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**Islamic Emirate of Afghanistan**  
**Supreme Court**  
**General Directorate of Secretariate**  
**Editorial Department**  
**Correspondence Section**

Circular No. 03

Date: 17 February 2022

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To: The Directorates of Cassations, Divisions, Appellate, and Primary Courts of the Islamic Emirate of Afghanistan

Greetings:

The General Directorate of Secretariate, regarding some issues of transferring the cases in the courts in which a request has been made to transfer it from one division of city court, appellate and/or cassation courts to another division, has asked whether this transfer can occur between the primary court and appellate court or not? If so, what are the conditions for doing so?

The High Council of the Supreme Court ordered the following guidance regarding the above-mentioned suggestion in approval no. (1) dated 10 January 2022:

The transfer of a case from one division of the city court, appellate, and cassation courts to another division of the city, appellate, and cassation courts can take place, but under the following conditions:

Conditions for transferring a case between divisions of the city court:

- 1- The case shall not be in process in the division of the relevant city court.
- 2- The transfer of a case shall not be from the division of a court in one province to the court in another province, but it shall be within the province.
- 3- The head of the city court shall have confirmed in writing the reason for the case transfer by the person who requested it.

Note: The request for transferring a case from a city court to another primary court within the province is similar to the transferring of a case in the primary stage.

Conditions for transferring a case from one primary court to another:

- 1- The case shall not be in process in the relevant court.
- 2- The case transfer shall not be from one province to another but shall be within the province.

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- 3- The head of the appellate court shall have confirmed in writing the reason for the case transfer by the person who requested it.

Conditions for Transferring a case between Divisions in the Appellate Court:

- 1- The case shall not be in process in the relevant division of the city court.
- 2- The head of the appellate court shall have confirmed in writing the reason for the case transfer by the person who requested it.

Conditions for transferring a case between divisions in the cassation court:

- 1- The case shall not be in process in the relevant division of the relevant city court.
- 2- The head of the cassation court shall have confirmed in writing the reason for the transfer of the case by the person who requested it.

Conditions for Transferring a case from one Appellate Court to another:

- 1- The case shall not be in process in the relevant appellate court.
- 2- The head of the relevant cassation court shall have confirmed in writing the reason for the case transfer by the person who requested it.

Conditions for Transferring a case from one Cassation Court to another:

- 1- The case shall not be in process in the relevant cassation court.
- 2- The head of the supreme court shall have confirmed in writing the reason for the case transfer by the person who requested it.

The transfer order that was issued by the previous corrupt government:

The transfer order that has been issued by the previous corrupt government, if the case has been/has not been filed before the court, shall not be considered valid in both cases, and by the request of any of the parties, it shall be referred to the relevant court.))

The steps contained in the above approval number of the High Council of the Supreme Court are hereby extended to all the directorates of the cassation courts, divisions, and primary and appellate courts of the Islamic Emirate of Afghanistan, and when necessary, they shall act in the light of the Sharia and above guidance.

Regards,

Mufti Abdurrashid "Saeed"  
Head of the Secretariat  
Supreme Court

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Address: Public Health Square, 9<sup>th</sup> District, Kabul-Afghanistan

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at [www.arlo.online](http://www.arlo.online).

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Phone: 0202301138

Post Box: 1989

Website: [www.supremecourt.gov.af](http://www.supremecourt.gov.af)

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