



MINISTÉRIO DA JUSTIÇA
E SEGURANÇA PÚBLICA
Assessoria Especial Internacional

TRADUÇÃO DE LEGISLAÇÃO BRASILEIRA RELACIONADA À ÁREA DE JUSTIÇA E SEGURANÇA PÚBLICA PARA O INGLÊS E O ESPANHOL

Decreto nº 6.877, de 18 de junho de 2009.

Regulamenta a Lei no 11.671, de 8 de maio de 2008, que dispõe sobre a inclusão de presos em estabelecimentos penais federais de segurança máxima ou a sua transferência para aqueles estabelecimentos, e dá outras providências.

VERSÃO EM INGLÊS



Projeto da Assessoria Especial Internacional

Como forma de divulgar o arcabouço legislativo brasileiro a autoridades estrangeiras e a Organismos Internacionais e, ainda, de aprimorar a cooperação internacional, em diversas áreas, a Assessoria Especial Internacional do Ministério da Justiça e Segurança Pública desenvolveu projeto para a compilação e tradução¹, para os idiomas inglês e espanhol, de parte das legislações brasileiras relacionadas às áreas de Justiça e Segurança Pública. A seleção das leis traduzidas ficou a cargo das áreas técnicas do Ministério, levando em consideração, igualmente, trabalhos já realizados por outros órgãos brasileiros, os quais serão disponibilizados como link externo no site da Assessoria Especial Internacional.



¹Traduções não juramentadas ou oficiais.

DECREE nº 6,877 OF JUNE 18th, 2009.

Regulates Law nº 11,671 of May 8th, 2008, which provides for the inclusion of prisoners in maximum-security federal criminal establishments or their transfer to those establishments, and makes other provisions.

The PRESIDENT OF BRAZIL, in the use of the attribution conferred to him by article 84, item IV, of the Constitution, and in view of the provisions of paragraph 3 of article 5 of Law nº 11,671 of May 8th, 2008

DECREES:

Art. 1. This decree regulates the process of inclusion and transfer of prisoners to maximum-security federal criminal establishments, in accordance with [Law nº 11,671 of May 8th, 2008](#).

Art. 2. The process of inclusion and transfer of an exceptional and temporary nature shall begin upon the request of the administrative authority, the Public Prosecutor's Office, or the prisoner.

Paragraph 1. The request must contain the reasons justifying the need for the measure and be accompanied by the relevant documentation.

Paragraph 2. The process of inclusion or transfer shall be reported separately.

Art. 3. For the inclusion or transfer, the prisoner must possess at least one of the following characteristics:

I - have performed a leadership role or participated in a relevant form in a criminal organization;

II - have commissioned a crime that endangers his/her physical integrity in the prison environment of origin;

III - be subject to the differentiated disciplinary Regime (RDD in Portuguese);

IV - be a member of a gang involved in the repeated practice of crimes with violence or serious threat;

V - be a collaborator defendant or a leniency agreement informer, provided this condition poses a risk to his/her physical integrity in the prison environment of origin; or

VI - be involved in incidents of escape, violence, or serious indiscipline in the prison system of origin.

Art. 4. In addition to the decision of the Court of origin on the reasons for the exceptional necessity of the measure, the following documents shall appear in the records of the inclusion or transfer proceedings:

I - considering a convicted prisoner:

a) copy of the decisions in the incidents of the execution procedure that imply change of the sentence and regime to be served;

b) medical record, containing at least a copy of the sentence or judgment, the collection guide, the certificate of penalty to be served, the personal identification document, and the proof of registration in the Individual Taxpayer Registrar (CPF in Portuguese), or, in the case of the last two, their respective numbers; and

c) medical records; and

II - considering a provisional prisoner:

a) copy of the *flagrante delicto* writ or arrest warrant and the decision that led to the precautionary imprisonment;

b) copy of the complaint, if any;

c) certificate of time served in precautionary imprisonment;

d) copy of the collection guide; and

e) copy of personal identification document and proof of registration in the Individual Taxpayer Registrar, or their respective numbers.

Art. 5. When heard, the National Penitentiary Department of the Ministry of Justice shall opinion on the pertinence of the inclusion or transfer and indicate the federal criminal establishment suitable for custody, and may request additional steps, including on the criminal history of the prisoner.

Art. 6. At the end of the investigation of the procedure and after the manifestation provided for in article 5, the Judge of origin, admitting the need for the inclusion or transfer of the prisoner, shall refer the documents to the competent Federal Court.

Art. 7. Once the documents have been received, the Federal Judge shall decide on the inclusion or transfer and may determine additional steps necessary for the formation of his/her persuasion.

Art. 8. Once the inclusion or transfer is admitted, the Court of origin shall refer to the competent Federal Court:

I - the case file of criminal enforcement, in the case of a convicted prisoner; and

II - the letter of request instructed with the documents provided for in item II of article 4, in the case of a provisional prisoner.

Art. 9. The inclusion and transfer of the prisoner may be conducted without the prior instruction of the case file, provided the situation of extreme necessity is justified.

Paragraph 1. The inclusion or transfer must be requested directly to the Court of origin, instructed with elements that demonstrate the extreme necessity of the measure.

Paragraph 2. Agreeing to the inclusion or transfer, the Court of origin shall immediately refer the request to the competent Federal Court.

Paragraph 3. Once the emergency inclusion or transfer is admitted by the competent Federal Court, the Court of origin shall immediately refer to that Court the documents provided for in items I and II of article 4.

Art. 10. With sixty days remaining for the closure of the term of stay of the prisoner in the federal criminal establishment, the National Penitentiary Department shall communicate this circumstance to the applicant for inclusion or transfer, requesting manifestation about the need for renewal.

Sole paragraph. After the period established in [paragraph 1 of article 10 of Law nº 11,671 of 2008](#), and with no manifestation about the renewal of the stay, the prisoner shall return to the prison or penitentiary system of origin.

Art. 11. In the event of obtaining freedom or progression from the regime of prisoners held in a federal criminal establishment, the National Penitentiary Department shall arrange their return to the place of origin or transfer to the criminal establishment indicated for compliance with the new regime.

Sole paragraph. If the egress chooses not to return to the place of origin, he/she must formalize before the director of the federal criminal establishment his/her manifestation of will, being the National Penitentiary Department exempted from the providence referred to in the head provision.

Art. 12. Prisoner transfers may occur between federal criminal establishments upon request of the administrative authority, the Public Prosecutor's Office or the prisoner.

Paragraph 1. The transfer request, instructed with the justifying facts, shall be addressed to the Federal Judge inspector of the federal criminal establishment where the prisoner is located, who shall hear the Federal Judge inspector of the federal criminal establishment of destination.

Paragraph 2. When the transfer is authorized and effected, the Federal Judge responsible for the federal criminal establishment in which the prisoner was located shall notify the decision to the original criminal enforcement Court, if convicted, or to the trial Court, if remanded in custody, and to the police authority, if applicable.

Art. 13. This Decree comes into force on the date of its publication.

Brasília, June 18th, 2009; 188th of Independence and 121st of the Republic.

LUIZ INÁCIO LULA DA SILVA

Tarso Genro

This text does not replace the one published in the Federal Gazette of 6.19.2009