry was made of immigration information and Mr. T, a guardian of Mr. G was invited to testify to the officers then they knew that the person had escaped from the Lao PDR on 15/1/2005 to AVillage, Khongjiem District, Ubonratchathani Province, Thailand.

Vientiane Capital PSH had proposed to Department of General Police to collect the immigration information of Mr. G and found that the person had departed through Lao-Thai Friendship Bridge Checkpoint by Vego truck, silver color, register plate AA9999, Vientiane Capital, bearing the passport No. 111, issued by Ministry of Foreign Affairs, expire date 1/1/2020; at the same time also collected the household registration book; ID card; photograph of Mr. G, inspecting mark, appearance of Mr. G thoroughly and strictly and found that Mr. G has black mark on his left thigh, in his right leg there was a metal rode implanted due to broken leg from the vehicle crash accident.

Through the evidence assessment such as: 1). Thumb print collected from the knife used to murder Ms. D and the blood stain on the knife that was of Ms. D; 2). Testimony of Mr. E and Mr. O that were the witnesses that heard and saw the incident of the offender escaping, found that there is strong evidence to indicate that Mr. G had used the knife to stab in Ms. D's stomach intentionally causing the person to die at the scene. Such conduct is a murder offence (meet all elements of the offence) according to Article 88 of Criminal Law Amended Version 2005.

## **2. Address of the Fugitive**

A Village, Khongjiem District, Ubonratchathani Province, Thailand.

## **3. Relevant Law of the Lao PDR**

### **3.1 Criminal Law**

#### **Article 88. Murder**

“any person causes the other person to die intentionally will be punished by imprisonment from ten years to fifteen years and fined from 1,000,000 kip to 5,000,000 kip.



In a case where the offender takes the murder as a habit, kills people with a plan, kills people cruelly, kills staff who are performing their duties, kills so many people, kills pregnant woman, kills people to cover other offence will be punished by imprisonment from ten years to twenty years and fined from 2,000,000 kip to 10,000,000 kip, may be quarantined or imprisoned for life or executed.

In a case where the offender causes the other person to die intentionally due to s/he was being severely traumatized, emotionally that s/he cannot control their conscience, by the illegal conduct of the victim will be punished by imprisonment from three years to five years and fined from 500,000 kip to 2,000,000 kip.

Preparation of the offence, attempt to commit the offence will also be punished”.

### **3.2 Law on Extradition**

Article 35 rights and duties of the Office of Supreme People’s Prosecutor in managing the extradition works, the Office of Supreme People’s Prosecutor has the following rights and duties:

- Research and comment on the policies, legislations and regulations involving the extradition works according to the scope of their responsibility;
- Act as a centre for coordinating with other sectors on extradition;
- Direct, lead and check Vientiane Capital Office of People’s Prosecutor and the central region Office of People’s Prosecutor in the issuance of the arrest warrant, order of temporary detention, discharge, evidence information collection, confiscation, seizure of properties that involve with an offence of a wanted person according to the request for extradition, case summary and prosecution, statement and objections of the Office of People’s Prosecutor of lower level;
- Notify the Ministry of Foreign Affairs regarding the decision or judgment on extradition;
- Collect data, statistics on extradition to inform the relevant organizations;
- Participate in the handing over-taking of fugitive and properties by coordinating with the competent authorities of The Lao PDR;
- Participate in the negotiation, discussion and comment on bilateral and multilateral treaty on extradition;
- Liaise and cooperate with foreign states on extradition according to their scope of responsibility;
- Summarize and report on extradition works to the higher authority;
- Implement other rights and duties as determined in the regulation.

### **3.3 Law on Criminal Procedure**

#### **Article 154 Prosecution of Suspect**

“Prosecution of suspect is the issuance of an order by the Director of Office of Prosecutor that sets a charge to the offender for court to consider”.

#### **Article 31 Expiration of Criminal Prosecution Limitations**

“will not be able to file a criminal prosecution if over the period:

- One year for minor offenses;
- Seven years for minor-major offenses;

- Fifteen years for serious offenses.

Criminal prosecution limitations shall be counted from the date offenses took place. In the case where there is a new offense within specified limitations of previous offense period, the prosecution limitations shall be counted from the date the new offense took place. In the case of avoidance from proceedings, limitations will be counted from the date offenders surrender themselves or are arrested”.

#### **4. Pledge**

Office of Supreme People’s Prosecutor of the Lao PDR pledges that it will not prosecute Mr. G for offences other than the offence determined in the Indictment that is a basis for this request for extradition.

Office of Supreme People’s Prosecutor of the Lao PDR would like to attest once more that a wanted person according to the request for extradition will not be prosecuted or punished for other offenses in the Lao PDR and will not be sent to a third state except the Kingdom of Thailand has agreed to other prosecutions or enforcement of other punishments in the Lao PDR and the agreement of a wanted person regarding other prosecutions or enforcement of other punishments or that person does not leave the territory of the Requesting State within thirty days after being discharged or after leaving that person has returned to the territory of the Lao PDR again voluntarily.

#### **Summary**

On the foundation of greatly joint criminal cooperation and exchange of extradition, the Lao PDR requests the Kingdom of Thailand to surrender Mr. G to the Lao PDR to bring the person to proceed with the case according to law.

Therefore, the request is for you to consider as appropriate.

Director of Office of Supreme People’s  
Prosecutor of the Lao PDR

#### **Enclosed Documents:**

10. Arrest Warrant of Vientiane Capital Office of People’s Prosecutor
11. Articles of Penal Code
12. Articles of Law on Extradition
13. Articles of Law on Criminal Procedure
14. Report of the Immigration Police Department
15. Information on the uniqueness of the convict
16. Household Registration Book of Mr. G
17. ID card
18. Passport
19. Photographs of Mr. G

## **Chapter 7**

### **The Consideration of Ministry of Foreign Affairs**

#### **1. Consideration Procedures of the Ministry of Foreign Affairs**

The consideration of the Ministry of Foreign Affairs in the case where the Lao PDR is requesting for the extradition from the Requested State or foreign country is the consideration regarding the request for extradition by examining and sending the request and necessary documents to request for the extradition to the Requested State that the Office of Supreme People's Prosecutor had sent. The process of sending the request to the relevant organizations of the Requested State can be carried out through diplomatic channels for example the representative office of the Requested State in the Lao PDR or the Lao PDR's representative office in the foreign country, when summarized it is divided into two main parts:

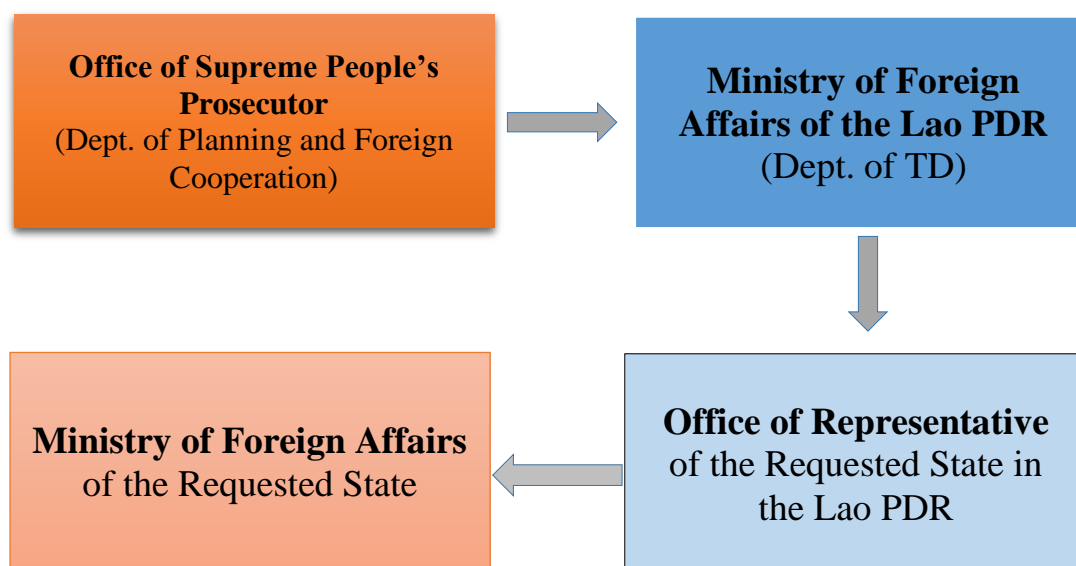
##### **1.1 Domestic Procedure**

After receiving the documents on request for extradition from the Office of Supreme People's Prosecutor completely, the Treaties and Law Department of the Ministry of Foreign Affairs, which is a central coordinating department of the Ministry of Foreign Affairs, will consider and research within the scope of the Ministry based on Article 33 of law on extradition and coordinate with the relevant departments for political feedbacks as well as comments on consistency with foreign policy of the Lao PDR, then summarized to request for guidance from the executives of the Ministry before sending the diplomatic letter (official letter, delivery letter) to the office of representative of the Requested State in the Lao PDR to forward to the relevant organizations of their country.

After that, the Ministry of Foreign Affairs (Treaties and Law Department) will monitor the implementation of the request by the Requested State and report the result of the implementation to the relevant organizations of the Lao PDR once receiving notifications from the Requested State promptly.

#### **Diagram 1**

#### **Consideration Procedures of the Ministry of Foreign Affairs**



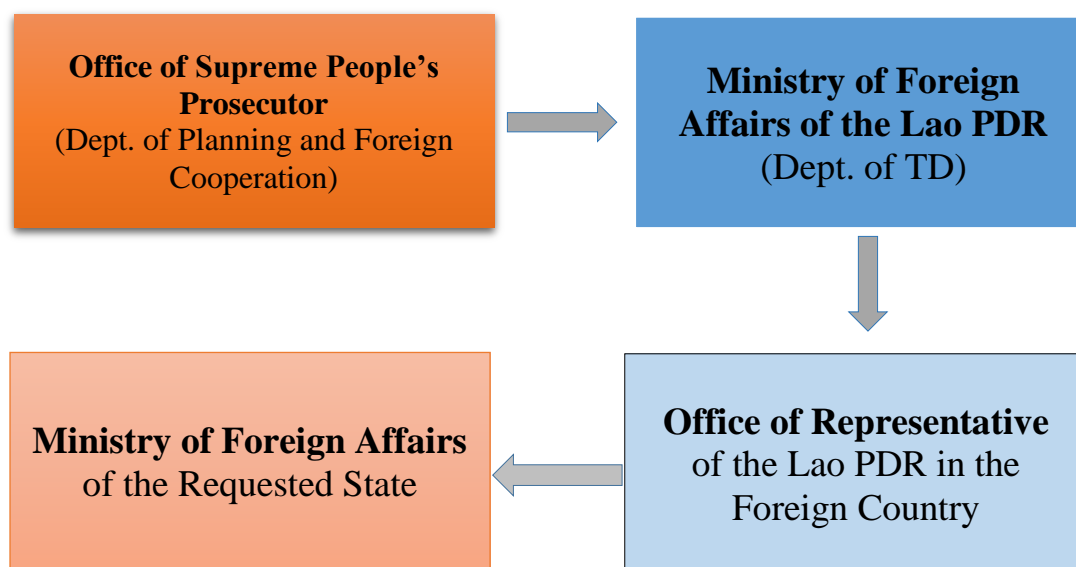
## 1.2 Overseas Procedure

The office of representative of the Lao PDR in the foreign country (in Requested State or country in the area of their responsibility), after receiving extradition requesting documents from the Ministry of Foreign Affairs such as: delivery letter, official facsimile, official mail and etc., has the duty to draft the diplomatic letter to send to the Ministry of Foreign Affairs of the Requested State.

After that, the office of representative of the Lao PDR in the foreign country will monitor and coordinate the progress of the request together with the relevant parties of the Requested State then report to the Ministry of Foreign Affairs where it is forwarded to Treaties and Law Department to consider and research and notify the relevant parties of the Lao PDR and proceed as determined in the law.

### **Diagram 2**

#### **Consideration Procedures of the Ministry of Foreign Affairs**



## 2. Examination of the Request

The examination of the request for extradition in the case where the Lao PDR is requesting for extradition from the Requested State is the same as that indicated in Part II, Chapter 1, item 1.1, that is to examine whether the request that the Office of Supreme People's Prosecutor has summarized and provided is complete as specified in the law or bilateral treaty, then examine the consistency with foreign policy of the Lao PDR based on the Constitution (Article 12). The foreign policy will change according to the transformation of the international situation however adhering to the principles provided by the Constitution of the Lao PDR to be consistent with the current international situation. The foreign policy is based on the foreign affairs directives of the Lao PDR of “**Peace, Unity, Friendship and Cooperation**”.

Additionally, the treaty on extradition that the Lao PDR is a party to with the Requested State, is intended to promote an efficient liaison and cooperation of two parties in preventing and suppressing crimes on the basis of respecting each other's sovereignty, equity

and mutual benefits. The foreign policy is an indicator of the relationship between countries, if there is a good political cooperation and relations are in a good term (depending on each period of the international situation) that would be a good condition for the successful implementation where both parties benefit.

When receiving a set of requests on extradition from the Office of Supreme People's Prosecutor, the Ministry of Foreign Affairs must examine whether the set of documents is complete. All the requesting documents that will be sent by the Lao side (Requesting Party) must be signed and sealed as well as translated into English and/or the language of the request state, other language as determined in the treaty, law on extradition of the Lao PDR and relevant law of the Requested State.

### **3. Sending of the Request for Extradition to the Requested State**

Based on the law on extradition of the Lao PDR, Section 3, Article 12, submission of the request for extradition from the Lao PDR to the Requested State is to be carried out through the diplomatic channels. For the submission of the request for extradition in accordance with the treaty on extradition that the Lao PDR is a party to is to be implemented according to the mechanism determined in that treaty.

After the Ministry of Foreign Affairs has examined and found that it is complete, the diplomatic letter will be sent (official letter, delivery letter) to the office of representative of the Requested State in the Lao PDR to be forwarded to the relevant organizations of that country. After that, the Ministry of Foreign Affairs (Treaties and Law Department) will monitor and report after receiving notifications from the Requested State together with the relevant parties of the Lao PDR.

### **4. Request for Additional Information**

When the Requested State requests the additional information from the Lao PDR, the Ministry of Foreign Affairs will coordinate with the Office of Supreme People's Prosecutor to provide the necessary information to the Requesting State. The provision of the mentioned information to the Requested State must be carried out within the period the treaty and law on extradition specifies.

## **Chapter 8**

### **Picking Up of the Fugitive**

#### **1. Preparation and Coordination with the Requested State**

After receiving the notification on extradition to the Lao PDR, the Ministry of Foreign Affairs must notify the Office of Supreme People's Prosecutor to coordinate with other competent authorities of the Lao PDR in the preparation of a team of authorities to pick up a fugitive, hand-over documents, travel documents of the team and the fugitive, budget for the team completely and travel to pick up a wanted person from the Requested State within a period agreed or indicated in the treaty on extradition. Furthermore, the Ministry of Foreign Affairs will coordinate with the Requested State regarding date, time, place, hand-over documents and other matters relating to the extradition.

#### **2. Team of Authorities to Pick Up a Fugitive**

A team of authorities to pick up a fugitive consists of the following various parties:

- Office of Supreme People's Prosecutor;
- Ministry of Public Security;
- Ministry of Foreign Affairs.

#### **3. Handing-over of Fugitive**

The hand-over of fugitive consists of the following documents:

- Extradition Record;
- Certificate of Enforcement of a Punishment;
- Surrender of Property Record;
- Heath Certificate.

#### **4. Request for Transit Permission**

"Transit" refers to the landing of an airplane in the airport of a country not including flying through the territory of other countries. When picking up of fugitive involves going through the territory of a country by air, land or temporary landing of an airplane, the Lao PDR must request for permission to transit from the relating state. If a request for permission is not made, when a problem happens while remaining in the mentioned state the officers in charge of detaining the fugitive will not be able to contact and ask for assistance from the officers of that state.

The request for permission to transit is to be proceeded with as indicated in the treaty on extradition between the Lao PDR and a foreign country.

Article 16 of Treaty on Extradition between the Lao PDR and PR China indicates that:

*"When a Party is extraditing a person from the third state through the territory of the other Party, the former Party must request for a permission to transit from the latter Party, if there is a transiting air transportation and there is not a landing in the territory of the other Party according to the schedule determined, in this case there will not be such a request for permission".*

The treaties between the Lao PDR and the Kingdom of Cambodia and between the Lao PDR and the Kingdom of Thailand also determine regarding the request for permission to transit the territory of foreign countries.

**5. Delivery of the Fugitive to the Investigation-Interrogation Organization**

After receiving the fugitive, the Office of Supreme People's Prosecutor as a central coordinator on extradition works will assign the Ministry of Public Security as an Administrator and assign the investigation-interrogation organization to take the fugitive to continue with the proceedings or enforcement of a punishment as requested. Handing-over must have a written record with the participation of the Ministry of Public Security, provincial/Vientiane Capital Public Security Headquarter, the Office of Supreme People's Prosecutor, related local office of people's prosecutor as well as investigation-interrogation organization.

**6. Expenses**

Expenses in processing according to the request for extradition of the Lao PDR are borne by the Lao PDR. In the case where a treaty on extradition has determined the expenses in processing the extradition as something else, it is to implement according to that treaty.

## **Chapter 9**

### **Proceedings and Notification of the Result of the Proceedings against the Fugitive**

#### **1. Continuation of the Proceedings**

When receiving the fugitive, the investigation-interrogation organization or office of prosecutor must issue an order to continue the investigation-interrogation that has been suspended again until completion.

#### **2. Additional Investigation-Interrogation**

In continuing with the proceedings against the fugitive, the investigation-interrogation organization must take the testimony of the person on the offense that the person has committed; when there is a disclosure of someone, claim an instigator, conspirator it must be proceeded with appropriate investigation-interrogation methods and measures.

When the investigation-interrogation is complete, the investigation-interrogation organization must summarize the case file and send to the office of the prosecutor to prosecute the suspect according to the law.

#### **3. Prosecution of Suspect and Court Consideration<sup>75</sup>**

When receiving the case file from the investigation-interrogation organization, the office of prosecutor must research and prosecute for a court judgment according to law taking into account the limitations of prosecution as determined by law.

In the prosecution and acceptance of a case for case consideration, the Lao PDR must implement the principle on considering only the issue that they have been requesting the extradition for, meaning the fugitive will not be proceeded with a case or prosecuted, punished in the Lao PDR for other offence that is not stated in the request and the offence that the person committed before the surrender of the person and the person will not be extradited to the third state except:

- The requested party agrees. For the purpose of such agreement, the requested party may require the submission of documents and information stipulated in Article 7 and testimonies of the extradited person on the related offence;
- The person does not depart the territory of the Requesting State within thirty days after being discharged. However, the timeline does not include the period the person cannot depart the territory of the requesting party due to reasons out of the person's control;
- After the departure, the person returns to the territory of the Requesting State again voluntary.

#### **4. Notification of Judgment Result, Enforcement of a punishment**

After the completion of the proceedings, the Lao PDR with the Office of Supreme People's Prosecutor as a central coordinator of the extradition works must report the result of the proceedings or enforcement of a punishment to the Requested State regarding the result of the proceeding as proposed or voluntarily to maintain a good relationship in justice cooperation between two countries as well as to comply with their obligations as determined by the treaty.

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<sup>75</sup> Article 25 Law on Extradition.



The Requesting State must notify the Lao PDR promptly regarding proceedings against or enforcement of a court decision of the wanted person that had been extradited according to the request or regarding the extradition of the mentioned wanted person to the third state<sup>76</sup>.

The contents of the notification should consist of:

- Continuation of the investigation-interrogation;
- Prosecution (charge, Articles of related Penal Code, punishment and other issues)
- Court consideration (charge, Articles of related Penal Code, punishment)
- Enforcement of a punishment (time and place of the sentence enforcement).

#### **5. Coordination between the Lao PDR and the Requested State**

The Requesting State and the Requested State with a central coordinating organization of each country that are in charge and must coordinate regularly regarding proceedings and/or enforcement of a punishment to ensure the correctness of the proceedings, enforcement of a punishment in accordance with the principles of the treaty such as: consideration of requesting offence (only for the requesting issue principle).

The organization in charge in coordination of the Lao PDR is the Office of Supreme People's Prosecutor, which is a central coordinating organization on extradition works.

The organization in charge in coordination of the foreign country is the organization determined in the treaty or according to the notification of the related party/state.

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<sup>76</sup> Article 29 Law on Extradition.

## **Case Studies**

## **Case Study 1**

### **I. Event**

Mr. A (has a wife) had an affair with Ms. B (has a husband) from July to August 2009. On the 17<sup>th</sup> August 2009, the two met to have sexual intercourse again at the foot of Phou Phapheehong Mountain, Bolikhamxay Province. While the two talked to each other, Mr. C came upon them and asked what they were doing here and would call the police to come and arrest them. After that B got up to walk home. Mr. C walked towards Mr. A to capture the person which led to a fight, causing Mr. C to die and after that Mr. A escaped to Thailand (after the incident) and changed his name to Mr. D, in Ban Kheu, Thailand.

### **II. Proceedings**

#### **1. Investigation-Interrogation**

##### **1.2 Examination of Incident Location and Opening of Investigation-Interrogation**

After receiving the notification, the investigation-interrogation unit of Khamkert District PSH conducted the examination of the incident location and found Mr. C lying dead and found a tree branch with blood stains on it, which was suspected that it was the blood stains of the deceased, next to the body of Mr. C and that the tree branch was collected to prove for signs of the offence, to know the person using the tree branch and whether the blood stain on the tree branch was the deceased or who else; took the photographs of the incident location, position of the deceased, place where the tree branch was found which was suspected that it was used as a tool to commit the offence; took testimonies, queried persons who saw the offence, took testimonies of Ms. B; as well as making records as bases for further investigation-interrogation.

After taking the testimonies of Ms. B and knowing the result of the proof, it was found that on the tree branch there were finger prints matching with the (right) finger prints of Mr. A that the officer had kept from many years ago when Mr. A had committed an offence; blood stains on the tree branch were the blood of Mr. C the deceased which contained a strong evidence that Mr. A murdered Mr. C, Khamkert District PSH therefore reported to Bolikhamxay Province PSH. After examining the report of Khamkert District PSH, it is found that there were enough conditions for the opening of the investigation-interrogation. Therefore, Bolikhamxay Province PSH issued the order to open the investigation-interrogation based on Article 86 and Article 91 of law on criminal procedure amended version 2012 for the offence whereby Mr. A was a suspect for the charges of murder and adultery according to Article 88 and 126 of criminal law; Ms. D is a suspect for the charge of adultery according to Article 126 of criminal law version 2005.

While researching on requesting for the arrest warrant from Bolikhamxay Province Office of People's Prosecutor, the officers of Bolikhamxay Province PSH were informed that Mr. A had escaped to the foreign country and therefore the relatives of Mr. C in Thailand coordinated to search for the person to determine whether the person had escaped to Thailand and found that the person had hidden in Ban Kheu, Nong District, Thailand, and had changed their name to Mr. D.

#### **2.3 Case File Summary of Bolikhamxay Province PSH**

After the investigator-interrogator of Bolikhamxay police officers completed the investigation-interrogation then summarized and sent the case file to Bolikhamxay Province Office of People's Prosecutor, on the 20<sup>th</sup> August 2009 the summary report was made to the Department of General Police, Ministry of Public Security to consider and search for Mr. A for proceedings.

### **III. Request of Extradition**

#### **1. Consideration of Ministry Public Security**

After receiving the request from Bolikhamxay PSH, the Ministry of Public Security with the Department of International Police as a central in researching the request for extradition examined the documents they had received thoroughly for whether the request for extradition could be proceeded with success based on the summary of the case file, information on uniqueness, address of the fugitive, treaty, criminal law of the Lao PDR and of the Requested State as a foundation.

Once researched and found that the requirements were met in the request for extradition, the Ministry of Public Security will form a proposal to the Office of Supreme People's Prosecutor to consider according to the relevant treaty and law in the next stage.

#### **2. Consideration of Office of Supreme People's Prosecutor**

After receiving the proposal from the Ministry of Public Security and having researched and found that the requirements were met, the Office of Supreme People's Prosecutor assigned Vientiane Capital Office of People's Prosecutor to issue the arrest warrant for Mr. A particularly for a charge that was the extraditable offence particularly a murder according to Article 88 of criminal law version 2005, the adultery charge according to Article 126 of criminal law version 2005 was dropped and sent to the Office of Supreme People's Prosecutor to provide the documents requesting Mr. A from the Kingdom of Thailand for the next stage, as in treaty and law, a proceedings.

#### **3. Handing-over of Fugitive**

After receiving the notification on handing-over of the fugitive from the Ministry of Foreign Affairs of the Lao PDR, the Office of Supreme People's Prosecutor then had a meeting with the representative of the Ministry of Foreign Affairs (Consular Department or Treaties and Law Department), Ministry of Public Security (International Police Department, Detention-Correction Department) to pick up the fugitive to the Lao PDR as well as notified the Ministry of Foreign Affairs regarding the team of the Lao PDR's delegates in order to notify Thailand.

### **IV. Prosecution of Suspect**

After receiving a file of case summary from the investigation-interrogation officers, Bolikhamxay Province Office of People's Prosecutor researched the case based on the evidence information forming a case file that the officers had summarized and found that there was the evidence information to convict the offender subsequently issued the prosecution order for Mr. A for the murder charge according to Article 88 of criminal law in order to consider and judge the case according to law.

### **V. Court Judgment**

Bolikhamxay People's Court based on Article 64 of law on criminal procedure, once receiving the indictment from the office of people's prosecutor for consideration and designating a court panel to try the case in the court meeting room openly and issuing the

judgment by stating that the offender was guilty of the accusation and prosecution of the office of people's prosecutor, sentenced the defendant to imprisonment of thirty years and five months according to the elements of the defendant's offence.

## **Case Study 2**

Extradition of Laos-Thailand 2000 in Vangtao-Xongmek

By Prof. Bounma Phonsanith, Former Deputy Director of Central Region Office of People's  
Prosecutor

### **I. Event**

On the 3<sup>rd</sup> July 2000 at 3:45 o'clock 34 armed robbers entered Vangtao-Xongmek international checkpoint in Phonthong District, Champasack Province and fired threatening gunshots, invaded, tampered, dismantled the houses of civil servants and citizens such as the currency exchange unit of the state bank, border demarcation office, tax office and private shop of Pasasok company. In addition, the civil servants and employees of private company were taken as hostages in order to negotiate with the public security officers.

Following the incident, Vangtao public security officers told the robbers to release the hostages, laydown their weapons and hand themselves over to the authority but they did not comply and also shot at the officers. As a result of this incident, there was a response for protection from the officers causing some of the robbers to die and the rest escaping to the Kingdom of Thailand and were arrested by the authority of Ubonrachathany Province, the hostages were rescued safely by the officers.

### **II. Proceedings**

#### **1. Opening of Investigation-Interrogation**

The investigation-interrogation opening order based on Article 26-27 of law on criminal procedure for the event of robbery of state and citizen's assets according to Article 98 and 109 of criminal law of Director of the investigation-interrogation organization No. 174/PPSH, dated 3/7/2000.

#### **2. Examination of Incident Location**

From the examination of the incident location where the incident happened including offices of Vangtao Checkpoint, duty free shop Pasasok, guesthouse of the bank staff, guesthouse of the border demarcation civil servants, the investigation-interrogation officers initially they found 6 bodies, male, wearing camouflage similar to the military, consisted of the following list of names:

1. Mr. Pui, Lao national, Ban Phailome, Vapee District, Salavan Province;
2. Mr. Vone Phomthevy, Lao national, Ban Vangtao, Phonthong Dist., Champasack Prov.;
3. Mr. Alom Phongchan, Thai national, Ban Songkone, Phothithai Dist., Ubon Prov.;
4. Mr. Soulath Soumee, Thai national, Ban Khamnamsaeb Jasengnikom, Soulinthong Dist., Ubon Prov.;
5. Mr. Nai Souliyavanh, Thai national, Ban Tokthieng Tasengkanhai, Soulinthong Dist., Ubon Prov.;
6. Mr. Pakong Salachan, Thai national, Ban Koklangsi, Soulinthong Dist., Ubon Prov.;
7. Found 2 ID cards issued by the Kingdom of Thailand;
8. Found 3 AK guns;
9. Found 1 M16 gun;
10. Found 1 B40 gun;

11. Found 2 bags containing money with Thai baht in the amount of 700,000 baht and 900,000 baht;
12. Found traces of damage, destruction from tampering with the building and guesthouse of staff and traces of a clash between the public security officers and the robbers.

Therefore, the examination officers subsequently made a record and issued a confiscation order for evidence property according to the order dated 3/7/200 in Article 48 of law on criminal procedure to keep as evidence for further investigation-interrogation.

### **3. Request for Arrest Warrant**

Through the collection of evidence information and witnesses in the investigation-interrogation, the officers found that there was strong and concise evidence to determine the offenders, offences (robbery of state and of citizen's assets) and determined punishment in criminal law of the Lao PDR 1990. The investigation-interrogation officers therefore made a order report requesting the arrest warrant of 28 suspects as well as attaching the relevant evidence documents to send to Champasack Province Office of People's Prosecutor to consider and issue the arrest warrant for the suspects.

### **4. Issuance of Arrest Warrant for Suspects**

After Champasack Province Office of People's Prosecutor accepted the report requesting for the arrest of suspects as well as other evidence document to consider, then found that there was a need to bring the robbery for proceedings according to the proposal of the investigation-interrogation organization. Therefore, the Director of Champasack Province Office of People's Prosecutor issued the arrest warrant for 28 suspects from No. 39/P to No. 66/P to arrest each suspect to add to the case files and ensure the documentation, the suspects according to the arrest warrant of the Director of Champasack Province Office of People's Prosecutor consist of the following:

1. Mr. Term Phomthavy, age 32, Lao, Ban Nakeo, Sanasomboun Dist., Champasak;
2. Mr. Vixay Xayachak, age 38, Lao, Ban Nakeo, Sanasomboun Dist., Champasak;
3. Mr. Soung Sengsoula, Lao, Ban Lak 23, Bajieng Dist., Champasak;
4. Mr. Souliya Samath, age 27, Lao, Ban Pakse, Pakse Dist., Champasak;
5. Mr. Seng Champa, age 60, Lao, Ban Meuangkao, Champasak Dist., Champasak;
6. Mr. Lom Salihom, age 45, Lao, Ban Meuangkao, Champasak Dist., Champasak;
7. Mr. Napha Phothibandith, age 33, Lao, Ban Thedsaban, Champasak Dist., Champasak;
8. Mr. Kean Singkhomkhong, age 30, Lao, Ban Phontong, Phontong Dist., Champasak;
9. Mr. Kham Xayavong, age 40, Lao, Ban Dane, Nakhonpheng Dist., Champasak;
10. Mr. Don Souliyachan, age 59, Lao, Ban Nonghai, Phontong Dist., Champasak;
11. Mr. Som Xayavong, age 31, Lao, Ban Dane, Nakhonpheng Dist., Champasak;
12. Mr. Phaisane (Suay) Linthang, 35, Lao, Ban Non, (Nasaohong);
13. Mr. Seng (Kabang) Xaybounya, age 38, Lao, Ban NongIan, Lakhonpheng Dist., Salavan;
14. Mr. Bounlod Kensouvanh, age 57, Lao Ban Lak 9, Lakhonpheng Dist., Salavan;
15. Mr. Thongdee Homnouan, age 45, Lao, Ban Nongsano, Lakhonpheng Dist., Salavan;
16. Mr. Phailin Xaybounya, age 18, Lao, Ban NongIan, Lakhonpheng Dist., Salavan;

17. Mr. Keobouathong Vongphachan (Keo), age 36, Lao, Ban Napong, Khong Dist., Salavan;
18. Mr. Ngeun Champasi (Yeun), age 60, Thai, house No. 120, unit 13, Taseng Khanhai, Silinthone Dist., Ubonrachathani;
19. Mr. Sali Soukmee, age 22, Thai, house No. ...., unit 07, Taseng Nikom, Silinthone Dist., Ubonrachathani;
20. Mr. Bounsi Soukmee, age 48, Thai, house No. ..., unit 13, Taseng Nikom, Silinthone Dist., Ubonrachathani;
21. Mr. Thone Markmoun, age 56, Thai, house No. 74, unit 13, Taseng Khanhai, Silinthone Dist., Ubonrachathani;
22. Mr. Kamphone Khamphian, age 31, Thai, house No. 125, unit 13, Taseng Khongjiem, Ubonrachathani;
23. Mr. Khamthit Nonsili, age 42, Thai, house No. 52, unit 04, Taseng Nonkang, Phiboun Dist., Ubonrachathani;
24. Mr. Phomma Laothong, age 45, Thai, house No. 60, unit 06, Taseng Songkhon, Phophithai Dist., Ubonrachathani;
25. Mr. Phou Linthang (Pui), age 32, Thai, house No. 101, unit 06, Taseng Namteang, Ubonrachathani;
26. Mr. Boualian Southanang, age 40, Thai, house No. 185, Ban Keangleuang, Najalouy Dist., Ubonrachathani;
27. Mr. Tim Pava, age 36, Thai, house No. 28, unit 02, Taseng Dompadith, Namyoun Dist., Ubonrachathani;
28. Mr. Khan Lamek, age 33, Thai, house No. 61, unit 02, Taseng Dompadith, Namyoun Dist., Ubonrachathani.

### **5. Witnesses Testimony Taking**

The investigation-interrogation officers of Champasack Province police officers took the testimonies of witnesses who saw the actual event that happened, there were 9 of them as follows: Mr. Khamsy Thongkham, Ms. Teng, Ms. Tai, Ms. Noun, Ms. Seng, Mr. Konesawan, Mr. Souvanxay Phanitthavong and Col. Boualieng Champapak.

### **6. Case File Summary**

After Champasak Province investigation-interrogation officers completed the investigation-interrogation, the case file was summarized and sent to Champasak Province Office of People's Prosecutor on 19/7/2001.

### **7. Report of the Office of People's Prosecutor**

After Champasak Province Office of People's Prosecutor receiving the mentioned case file from the investigation-interrogation officers of Champasack Province police officers, the criminal case was reported to the Office of Supreme People's Prosecutor to request for extradition on 27/7/2001.

## **III. Request for Extradition**

### **1. Designation of Ad Hoc Committee**

To ensure the effective defense of the mentioned issue and receiving the response according to the main objective that was to bring the offender to justice according to the law of the Lao PDR, the ad hoc committee was designated on the 29<sup>th</sup> April 2002 according to the designation document No. 1484/MFA.DTL and comprised the officials of the Lao PDR from



various parties including officials from the Ministry of Foreign Affairs, Office of Supreme People's Prosecutor, Ministry of Public Security, Ministry of Justice, People's Supreme Court.

## **2. Examination of Case File and Provision of Evidence**

After receiving the case file from the Prosecutor and other relevant documents, the ad hoc committee in order to defend the Laos-Thailand request for extradition in the robbery case at Vangtao-Xongmek International Checkpoint, Phontong District, Champasak Province with the participation of the Ministry of Foreign Affairs, Ministry of Public Security, Office of Supreme People's Prosecutor examined the following documents:

- Investigation-Interrogation Opening Order;
- Confiscation Order;
- Witnesses' Testimonies;
- Arrest Warrant;
- Articles of law regarding the offence;
- Articles of law regarding the proceedings;
- List of names of offenders;
- Diagram of the place of the incident.

The request and supporting documents for extradition, document certifying the correctness of the documents provided by the competent authority in which was found that they were correct and complete according to the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand and considerably concise in bringing 28 suspects to justice according to the law of the Lao PDR.

## **3. Offences and Limitations**

### **3.1 Offences**

According to criminal law of the Lao PDR, 28 robbers, according to the arrest warrants issued by Champasak Province Office of People's Prosecutor dated 16/10/2000 were charged with robbery of state or public's assets from Article 98 of old 1999 version of criminal law (Article 107, criminal law amended version, 2005) stated that:

Any person that uses violence to invade or uses a direct threat to life or health of others to obtain state or public's assets will be punished by imprisonment from 5 years to 10 years and may be fined from 1,000,000 kip to 10,000,000 kip.

In a case where the offender takes robbery as a habit, with group organization, causing others serious injury or death or in the case of extreme damages will be punished by imprisonment from 10 years to 20 years and will be fined from 5,000,000 kip to 20,000,000 kip, may be confiscated of properties as determined in Article 34 of this law, may be quarantined, imprisoned for life or executed.

Preparation of the offence, attempt to commit the offence will also be punished.

And robbery of citizen's assets according to Article 109 of old version of criminal law 1999 (Article 118, criminal law amended version, 2005) stated that:

Any person uses violence to invade or uses direct threats to life or the health of others to take assets as their own will be punished by imprisonment from 4 years to 8 years and will be fined from 800,000 kip to 8,000,000 kip.

In a case where the offender takes robbery as a habit, with a group organization, causing others serious injury or death or in the case of extreme damages will be punished by imprisonment from 8 years to 15 years and will be fined from 3,000,000 kip to 15,000,000 kip

Preparation of the offence, attempt to commit the offence will also be punished.

### **3.2 Prosecution Limitations**

The investigation-interrogation period of the officers is determined in the law on criminal procedure Article 41 stated that: the investigation-interrogation officers must conduct the investigation-interrogation, summarize the investigation-interrogation and form the case file along with evidence property then send to the people's prosecutor within 60 days at least from the date of the opening of the investigation-interrogation.

If there is substantial information and signs but the investigation-interrogation has not completed and there is a need to continue, the office of people's prosecutor may extend the investigation-interrogation period by two months for each time as per the request of the investigation-interrogation organization.

In the case of robbery of state and citizen's assets at Vangtao International Checkpoint it is found that there are substantial information and signs but offenders have escaped therefore the investigation-interrogation and prosecution cannot be completed.

Based on the criminal law that states regarding the limitations of criminal prosecution Article 24 of the criminal law 1999 (Article 26 in Criminal Law Amended Version 2005) that:

Will not be able to prosecute if exceeding the period of:

- 1 year for minor offenses;
- 7 years for minor-major offenses;
- 10 years for serious crime offenses;

Criminal prosecution limitations shall be counted from the date offenses took place. In the case where there is a new offense within specified limitations of previous offense, this prosecution limitation shall be counted from the date the new offense took place. In the case of avoidance of proceedings, limitations will be counted from the date offenders presented themselves or are arrested.

The event of state and citizens robbery at Vangtao International Checkpoint took place on the 03<sup>rd</sup> July 2000 and there was a surrender of offenders to the Lao side in 2004, for the accusation of offences punishable for the mentioned robbers according to Article 98 and 109, which were offences that the prosecution limitations were still valid. Therefore, after getting the suspects who are Lao nationals, the prosecution was filed for Champasak Province People's Court's judgment according to law of the Lao PDR.

### **3.3 Translation of Request into Thai Language**

After forming the case file together with evidence documents completely, there is another need for the same understanding of each issue in all messages due to the differences in the language used officially, all documents regarding the request for extradition must be translated into the international language or the language of the requested party and must be certified for the correctness from the relevant competent authority. In this case the document has been translated into Thai language by assigning the task to ASEAN Centre for Language

and Translation that is registered legally in the Kingdom of Thailand and has an address in Thailand through the coordination of the Embassy of the Lao PDR in Bangkok, Thailand.

### **3.4 Request for Extradition**

After forming various documents regarding the robbery of state and citizen's assets case at Vangtao International Checkpoint completely, the request for extradition was sent to the relevant authority of the Kingdom of Thailand to consider surrendering 28 suspects, the fugitives, for proceedings according to law of the Lao PDR along with supporting documents to the request for extradition in which had been certified and guaranteed for the correctness and legal validity by the Ministry of Foreign Affairs of the Lao PDR. After that the Embassy of the Lao PDR in Bangkok as representative of the Lao PDR lodged the request for extradition to the Ministry of Foreign Affairs of The Kingdom of Thailand to coordinate with the relevant competent authorities to carry out legal tasks where the total document provided included the Lao version of 98 sheets and Thai version of 85 sheets as a basis for the consideration of the relevant parties of Thailand.

### **4. Diplomatic Relations**

Diplomacy has the utmost role and necessity in solving Vangtao-Xongmek issue. Diplomacy is the use of sophisticated strategies and tactics by complying with foreign policy directives set forth in the VII Congress of the Lao People's Revolutionary Party, the IX Conference on Foreign Affairs had officially opened to assess the situation and plan in accordance with the foreign policy directives as determined in each period, this Conference on Foreign Affairs saw the essential in diplomatic performance, the diplomatic importance and objective is to carry out the foreign policy to maintain good relations; considering dispute resolution through the diplomatic channel, which is one sensitive approach to assist in resolving the dispute successfully. Diplomatic proceedings begin with negotiations and with compromising approaches. Diplomatic negotiations are conducted through various gentle approaches in order to persuade that leads to the accomplishment according to the objective and expectations.

The Ministry of Foreign Affairs established a letter expressing the objective of solving the issue on the basis of law and treaty between two countries. The Embassy of the Lao PDR in Thailand had met with the high level officials of the Kingdom of Thailand to express the intention of the Lao PDR in solving the issue of state and citizens robbery. In addition, in the field of foreign affairs especially internationally the permanent representative of the Lao PDR for the UN and other countries also moved to request for a support from the friend countries actively.

### **5. Political Relations**

In this period, the general situation regarding the relations between Laos-Thailand particularly in the area of trade, investment, traveling, survey and border demarcation were carried on with good atmosphere and mutual understanding. The political defense was one important step leading to the success in surrendering the mentioned robbers. The political defense proceedings were the encouragements and pushes to ensure the compliance with the rules within ASEAN bilateral and multilateral framework of the Thai side in which expressed in exchange visits from lower rank officials to higher rank officials such as the level of Ministers of Foreign Affairs, Ministers of Justice, People's Supreme Court, Office of Supreme People's Prosecutor and the level of Prime Ministers. During the meeting between

Heads of States of the two countries and between high rank leaders, all this was for a mutual understanding and building of trust in solving the mentioned issue together. Additionally, there were meetings and visits between relevant officials in solving the issue whereby sometimes it was official and sometimes it was not official.

## **6. Legal Proceedings**

Article 1. Role of Criminal Law of the Lao PDR determines that: “Criminal Law has the role to protect the political, economic and social system of the Lao PDR, ownership of the state, public and individual, life, health, rights and freedom of the citizen, national peace and social order, prevent and suppress wrongdoings and educate all citizens to actively respect the law”.

To perform such role this law determines that any offence that is dangerous to the society is a criminal offence then the offender is punishable.

The event of robbery of state and citizen’s assets at Vangtao International Checkpoint happened in the territory of the Lao DPR where the offenders were both of the Lao and Thai nationals consequently had the full right to bring the offenders escaped to Thailand to justice according to law on the foundation of the Treaty on Extradition jointly signed on the 5<sup>th</sup> March 1999 in which the Lao PDR had ratified the mentioned Treaty in 2001 and where it was legally valid, however the event happened on the 3<sup>rd</sup> July 2000 that was before the Treaty was effective.

The Ministry of Foreign Affairs had been a focal point to negotiate and defend the case with the Thai side, as well as a coordination and cooperating closely with the Lao justice sector that is the Office of Supreme People’s Prosecutor, central and local public security officials particularly the coordination and cooperation with the Lao-Thai Border Security Cooperation Committee and public security officers along the border in Vangtao area, Phontong District, Champasak Province.

The Lao PDR’s defense towards the issue on Lao-Thai extradition in the case of state and public’s assets robbery at Vangtao International Checkpoint, Phontong District, Champasak Province that it was a criminal offence, for the charge of robbery, which was an offence according to the criminal law of the Lao PDR and of the Kingdom of Thailand, punishable by imprisonment of more than 1 year, not a life penalty. Those robbers however escaped from Laos to the territory of Thailand but that was an escape from the offence and punishment. Therefore, the important references for the defense are to be based on the criminal law of the Lao PDR, law on criminal procedure and Treaty on Extradition between the Lao PDR and the Kingdom of Thailand.

Additionally, indicating also the place of reference in the law such as the order to open an investigation-interrogation based on the notification of an individual or organization according to Article 26 of law on criminal procedure old version 1990 (Article 36, law on criminal procedure amended version 2004), the charge of robbery of state’s assets according to Article 98 of criminal law old version (Article 107, criminal law amended version 2005), the charge of robbery of citizen’s assets according to Article 109 of criminal law old version (Article 118, criminal law amended version, 2005).

## **7. Contents of Request for Extradition**

Through the compliance of the Constitution and law of the Lao PDR, international treaties, treaty on extradition between Laos-Thailand, regulations on cooperation and

diplomatic relations, the main objective of the defense for extradition from the Kingdom of Thailand to The Lao PDR was to bring the offenders that had caused economic damages, damaged the honor of the citizens and of Laos, the state of good relations between the two countries to receive proceedings and enforcement of a punishment according to law of the Lao PDR through the processes that followed the regulations and law of both countries and international law whereby the Thai party had complied with all its provisions and law before extraditing the fugitives to Laos such as the consideration of justice processes, consideration of courts, rule not extraditing their own nationals to the Lao PDR for instance.

By implementing every approach that was beneficial and conducive for bringing the fugitives to justice, as a result, through the legal, diplomatic and other defenses that involved a long and complex liaison and coordination finally the offenders could be brought to justice according to the law of the Lao PDR.

### **8. Success of the Request**

The argument for extradition in the case of state and public's assets robbery at Vangtao International Checkpoint, Phontong District, Champasak Province was a historical success in the cooperation of the Lao PDR and the Kingdom of Thailand from the past to present. The extradition demonstrated the era of national openness, the compliance of international law and principles of the Lao PDR enabled the Kingdom of Thailand to see the success of its neighbors, see the good relations, cooperation and adherence to the reciprocity principle according to the proposal of the neighboring countries. Under the government of H.E. Thaksin Shinawatra, the Prime Minister has given priority to neighboring and ASEAN countries. The Vangtao-Xongmek case study showed the background of the problem, acknowledged the event and situation, solutions through international cooperation, and enforcement of various legal, diplomatic and political processes of the Lao PDR.

The ability of the Lao PDR to get the offenders of the case of state and public's assets robbery at Vangtao International Checkpoint, Phontong District, Champasak Province was an important accomplishment in defending the process of the justice system of the Lao PDR, which included the following key reasons:

- Relations between the Lao PDR and the Kingdom of Thailand under Prime Minister Thaksin Shinawatra were at the best level when there was cooperation in many areas such as the active continuation of border demarcation, economic cooperation, investment and Lao-Thai electricity supply particularly where the Prime Minister Thaksin Shinawatra had trade and investment benefits in the telecommunication area in the Lao PDR.
- The event of robbery of state and citizen's assets of some robbers from Thailand that had joined with the Lao was the event that could not be denied due to the actual event that happened, objects and personal evidence, including the property that the robbers took with them that the Thai police had seized and returned to the Lao authority. Those things verified that the robbers conducted a robbery in the territory of the Lao PDR and escaped to the territory of the Kingdom of Thailand. Therefore, the Thai Government prosecuted those robbers in order to preserve themselves from the eyes of the international community. Otherwise, it would become that the Kingdom of Thailand agreed and supported those who committed crimes in which contradicted the

international principle on no allowing the bad people to use the territory of their country as a resident to cause trouble for other countries.

### **1). Surrender of Fugitives**

After executing the imprisonment punishment according to the decision of the Thai court, in 2004 the Thai officials notified the Embassy of the Lao PDR in Bangkok regarding 17 of the Lao prisoners who were about to be discharged, requesting the Lao Embassy officials in Bangkok to go to the prison to interview them and to prepare documents such as biography, copy of ID card and household registration book of 16 of those with the Lao nationality and to prepare to take them back for proceedings in the Lao PDR based on the Treaty on Extradition between Laos-Thailand, which was signed in March 1999. For 11 persons with the Thai nationality according to the law were unable to be extradited due to the Thai law not allowing the extradition of their own citizen for criminal proceedings in other countries. However, if the Government of The Lao PDR intended to prosecute those robbers with Thai nationality for the Thai court to consider, it could also be furthered by providing the case files, evidence information, evidence properties to the Thai investigation-interrogation officers and prosecutors to proceed with. The Government of the Kingdom of Thailand had considered and researched and found that the Vangtao-Xongmek robbers were guilty of an immigration offence, was not a political offence as referred to in the robbers' lawsuit in which they must be deported to the original country. The government under Prime Minister Thaksin Shinawatra had decided to extradite 16 fugitives to the Lao government, where 1 fugitive had passed away in the prison camp due to his own illness, whereas the Ministry of Foreign Affairs of the Kingdom of Thailand notified the Ministry of Foreign Affairs of the Lao PDR with the objective to surrender – deliver 16 robbers and requested the Lao party to prepare relevant documents as well as notify the place and readiness such as the surrender-pick up formality, place, travelling back of 16 fugitives, participants. After that, Lao Ministry of Foreign Affairs notified the Ministry of Public Security and for the committee in charge to prepare for readiness in various areas and there was a surrender in 2006.

### **2). Temporary Detention**

The investigation-interrogation officers of Champasak province brought the 16 robbers back to Laos for proceedings according to criminal law of the Lao PDR for the charges of robbery of state's assets or public according to Article 98 of criminal law old version (Article 107, criminal law amended version 2005) and robbery of citizen's assets according to Article 109 of old version of criminal law (Article 118, criminal law amended version, 2005). After receiving the 16 robbers, the investigation-interrogation officers requested the temporary detention order from Champasak Province Office of People's Prosecutor to conduct the investigation-interrogation, to collect additional evidence information to form the concise case files and summarize the case files to send to the Office of People's Prosecutor to proceed with the case according to law.

### **3). Prosecution of Suspects**

After receiving the case file from the investigation-interrogation officers, Champasak Province Office of People's Prosecutor researched the case based on the evidence information provided in the case files and found that there was concise information, evidence

and witnesses that could convict all 16 robbers and therefore the prosecution files were sent to Champasak Province court to consider, judge according to law.

**4). Court Judgment**

Champasak Province People's Court based on Article 75 of law on criminal procedure received the indictment from the Office of People's Prosecutor to consider and research and formulate a court panel in order to bring the case to trial in the court meeting room by stating that all 16 defendants were guilty according to the charges and the prosecution therefore decided on the imprisonment of all defendants ranging from 2 years 7 months to 15 years according to the different elements of offences and defendants.

### **Case Study 3**

Ms. A, a person of Simmano Village, Hatsayfong District, Vientiane Capital, bearer of passport No. P2665188, married to Mr. B of Nongkob Village, Nonghan District, Suratthani Province, Thailand, a Thai national, both got married properly according to both countries' law and regulations where the marriage was registered in 2013. Ms. A worked at the factory and lived in a rented flat with her husband in Thailand. In 2015, Ms. A brought her sister named Ms. C to work and live together in Thailand where she worked in the same factory as Mr. B. Early 2016, Mr. B the brother-in-law was drunk and raped Ms. C the wife's sister, after committing the offence the person became afraid that Ms. A the wife would find out therefore murdered Ms. C to cover up the offence. After Ms. C had died, the relevant Lao-Thai officials conducted an investigation-interrogation and information collection. For Ms. A, as that was a situation she had returned home to the Lao PDR and had encouraged Mr. B the husband to come to live together in the Lao PDR too.

The investigation-interrogation organization of the Kingdom of Thailand concluded the investigation-interrogation that the suspect in the murder of Ms. C is Mr. B who had escaped to the Lao DPR therefore the request was send to the Lao PDR to take Mr. B for proceedings in Thailand.

#### **I. Acceptance of Request**

##### **1. Consideration of Ministry of Foreign Affairs**

After receiving the request from the Kingdom of Thailand whereas the Supreme Prosecutor Organization of the Kingdom of Thailand a central coordinating organization, the Ministry of Foreign Affairs of the Lao PDR, with the Department of Consular having the main responsibility in researching and coordinating with relevant Departments within the Ministry particularly Department of Treaties and Law and other Departments to provide comments in various areas according to the rights and roles of their Departments, carried out their rights and duties as determined in Article 33 of law on extradition, examined whether the request and supporting documents according to the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand and law on extradition such as arrest warrant from the prosecutor, court or other competent authorities of the Requesting State was complete, sending of documents was correct according to the procedure for document sending channels, the documents had been translated into the language specified in the treaty or law. In general, the Ministry of Foreign Affairs would be carried out by some following tasks:

- Examination of the request for extradition by examining the consistency with the foreign policy, extradition principles and grounds of refusal of extradition;
- Examination of supporting documents;
- Request for additional information;
- Sending of the request to a central coordinating organization.

During the research, the Ministry of Foreign Affairs found that the address of the fugitive in the Lao PDR was unclear and therefore the request for the additional information was sent, then it was learnt that Mr. B and Ms. A lived in Simmano Village, Hatsayfong District, Vientiane Capital.



After research, it was found that the request and supporting documents were complete and did not affect the relationship between countries especially the relationship between the Lao PDR and the Kingdom of Thailand, the Ministry of Foreign Affairs sent the request to the Office of Supreme People's Prosecutor to consider and notified the Kingdom of Thailand regarding the acceptance of the request.

## **2. Consideration of Office of Supreme People's Prosecutor**

After the Office of Supreme People's Prosecutor received the request on extradition from the Ministry of Foreign Affairs, the Department of Planning and Foreign Cooperation was assigned to research the request, to examine the request and supporting documents according to the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand to comment on whether the request met the requirements, had no grounds of refusal of extradition as determined in Article 2, 3, 4, 5 of the treaty as well as Article 7, 8, 9 10, 11 of law on extradition, additionally, must also examine regarding the arrest warrant, whether sending of documents was correct according to the procedure or document sending channels, the documents had been translated into the language specified in the treaty or law.

When found the requirements are met, the Office of Supreme People's Prosecutor assigned Vientiane Capital Office of People's Prosecutor to issue the arrest warrant within 7 days and prepare the prosecution for court's consideration.

## **II. Consideration of Request**

### **1. Consideration of Vientiane Capital Office of People's Prosecutor**

#### **1). Issuance of Arrest Warrant**

After being assigned from the Director of Office of Supreme People's Prosecutor, Vientiane Capital Office of People's Prosecutor issued the arrest warrant and sent the arrest warrant to the Office of Supreme People's Prosecutor to hand it to the Ministry of Public Security to make the arrest by designating a prosecutor to be in charge and to focus on the following tasks:

- Research the requirements, grounds of refusal of extradition according to the treaty on extradition, according to Article 2, 3, 4, 5 of the treaty on extradition; criminal law, law on criminal procedure of both countries.
- Take the testimonies of the fugitive, other witnesses to verify the uniqueness, identity of the fugitive;
- Prepare the evidence, statement;
- Issue the Decision to designate staff to participate in the court meeting room;

After receiving the notification on the fugitive arrest and found the requirements were met, Vientiane Capital Office of People's Prosecutor sent the indictment along with the evidence to Vientiane Capital People's Court for consideration.

#### **2). Issuance of Temporary Detention Order**

After receiving notification on the result of the arrest of Mr. B from the Department of General Police, Ministry of Public Security, the Office of Supreme People's Prosecutor notified Vientiane Capital Office of People's Prosecutor to issue the temporary detention order according to the period determined in Article 17 paragraph 5 of the law on extradition but the period of temporary detention was counted from the date of arrest (60 days).

### **2. Consideration of Ministry of Public Security**

After the Ministry of Public Security received the arrest warrant, the Ministry of Public Security assigned the staff of Department of International Police to make an arrest of the fugitive by coordinating with the relevant provincial public security headquarters.

Once arrested the fugitive was brought to be detained in Phontong detention camp and the Office of Supreme People's Prosecutor was reported to in order to further notify Vientiane Capital Office of People's Prosecutor to proceed with the prosecution for Vientiane Capital People's Court's consideration.

### **3. Case Consideration of Vientiane Capital People's Court**

Once receiving the indictment and supporting documents from Vientiane Capital Office of People's Prosecutor, the judge of the criminal court panel was designated to be in charge to research and prepare by focusing on the following tasks:

- Research the requirements, grounds of refusal of extradition according to the treaty on extradition, as determined in Article 2, 3, 4, 5 of the treaty on extradition; criminal law, law on criminal procedure of both countries especially:
  - Examine whether the person being prosecuted and brought to present in court was the wanted person according to the request for extradition;
  - Examine whether the offence stated in the request for extradition was the extraditable offence according to the law on extradition;
  - Examine whether the offence didn't fall within grounds of refusal of extradition as determined in Article 8, 9, 10, and 11 of law on extradition.
- Take additional testimonies from the fugitive, and other witnesses to verify the uniqueness, identity of the fugitive when needed;
- Prepare the evidence, draft the decision;
- In a case where the court found that it was reasonable to extradite the fugitive, the court will:
  - Issue the Decision to bring the indictment for consideration
  - Issue invitations, summons, notifications;
  - Issue the Decision to designate the judge, court clerk to consider the request in the court meeting room;

#### **1). Trial at the court meeting room**

- Trial regulations are explained in Part II.

#### **2). Court panel**

- Three judges and a court clerk;

#### **3). Participants:**

- Director of VT office of prosecutor;
- Wanted person;
- Police officers who detained the fugitive;
- Lawyers;
- Translator;
- Embassy or consulate officers.

Trial regulations were to be carried out the same as for the criminal trial and as explained in Chapter 3 Part II above.

#### **4). Evidence Presentation**

- Prosecutor had the duty to bring the evidence, Articles of the treaty, Articles of relevant law, passport, IC card, photograph, testimonies and documents or other evidence to verify:

- Uniqueness, identity of the fugitive;
- Requirements of extradition;
- No grounds of refusal.

to present to the court;

- Had the right to bring documents and other evidence to verify:

- The refusal that this was not the wanted person by clarifying the true uniqueness and identity;
- Not meeting the requirements of extradition;
- Grounds of refusal

to present to the court;

Final say of the defendant.

#### **5). Decision**

The decision must be based on the relevant treaty and law on the basis of the evidence presented to court according to principles determined in the law on people's court and law on criminal procedure.

#### **6). Decision Announcement**

After making the decision in the secret meeting room, the Chairman and court panel members brought the decision to announce in the court meeting room openly, as well as notified of the right to objections and appeals to the plaintiff and the fugitive.

After the decision was final, the Office of Supreme People's Prosecutor notified the Kingdom of Thailand through the Ministry of Foreign Affairs to pick up the fugitive, where the hand-over committee, hand-over formality was explained clearly in this handbook.

## **Case Study 4**

### **Request for Extradition for Enforcement of a punishment**

#### **1. Event**

Mr. A murdered Ms. B in Vientiane Capital on the 10<sup>th</sup> April 2015, Mr. A was arrested on the 20<sup>th</sup> April 2015, detained in Phonthan Detention Camp. On the 1<sup>st</sup> September 2015, Mr. A was sentenced by Vientiane Capital People's Court to 10 years imprisonment and fined for 5,000,000 kip according to the decision of Vientiane Capital People's Court No..../C.PL, dated 1 Sep 2015 where the person was brought to execute the punishment in Phontong Detention-Correction Camp, Chanthabouly District, Vientiane Capital from the 1<sup>st</sup> October 2015. On 1 October 2017 Mr. A escaped from the detention camp and fled to K Village, B District, Thailand.

#### **2. Request for Extradition**

##### **2.1 Consideration of Committee in charge of Detention-Correction Camp**

Once learnt that Mr. A had broken out of prison and fled to Thailand, the committee in charge of the detention-correction camp made a preliminary report to the Department of Detention-Correction, Ministry of Public Security (MoPS) and provided necessary documents such as: court decision, certification of enforcement of a punishment; also gathered information about the escape of Mr. A by calling the person's relatives in for testimonies to know that the person had fled to K Village, B District, Thailand.

After providing complete documents and information, the committee in charge of detention-correction camp made a report to the Department of General Police, MoPS to request for Mr. A to continue the punishment in the Lao PDR.

##### **2.2 Consideration of Ministry of Public Security**

Once receiving the report and supporting documents and information regarding the convict, MoPS carried out their rights and duties according to Article 34 of law on extradition, as well as examined and researched the documents in the case file according to the Treaty on Extradition between the Lao PDR and the Kingdom of Thailand, according to Article 7, 8, 9, 10, 11, 13, 14, 30, 31 of law on extradition, criminal law mainly:

- Copy of court's decision;
- Certificate of enforcement of a punishment;
- ID card, passport, household registration book, photograph of the convict;
- Copy of limitations on punishment enforcement;
- Testimonies of the relatives of the convict;
- Immigration information of the convict.

Once found that the documents received were correct and consistent, the Department of Detention-Correction formulated a letter requesting for extradition to the Department of General Police to research the request for extradition in order to propose to the Office of Supreme People's Prosecutor to consider according to the regulations.

##### **2.3 Consideration of Office of Supreme People's Prosecutor**

On receiving the proposal of MoPS, the Office of Supreme People's Prosecutor carrying out their rights and duties according to Article 35 of law on extradition by examining and researching the document provided in the proposal according to the Treaty on

Extradition between the Lao PDR and the Kingdom of Thailand, according to Article 7, 8, 9, 10, 11, 13, 14, 30, 31 of law on extradition criminal law mainly were:

- Proposal of MoPS;
- Copy of court's decision;
- Certificate of enforcement of a punishment;
- ID card, passport, household registration book, photograph of the convict;
- Copy of limitations on punishment enforcement;
- Testimonies of the relatives of the convict;
- Immigration information of the convict

As well, the request for extradition was made to Thailand through the Ministry of Foreign Affairs of the Lao PDR.

#### **2.4 Consideration of Ministry of Foreign Affairs**

After receiving the case file from the Office of Supreme People's Prosecutor, the Ministry of Foreign Affairs examined whether the request was consistent with the foreign policy of the Lao PDR according to Article 12 of Constitution and according to the scope of their rights and duties as determined in Article 33 of law on extradition and they sent the request to the Kingdom of Thailand through the Embassy of the Lao PDR in Thailand.

#### **2.5 Hand-Over of Fugitive**

After receiving notification regarding the hand-over of the fugitive from the Ministry of Foreign Affairs, the Office of Supreme People's Prosecutor had a meeting with the representatives of the Ministry of Foreign Affairs (Treaties and Law Department), Ministry of Public Security (International Police Department) to pick up the fugitive to the Lao PDR as well as notified the Ministry of Foreign Affairs regarding the team of The Lao PDR's delegates in order to notify Thailand.

#### **3. Continuation of Enforcement of a Punishment**

After taking Mr. A, MoPS brought the person to hand-over to the committee in charge of Phontong Detention Camp in order for the person to continue to serve the remainder of the sentence completely.

As for the prosecution against the person for escaping the detention-correction camp this is a separate matter which will not be explained in this case study.

# Appendix

**Law on Extradition of the Lao PDR**

(Lao Version – already have English translation on p.198-209)

## **Treaties on Extradition**

(p.210)

### **Treaty on Extradition between the Lao PDR and PR of China**

(Lao Version – already have English translation on p.211-216)

### **Treaty on Extradition between the Lao PDR and Kingdom of Cambodia**

(Lao Version – already have English translation on p.217-223)

### **Treaty on Extradition between the Lao PDR and Kingdom of Thailand**

(Lao Version – already have English translation on p.224-229)



**Treaty**  
**On Extradition**  
**Between the Lao PDR and Russian Federation**

The Lao People's Democratic Republic and the Russian Federation hereinafter referred to as "the Parties";

Desiring to facilitate a more efficient crime control between the two countries,

Desiring to strengthen strong relations particularly on extradition as determined in this Treaty.

On the foundation of respecting each other's sovereignty, equality and mutual benefits.

**Have agreed as follows:**

**Article 1**

**Obligation to Extradite**

The Party, pursuant to and in accordance with the terms and requirements of this Treaty, shall extradite a person found in the territory of any of the Parties to the other Party according to the request for extradition for criminal procedure or enforcement of a court decision against the person.

**Article 2**

**Scope of Treaty**

This Treaty is applied for a request for extradition sent after this Treaty is effective, even though the request is in regard to a criminal offence before this Treaty becomes effective.

**Article 3**

**Central Coordinating Organizations**

1. Central coordinating organizations that are allowed to implement this Treaty:
  - For the Lao People's Democratic Republic this is the Office of Supreme People's Prosecutor of the Lao PDR.
  - For the Russian Federation this is the Supreme Prosecutor Organization of the Russian Federation.
2. Each Party should notify the other Party immediately through the diplomatic channel of any changes relating to their coordinating organizations.
3. For the purpose of this Treaty, the central coordinating organizations shall communicate with each other directly and through the diplomatic channel.

**Article 4**

**Extraditable Offences**

1. For the purpose of this Treaty, the extraditable offences refer to any act as determined in the laws of both Parties that is a criminal offence and is punishable by imprisonment for a period of at least one year or a more severe punishment.
2. Any request for extradition that includes many different offences that are punishable as determined in the laws of both Parties, but there are some offences that do not meet the requirements according to punishment measures as determined in paragraph 1 of this

Treaty, the Requested Party may consider with their authority regarding extradition towards those offenses.

3. In the case where there is a request for extradition of a person who has been sentenced to imprisonment by the Requesting Party for any criminal offense that is consistent with this Treaty, such request may be formed if the enforcement of a sentence of imprisonment remaining is at least 6 months from the date the decision on extradition is made, and if the period of enforcement of an imprisonment sentence remaining is less than 6 months.
4. Any differences in the legal meanings of any offense should not be an obstacle to proceed with a request for extradition, if the offense stated in the request for extradition is a criminal offense as determined in the laws of both Parties

## **Article 5**

### **Grounds of Refusal of Extradition**

1. The extradition shall not be carried out in the following circumstances:
  - A). if the wanted person for extradition is a national of the Requested Party;
  - B). if an act for which extradition is requested is not an extraditable offence pursuant to paragraph 1-3 of Article 4 of this Treaty;
  - C). if the Requesting Party has enough reasons to believe that the extradition is for the purpose of hunting or punishing a person due to the color of the skin, gender, religion, race, ethnicity or political belief of the person or the person has been suffered damage from torture due to one of these reasons;
  - D). in the case where there were proceedings relating to the person requested to be extradited and the person has been acquitted or sentenced to imprisonment already in the Requested State for the same offence which is the basis for the request for extradition;
  - E). if the person requested to be extradited has no criminal responsibility or criminal punishment due according to the laws of either Party;
  - F). if an extraditable offence for which extradition is requested is punishable by the death penalty according to the law of the Requesting Party, except when such Party presents enough reasons in the opinion of the Requested Party that the Requesting Party guarantees that the death penalty shall not be imposed on the person requested to be extradited.
  - G). if, according to the laws of the Requested Party, there shall not be any prosecution or enforcement of a court decision due to the limitations have ended or other legal reasons.
2. A request for extradition may be refused due to:
  - A). if an offence for which extradition is requested pursuant to the laws of the Requested Party has all been or some part carried out in the territory of the Requested Party;
  - B). if an investigation or proceedings relating to the person requested to be extradited is pending due to it being related to an offence stated in the request for extradition;
  - C). if the Requested Party has considered that the extradition of the person may affect the sovereignty, social stability and peace or other basic essential benefits.
3. A request for extradition that is refused according to item (A) of paragraph 1 and item (A) of paragraph 2 of this Article, on the basis of the proposal of the Requested Party, the

Requesting Party shall send all of the documents to the competent authority of the Requested Party to consider the prosecution against the person according to their laws. For that purpose, the Requesting Party shall be willing to send objects, items and certified copy of documents, evidence obtained from the completed investigation-interrogation, and other documents relating to the offence for which extradition is requested. All of the objects, items and documents obtained from the completed proceedings of the Requesting Party shall be used in the criminal prosecution in the Requested Party. The Requested Party should notify the Requesting Party regarding all of the results of such proceedings.

#### **Article 6**

##### **Postponement of Surrender and Temporary Extradition**

1. In the case where the person requested to be extradited is the person who is currently in proceedings or serving a sentence for the another offence committed in the territory of the Requested Party, the extradition may be agreed, however the surrender may be postponed until those proceedings are completed, and may be postponed until the person has served a sentence in full according to the decision or is discharged from imprisonment which in this case the Requesting Party shall be notified.
2. If the postponement of extradition as determined in paragraph 1 of this Article may have an impact on criminal prosecution limitations (when the requirements are met) or affects the proceedings, the Requested Party may extradite the person temporarily. The person extradited temporarily shall return to the Requested Party after the result of the proceedings relating to the extradition is summarized but not more than 90 days from the date the person is sent temporarily. When needed, this period may be extended according to the agreement of both Parties.

#### **Article 7**

##### **Request for Extradition**

6. A request for extradition must be made in writing from the central coordinating organization of the Requesting Party and send to the central coordinating organization of the Requested Party via diplomatic channels.
7. The Requested Party may receive a request for extradition to proceed as specified in a telegraph, facsimile, electronic letter or other form of communication. The Requesting Party shall send the original copy of a request for extradition via diplomatic channels urgently after the mentioned form of communication being used.
8. A request for extradition must include:
  - A) Name of the requesting organization;
  - B) Name and surname of a person requested to be extradited, details on nationality, residence or place, description relating to the appearance as much as possible as well as the photograph of the person, finger prints and other details to enable the search and identification of the person;
  - C) Clarification statement regarding the event of the case that is a basis for the request for extradition of the person, specification of time and place of the offense that is criminally punishable, characteristics of the offense and copy of documents used in the proceedings and as evidence to prove the offense of the person;
  - D) Authenticated copy of the provisions or contents of law that determine the offence and including the information regarding a provision on punishment for such an offense;

- E) Authenticated copy of the provisions or contents of law regarding the limitations.
9. A request for extradition for the proceedings including the documents and information specified in paragraph 3 of this Article should also include a copy of the arrest warrant that was issued by the competent authority of the Requesting Party.
  10. A request for extradition for enforcement of a court decision including the document and information specified in paragraph 3 of this Article should also include a copy of the final decision and a copy of the imprisonment sentence that has not been enforced.

## **Article 8**

### **Provisional Arrest**

1. In a case of urgency, the Requesting Party may request to apply the measure of a provisional arrest against the person before sending the request and supporting documents for extradition of the person. The request for a provisional arrest shall be sent directly to the central coordinating organization of the Requested Party in writing via facsimile or other forms of communication, where the original of the request for the provisional arrest shall be sent urgently later on.
2. The request of a provisional arrest should include all of the related information, including any essential information for identifying the related person and the information relating to the request for extradition that is being drafted. This request for a provisional arrest should be made based on the related arrest warrant and a final court decision, and should include other information essential to the identification and search of the person, including details on the nationality, if known. The request should include the information regarding the extraditable offence, date and time the offence happened and the punishment for the offence by the person that may be received or has already been decided, including the information on punishment that has not been enforced.
3. The Requested Party shall consider the request for a provisional arrest in accordance with their laws and should notify the Requesting Party regarding their decision promptly.
4. The person, who is detained according to the request for provisional arrest, shall be discharged if the Requesting Party cannot send the request for extradition and all of the relevant documents according to Article 7 of this Treaty within the period of 60 days from the date the person was arrested.
5. The release of the person according to paragraph 4 of this Article shall not affect the detention of the person that shall happen later as well as the request for extradition if the related request for the extradition of the person is made later.

## **Article 9**

### **Additional Information**

3. In the case where the Requested Party found the information determined in the request for extradition is insufficient, may request additional information to be sent as well as specifying a timeline to include that information.
4. If the person requested to be extradited is detained, if the additional information provided is still insufficient or is not received within the period specified by the Requested Party, the person shall be discharged from detention. However, the release of the person shall not affect the detention of this person later when sufficient additional information or request for extradition relating to another criminal offense is received.

## **Article 10**

### **Consideration of Requests from Multiple States**

If there are requests for extradition from more than one state, either for the same or different offence, the Requested Party shall make a decision regarding those requests on the foundation that all of the relevant conditions are considered particularly, the level of serious danger and place of the offence, date of the request for extradition, international convention on extradition, nationality and primary residence of the person requested to be extradited, limitations and other consequences that may occur after the extradition of the person to any state.

#### **Article 11**

##### **Decision Relevant to Extradition**

1. The Requested Party shall consider the request for extradition in accordance with their internal laws, and shall notify the Requesting Party regarding their decision promptly.
2. Refusal of all or some part of the request for extradition along with the reasons.

#### **Article 12**

##### **Personal Information Protection**

Each Party shall guarantee to protect the personal information obtained under this Treaty and shall not send it to the other state without written permission from the other Party.

#### **Article 13**

##### **Surrender of the Wanted Person**

1. The Requesting Party shall pick up the person within 30 days after being notified regarding the decision on extradition.
2. Both Parties shall agree on various issues relating to the surrender of the wanted person, including place and date of surrender. The Requested Party shall notify the Requesting Party of the period the person has been detained according to the request on extradition, where this period shall be considered in determining the total period of imprisonment sentence of the person.
3. If the wanted person is not delivered within the period specified in paragraph 1 of this Article, the person shall be released from detention except as determined in paragraph 4-5 of this Article.
4. If any Party cannot, for any reason that they are unable to control, proceed with the surrender of the wanted person shall notify the other Party urgently and the period of the surrender may extend to no more than 30 days. If the surrender cannot proceed within this timeframe, the person shall be released from detention.
5. In the case where the transport of the wanted person to the territory of the Requesting Party may pose a risk to life or health of the person, the surrender may be postponed until the central coordinating organization of the Requested Party finds that the health of the person can endure the surrender procedure. The Requested Party shall notify the Requesting Party regarding such matters urgently.

#### **Article 14**

##### **Surrender of Property**

1. According to the scope of permission by the internal laws of the Requested Party and through the consideration of the rights of the third party, property that is in the territory of the Requested Party obtained from an offence or held as evidence will be surrendered on the basis of the request of the Requesting Party, if there is a decision to extradite the

fugitive or there is a surrender of property related to the case as determined in paragraph 3 of Article 5 of this Treaty.

2. The property that shall be surrendered to the Requesting Party when there is a surrender of the wanted person according to the decision on extradition cannot proceed due to the person having passed away or escaped or any other reason.
3. The Requested Party may request to postpone the surrender of property determined in paragraph 1 of this Article, if those properties are needed for another proceedings and until such proceedings end.
4. If there is a determination by the laws of the Requested Party or the protection of the third party's rights, the surrendered property in the mentioned approach shall be returned without a cost to the Requested Party according to the request of such Party as soon as possible on the basis of the completion of the criminal procedure.

### **Article 15**

#### **Rule of Specialty**

1. An extradited person according to this Treaty shall not be detained, subjected to the proceedings or punished in the territory of the Requesting Party, and shall not be extradited to another state for any offence committed before the extradition that is other than the offence for which extradition is requested; the person for whatever reason shall not be deprived of his/her liberty, except:
  - A). the Requested Party on the basis of the request agrees to the detention against the person for the proceedings or enforcement of a court decision on the person. In this case, the Requesting Party will provide all of the documents and information to the Requested Party for their consideration to such agreement as determined in Article 7 of this Treaty.
  - B). the person has the opportunity to leave the territory of the Requesting State but does not leave within the period of 30 days from the date the criminal procedure is completed and the person is discharged from detention or completes a sentence, or voluntarily returns to the territory of the Requesting Party after coming out.
2. At the time of the criminal prosecution, the elements of the prosecuted criminal offence has changed, but the offence still is the same chargeable offence as determined in the request for extradition, in this case the person may be prosecuted for criminal responsibility or judged according to the scope of the new elements of the criminal offence in accordance with the requirements of extradition.

### **Article 16**

#### **Notification of Procedure Result**

1. The Requesting Party shall notify the result of the criminal proceedings or enforcement of a sentence against the extradited person to the Requested Party promptly.
2. In the case of requests for extradition from multiple states, the Requested State shall notify the Requested State regarding the extradition of the wanted person to the other state.

### **Article 17**

#### **Transit**

1. Each Party may permit a person being extradited by another state to another state to transit their territory.

2. The Party requesting a transit shall send the request for transit that includes all of the documents and information determined in Article 7 of this Treaty to the state where such transit will take place.
3. The transit does not require a permit, if that transnational transportation is carried out by air and is not landed in the territory of the other Party.
4. In the case of an emergency landing, pursuant to the receipt of such transit request the Party may detain that person for extradition for the period of 72 hours until the request for transit permission which is made according to paragraph 1 of this Article is received.
5. The transit shall be denied for a case as determined in paragraph 1 of Article 5 of this Treaty. The transit shall be denied for a case as determined in paragraph 2 of Article 5 of this Treaty.

### **Article 18**

#### **Expenses**

The expenses relating to extradition before extraditing any person will be borne by the Party implementing the request for extradition. The expenses on transport and other expenses relating to the transit of extradited person as well as the sending of property to and from according to Article 14 of this Treaty shall be borne by the Requesting Party.

### **Article 19**

#### **Language and Document Authentication**

1. Any document for the purpose of this Treaty shall be established in the language of the Party that sends the document and accompanied by the document translated into the language of the receiving Party or into English.
2. Any document for the purpose of this Treaty as well as the translated versions shall be signed and authenticated by the central coordinating organization or competent authority, if consistent, of the Party sending those documents and shall not be a further authentication for the correctness in terms of legitimacy or correctness of the document in any case.

### **Article 20**

#### **Relationship with Other International Treaties**

This Treaty shall not affect any right and obligation that both Parties would comply with under any international treaty where both Parties are the party to that treaty.

### **Article 21**

#### **Settlement of Disputes**

Any dispute arising from the interpretation and implementation of this Treaty by both Parties shall be settled through consultation and negotiation.

### **Article 22**

#### **Amendment of Treaty**

1. On the basis of agreement of both Parties, this Treaty may be amended.
2. Any amendment as specified shall be effective pursuant to the procedure determined in paragraph 1 of Article 23 of this Treaty.

### **Article 23**

#### **Final Provisions**

1. This Treaty shall enter into force within 30 days from the date the notifications are exchanged regarding the internal procedure completion of ratification according to the internal laws of the Parties through diplomatic channels.
2. This Treaty shall be terminated within 180 days from the date a written notification is received regarding the intention to terminate this Treaty from the Party wishing to terminate through diplomatic channels.
3. The termination of this Treaty shall not affect the implementation of the request for extradition, received before such termination is entered into force.

**DONE** in two original copies, at Saint Petersburg, on the 28<sup>th</sup> May 2015 in three languages, Russian, Lao and English. All three languages are equally valid; in case there is a difference in the interpretation of this Treaty, the English version shall be used as a basis.

**Representative**

**Lao People's Democratic Republic**

**Representative**

**Russian Federation**



**Treaty  
On Cooperation in Criminal Matters**

**Treaty**  
**On Justice Cooperation in Civil and Criminal Matters**  
**Between the Lao PDR and SR of Vietnam**

The Lao People's Democratic Republic and the Socialist Republic of Vietnam hereinafter referred to as "the Parties";

Desiring to enhance the special friendship relationship and comprehensive cooperation that has existed for a long time in the area of justice in civil and criminal matters between the two countries on the foundation of respecting each other's sovereignty, equality and mutual benefits.

With this objective, we have made jointly a Treaty on Justice Cooperation in Civil and Criminal Matters and have agreed on the following issues:

**Chapter I**  
**General Provisions**

**Article 1**

**Legal Protection**

1. The citizen of a Party that lives in the territory of the other Party shall be legally protected regarding their personal rights and assets the same as the citizen of that Party.
2. The citizen of each Party has the right and freedom to liaise with the court, office of prosecutor, court registry office hereinafter referred to as "justice organizations" and other organizations that has the authority in civil and criminal matters of the other Party. They have the right and to present the idea, opinion, sue according to the laws the same as the citizen of that Party;
3. Determinations stated in this Treaty also apply to entities of the Parties.

**Article 2**

**Exemption of Court Guaranteed Payment**

1. A citizen of a Party shall be granted an exemption of a court guaranteed payment in case s/he is a plaintiff or court meeting participant of the other Party that they do not reside or live in the country;
2. Determinations stated in item 1 of this Article also apply to entities.

**Article 3**

**Justice Cooperation**

1. The justice organizations of the Parties shall cooperate in the area of justice in civil matters including family, labor issues and in criminal matters as determined in this Treaty.
2. The justice organizations have the right to cooperate with other organizations that have the authority as determined in item 1 of this Article.

**Article 4**

**Liaison Method**

1. To implement the justice cooperation, the justice organizations of the Parties shall liaise through the Ministry of Justice or office of supreme prosecutor (criminal matters) of their country, except in case this Treaty has specified otherwise. The justice organizations of

the provinces with joint borders shall have the direct liaison with each other but must notify their Ministry of Justice or office of supreme people's prosecutor in advance.

2. The other organizations of the Parties that have the authority in civil and criminal matters shall pass the justice assignment through their justice organizations as determined in item 1 of this Article, except in case this Treaty has specified otherwise.

## **Article 5**

### **Scope of Justice Cooperation**

1. The Parties cooperate in the area of Justice by implementing legal procedures such as delivery of document, taking of testimony of the witnesses and other related persons. Comments or summary of the experts, evidence gathering, delivery of evidence, evidence property and the result of the proof of evidence along with a copy of the case, enforcement of court decisions and office of economic dispute settlement, extradition and other issues as determined in this Treaty. Transit of the citizen of the Parties must comply with the agreement of the Parties regarding transit regulations and laws' determinations of the Parties on immigration.
2. The justice cooperation determined in this Treaty shall be carried out through a justice assignment if this Treaty does not determine otherwise.

## **Article 6**

### **Content and Form of a Justice Assignment**

1. The justice assignment shall be made in writing following the template printed in advance by the language of the Parties and includes the following key contents:
  - A. Name of the organization of the Requesting Party;
  - B. Name of the organization of the Request Receiving Party;
  - C. Subject title of the assignment, contents of the request and obligatory conditions for the conduct of the assignment.
  - D. Name and surname, age, nationality of the litigant (plaintiff or defendant), witness and others related to the case, their permanent address; (also indicate their professions and occupations if known);
  - E. Name, surname and permanent address of the litigant's legal representative (if any).
2. The justice assignment in criminal matters besides the contents determined in item 1 of this Article, the event of the case must be summarized in detail, charge of the criminal offence as well as the penalty as determined by law, date of birth, place of birth and punishment record of the suspect or defendant (if any).
3. The documents regarding the justice assignment must have the signature and seal of the representative of the organization of that requesting party.

## **Article 7**

### **Implementation Method of Justice Assignment**

1. In implementing the justice assignment, the organization of the Request Receiving Party shall refer to the laws of their country in the case where there is a proposal of the organization of the Requesting Party the organization of the Request Receiving Party may use the laws of the Requesting Party if not contradicting with the laws of their country.
2. In case the wanted person cannot be found in the address indicated in the assignment documents, the organization of the Request Receiving Party shall use necessary measures to search for that person according to the person's new address. Within the period of 60

days from the date of receiving the request but the justice organization receiving the request cannot find that address, the justice organization of that Party must send the file back to the justice organization of the Requesting Party and inform of the reason clearly.

3. Pursuant to the proposal of the organization of the Parties and the place the justice assignment is implemented to the organization of the Requesting Party immediately.
4. To implement the assignment, the organization of the Request Receiving Party must form a file of necessary documents notifying the date, time, place to implement the assignment and send that file of documents to the organization of the Requesting Party. If such assignment cannot be implemented, the organization of the Request Receiving Party will send the documents regarding justice assignment back and inform the reason the assignment cannot be implemented to the organization of the Requesting Party.
5. If the organization of the Request Receiving Party does not have the authority, the justice assignment shall be sent to the competent authority by law of the Request Receiving Party.

## **Article 8**

### **Protection of Witness and Expert**

1. The witness or expert, whether a citizen of any of the Parties, when summoned by the court of any of the Parties, the Party that the witness or expert lives in shall facilitate the compliance of the summons as well as protect them from being arrested, interrogated and subjected to criminal procedures in any way before transiting to the Requesting Party the Requesting Party is prohibited to make an arrest, detain or convict them due to being a witness and testifying, their technical evidence summary report as well as due to they have a liaison with the suspects, which are the targets that are being investigated-interrogated, prosecuted and convicted of the crime of that Requesting Party.
2. The witness or expert shall be ineligible to receive the protection as determined in item 1 of this Article if they do not leave the territory of the Requesting Party within the period of seven days from the date receiving the notification that their duty is no longer necessary without counting the time the witness or expert cannot leave the territory of the Requesting Party due to natural causes.
3. The witness or expert that receives the summons from the court as determined in item 1 of this Article has the right to receive travel, food, accommodation compensations and salary in the amount that they do not get during the period they have the duty in the territory of the Requesting Party where such Party is the one paying that compensation. In addition, the expert shall also receive the wage in summarizing the technical outcome in the summons it is to indicate the wages clearly that the expert should receive in case the person summoned requests the expenses in advance, the relevant competent authority of the Requesting Party must pay some in advance for necessary expenses.
4. The witness or expert that receives the summons can also refuse to comply with summons of the Requesting Party. The Party shall not have the right to use coercive measures to the witness or expert to comply with the summons.
5. In the case where the witness or expert is detained in the territory of the Party where they live when the summons is received such Party shall use necessary measures to send them to the Requesting Party temporarily. After receiving them the Requesting Party shall use the necessary measure to continue to detain them. After the work has been completed the

Requesting Party must return them back to the country according to the period of time that the Parties have agreed.

#### **Article 9**

##### **Delivery of Documents**

1. The justice organization of the Requesting Party shall send the document to the justice organization of Request Receiving Party in the official language of their country or enclose the translated version that has been clearly authenticated.
2. In the sent request, it is to indicate name and surname, correct and clear address of the recipient as well as indicate name of the delivered document.
3. If the documents cannot be sent according to the address stated on the document, the organization of the Request Receiving Party shall use the necessary measures to search for the correct address of the recipient. If not found, the Request Receiving Party shall notify in writing to the Requesting Party, as well as return such documents completely.

#### **Article 10**

##### **Certification of Document Delivery**

1. The certification of document delivery is to comply with the laws and regulations of the Request Receiving Party.
2. The certificate of document delivery is to indicate name of the sending organization, place, date, sending time as well as name and surname of the person receiving the document.

#### **Article 11**

##### **Delivery of Documents to Own Citizens**

1. Each Party has the right to deliver the documents to their citizens that are in the territory of the other Party through the Embassy or Consulate of their country.
2. In sending the documents as determined in item 1 of this Article, there shall not be the use of coercive measures against the recipient of such document in any way.

#### **Article 12**

##### **Validity of Documents**

1. The documents that the competent authority issued and certified in accordance with the regulations and laws of any of the Parties do not need to be authenticated by the Consulate or notary agency when used in the other Party.
2. The determination in item 1 of this Article is also applied to the copy of the document and translated document that is also certified by the relevant competent authority of the Party.
3. The document that is legally valid in a Party it is to be legally valid in the other Party.

#### **Article 13**

##### **Sending Documents on Household Registration Book**

1. Parties sending documents to each other through diplomatic channels are to pay fees for subtracting part or copying all of the household registration book and other documents related to the household registration book of the citizens of the related Party.
2. The citizen of a Party shall send the request for delivery of household registration documents to the organization of the other Party through diplomatic channels.

#### **Article 14**

##### **Legal Information Exchange**

According to the request, the Ministry of Justice and office of supreme prosecutors of the Parties shall exchange with each other legal documents that are still effective or were effective in the past in the territory of their country as well as the application of such documents of the justice organizations.

#### **Article 15**

##### **Language**

In mutual justice cooperation, the Parties shall use their language or the third language according to the agreement.

#### **Article 16**

##### **Expenses in Liaison of Justice Cooperation**

1. In implementing the justice cooperation, the Request Receiving Party shall be responsible for expenses incurred in the territory of their country.
2. The organization of the Request Receiving Party shall notify the Requesting Party regarding their total expenditure if the organization of the Requesting Party receives the expense from oblige, such expense is to borne by that Requesting Party.

#### **Chapter II**

##### **Justice Cooperation in Civil Matters**

##### **I. Determination Regarding Person**

#### **Article 17**

##### **Legal Capacity and Capacity for Civil Conduct**

1. The legal capacity and capacity for civil conduct is to comply with the laws of the Party of which the person is a citizen.
2. The capacity for civil conduct of a person happens and proceeds in the civil relationship aiming at serving the needs of daily living is to comply with the laws of the Party that is a birth place and a place to proceed of such relationship.
3. The legal capacity of entity is to comply with the laws of the Party that adopts the establishment of such entity.

#### **Article 18**

##### **Determination of Citizens' Incompetence for Civil Conduct or Having Limited Capacity for Civil Conduct**

1. The declaration that a person is lacking of capacity for civil conduct or having limited capacity for civil conduct is to comply with the laws and depend on the authority of the justice organization of the Party of which the person is a citizen.
2. The justice organization of a Party shall notify the justice organization of the other Party regarding the need to declare that a citizen of the related Party who is living in the territory of their country is lacking of capacity for civil conduct or having limited capacity for civil conduct, if the justice organization of the declaring Party found that there are enough grounds for such declaration.
3. Within the period of three months from the date receiving the notification regarding the need to declare according to the contents in item 2 of this Article, the justice organization of the notification Receiving Party must carry out necessary measures as determined in the laws of their country, the decision that acknowledges the lack of capacity for civil conduct or having limited capacity for civil conduct shall be sent to the justice

organization of the Party issuing the notification by complying with Article 4 of this Treaty.

4. In the necessary case, the justice organization of the Party where a citizen who is lacking of capacity for civil conduct or having limited capacity for civil conduct lives in may issue a temporary decision regarding the lack of capacity for civil conduct or having limited capacity for civil conduct and implement necessary measures to protect such citizen or the person's legal assets, such decision shall also be sent to the justice organization that has the authority of the Party of which the person is a citizen, if the justice organization of the Party of which the person is a citizen of issues the decision that contradicts this temporary decision it is to consider the temporary decision as null.

#### **Article 19**

#### **Revocation of Decision Acknowledging the Lack of Capacity for Civil Conduct or Having Limited Capacity for Civil Conduct**

The determinations stated in Article 18 of this Treaty are also used in the case of revocation of a decision regarding the lack of capacity for civil conduct or having limited capacity for civil conduct.

#### **Article 20**

#### **Declaration of Missing or Death of Citizen**

1. Declaring the person is missing or deceased is the authority of the justice organization of the Party of which the person is a citizen while the person is still alive.
2. Pursuant to the request of the relevant person with rights and benefits who is living in the territory of a Party, the justice organization of that Party may issue the decision according to the laws of their country regarding the issues relating to the missing or deceased citizen of the other Party.
3. The determinations stated in item 1 and 2 of this Article are also used in the case of revocation of the decision regarding a missing or deceased person.

### **II. Civil Contract and Non-Contractual Damages and Responsibility to Compensate Non-Contractual Damages**

#### **Article 21**

#### **Forms of Civil Contract**

1. Forms of civil contract are to comply with the laws of the Party where the contract is signed.
2. Forms of contract on real estate are to comply with the laws of the Party where the real estate is located.

#### **Article 22**

#### **Real Estate**

The justice organization of the Party where the real estate is located has the authority to decide on the issues relating to that real estate.

#### **Article 23**

#### **Non-Contractual Damage Compensation**

1. The non-contractual damage compensation is to comply with the Law on Non-Contractual Obligation and is the authority of the justice organization of the Party where the actions or damages happen.

2. If the perpetrator and victim has the same nationality but lives in the territory of the other Party then it is to apply the laws of the Party of which they live.
3. The justice organization that has the authority to settle the lawsuit for compensation is the justice organization of the Party where the damages are incurred, actual harm is received or the defendant lives. In addition, the justice organization of the Party where the plaintiff lives also has the authority to settle if the defendant has the assets account in such Party.

#### **Article 24**

##### **Termination of Case**

The justice organizations of the Parties that have the authority according to this Treaty or have the authority according to the laws of their country have proceeded with the same case where the litigant is the same person and the content is the same, any justice organization that proceeded with the case later is to terminate the case proceedings and notify the litigant.

### **III. Marriage and Family**

#### **Article 25**

##### **Marriage**

1. In the marriage between the citizens of the Parties, each partner must implement the marriage requirements as determined in the laws of the Party of which they are citizen in case the marriage is proceeded with in the competent authority of any of the Parties they must also implement the marriage requirements according to the laws of that Party.
2. Marriage ceremony is to comply with the laws of the Party where the marriage is conducted. The legally conducted marriage of any of the Parties shall also be recognized by the other Party except in the case where the recognition contradicts the basic principles of the law on marriage and family of the recognized Party.

#### **Article 26**

##### **Legal Relationship between Husband and Wife**

1. The legal relationship between husband and wife is to comply with the laws of the Party where they live together.
2. If a couple bears the same nationality but lives in each Party, the legal relationship between them is to comply with the laws of the Party of which they are a citizen.
3. If a couple bears the different nationality and lives in each Party, the legal relationship between them is to comply with the laws of the Party where the couple lived together the last time.
4. If a couple as determined in item 3 of this Article do not have a joint address it is to comply with the laws of the Party where the justice organization receiving the lawsuit is located.
5. The organization that has the authority to settle the issues relating to legal relationship between husband and wife is the justice organization of the Parties determined in item 1, item 2 and item 3 of this Article. For the case determined in item 4 of this Article, the justice organization of each Party all has the settlement authority.

#### **Article 27**

##### **Dissolution of Marriage**

1. If a couple bears the same nationality, the dissolution of a marriage receives the settlement according to the laws of the Party of which the couple are a citizen.



2. If a couple bears a different nationality but lives in a Party, the dissolution of a marriage shall be settled according to the laws of the Party where the couple lives together if at the time of submission of divorce application they do not have a joint address, the justice organization receiving the divorce application shall be the one that proceeds with the case according to the laws of its country.
3. For the dissolution of a marriage determined in item 1 of this Article, the justice organization that has the authority to settle is the justice organization of the Party of which the couple are a citizen.
4. For the dissolution of a marriage case determined in item 2 of this Article, the justice organization that has the authority to settle is the justice organization of the Party where the couple lives together. If they live in a different Party, the justice organization of each Party all has the settlement authority.

#### **Article 28**

##### **Null Marriage**

1. A null marriage is a marriage that violates the determinations of the laws used as determined in Article 25 of this Treaty.
2. The justice organization that has the authority to declare that a marriage is null is the justice organization determined in item 3 and item 4 of Article 27 of this Treaty.

#### **Article 29**

##### **Legal Relationship between Father, Mother and Offspring**

1. Recognition of a child as an offspring and recognition of a child out of wedlock is to comply with the laws of the Party where the child lives at the time of submitting the application.
2. The legal relationship between parents and child is to comply with the laws of the Party where the parents and child are living together.
3. If both parents or father or mother live(s) in a Party but the child lives in the other Party, the legal relationship between father, mother and child is to comply with the laws of the Party where the child lives.
4. The organization that has the authority to settle the issues determined in item 1, 2 and 3 of this Article is the justice organization of the Party where the child lives.

#### **Article 30**

##### **Obligation to Support**

1. The obligation to support between father, mother and child is to comply with the laws of the Party of which the person requesting for the support is a citizen.
2. The organization that has the authority to settle the request for the support stated in item 1 of this Article is the justice organization of the Party where the person requesting for the support lives.
3. The Party shall use necessary measures according to the laws of its country to ensure the full implementation of the obligation to support according to the court decision of the Parties.

#### **Article 31**

##### **Adoption**

1. The citizen of a Party can adopt the child who is a citizen of the other Party. The adoption is to comply with the laws of the Party of which the child is a citizen.

2. In the adoption of the child, in addition to complying with item 1 of this Article, also the agreement from the child being adopted or the agreement from the biological parents or the child's guardian shall be received if the laws of the Parties has determined.
3. The rights and obligations between adopted parents and adopted child, the changes and termination of the status of being an adopted child is to comply with the laws of the Party where the adopted parents are the citizen. In case the adopted father and mother are citizens of different Parties, it is to comply with the laws of the Party where that adopted child lives.
4. The organization that has the authority to settle in the case stated in item 1 and 2 of this Article is the justice organization of the Party of which the adopted child is a citizen. For the case determined in item 3 of this Article is the justice organization of the Party where the adopted child lives.

### **Article 32**

#### **Guardianship of the Child or the Incompetent for Civil Conduct**

1. The guardianship of the child or the incompetent for civil conduct is dependent on the competent authority of the Party of which the person being guarded is a citizen and is to comply with the laws of such Party if this Treaty does not determine otherwise.
2. The appointment and termination Requirements of the guardianship of the child or the incompetent for civil conduct are to comply with the laws of the Party of which that guardian is a citizen.
3. The legal relationship between the guardian and person being guarded is to comply with the laws of the Party of which the organization appointing the guardian of the child or the incompetent for civil conduct is located.
4. The obligation of the guardian of the child or the incompetent for civil conduct is to comply with the laws of the Party of which that guardian is a citizen.
5. The citizen of a Party may be appointed as a guardian for the person living in the territory of the other Party if that citizen is living in the territory of the Party of which there is an appointment of such guardianship.

### **Article 33**

#### **Guardian Appointment in Special Case**

1. When there is a need to appoint the guardian for the citizen of a Party but that citizen has a residence or property in the other Party, this organization must notify immediately the competent authority as determined in item 1 of Article 32 of this Treaty.
2. In case of need, the competent authority of the other Party shall use temporary measure according to the laws of its country and notify promptly the competent authority determined in item 1 of Article 34 of this Treaty. The application of this temporary measure shall be carried out until such organization has agreed to another.

### **Article 34**

#### **Assignment of Guardianship of the Child or the Incompetent for Civil Conduct**

1. The organization that has the authority to appoint the guardian for the child or the incompetent for civil conduct of the Party of which the person being guarded is a citizen shall propose to the organization that has the authority to appoint the guardian for the child of the other Party to appoint and apply the temporary measure if that guardian is living in the territory of its country. The organization receiving the request must notify

the organization making the request regarding such appointment and application of temporary measures.

2. If the person being guarded is a citizen of a Party but lives regularly in the territory of the other Party, the organization that has the authority that has appointed the guardian for the child or the incompetent for civil conduct may request the organization of the other Party to continue to implement the appointment of guardian for the child or the incompetent for civil conduct.
3. The assignment and the acceptance of guardianship of the child or the incompetent for civil conduct is to comply with the laws of the other Party that accepts the assignment of guardianship.
4. The organization that accepts the guardianship assignment of the child or the incompetent for civil conduct continues to implement such assignment according to the laws of its country but the organization accepting the assignment does not have the right to decide regarding the issues relating to provisions on the person of the protected person.

#### **IV. Inheritance**

##### **Article 35**

##### **Principle on Equality**

1. The citizen of a Party has the right to inherit the inheritance in the territory of the other Party the same as the citizen of that other Party.

##### **Article 36**

##### **Application of Law on Inheritance**

1. The inheritance of the chattel is to comply with the laws of the Party of which the owner of the inheritance was a citizen at the time of death.
2. The inheritance of the chattel is to comply with the laws of the Party where the real estate that is the inheritance is located.
3. The classification of inheritance whether it is chattel or real estate is to comply with the laws of the Party where the inheritance is located.

##### **Article 37**

##### **Transfer of Inheritance to the State**

In the case where there is no heir according to the will, according to the laws, the heirs have no right to inherit the inheritance or refuse the inheritance in which according to the Parties the inheritance shall go to the state. The chattel shall go to the Party of which the owner of the inheritance was a citizen at the time of death. The real estate shall go to the Party where the real estate is located.

##### **Article 38**

##### **Will**

1. The will of the citizen of a Party shall be deemed legally valid in the other Party only when it is consistent with:
  - A. The laws of the Party of which is the origin of the will; or
  - B. The laws of the Party of which the owner of the inheritance is a citizen at the time the will is made or at the time the person is still alive; or
  - C. The laws of the Party where the owner of the inheritance lives during the time determined in item 'B' of this Article.

2. The determinations stated in item 1 of this Article are also used for the cancellation of the will.
3. The determinations on capacity to make or cancel the will are to comply with the laws of the Party of which the owner of the inheritance is a citizen at the time the will is made or cancelled.

### **Article 39**

#### **Announcement and Sending of the Will**

The announcement of the will is the rights and obligations of the organization that has the authority regarding the inheritance of the Party of which the owner of the inheritance was a citizen at the time of death. If the owner of the inheritance before had lived in the territory of the other Party, a copy of the will by recording the will's contents and will announcement statement one copy each shall be sent to the organization that has the authority regarding the inheritance of the other Party. In case receiving the request, the organization that has the authority regarding the inheritance of a Party shall send the original copy of the will to the organization that has the authority regarding the inheritance of the other Party.

### **Article 40**

#### **Settlement Authority on Inheritance Issue**

1. The settlement authority on inheritance issue belongs to the justice organization of the Party of which the owner of the inheritance who died was a citizen, except for the case determined in item 2 of this Article.
2. The settlement authority on the inheritance of real estate belongs to the justice organization of the Party where the real estate is located.
3. The determinations stated in item 1 and 2 of this Article shall be used in the lawsuit on inheritance.

### **Article 41**

#### **Protection and Management of Inheritance**

1. The justice organization that has the inheritance of the citizen of the other Party left at the time of death shall use necessary measures to protect and manage the inheritance according to the laws of its country.
2. The application of the measures determined in item 1 of this Article shall be notified promptly to the Embassy or Consulate of the related Party in order for the organization to be involved in the implementation of such measures.
3. Pursuant to the request of the justice organization that has the authority regarding inheritance settlement, the measure being used as determined in item 1 of this Article may be altered or cancelled.
4. The period to accept the inheritance for protection or management according to the laws of each Party is to count from the date the Embassy or Consulate notifies regarding the death of the owner of the inheritance.

### **Article 42**

#### **Notification on the Death of Owner of the Inheritance**

If the citizen of a Party dies in the territory of the other Party the justice organization of that Party must notify immediately and directly the Embassy or Consulate of the Party of which the decedent is a citizen. Additionally, the justice organization shall also notify all that

they know regarding the heir, his/her correct address, inheritance or will if any, estate of the deceased in the third country.

#### **Article 43**

##### **Delivery of Inheritance**

1. If the justice organization of a Party has successfully resolved in accordance to the procedure for inheritance process or needs to deliver the money obtained from selling the inheritance, residence in the territory of the other Party. But the person or representative of the person is unable to collect the inheritance or amount of money remaining from the payment of obligations or direct dividend, the inheritance or amount of money shall be delivered through the Embassy or Consulate of the Party of which the person is a citizen.
2. The delivery of inheritance according to item 1 shall be proceeded with only when:
  - A. Guarantee the payment of assets obligation and expenses relating to the inheritance as determined in the laws of the Party where the inheritance is located.
  - B. Guarantee the payment of compensation or debt of the owner of the inheritance to the officials completely according to the time specified in the law of the Party where the inheritance is located.
  - C. Paid all or guarantee the payment of fees and taxes relating to the inheritance.
  - D. The competent authority finds that it is necessary and approves the delivery of objects that is the inheritance or amount of money obtained from selling the inheritance to the foreign country, if finds necessary and the laws of the Party allows.

#### **V. Recognition and Implementation of the Decision**

##### **Article 44**

##### **Recognition and Implementation of the Decision**

A Party recognizes and implements the decision of the other Party in the territory of its country as determined in this Treaty as follows:

1. Decision on civil case including court decision on labor, marriage, inheritance and other decisions determined in this Treaty;
2. Decision on assets in the criminal case;
3. Decision of the office for economic dispute settlement of the Parties.

##### **Article 45**

##### **Recognition Requirements and Implementation of the Decision**

The decisions set forth in Article 44 of this Treaty shall be recognized and implemented according to the following requirements:

1. The decision is legally binding according to the laws of the Request Receiving Party and shall comply with the laws of the Party issuing the decision.
2. The decision issued by the competent authority as determined in this Treaty or according to the laws of the Request Receiving Party, that decision is to be recognized and implemented.
3. The civil decision of the Requesting Party that is legally binding, which does not contradict the laws of the Request Receiving Party or in the past Request Receiving Party has never implemented the decision of the same case from a third country or when receiving the decision for the implementation the court of the Request Receiving Party has never settled or decided on the same case before.

4. The decision that the litigant who is obligated to implement or his/her representative has participated in the proceedings and has been guaranteed the right to defend the case.
5. The Request Receiving Party and national security or does not contradict with the basic principles of the laws of the Request Receiving Party.

#### **Article 46**

##### **Requirements for Recognition and Implementation of the Decision of Office for Economic Dispute Settlement**

The decision of office for economic dispute settlement shall be recognized and implemented only when in addition to ensuring the requirements determined in Article 45 of this Treaty, additional requirements shall be met completely as follows:

1. The decision of the office for economic dispute settlement has been decided within the scope of its authority and according to the laws of the Parties where the litigants had agreed to select the decision committee and had recorded in the agreement regarding the decision committee.
2. The agreement document of decision committee is legally valid according to the laws of the Party where the decision takes place; must be recognized and implemented on according to the laws of the Party where the litigants had agreed to select the decision committee legally.
3. Individual and organization has the right and obligation to implement the decision of the legal decision committee.
4. The elements of the decision committee, regulations and procedures in dispute settlement at the office for economic dispute settlement must be consistent with the agreement on the selection of the decision committee or the laws of the Party where the committee makes the decision.
5. Committee's decision is the decision regarding an economic dispute in which not only depending on the jurisdiction of the Request Receiving Party.

#### **Article 47**

##### **Request for Recognition and Implementation of Decision**

1. The request for recognition and implementation of the decision that is legal according to the laws of the Party in which the decision is made or is legal according to the laws of the Party receiving the request for recognition and implementation of the decision is to be sent to the court that has the authority to decide on disputes as a primary level or justice organization that has the authority to implement the decision of the decision committee; that justice organization shall deliver the request and other necessary documents to the competent authority of the Request Receiving Party according to the method determined in Article 4 of this Treaty.
2. The documents enclosed to the request consist of the following:
  - A. The original of the decision or a legally copied version, in case the decision is unclear the certificate regarding correctness of the contents of the decision that is legally binding and to be implemented must be provided.
  - B. The certificate regarding the exercise of the right to defend the case of the Party who shall implement the decision which is guaranteed to be legal according to the laws of the Party where the decision is made.

- C. The request and enclosed documents must be translated into the language of the Request Receiving Party and authenticated.
3. For the request for recognition and implementation of the decision committee's decision, the original or a copied agreement of the litigants regarding decision committee as well as the version that is translated into the language of the Request Receiving Party also shall be sent and authenticated.

#### **Article 48**

##### **Regulations on Recognition and Implementation of Decision**

1. The court of the Request Receiving Party shall consider to recognize and implement the decision of the Requesting Party according to the laws of its country.
2. The litigant that has the obligation to comply with the decision has the right to submit the objection proposal against the recognition and implementation of the decision if the laws of the Party of which the decision is made allows the litigant to exercise such rights.
3. If the justice organization of the Party of which the decision is made has a written proposal to temporarily suspend or terminate the implementation of the decision, the justice organization of the proposal Receiving Party shall suspend or terminate the recognition and implementation of the decision.

#### **Article 49**

##### **Decision Implementation**

1. The decision implementation is to comply with the laws of the Party that recognized and implemented that decision;
2. The decision implementation of the Request Receiving Party shall comply with Article 48 of this Treaty, the organization that has the authority to implement the decision shall implement only the decision that is legally binding without proceeding the case and reconsidering the decision over again.

#### **Article 50**

##### **Delivery of Money and Property according to the Decision**

The Parties make a joint commitment to ensure the delivery of money and property obtained from the implementation of the decision according to this Treaty, the delivery of money and property is to comply with the laws of the Request Receiving Party.

#### **VI. Court Fees**

##### **Article 51**

##### **Court Fees**

1. The citizen of a Party whether they are plaintiff or defendant in the court case of the other Party shall pay the court fees according to the laws of that Party.
2. In case the citizen of a Party shall pay the fees to the justice organization of the other Party, the person shall receive the advanced notification on necessary period to pay such fees.

##### **Article 52**

##### **Exemption of Court Fees**

1. The citizen of a Party may be exempt from the court fees of the other Party as determined in this Treaty.

2. The privilege determined in item 1 of this Article shall be applied at all stages of civil procedure, including the implementation of decision of the court and office for dispute settlement of the Parties.

### **Article 53**

#### **Request for the Exemption of Court Fees Regulations**

1. The person requesting to use the privilege determined in Article 52 of this Treaty must have the certificate on the status of him/herself, family and assets that is legally issued by the competent authority of the Party of which the person requesting for the privilege lives.
2. If the person requesting for the privilege does not live in the Parties, the certificate determined in item 1 of this Article is to be issued by the Embassy or Consulate of the Party of which the person is a citizen.
3. In order to gain the privilege determined in Article 52 of this Treaty, the person requesting the privilege shall send the request to the justice organization that has the authority of the Party of which s/he is a citizen, this justice organization must deliver the request and certificate as determined in item 1 and 2 of this Article along with other necessary documents to the justice organization that has the authority of the relevant Party.
4. The request to use the privilege determined in Article 52 may be sent along with the lawsuit or other documents relating to the case.
5. In researching and considering the request for court fee exemption, the justice organization of the Parties may request the organization issuing the certificate to explain for further clarification on the issue of interest and send additional documents.

### **Chapter III**

#### **Justice Cooperation in Criminal Matters**

##### **I. Criminal Prosecution Procedure**

### **Article 54**

#### **Obligation to Criminal Prosecution Procedure**

1. A Party has the obligation to comply with the request of the other Party to proceed with the criminal prosecution against its citizen that committed an offence in the territory of the Requesting Party in accordance with the laws of its country.

If there is a request, the Request Receiving Party shall use necessary measures to continue to proceed with the criminal prosecution against the citizen of the Requesting Party who committed an offence and has appeared in the territory of the Request Receiving Party.
2. The request for criminal prosecution procedure along with the case file of the victim shall be submitted to the competent authority according to the regulations determined in the laws of the Parties and shall be legally valid in the territory of the other Party.
3. The person damaged in the criminal case shall receive the right to defend the criminal case in the courts of the Parties as equally as the citizens of the Party where courts that proceed with the criminal case are located.

### **Article 55**

#### **Regulations on Assignment of Criminal Prosecution**

1. The assignment of the criminal prosecution shall include the documents and consist of the contents as follows:



- A. Name of the requesting organization;
  - B. Clarification regarding the offence that leads to the assignment of criminal prosecution;
  - C. Indicating time and plan of the offence correctly and clearly;
  - D. Application of articles of the criminal law of the Requesting Party and other laws' determinations regarding the person;
  - E. Name and surname, nationality, address of the offender and other information regarding the person;
  - F. Lawsuit of the victim, if the case is proceeded with according to the request of the victim and other requests;
  - G. The assignment of criminal prosecution must be sent along with the case file, information on damages caused by such offence and various evidence which the Requesting Party has gathered.
- 2. If at the time of sending the assignment of criminal prosecution, the defendants that are detained in the territory of the Requesting Party, such Party must deliver the defendants to the Request Receiving Party. The extradition is to comply with the determinations specified in this Treaty.
  - 3. The Request Receiving Party has the obligation to notify the Requesting Party regarding the decision of criminal case at the final level, if there is a proposal from the Requesting Party the Request Receiving Party shall also send a copy of the final decision according to the proposal.

#### **Article 56**

##### **Effect of Criminal Prosecution**

If a Party sends the assignment of the criminal prosecution as determined in Article 55 of this Treaty, after the justice organization of the Request Receiving Party issued the decision that is legally binding or is a final decision, the justice organization of the Requesting Party shall not rule on the case again, except for the case where the Parties has agreed in writing otherwise.

#### **Article 57**

##### **Delivery of Property relating to Offender**

- 1. Pursuant to each other's request, the Parties have the obligation to deliver to each other:
  - A. Property or value amount of the property obtained from the offence;
  - B. Property that is the evidence in the criminal case, even though the extradition cannot be proceeded with due to the person having died, escaped or due to other circumstances.
- 2. If the property requested to be delivered is incomplete to be included as the evidence in the criminal case, the Request Receiving Party may propose to the Requesting Party to continue to collect the evidence that is incomplete according to the laws of its country.
- 3. Must ensure the return of the property that has been delivered to the requesting country back to the third party who is the owner. After completing the criminal procedure, the property must be returned to the Party of which the property is delivered, may be sent to the owner before the proceedings ends if such return does not have a negative impact on proceedings. If the owner of the property is living in the territory of the Requesting Party,

this Party shall return those properties to the owner directly after agreeing with the other Party.

#### **Article 58**

##### **Notification on Decision and Information regarding Offender's Biography**

1. Each year the Parties shall notify each other the court decision of a Party that is legally binding on the citizen of the other Party.
2. When there is a request, the Party must notify each other the information regarding the biography of the person who has been convicted by its court if the person is being prosecuted for criminal offence in the territory of the Requesting Party.

#### **II. Extradition**

##### **Article 59**

##### **Extradition Commitment**

In accordance with the message determined in this Treaty, a Party will extradite a citizen of the other Party who is in the territory of its country to this Party for criminal proceedings or enforcement of a criminal conviction.

##### **Article 60**

##### **Requirements of Extradition**

For the purpose of this Treaty, the extraditable offence is the offence according to the laws of the Parties punishable by imprisonment for more than one year or a more severe punishment.

The surrender for the enforcement of a binding criminal conviction shall be carried out when the offender is sentenced for more than one year or a more severe punishment.

##### **Article 61**

##### **Refusal of the Request for Extradition**

1. The extradition shall be refused on the following grounds:
  - A. the person being extradited is a citizen of the Request Receiving Party;
  - B. is the offender in the same case in which the Request Receiving Party has already ruled or has a legally binding criminal decision or has the order to close the case;
  - C. the Request Receiving Party has considered according to its laws and found that the criminal prosecution limitations or limitations for the enforcement of the decision for the extraditable offence have ended;
  - D. the Request Receiving Party has considered according to its laws and found that the request for extradition cannot be accepted due to the reason they found that it is a special case.
2. In the case of refusal of extradition, the Request Receiving Party has the duty to notify the Requesting Party.

##### **Article 62**

##### **Documents of the Request for Extradition**

1. Along with the request for extradition for criminal procedure, a copy of the arrest warrant that is legally authenticated and clarification statement, articles of the criminal law that are the bases for the prosecution against the person must be enclosed.
2. Along with the request for extradition for the enforcement of a criminal conviction, a copy of a legally binding criminal decision that is legally authenticated must be enclosed. If the person requested to be extradited has served some of the sentence, the certification

document regarding such matter from the criminal decision enforcement organization of the request for extradition Receiving Party must be provided.

### **Article 63**

#### **Additional Documents of the Request for Extradition**

If the request for extradition has not yet had the necessary information completely to proceed with the surrender, the Request Receiving Party has the right to propose the Requesting Party to provide additional information. The Requesting Party may request for an extension in providing the additional information but maximum not more than 2 months.

The competent authority of the Request Receiving Party may terminate the surrender or discharge the detainee immediately if not receiving the necessary additional information as determined in this Article.

### **Article 64**

#### **Arrest for Extradition**

After receiving the request for extradition, the Request Receiving Party shall use necessary measures according to the laws of its country to arrest the person subjected to extradition.

### **Article 65**

#### **Arrest pending the Request for Extradition**

1. A Party can arrest the offender according to the request of the other Party before receiving the documents completely if the competent authority of the Requesting Party refers to any arrest warrant or any court decision that is legally binding and which shall be sent to the Request Receiving Party in the shortest possible time. The request for the early arrest may use the postal system, telecommunication or other vehicles.
2. In the case where there is not a request according to item 1 of this Article, the competent authority of each Party can arrest the person who is living in the territory of their countries if there are correct, clear and sufficient grounds to conclude that the person has committed a crime and shall be extradited to the related Party according to this Treaty.
3. The arrest made according to item 1 and item 2 of this Article shall be notified immediately to the related Party.

### **Article 66**

#### **Discharge of Detainee**

The person being detained as determined in Article 64 and 65 of this Treaty shall be discharged if the Party making an arrest does not receive the request for extradition within the period thirty days from the date of implementing the arrest warrant. The discharge of the detainee must be notified to the other Party.

### **Article 7**

#### **Suspension of Extradition**

If the person being extradited is the litigant in a case, a defendant in a criminal case or is convicted by court due to another offence in the territory of the Request Receiving Party, the extradition may be suspended until the proceedings is completed or having completing the enforcement of a punishment.

### **Article 68**

#### **Temporary Extradition**

1. If the suspension of the extradition causes the limitations to end or posts the obstacles to the criminal procedure, the person requested to be extradited may be extradited temporarily according to the request that has grounds of the Party.
2. The temporarily extradited person must be returned to the delivering Party immediately after the criminal procedure according to the request for extradition is ended.

#### **Article 69**

##### **Surrender of Person Being Extradited**

The Request Receiving Party shall notify the Requesting Party regarding date, time and place for the surrender of the person being extradited, if the Requesting Party does not pick up the person being extradited within the period of 15 days from the date of surrendering as specified the detainee shall be discharged. In the surrender of the person being extradited an extension may be requested, but not more than 15 days.

#### **Article 70**

##### **Re-extradition**

After handing-over the person being extradited to the Requesting Party but the person has escaped the criminal prosecution or enforcement of penalty and returned to the territory of the Request Receiving Party, that person shall be arrested and re-extradited according to the proposal of the Requesting Party. This request for the arrest and re-extradition does not need to include the enclosed documents as determined in Article 62 of this Treaty.

#### **Article 71**

##### **The Extradition of the Same Person that Multiple Countries Request**

If multiple countries request for the extradition of the same person, the Request Receiving Party shall consider to extradite to one of the countries. The inability to respond to the requests of the other countries shall be notified and stated reasons to inform the countries.

#### **Article 72**

##### **Scope of Criminal Prosecution against Extradited Person**

1. If not agreed by the Request Receiving Party, the extradited person shall not be criminally liable or enforced of any offence other than the offence for which extradition is requested;
2. The extradited person shall not be sent to the third country if not agreed by the Request Receiving Party;
3. Protection of rights of the extradited person as determined in item 1 and 2 shall be dropped and it is not necessary to receive the agreement from the Request Receiving Party in the following circumstances:
  - A. The extradited person that is not a citizen of the Requesting Party does not leave the territory of the Requesting Party within the period of one month from the date the proceedings is completed or having completed the enforcement of a punishment. Such period does not include the time the person cannot leave the territory of the Requesting Party due to external causes.
  - B. After leaving the territory of the Requesting Party, the extradited person returns to the country on his/her own.

#### **Article 73**

##### **Notification of Result of Proceedings**

The Requesting Party has the duty to notify the result of the criminal procedure or if there is a legally binding decision, a copy of the decision is to be sent to the Request Receiving Party.

#### **Article 74**

##### **Surrender of Property relating to Extradition**

1. The property that is the evidence in the criminal case of which the extradited person is a suspect or a defendant shall be sent the Requesting Party wholly. These properties shall still be surrendered in case the extradition cannot be proceeded with due to the person having died, escaped or due to other circumstances.
2. If the organization for proceedings of the Request Receiving Party needs the property as determined in item 1 of this Article to be used in another case, the surrender may be suspended.
3. Must ensure the rights and benefits of the third party in relation to the property determined above. After completing the criminal procedure, the Requesting party shall return the property to the Request Receiving Party to return to the owner. In case the owner of the property lives in the territory of the Requesting Party, this country shall return those properties to the owner directly after receiving the agreement from the Request Receiving Party.

#### **Article 75**

##### **Transit for Extradition**

1. Pursuant to the request to each other, a Party shall permit the third country to transit for extradition through the territory of its country to the other Party.

Each Party shall not permit the transit for extradition through its territory for the person prohibited according to this Treaty.
2. The request documents for transit for extradition must be provided and sent correctly according to the same regulations as those for extradition where this Treaty has determined.
3. The organization of the Request Receiving Party shall proceed with the transit for extradition with the method appropriate to the organization.

#### **Article 76**

##### **Extradition Expenses**

1. The extradition expenses in the territory of any Party are the responsibility that Party.
2. The crossing border expenses are the responsibility of the Requesting Party.

#### **Chapter IV**

##### **Final Provisions**

#### **Article 77**

##### **Ratification, Entry into Force and Termination of the Treaty**

1. This Treaty shall be ratified according to the regulations and laws of each Party and enter into force after thirty days from the date the ratification documents are exchanged.
2. This Treaty is permanently valid, except in the event that one of the Parties submit the request to terminate the Treaty to the other Party. In such case, the Treaty shall still continue to be valid for the period of one year from the date the related Party receives the request to terminate the Treaty.

3. This Treaty can be amended or supplemented according to the written request of each Party. The amendment or supplement shall be proceeded by the signing of protocol.

**DONE** in Hanoi on the sixth day of July one thousand nine hundred and ninety eight in two original copies, each copy is in two languages, the Lao and Vietnamese language, both copies have the same official validity.

**IN WITNESS WHEREOF** the representatives of the Parties have signed this Treaty.

Representative of the Lao PDR

Somsavat Lengsavad

Deputy Prime Minister,

Minister of Foreign Affairs

Representative of the SR of Vietnam

Nguyen Mang Keum

Deputy Prime Minister,

Acting Minister of Foreign Affairs

**Treaty**  
**On Justice Assistance Cooperation in Civil and Criminal Matters**  
**Between the Lao PDR and PR of China**

The Lao People's Democratic Republic and the People's Republic of China (hereinafter referred to as the Parties). Desiring strongly the aim of increasing justice assistance cooperation between the two countries on the foundation of respecting each other's sovereignty, equality and mutual benefits. With this objective, we have made jointly a Treaty on Justice Assistance Cooperation in Civil and Criminal Matters.

Therefore, the Parties have agreed as follows:

**Chapter I**  
**General Provisions**  
**Article 1**

**Legal Protection**

1. The citizens of a Party that live in the territory of the other Party shall receive legal protection on personal and property rights the same as the citizens of that Party.
2. The citizens of a Party shall have the right to sue in the people's court, use the people's prosecutor and request other organizations that have authority in civil and criminal matters of the other Party under the same conditions as the citizens of that Party.
3. Determinations stated in this Article also apply to entities established in the territory of the Parties according to their laws.

**Article 2**

**Scope of Justice Assistance Cooperation**

The justice assistance cooperation according to this Treaty consists of:

- (A) Delivery of documents and collections on civil and criminal cases;
- (B) Recognition and implementation of decisions on civil matters, civil damages and court fees compensation in criminal cases, and the decisions of the office for economic dispute settlement;
- (C) Justice assistance cooperation and other legal assistances as determined in this Treaty.

**Article 3**

**Reduction or Exemption of Proceedings Expenses and Legal Assistance**

The citizens of a Party in the territory of the other Party may receive the reduction or exemption of proceedings expenses and legal assistance under the same conditions and scope as the citizens of the Party.

**Article 4**

**Issuance of Documents Relating to Assets Status**

In requesting for the reduction or exemption of proceedings expenses and legal assistance, the person making a request must have an assets status certification. Such certificate is issued by the competent authority where the person making a request is domiciled or has a residence, if the person does not have a domicile or residence in the country of the Party the certificate shall be issued by the Embassy or Consulate of his/her country.

## **Article 6**

### **Liaison Method**

1. The justice proposal and cooperation and legal assistance shall be preceded with through the central organization of each Party except where determined otherwise in this Treaty.
2. The Ministry of Justice is the central organization of the Parties that has the authority as determined in item 1 above.

## **Article 7**

### **Liaison Method**

In a written communication, the central organization of a Party/State shall use their language along with the copy that is translated into the other Party's language or use English or the French language.

## **Article 8**

### **Refusal of Justice Assistance Cooperation**

The justice assistance cooperation may be refused if the Requesting Party considers that the request may affect their sovereignty or stability, however the Party shall notify the reasons for refusal to the other Party.

## **Chapter II**

### **Document Delivery and Civil Evidence Collection**

## **Article 9**

### **Scope of Assistance Cooperation**

When receiving the request, the Party shall deliver the document regarding proceedings and other civil documents, take the testimonies of the litigants, of the witnesses, the comments of the experts, conduct evidence testing and the results of the evidence testing of the experts, consideration of the court and the other measures of the evidence collection. But if the request for evidence collection is not intended to be used in the proceedings that has already begun or is being considered, it does not fall within the scope of this Treaty.

## **Article 10**

### **Request**

1. The request for document delivery and evidence collection shall be made in a request form which consists of the following contents:
  - (A) Name and address of the requesting organization;
  - (B) Name and address of the requested organization, if any;
  - (C) Characteristic of the requesting case and case summary;
  - (D) Name and surname, address, nationality, occupation, gender, place and date of birth of the person concerned, name and address of the legal entity in the case;
  - (E) Name and surname, address of the representative of the person concerned;
  - (F) Contents of the request for assistance cooperation;
  - (G) Documents and other necessary information to comply with the request.
2. In addition to provisions of item 1 of this Article, the request for evidence collection shall also include:
  - (A) The questions to ask the person concerned or reasons to ask;
  - (B) Documents or assets that need to be examined;
  - (C) Use of oath and any specific form to certify the evidence;
  - (D) Any necessary information in accordance with Article 14 below.



3. The request for assistance cooperation and enclosed documents shall be in the Requesting Party's language along with the copy that is translated into the Requested Party's language or into English or the French language. The translated copies must be authenticated by the central organization of the Requesting Party.

#### **Article 11**

##### **Implementation of the Request**

1. In the implementation of the request for document delivery or collection of requested documentary evidence, the laws of their country shall be used. In the case where there is a proposal from the requesting organization, the requested organization may use the specific method upon request if it is not in conflict with the laws of their country.
2. If the requested organization does not have the authority to implement the request, such organization shall send the request to the organization that has the authority immediately and notify the requesting organization.
3. If the address in the request is not clear or the person concerned does not live there, the requested organization shall try to search for the actual address. The requested organization shall propose to the requesting organization to provide additional information if necessary.
4. If the request cannot be implemented due to the unclear address, the requested organization shall return the documents back to the requesting organization as well as notify them of their reasons for not being able to do so.

#### **Article 12**

##### **Notification on Request Implementation Time and Place**

The requested organization shall notify the requesting organization in response to the request, of the date, time and place where the implementation of the request for evidence collection shall take place, in order for the relevant person or representative to participate. The requested organization shall notify the information directly to the relevant person or representative if the requesting organization has proposed.

#### **Article 13**

For the application of a coercive measure in the implementation of the request for evidence collection, the requested organization shall use the coercive measure that is appropriate to the case as determined in the laws of their country to implement the order issued by a competent authority.

#### **Article 14**

##### **Refusal to Provide Evidence**

In the implementation of a request for evidence collection, the relevant person may refuse to provide the evidence if the person has the privilege or a duty to refuse to provide the evidence:

- (A) Under the laws of the Requested Party;
- (B) Under the laws of the Requesting Party and where the privileges and duties have been determined in the request.

#### **Article 15**

##### **Notification of Implementation Result**

1. The requested organization shall send the implementation result in writing to the Requesting Party according to the method determined in Article 6 of this Treaty.

2. The delivery of the documents shall be conducted in accordance with the regulations of the Requested Party. The delivery certificate shall indicate date, time, place and name of the person receiving the documents.
3. The notification of the result of the evidence collection process should be accompanied by the evidence.

#### **Article 16**

##### **Delivery of Document and Evidence Collection Through Embassy or Consulate**

1. A Party shall deliver the document and evidence collection to the person that has their nationality, in the territory of the other Party through their Embassy or Consulate Office in that country.
2. The delivery of documents and evidence collection proceeds without any use of coercive measure.

#### **Article 17**

##### **Cooperation of Witness or Expert**

1. If the Requesting Party considers that entry into the court of the witness or expert that is in the territory of the Requested Party is necessary, the Requesting Party must notify the reasons in the summons in order for the Requested Party to notify the witness or expert.
2. The Requested Party shall notify the Requesting Party regarding the response of the witness or expert.
3. The witness or expert that do not respond and does not appear according to the notification of the court shall not be punished even though the court notification has set out punishment measures. If the witness or expert refuses to participate, the Requested Party shall notify the Requesting Party.

#### **Article 18**

##### **Protection of Witness and Expert**

1. The witness or expert that do not respond and does not appear according to the notification of the court of either Party as determined in Article 17 above, without depending on the person's nationality, shall not be arrested, prosecuted, ruled or have liberty deprivation measure enforced in this territory due to the offence or conviction before they left the territory of the other Party. The person also shall not be arrested, prosecuted or punished in relation to their testimonies and the expert's evidence testing.
2. The protection stated in item 1 above shall not be used after 30 days from when the witness or expert receives the notification from the organization sending the notification that there is no requirement for them to come in anymore. The person has the right to travel out of the country, but if s/he remains in the requesting country or has left but returned again. Such period does not include the time the witness or expert cannot travel out of the territory of the Requesting Party due to natural causes.

#### **Article 19**

##### **Expenses of Justice Assistance Cooperation**

1. In addition to the expenses according to the specific method determined in Article 11 of this Treaty, both Parties shall deliver the documents and collect the evidence for each other without charging any fees.

2. Expenses for travel, food and wages of a witness or expert that has entered the territory of the Requesting Party in accordance with Article 17 of this Treaty, shall be the responsibility of the Requesting Party.
3. The Requesting Party must pay all or some of the travel and food expenses in advance to the witness or expert according to the request.

### **Chapter III**

## **Recognition and Implementation of Civil Court Decision and Decision of Office for Economic Dispute Settlement**

### **Article 20**

#### **Scope**

1. Under the requirements determined in Article 21 of this Treaty, each Party shall recognize and comply with decisions on the territory of the other Party as follows:
  - (A) Civil court decision;
  - (B) Decision of the criminal case on civil damage compensation or court fees;
  - (C) Decision of the office for economic dispute settlement.
2. "Decision" according to this Treaty includes decision, final order and settlement record made by the court or office for economic dispute settlement.

### **Article 21**

#### **Recognition Requirement and Court Decision Implementation**

1. The decisions determined in Article 20 above shall be recognized and implemented in the following conditions:
  - (A) The decision is legally binding and entered into force under the laws of the Party that has ruled in their territory;
  - (B) The decision on the case that does not fall under the specific authority of the court of the Requested Party;
  - (C) In the case of a decision in absentia, the litigant that did not come or did not participate in the proceedings has been notified in advance appropriately according to the laws of the Party that made the decision;
  - (D) It is not a binding decision of the court of the Requested Party on the same issue and the same litigant;
  - (E) There is no procedural case between the same litigant on the same issue at the court of the Requested Party prior to the beginning of the proceedings of which a related decision is made;
  - (F) The decision that cannot be implemented according to the laws of the Requested Party;
  - (G) The Requested Party sees that the recognition or implementation of the decision will not create a damage to their sovereignty or security;
  - (H) The recognition and implementation of the court decision does not contradict with the social order or basic benefits of the Requested Party;
  - (I) The decision or its impact does not contradict the basic principles of any law of the Requested Party;
  - (J) The decision is made by the court that has jurisdiction as stated in Article 22 of this Treaty.

2. The court that has jurisdiction of the Party must rule on the recognition and implementation of the decision without a delay if there is no valid reason.

## **Article 22**

### **Court Jurisdiction**

1. For the purpose of this Treaty, the court of the Party that made the decision shall be considered the court that has the jurisdiction to rule on a case if:
  - (A) The defendant is domiciled or has a residence in the territory of the Party at the time of proceedings;
  - (B) The defendant has his/her business branch in the territory of that Party at the time of proceedings on his/her business;
  - (C) The defendant recognizes the jurisdiction of the court of the country clearly and in writing;
  - (D) The defendant testifies on the contents of the dispute without objection against the court's jurisdiction;
  - (E) In the case of a dispute regarding a contract signed in the territory of the Party or implemented or must be implemented in the territory of the Party or the objective of the proceedings is in the country of the Party;
  - (F) In the case relating to conduct, a legal violation or the impact of such violation concerning non-contractual obligations which happened in the country of the Party.
  - (G) In the case relating to personal status, the litigant is domiciled or has a residence in the territory of the country of that Party;
  - (H) In the case relating to a obligation to support, the person receiving the support is domiciled or has a residence in the territory of the Party;
  - (I) In the case relating to an inheritance, the deceased is domiciled or their main asset is in the territory of that party;
  - (J) Fixed assets, which are the objective of the proceedings, are situated in the territory of that Party;
2. The provisions stated in item 1 of this Article are not to contradict with the provisions of the laws of both Parties regarding court jurisdiction of that Party.

## **Article 23**

### **Request for Recognition and Implementation**

1. The litigant can send the request for recognition and implementation of a decision directly to the court that has the jurisdiction of the Requested Party or to the court of the Requesting Party, this court must send the request to the court that has the jurisdiction of the Requested Party through the process determined in Article 6 of this Treaty.
2. The request for recognition and implementation of a court decision must consist of the following enclosed documents:
  - (A) The Decision or authenticated copy of the decision;
  - (B) The Document certifying that the decision is binding and has been entered into force except for the decision has already determined this issue;
  - (C) Certification that the litigant, which did not come and did not participate in the proceedings and the court had made a decision in the person's absence, is notified

by the court correctly except where a decision has already been determined regarding this issue;

- (D) Certification that the litigant, who is lacking the capacity for conduct, has designated a legitimate representative except where a decision has already been determined;
- (E) The Decision and other documents as stated above that have been translated into the language of the Requested Party or into English or the French language are correctly authenticated.

#### **Article 24**

##### **Procedures for Recognition and Implementation of a Court Decision**

1. Both Parties shall use their internal laws regarding regulatory procedures for the recognition and implementation of a court decision.
2. In agreeing on the request for recognition and implementation of a decision, the court must examine based on the requirements stated in Article 21 of this Treaty.

#### **Article 25**

##### **Entry into Force of the Recognition and Implementation**

The decision of either Party which is recognized and agreed to be implemented by the court of the other Party shall have the same entry into force of the court decision of that Party.

#### **Article 26**

##### **Recognition and Implementation of the Decision of Office for Economic Dispute Settlement**

Both Parties recognize and implement each other's decision of the office for economic dispute settlement in accordance with the Convention on Recognition and Implementation of a Decision of the International Office for Economic Dispute Settlement which was jointly signed in New York on the 10<sup>th</sup> June 1958.

#### **Chapter IV**

##### **Justice Assistance Cooperation in Criminal Matters**

#### **Article 27**

##### **Scope**

When there is a request, both Parties shall deliver the documents regarding criminal cases, collect the evidence, question the witnesses, victim, experts, suspects and accused, assess the expert's comments, conduct an investigation and conduct other movements relating to evidence collection, entry of the witness or expert, notification of a decision on a criminal case, recognition, and implementation of the decision on a criminal case on civil damages or of court fees and compensation.

#### **Article 28**

##### **Refusal of Justice Assistance Cooperation in Criminal Matters**

1. In addition to the refusal of justice assistance cooperation stated in Article 8 of this Treaty, the Requested Party may refuse justice cooperation in criminal matters in some cases as follows:
  - (A) Request for an offence that the Requested Party considers to be of a political or military nature;

- (B) Request for an offence that is not a criminal offence according to the laws of the Requested Party;
  - (C) Request for an offender or suspect who has the nationality of the Requested Party at the time of the request and the person is not in the territory of the Requesting Party.
2. The Requested Party shall notify the Requesting Party of the reasons for such refusal.

#### **Article 29**

##### **Document Delivery and Evidence Collection**

1. Chapter II of this Treaty shall be implemented in the same way for document delivery and criminal evidence collection.
2. In addition to the provisions in Article 10, the request for document delivery and criminal evidence collection shall include the description of the actual event of the offence and related provisions of the laws determining that such offence is a criminal offence.

#### **Article 30**

##### **Return of Money and Illegal Property**

1. When there is a request, a Party shall return the money and illegal property that the offender has taken from the Requesting Party, which is found in territory of the Requested Party. However, the return of money and property shall not contradict the legal rights and benefits according to the laws of the Requested Party or the legal rights and benefits of a third person regarding the money and property mentioned above.
2. If the illegal money and property mentioned above is necessary for the proceedings of another criminal case in the territory of the Requested Party, the Requested Party may extend the time to return the money and illegal property.

#### **Article 31**

##### **Notification of the Decision on a Criminal Case**

Both Parties shall send a copy of the decision on criminal cases relating to the citizens of the other Party, which has entered into force, to each other.

#### **Article 32**

##### **Recognition and Implementation of the Decision of a Criminal Case**

##### **On Civil Damages and Court Fees Compensation**

A Party shall recognize and implement the decision of a criminal case on civil damages or court fees of the other Party.

The recognition and implementation of a court decision is to comply with the provisions of Article 21 of this Treaty.

#### **Chapter V**

##### **Additional Provisions**

#### **Article 33**

##### **Information Exchange**

The Parties shall provide the information on the laws and the court practices that are entered into force in their territory to the other Party without any charges.

#### **Article 34**

##### **Authentication Exemption**

In the implementation of this Treaty, documents or translations that have a seal issued by the court or other competent authorities of each Party are not required to be authenticated again if those documents have already been certified by the central organization of that Party.

**Article 35**

**Settlement of Disputes**

The disputes arising from the interpretation or implementation of this Treaty shall be settled through diplomatic channels.

**Chapter VI**

**Final Provisions**

**Article 36**

**Ratification and Entry into Force**

This Treaty shall be ratified and entered into force within 30 days from the date the documents relating to ratification are exchanged and this shall be organized in Vientiane.

**Article 37**

**Termination of Treaty**

This treaty shall be terminated within 6 months from the date a Party notifies the other Party regarding the termination of Treaty implementation in writing through diplomatic channels.

This Treaty is signed at Beijing, on the 25<sup>th</sup> January 1999, in two original copies each copy is written in the Lao and Chinese languages, all two copies are equally valid.

In Witness Whereof, the fully authorized representatives of each Party have signed this Treaty.

**Representative**

**Lao People's Democratic Republic**

**Representative**

**People's Republic of China**

**Treaty**  
**On Justice Assistance Cooperation in Civil and Criminal Matters**  
**Between the Lao PDR and DPR of Korea**

The Lao People's Democratic Republic and the Democratic People's Republic of Korea, hereinafter referred to as "the Parties".

Desiring to continue to strengthen their friendly relations on the foundation of respecting each other's sovereignty, equality and mutual benefits and to provide justice assistance to each other in civil and criminal matters,

**Have agreed as follows:**

**Part I**  
**General Provisions**  
**Article 1**

**Legal Protection**

The citizens and entities of a Party in the territory of the other Party shall receive legal protection on personal and property rights the same as the citizens and entities of that Party.

**Article 2**

**Legal Assistance**

1. The citizens and entities of a Party in the territory of the other Party have the right to receive legal assistance under the same conditions as the citizens and entities of the other Party.
2. The Parties shall provide legal assistance to each other in the civil and criminal fields through organizations authorized to proceed with civil and criminal cases such as: the court and the prosecutor's office.

**Article 3**

**Scope of Legal Assistance**

Pursuant to both Parties' laws, both Parties shall provide legal assistance in civil and criminal matters as follows:

- 1) Proceedings such as: taking testimonies of the offender, witness, expert or victim;
- 2) Providing information and documents relating to the case;
- 3) Implementing the request to conduct a search, seizure, and evidence collection;
- 4) Recognizing and implementing a court decision and order;
- 5) Investigating-interrogating, detaining and extraditing.

**Article 4**

**Provisions on Legal Assistance**

1. The requested organization shall use the laws of their country when providing legal assistance;
2. When there is a request from a Party, the requested Party when providing legal assistance can use the provisions on proceedings of the Requesting Party except where such provisions contradict the internal laws of their country.

**Article 5**

**Liaison Method in Legal Assistance**



When requesting legal assistance from each other in civil and criminal matters, the court and prosecutor's office that has the authority of the Parties shall liaise with one another through their central organizations and diplomatic channels.

The central organization for the Lao People's Democratic Republic is the Ministry of Justice.

The central organization of the Democratic People's Republic of Korea is the Central Court and Central Prosecutor Office.

## **Article 6**

### **Language Used in Legal Assistance**

In the communication with each other regarding matters determined in this Treaty, the central organizations of the Parties shall use their national languages or the English language.

## **Article 7**

### **Forms and Contents of the Request for Legal Assistance**

1. The request for legal assistance must be in writing in their national language and translated into the national language of the Requested Party or into English.
2. The request for legal assistance must consist of the following contents:
  - A. Name of the requesting organization and requested organization;
  - B. Name of the case requesting assistance and details of the request;
  - C. Name, date of birth, gender, place of birth, nationality, occupation, permanent or temporary address of the person involved in the case;
  - D. Name and address of the entity;
  - E. Name and address of assigned person;
  - F. Name of required documents;
  - G. In a criminal case, the record on the event of the offence and the provisions of the law on legal responsibility.
3. The request for legal assistance shall have the signature of the Director and official seal of the requesting organization.
4. The request for legal assistance must be sent along with the necessary documents and information for the implementation of the request.

## **Article 8**

### **Authentication and Delivery of Documents**

1. The documents and copies of the documents as well as the translations that have been certified in the territory of a Party that have a signature and official seal of the competent authorities are considered authenticated without having to be authenticated by the notary service in the territory of the other Party again.
2. Both Parties must send every document through the central organizations as determined in paragraph 2 of Article 4 above.
3. The diplomatic representative and consulate of a Party in the territory of the other Party shall be permitted by the competent authority to send the court case file and other documents to their citizens and entities.

## **Article 9**

### **Rights of the diplomatic representative and consulate**

In the case of legal assistance, the diplomatic representative and consulate of a Party in the country of the other Party shall have the right to proceed with the delivery of the request on behalf of their country.

#### **Article 10**

##### **Implementation of the Request and Notification of the Request's Result**

1. After implementing the request promptly and correctly, the requested organization must notify the requesting organization in writing regarding the implementation result as well as send a certificate, indicating time and place of the requests implementation. The certification document must have the signature of the Director and the official seal of the organization that implemented the request.
2. The requested organization can ask for additional necessary information from the requesting organization in a case where there is a difficulty in implementing the request due to the address being unclear or other reasons.
3. In the certification of document delivery, there must be a signature of the recipient in the certification document, date and place of receipt as well as the signature of the delivery person. In a case where the recipient refuses the receipt of document, the reason for the refusal must be provided in the delivery certification document.

#### **Article 11**

##### **Refusal to Implement a Request**

In case the Requesting Party refuses to implement the request implementation, the Party must notify the other Party regarding the reasons and return all of the documents along with the request.

A Party can refuse to implement the request in the following circumstances:

1. The implementation of the request of a Party is a violation of sovereignty and stability, political system and order of the society or contradicts the internal laws of their country;
2. The requested organization of the Party does not have the right to implement the request and does not have to the right to send the request to another organization that has the authority.

#### **Article 12**

##### **Summons for the Witness and Expert**

1. In the period of investigation-interrogation and trial in the court meeting room, a Party can send a summons to the other Party for a citizen in the territory of this Party to be a witness or an expert.
2. The Party receiving the summons shall send the summons to the related citizen.
3. Do not use violence against a person refusing to be a witness or an expert.

#### **Article 13**

##### **Rights that Cannot Be Violated of the Witness and Expert**

1. Both Parties cannot implement management measures and proceed with a case against the person or expert that the competent authorities summoned to present in front of the court due to the offence of the person being before their entrance to the territory of the Requesting Party, as well they cannot quarantine or detain the person due to that offence.
2. Except in the case where the witness or expert does not leave the territory of the other Party for reasons that cannot be avoided. The rights that cannot be violated of the person shall be dropped if the person does not leave the territory of the Requesting Party within

15 days from the date the person is notified that there is not a requirement for them to present in front of the court anymore or the person returns to the country of the Party. (Article 8. Item 2)

3. The organization that summoned the witness or expert must notify them in writing regarding the contents determined in item 1 and 2 of this Article before their first testimony.

#### **Article 14**

##### **Return of Convict Summoned as Witness or Expert**

1. In case any Party summons a convict to be a witness or expert in the court, the other Party has the obligation to transfer that person with their consent. The Requesting Party must return the person within an appropriate timeframe.
2. The time spent being summoned as a witness or an expert must be added into the sentence period.
3. The Requested Party can refuse to send the convict in the following circumstances:
  - 1) The convict shall remain in the requested country due to their involvement in criminal proceedings;
  - 2) There is a specific situation or reason that makes it impossible to transfer the person.

#### **Article 15**

##### **Expenses in Legal Assistance**

1. The citizens and entities of a Party in the territory of the other Party shall be exempted from proceedings expenses under the same conditions as the citizens and entities of that Party.
2. Both Parties shall not for service charges or compensation for the request, receipt and implementation of a request for legal assistance.
3. Expenses on travel, vehicle fares, airplane fares, food and accommodation are borne by the Requesting Party.

In the summons, it must notify the witness and expert regarding the expenses that they are entitled to.

The competent authority of the Requesting Party has an obligation to pay in advance to them.

#### **Party II**

##### **Regulations for Various Areas**

##### **Chapter 1**

##### **Legal Assistance in Civil Cases**

#### **Article 16**

##### **Issuance and Delivery of Documents**

The documents regarding the appearance and personal information of a person necessary for the proceedings shall be made by the Party where the person live or reside and set to deliver to the Requesting Party.

#### **Article 17**

##### **Rights and Capacity for Proceeding with the Lawsuit**

1. The rights and capacity for proceeding with the lawsuit of a person shall be determined by the laws of the country of which the person is a citizen.

2. The rights and capacity for conduct of the entity shall be determined by the laws of the Party in which the entity is registered.

#### **Article 18**

##### **Authentication of the Disappearance or Death of the Person and Death Certification**

1. The authentication of the disappearance or death of the Person and death certification shall be proceeded by the Party of which the person was a citizen before s/he died by using their laws.
2. The organization in the legal sector of both Parties must certify the death and disappearance of the citizens of the other Party who live or reside in their country and certify the death of the person.

#### **Article 19**

##### **Marriage Certification**

The certification of marriage shall comply with the laws of the country of which the person is a citizen.

The method to proceed with the marriage registration shall comply with the laws of the country in which the wedding is organized.

#### **Article 20**

##### **Divorce, Null Marriage, Personal Relationship and Assets Relations of a Couple who are Husband and Wife**

1. In case a couple when the husband and wife have the same nationality, the divorce, null marriage, personal relationship and assets of the husband and wife shall be determined according to the laws of the Party of which they are citizens and the court of this Party shall have the authority to make a decision.
2. In case a couple when the husband and wife do not have the same nationality, the court of the Party in which they last lived will be the court that has the authority to consider according to their laws and if they do not have the same address, it is the court that receives the lawsuit first which shall be the judge.

#### **Article 21**

##### **Legal Relations between Father, Mother and Child**

In the case relating to parental verification, parental dispute and legal relations between child and parents this shall be considered by the court of the Party in which the child received their nationality under the law.

#### **Article 22**

##### **Care and Supervision**

In the case relating to the care and assistance for citizens of both Parties it shall be considered by the competent authority of the Party of which they are citizens under law.

#### **Article 23**

##### **Implementation on Assets of the Deceased**

1. In a case where a citizen of a Party died in the territory of the other Party, the relevant organization of this Party shall notify the office of the diplomatic representative or consulate of the deceased immediately and deliver all of the assets of the person along with the official documents to the representative's office.

2. The office of diplomatic representative or consulate of the deceased shall set the measures to protect and manage the assets of the deceased in the country where the assets are situated and has the right to be the person's representative in settling any dispute relating to the assets without any letter of rights transfer.

#### **Article 24**

##### **Inheritance**

1. The inheritance shall be determined by the laws of the Party of which the person was a citizen at the time of death.
2. In a case where the person does not have an heir, the person's assets shall be given to the Party of which the person was a citizen at the time of death.
3. Legal relations in real estate inheritance shall be governed by the laws of the Party where the real estate is located and the inheritance is to comply with the laws of that country.

#### **Article 25**

##### **Certification of Will**

The establishment of the will or the cancellation of the will must be certified at the time of that establishment or cancellation in accordance with the regulations and procedures determined in the laws of the Party of which the person making the will is a citizen and in that country.

If the will is correct according to the regulations and procedures of the laws of the Party where the will is established and in their territory, such will shall also be certified.

#### **Article 26**

##### **Contract**

1. The form of the contract shall be consistent with the laws of the Parties determined in this Treaty. The contract shall enter into force according to the laws of the Party where the contract is made.
2. The contractual obligations shall comply with the laws of the country to which the contract parties have agreed. Except in the case where the laws to be used have already been chosen, the laws of the Party where the contract implementer, which has important obligations in the contract, has a residence, has been established or has a location in that country shall be used.

When making the enterprise's establishment contract, the laws to be used are the laws of the Party where the enterprise is established.

The contract dispute settlement shall be proceeded by the court of the Party where the defendant has a residence or is located.

In a case where the properties, which are the objective of the dispute, or assets of the defendant have been found in the territory where the plaintiff lives or is located, the court of this Party shall also have the right to settle the dispute as well.

#### **Article 27**

##### **Labour Rights**

1. Labour contractors can choose the laws to determine their labour relations by themselves.
2. In case the laws are not chosen, the laws of the Party where the work is carried out shall be used for the operation, changes, labour contract cancellation and settlement of any dispute arising from a labour contract.

3. The court of the Party where the work is being carried out, had been carried out or will be carried out shall have the authority to decide on various issues determined in item 2 of this Article. In a case where the objective of the dispute or asset of the defendant is found in the territory of which the plaintiff has a residence or is located, the court of this Party shall have the authority to decide on that labour contract.

This authority can be changed by the agreement of the labour contract parties.

### **Article 28**

#### **Effectiveness Confirmation and Implementation of the Decision**

As determined in this Treaty, both Parties shall confirm the effectiveness and implement the decision and order that is established in the other Party regarding damage compensation, and which the civil court or criminal court has announced.

1. To confirm the effectiveness and implement the decision, order and the decision of the committee for economic dispute settlement, the Parties shall comply with the following requirements:
  - 1) The court order and decision and the decision of the committee for economic dispute settlement that is binding and effective in accordance with the laws of the Party that ruled such order and decision.
  - 2) The court order and decision and the decision of the committee for economic dispute settlement that does not contradict the political system and overall moral of the state.
2. The Party that ruled the court order, decision and the decision of the committee for economic dispute settlement must give a copy of the order and decision to the other Party along with a document certifying that it is binding and effective in practice.
3. The court of the other Party shall use their laws when implementing the order and decision of the court as well as the decision of the committee for economic dispute settlement of the other Party.
4. The Party that is implementing the decision, order and the decision of the committee for economic dispute settlement shall notify the other Party regarding the result of the implementation: as well as send a copy of the documents on implementation.

### **Chapter 2**

#### **Legal Assistance in Criminal Cases**

### **Article 29**

#### **Scope of Assistance in Criminal Matters**

Pursuant to the request of a Party, both Parties shall provide legal assistance to each other in criminal procedures such as: investigation-interrogation, arrest, examination and extradition of fugitive, defendant or convict, decision implementation and provision of information and documents on criminal procedure.

### **Article 30**

#### **Investigation-Interrogation against the Suspect**

A written request to conduct a criminal investigation-interrogation against a criminal shall consist of the following contents:

1. Information involving the appearance of the criminal;
2. Permanent or temporary address of the criminal;
3. Offence, provisions of laws relating to that offence;
4. Evidence to be used in the investigation-interrogation;

5. Body shape, special points, photographs and finger print of the offender.

### **Article 31**

#### **Obligation for Criminal Proceedings**

1. Pursuant to the request of the Party, both Parties have the obligation to proceed with a case against the citizens of the Requested Party that committed an offence in the territory of the other Party according to the laws of the Requested Party.
2. The Party that proceeds with the criminal case shall notify the other Party regarding the result of those proceedings against the offender and if the person is convicted a copy of the legally binding decision must also be sent.

### **Chapter 3**

#### **Extradition**

### **Article 32**

#### **Obligation for Extradition**

1. Pursuant to the conditions determined in this Article, both Parties have the obligation to extradite the suspect, defendant and convict that has already been sentenced (hidden or found) in the territory of (the other Party) theirs at the time of the request from the other Party.
2. The obligation to extradite the offender shall be implemented in the following circumstance:
  - 1) The Requesting Party for extradition has the right to proceed with a case against and punish the person due to the person's criminal offence;
  - 2) The act of the person that will be extradited is an offence punishable according to the laws of both Parties by imprisonment for more than one year.
  - 3) For the extradition of the offender who is sentenced to imprisonment for the purpose of serving a sentence in a country of which the person is a citizen, the period of a person's sentence must be more than six months.

### **Article 33**

#### **Refusal of Extradition**

The extradition shall be refused if:

1. An person that will be extradited is a citizen of the Requested Party;
2. Cannot proceed with the criminal case according to the laws of the Requested Party, prosecution limitations is ended or the case is closed.

### **Article 34**

#### **Postponement of Extradition**

If a person that will be extradited is being prosecuted for another criminal offence in the territory of the Requested Party, the extradition may be postponed.

### **Article 35**

#### **Request for Extradition**

The Party requesting extradition must send the request in writing to the other Party.

1. A written request must consist of the following contents:
  - 1) A written request for extradition for a proceedings shall consist of a copy of the arrest warrant against the offender, information that leads to the suspicion that the person has committed an offence, provisions of the laws used and evidence. The request for extradition for the enforcement of a punishment shall consist of a copy of the

binding/adjudged decision and provisions of laws determining that such offence is a criminal offence. When requesting for the extradition of a convict that has served some of a sentence, all information on enforcement and enforcement method, detention period and etc. shall be sent along.

- 2) A written request for extradition must consist of appearance, body shape, permanent or temporary address of the person and if possible including the photograph and finger print of the person.
2. The Party requesting for extradition must provide the necessary information for the arrest and extradition to the other Party within 30 days.

#### **Article 36**

##### **Arrest of the Person that Will Be Extradited**

1. When a Party is requested by the other Party to detain a person that will be extradited, the Requested Party shall use the measure to arrest the person that is consistent with this Treaty.
2. If the Requesting Party does not pick up the detainee within 30 days after the date the arrest is notified, the detainee shall be released immediately.

#### **Article 37**

##### **Extradition with Requests from Multiple Countries**

In the case where there are multiple countries requesting extradition, the Requested Country shall consider the prioritization according to the country in which the offence took place, where the damages took place, nationality of the offender that will be extradited and the danger of the offence.

However, if the person is a citizen of a Party, that Party will be prioritized.

#### **Article 38**

##### **Extradition Procedures**

1. The Requested Party for extradition must notify the Requesting Party regarding the surrender place and time.
2. The Requesting Party must supply the security to protect the person during the surrender.

#### **Article 39**

##### **Scope of Criminal Procedure against Extradited Person**

1. The Requesting Party shall proceed with a criminal case against the extradited person only for the extraditable offence.
2. Without a consent from the Requested Party, do not extradite the person to a third country.
3. Item 1 of this Article shall not apply to the person in the case where the person does not leave the country within 1 month after notifying for him/her to leave or returns to the country on his/her own.

#### **Article 40**

##### **Surrender of Property**

1. The Requested Party shall surrender the property used in the offence, money, valuable object obtained from the offence and etc. to the Requesting Party along with the offender.
2. Both Parties shall use measures to surrender those properties to the owner of the assets after the completion of the proceedings.



3. The Requested Party for the surrender of the property can postpone the surrender until the investigation-interrogation is completed and in case where the property is evidence for another criminal case.
4. Pursuant to this Treaty, the property that will be surrendered shall be tax-free.

#### **Article 41**

##### **Transit Permission**

Both Parties must allow the process of extradition from a third country pursuant to the request of a Party to transit through their territory.

#### **Article 42**

##### **Expenses for Extradition and Transit**

1. Expenses for the arrest and detention of the person that will be extradited, expenses for food, accommodation and travel as well as expenses for the delivery of property are borne by the Requested Party until the extradited person is handed over to the other Party. After that, the Requesting Party shall be responsible for the other expenses until the person is returned to the location.
2. All transit expenses are borne by the Requesting Party.

#### **Article 43**

##### **Notification on Implementation**

1. Both Parties must notify each other in writing of the result of the criminal prosecution against the extradited person or the punishment against the person along with the adjudged decision.
2. For the person sentenced to imprisonment, the country that convicted the person shall notify whether the punishment enforcement of the person is completed or whether the person had died during the punishment enforcement and other issues.

### **Part III**

#### **Final Provisions**

#### **Article 44**

##### **Dispute Settlement**

Both Parties shall settle the dispute arising from the interpretation and implementation of this Treaty through diplomatic channels or negotiation.

#### **Article 45**

##### **Entry into Force and Cancellation**

1. This Treaty shall be ratified and entered into force from 30 days after the exchange of the ratification document.
2. This Treaty is effective for the period of 10 years and shall be automatically extended for 5 years except where one of the Parties notifies their objective to the other Party regarding the cancellation of this Treaty in writing six months before this Treaty is ended.

In Witness Whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

Done in two original copies at Vientiane Capital, on the 20<sup>th</sup> June 2008, in the Lao, Korean and English languages. All three languages are equally valid. If there are differences in the interpretation, the English version shall be the reference.

**Representative of the Lao PDR**

**Representative of the DPR of Korea**

**Treaty on Mutual Legal Assistance in Criminal Matters of ASEAN Members**

(Lao version on p. 276-288; English translation on p.316-325)