

Law 3/2002

The notification procedure of requests within the mutual legal assistance framework

The Legislative Assembly decrees, pursuant to Article 71, paragraph 1, and Article 94 of the Basic Law of the Macao Special Administrative Region, to be taken as law, the following:

Article 1

Scope of application

1. This law shall apply to the submission of requests from the competent authorities of the Macao Special Administrative Region, hereinafter designated as the “MSAR”, to the competent authorities of a State or Territory outside the People’s Republic of China, hereinafter designated as “foreign authorities”, within the mutual legal assistance framework, as well as to the acceptance of requests addressed by the later, in accordance with the law or any applicable bilateral agreements or international conventions.
2. For the purposes of this law, the effecting service of judicial documents and the gathering of evidence in civil and commercial matters are considered requests within the mutual legal assistance framework, as well as mutual legal assistance requests on criminal matters, *inter alia*:
 - 1) Request of surrender of fugitives and his/her transit;
 - 2) Requests of transfer of sentenced persons and his/her transit;
 - 3) Requests for the effecting service of judicial documents and gathering of evidence on criminal matters.
3. This law shall apply, *mutatis mutandis*, to the revision, confirmation and enforcement of judicial decisions on civil, commercial and criminal matters and to arbitral decisions.
4. For the purposes of this law, the judicial and administrative bodies of the MSAR responsible for the endorsement of the cooperation request related to the notification, in accordance with the law or any applicable bilateral agreements or international conventions, shall be the competent authorities of the MSAR.

Article 2

Mandatory notification

1. The MSAR competent authorities, before making a decision to address a request to foreign authorities, in accordance with the law or any applicable bilateral agreements or international conventions, shall abide by the provisions of this law.
2. In the event of a request by foreign authorities addressed to the MSAR competent authorities and after its consideration in accordance with the law or any applicable bilateral agreements or international conventions, the MSAR competent authorities that decide for its immediate acceptance, the provisions of this law must be complied with.

Article 3

Notification channels

The MSAR competent authorities shall transmit the information mentioned in Article 7 to the Chief Executive who shall notify the Central People's Government accordingly.

Article 4

Chief Executive Order

1. Whenever the Central People's Government, on the grounds of national defence, external relations, sovereignty, State security or *ordre public* matters, issue instructions regarding the submission or acceptance of a request within the mutual legal assistance framework and communicates these by writing to the Chief Executive; the Chief Executive shall issue a decision accordingly.
2. The MSAR competent authorities shall comply with the decision mentioned in the preceding paragraph.
3. If, within the deadline mentioned in Article 5, the Chief Executive receives no written communication by the Central People's Government, such fact shall be transmitted to the MSAR competent authorities; after being informed, the MSAR competent authorities shall handle, directly, in accordance with the law, the mutual legal assistance request.

Article 5°

Time Limits

1. The Chief Executive's deadline to receive the written communication from the Central People's Government is set forth by Agreement between the Chief Executive and the Central People's Government, published in the Macao Special Administrative Region Official Gazette, Series I, by means of a Notice of the Chief Executive

2. Whenever Article 7 (2) applies, the deadline mentioned in the preceding paragraph shall start again from the day after the submission of the additional information.
3. The deadlines mentioned in paragraph 1 and 2 may, in exceptional cases, be dully postponed or anticipated, by negotiation between the Chief Executive and the Central People's Government; such fact shall be transmitted in due time by the Chief Executive to the MSAR competent authorities.

Article 6

Urgent measures

In case of urgency, the MSAR competent authorities may, and as long as the Central People's Government is notified accordingly at the same time, in accordance to this law, address a request to the foreign authorities or accept a request made by them regarding the following acts:

- 1) The provisional detention of the accused;
- 2) Gathering and keeping of evidence;
- 3) Searches and seizures;
- 4) Any supply of information related to the whereabouts of the accused;
- 5) Other provisional measures related to criminal or civil proceedings.

Article 7

Content of the notification

1. Notification shall be made in writing and shall include:
 - 1) Copy of the request and annexed documents;
 - 2) Subject-matter to which the mutual legal assistance request relates to and a summary of the relevant facts, including the identity of the requested authority and requesting authority, name and other identification elements of the parties, as well as a summary of the case;
 - 3) Substantiated opinion about the acceptance of the request, when it is a request addressed to the MSAR by foreign authorities;
 - 4) Other than the elements mentioned in sub-paragraph 1) e 2) and whenever the request made by foreign authorities is related to a fugitive surrender request and his/her transit request, depending on the case, the identification of the objects to hand over and the date of the transit referred to in the transit request;

- 5) In the event of a fugitive surrender request and his/her transit by the MSAR competent authorities addressed to foreign authorities, the indication of the States and Territories, time and itinerary in the transit request;
 - 6) In the event of a surrender request of sentenced person addressed to or submitted by foreign authorities, the indication of the crime committed and the imposed penalty, the sentenced period already complied with, the date the sentence terminates and the consent of the sentenced person or from his/her legal guardian.
2. The MSAR competent authorities shall forward to the Central People's Government the additional information as requested.
 3. The notification also includes detailed information regarding any urgent measures carried out in the meantime.
 4. Without prejudice of Article 1 (1), notification shall be made in Chinese.

Article 8

Appeal

The Chief Executive order mentioned in Article 4 is not subject to be challenged, nor shall the decision by the competent authority pursuant to the Chief Executive's order be subject of appeal.

Article 9

Expenses

The notification shall be exempted from any expenses.

Adopted on 26 of February of 2002.

The President of the Legislative Assembly, Susana Chou.

Signed on 1 March 2002.

To be published.

The Chief Executive, Ho Hau Wah.