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Draft Law Facilitates Transfer of Criminals to Home Country

I. Legal News

On the 23rd of October 2018, the Chinese legislator submitted to the Standing Committee of the National People's Congress a Draft Law on International

Criminal Judicial Assistance in Criminal Matters (the "Draft") released on December 29, 2017 for second deliberation. The future law aims to facilitate cooperation between countries in transnational crimes.

The Draft provides that a foreign country can send a request to China on the transfer of its national who would have been convicted for a crime in China.

Chinese authority will check if the offense is also considered as a crime in the

home country of the convict, then if the verdict in China has taken effect and the convict gives his written consent he will be transferred to his home country. There are exceptions to the transfer's approval. If the convict has been sentenced to the death penalty of to a life sentence, if he has less than one year left to spend in jail or if he still has other pending cases in China, then the transfer could be rejected.

Besides, the Draft Law also provides for procedures on the repatriation of Chinese citizens who have been convicted abroad.

http://english.court.gov.cn/2018-10/23/content_37120510.htm http://www.npc.gov.cn/npc/cwhhy/13jcwh/ 2018-10/24/content_2063522.htm)

(http://french.xinhuanet.com/2018-10/23/c 137553169.htm

The draft amendment to the Criminal Procedure Law proposes to let a criminal

China's Top Legislature Started its Bimonthly Session

trial continue even if the defendant has fled China. One of the provisions making this rule applicable to corruption-related criminal cases, cases endangering state security and terrorist activities. In these three cases the trial will have to be approved by the Supreme People's Procuratorate.

As for the Drug Administration Law, the amendment aims to address counterfeit drugs with tougher punishment and reinforced supervision.

On the 22nd of October, The National's People Congress started a five days session to deliberate revisions on existing laws. Among these are a draft

amendment to the Criminal Procedure Law and the Drug Administration Law.

Companies that produce or sell pharmaceuticals without a permit, or that produce or sell fake drugs, will face fines up to 30 times the value of the products involved versus up to five times the value of the product in the existing law. Moreover, companies producing and/or selling fake drugs will expose themselves to a suspension of their business and revocation of their certificates. This Draft is being discussed a week after a scandal involving the Chinese pharmaceutical company Changchun Changsheng (\(\subseteq \subseteq \subseteq \subseteq \text{ which was fined RMB 9.1 million for violating standards in the production of vaccines.} \)

2018-10/23/content_2063255.htm http://www.ecns.cn/news/society/2018-10-23/ detail-ifyyzeyv7662011.shtml)

revisions on 15 other laws, including the Wild Animal Conservation Law and

the Metrology Law but also Intellectual Property and Company laws.

Implementing Regulations of Individual Income Tax Law and Interim Measures on Additional Special Deductions Issued for

Public Comment

(http://www.npc.gov.cn/npc/cwhhy/13jcwh/

Comment") to seek public comments by November 4, 2018. The two drafts address certain unclear issues of China's new Individual Income Tax Law which will enter into force on January 1, 2019.

The Ministry of Finance and the State Administration of Taxation have recently

Income Tax (the "Revised Draft for Comment") and the Interim Measures on

issues the Implementing Regulations of the Law of the PRC on Individual

Additional Special Deductions for Individual Income Tax (the "Draft for

of the former articles and adds 19 new articles. The revisions notably include new anti-tax evasion articles, which has been a very much discussed topic in the recent weeks because of the Fan Bingbing case. In addition, for expatriates, the eye-catching "five-year-rule" and "30-days rule" are still applicable. According to article 4 of the Revised Draft for Comment, even if an individual without domicile in China spends more than 183 days in China, he will not be subject to individual income tax for his worldwide income (but only

consecutive years as well as during the five years, he has never left China for more than 30 consecutive days. The Draft for Comment clarifies provisions for

income effectively linked to China) until he has resided in China for five

The Revised Draft for Comment introduces revision to 25 articles, removes 19

the deduction of six special types of fees for the Individual Income Tax, child education tuition, continuing education fee, medical expenses for serious disease, mortgage interest, housing rent and elderly care fee. Taxpayers who have expenses related to preschool and degree education will receive a fixed deductible amount of RMB 12,000 per year per child.

(http://tfs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201810/t20181020_3051103.html
http://tfs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201810/t20181020_3051102.html)

Canada Legalizes Marijuana and the Chinese Internet Goes

On the 17th of October 2018, Canada became the second country in the world,

Shortly after this, on the 20th of October, an article named "You can never

legalization, describes numerous ways in which Chinese could end up

consuming cannabis without knowing it and even being caught by the Chinese authority because of transporting Canadian products that no one would expect to contain drug. The article has since then been deleted from the platform.

of property (...)"

II. Hot Topics

after Uruguay, to legalize Marijuana.

Mad

There is a very large Chinese diaspora in Canada, in 2016 it accounted for more than 4% of Canada's total population. A city like Vancouver has around 30% of it's population who is Chinese. These numbers and the strict Chinese

legislation regarding to drugs explain the fierce debate that took place online.

China's law regarding to Marijuana and other drugs can be found in two texts, The Regulations of the People's Republic of China on Administrative Penalties for Public Security (article 72) and the Criminal Law of the PRC (Article 347).

The illegal use of cannabis is not considered a criminal offense and carries up to 15 days of detention as well as a RMB 2000 fine. However, selling and trafficking narcotic drugs is strictly sanctioned in China, as provides the criminal law:

"Whoever smuggles, traffics in, transports or manufactures narcotic drugs, regardless of the quantity involved, shall be investigated for criminal responsibility and given criminal punishment.

Whoever smuggles, traffics in, transports or manufactures narcotic drugs and falls under any of the following categories, shall be sentenced to <u>fixed-term</u> <u>imprisonment of 15 years, life imprisonment or death</u> and also to confiscation

As provided by the law, trafficking narcotics can lead to the death penalty. In December 2017, 10 men were publicly convicted for drug-related charges in a sports stadium of the southern city of Lufeng and sentenced to death in front

of the crowd.

China is also the world's biggest producer of hemp which is a variety of cannabis grown for industrial use. There have been efforts from the governments these recent years to crackdown on drug trafficking. Between January and September 2018, 44 tons of drugs were seized by the police,

94,000 suspects were arrested in 78,000 drug related cases according to the

National Commission for the control of narcotic drugs.

(https://mp.weixin.qq.com/s/Tceq9h_vfATB5NULcXe5RA

http://www.globaltimes.cn/content/878274.shtml
http://french.xinhuanet.com/2018-10/23/c_137552978.htm)

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