

**Disclaimer:** This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

---

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

Circular No. 04  
Date: 20/02/2022

---

---

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

Greetings:

The Directorate of Secretariate discussed the issue of how to request transferring a case between the courts if requested by a party in the meeting dated 13/02/2022 of the High Council of the Supreme Court, and the High Council has guided through approval number 17 dated 13/02/2022 as follows:

- The person who requests to transfer a case from one court to another should submit his application to the Supreme Court.
- Later, the petition will be referred to the Directorate of Secretariate in accordance with the order of the Supreme Court.
- The Directorate of Secretariate shall check based on the claimant's petition whether the court to which the case is going to be transferred based on the request of the applicant is basically the competent court to handle the applicant's case (in legal cases, the place where the defendant lives and in criminal cases where the crime took place) or not?
- If the court to which the case is going to be transferred based on the request of the claimant is principally the competent court to handle the applicant's case, in that case, there is no need to transfer in accordance with article (11) of the Administrative Law. The Directorate of the Secretariate will send the mentioned case to the relevant appellate court in writing so that the respective appellate court shall guide the competent court to act accordingly.
- The Directorate of the Secretariate should know whether the request for transferring a case is from the primary court, division, appellate court, or supreme court.
- If the request is made to transfer a case from the Primary Court, the Directorate of the Secretariate will consider whether it is requested to transfer a case within the province or to another province.

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).

- If it is requested to transfer a case from one province to another in the initial stage, the Directorate of the Secretariate will reject the request due to opposing the principles in accordance with the letter dated 31/03/2018 of the High Office of Courts.
- If it is requested to transfer a case within the province in the initial stage, the Directorate of the Secretariate shall ask the applicant through an inquiry to write his excuse for transferring a case to another court.
- After that, the Directorate of the Secretariate will give the fees payment sheet that has been determined for transferring a case to a court to pay the fees to the bank.
- The Directorate of the Secretariate shall obtain information from the relevant appellate court through a letter whether the case is in process in the relevant court or not?
- If the mentioned case is not in process in the relevant court, then do you (the appellate court) approve the excuse made by the applicant to transfer his case to the court contained in the inquiry letter or not?
- If the appellate court does not approve the excuse made by the applicant to transfer his case to the court contained in the inquiry letter, the Directorate of the Secretariate shall reject the request in accordance with the approval no. 1 dated 10/01/2022 of the High Council of the Supreme Court.
- If the appellate court approves the excuse made by the applicant to transfer his case to the court contained in the inquiry letter, the Directorate of the Secretariate shall propose the transfer of the mentioned case to the relevant cassation court, because the transferring of a case to another court is the authority of the cassation court in accordance with the comments of the article (98) of the Administrative Law.
- If the request for transferring a case to another court is approved or rejected by the Cassation Court, the Cassation Court shall inform the Directorate of the Secretariate of its approval or rejection regarding the request made to transfer a case to another court.

If the request for transferring a case to another court is rejected, it shall also write the reason for refusal as:

The excuse that is considered an excuse by the appellate court is not justifiable to transfer the case to another court.

Or it is actually an excuse, but it advised not to transfer the case to another court.

And/or also write the reason that causes not to transfer the case to another court.

**Disclaimer:** This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

---

- If a case is transferred to another court by the Cassation Court, the Directorate of the Secretariate shall direct the relevant appellate court through an official letter that this case has been transferred from a certain court to a certain court by the Cassation Court in accordance with its jurisdiction, you (the relevant appellate court) shall send a copy of the official letter of the Directorate of the Secretariate to both courts (the court from which the case is transferred, and the court to which the case is transferred) so that the court from which the case is transferred shall not act in regards to the case contained in the official letter, and the court to which the case is transferred shall act accordingly in regards to the case.
- If the request to transfer a case to another court is rejected by the Cassation Court, the Directorate of the Secretariate shall send an official to the relevant appellate court and direct it that the request made by the applicant to transfer a case to another court has been rejected in accordance with the jurisdiction of the Cassation Court, you (the appellate court) shall send the official letter of the Directorate of the Secretariate to the relevant court so that the proceedings that have been stopped due to the request to transfer the case to another court shall be resumed and act accordingly.

**Note:** If it is requested to transfer a case from one division to another division of the City Court, the approval of the head of the City Court for transferring a case is sufficient in accordance with approval no. 01 dated 10/01/2022 of the High Council of the Supreme Court, and the approval of the head of the relevant appellate court is not necessary.

- If it is requested to transfer a case from an appellate court to another, the excuse made by the applicant to transfer the case shall be approved by the relevant Cassation Court in accordance with approval no. 01 dated 10/01/2022 of the High Council of the Supreme Court.
- If it is requested to transfer a case from a cassation court to another cassation court, the excuse made by the applicant to transfer the case shall be approved by the Supreme Court in accordance with approval no. 01 dated 10/01/2022 of the High Council of the Supreme Court.

The Directorate of the Secretariate shall inform all the directorates of the cassation courts, divisions, and courts through this circular on the method how to transfer a case from one court to another that has been written above.))

**Disclaimer:** This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

---

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 above guidelines.

Regards,

Mufti Abdurrashid “Saeed”  
Head of the Secretariat  
Supreme Court

---

Address: Public Health Square, 9<sup>th</sup> District, Kabul-Afghanistan  
Phone: 0202301138  
Post Box: 1989  
Website: [www.supremecourt.gov.af](http://www.supremecourt.gov.af)