

## CRIMINAL PROCEDURE CODE

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*National Assembly issues the Criminal Procedure Code*

### PART ONE

#### GENERAL

##### Chapter I

#### SCOPE OF REGULATION, OBJECTIVES AND EFFECT OF THE CRIMINAL PROCEDURE CODE

##### Article 1. Scope of regulation

Criminal procedure code prescribes the procedures and formalities for lodging and processing of criminal information, filing of charges, investigation, prosecution, adjudication, and certain courses of action for the enforcement of criminal judgments. Furthermore, the Law regulates the missions, authority and liaisons of authorities and individuals given authority to institute proceedings (referred to as competent procedural authorities and persons), the rights and duties of entities engaging in proceedings, other authorities and entities, and international cooperation in criminal procedure.

##### Article 2. Objectives of the Criminal procedure code

Criminal procedure code is intended to expose and settle every criminal act in precise, just and timely manners, to preclude, protest and combat crime for omission of no infractions, to protect guiltless people from unjust conviction, to uphold justice, to defend human rights and citizenship rights, to conserve socialism, to secure the Government's benefits, to protect the legitimate rights and interests of organizations and individuals, to educate people to consciously conform to the laws.

##### Article 3. Effect of Criminal procedure code

1. Criminal procedure code governs every activity of criminal procedures in territories of the Socialist Republic of Vietnam.
2. International agreements, which the Socialist Republic of Vietnam has signed, or the principles of reciprocity shall govern the criminal procedure against aliens committing offences in territories of the Socialist Republic of Vietnam.

If diplomatic or consular immunity is conferred on an alien according to the laws of Vietnam, international treaties, which the Socialist Republic of Vietnam observes, or international practices, such international treaties or practices shall prevail. If relevant international treaties or practices do not exist, matters shall be resolved through diplomacy.

#### **Article 4. Terminology**

1. In this Law, words and phrases below are construed as follows:

a) *Authorities given authority to institute legal proceedings (referred to as competent procedural authorities)* indicate presiding authorities and those assigned to carry out certain activities of investigation.

b) *Individuals given authority to institute proceedings (referred to as authorized procedural persons)* include presiding officers and those assigned to carry out certain activities of investigation.

c) *Participants in legal proceedings* refer to persons, authorities, and organizations participating in legal proceedings according to this Law.

d) *Criminal information* includes denouncement, provision of criminal information, entities' requisitions for charges, perpetrators' confessions, and criminal information directly gathered by competent procedural authorities.

dd) *Accused persons* include those arrest, detainees, suspects, defendants.

e) *Kindred of persons engaging in or commission to institute proceedings* is composed of individuals having relationships with persons participating or authorized to conduct proceedings. Such individuals include spouse, biological and adoptive parents, parents in law, biological and adopted children, paternal and maternal grandparents, biological siblings, maternal and paternal great grandparents, biological uncles and aunts, biological nephews and nieces.

g) *Litigants* include civil plaintiffs, civil defendants and persons incurring interests and duties from a criminal lawsuit.

h) *Confession* means that a perpetrator voluntarily gives statements on his offences to authorities prior to the happening of such offences or after the exposure of the perpetrator.

i) *Surrender* refers to a perpetrator, after exposed, voluntarily turning himself in and giving statements on his offences to competent authorities.

k) *Coercive delivery* refers to competent authorities' compulsion of the attendance of persons who are held in emergency custody, apprehended or temporarily detained, or suspects and defendants at a place of investigation, prosecution or adjudication.

l) *Forced escort* refers to competent authorities' coercive taking of witness testifiers, persons denounced or facing requisitions for charges to a place of investigation, prosecution or adjudication, or crime victims refusing to undergo expert examinations.

m) *Full record of identity* refers to the document summarizing a suspect's profile, identity with photos of three postures and two thumbprints, made and retained by competent authorities.

n) *Basic record of identity* refers to the document summarizing a suspect's profile with all fingerprints, made and retained by competent authorities.

o) *Serious breach of legal proceedings* means that authorities and persons given authority to institute proceedings have not executed or have implemented improperly and inadequately the formalities and procedures, as defined by this Law, have infringed severely the legitimate rights and benefits of entities engaging in proceedings, and have influenced the identification of equitable and comprehensive truths of a lawsuit.

2. In this Law, the following abbreviations apply to phrases below:

- a) Police investigation authorities in districts, communes, provincial cities and centrally-affiliated cities' metropolis are referred to as district investigation authorities.
- b) Police investigation authorities in provinces and centrally-affiliated cities are referred to as provincial-level investigation authorities.
- c) Military investigation authorities in military zones and equivalents are referred to as military investigation authorities of military zone.
- d) People's Procuracy in districts, communes, provincial cities and centrally-affiliated cities' metropolis is referred to as district People's Procuracy.
- dd) People's Procuracy in provinces and centrally-affiliated cities is referred to as provincial-level People's Procuracy.
- e) Military procuracy in military zones and equivalents are referred to as Military procuracy of military zone.
- g) People's Courts in districts, communes, provincial cities, centrally-affiliated cities' metropolis are referred to as district People's Courts.
- h) People's Courts in provinces and centrally-affiliated cities are referred to as provincial-level People's Courts.
- i) Military Courts in military zones and equivalents are referred to as military Courts of military zone.

### **Article 5. Responsibilities of governmental authorities and entities in precluding and combating crime**

1. Governmental authorities, as per the range of their responsibilities, must adopt measures to forestall crime and cooperate with competent procedural authorities for the preventive fight against crime.

Governmental authorities must regularly inspect the performance of functions and assignments, detect and handle violations of laws in timely manner and make prompt reports to investigation authorities and Procuracy about every criminal act happening inside such authorities and sectors under their management. Moreover, state authorities must propound and adduce relevant documents to investigation authorities and Procuracy for the latters' inspection and filing of charges against perpetrators of criminal acts.

Heads of governmental authorities must be held liable for providing investigation authorities and Procuracy with false or no information on criminal acts committed inside their premises and sectors under their management.

2. Entities are entitled to and responsible for exposing, denouncing, reporting, and combating crime.

3. Competent procedural authorities are responsible for supporting governmental authorities and entities to fight against crime.

4. Governmental authorities and entities are responsible for fulfilling requests and supporting authorities and persons given authority to institute proceedings to accomplish their missions.

5. Inspectorate and governmental audit agencies are responsible for cooperating with competent procedural authorities in exposing and tackling crime. Upon detecting signs of criminal activities, governmental authorities must promptly propound relevant documents and items to investigation authorities and Procuracy for inspection and filing of criminal charges.

6. Every action of obstructing competent procedural authorities and persons' completion of duties is inhibited.

#### **Article 6. Exposure and correction of justifications and factors for crime**

1. Competent procedural authorities, when taking criminal proceedings, are responsible for uncovering reasons and elements leading to crime and proposing concerned entities to enforce measures of correction and preclusion.

2. Concerned entities must fulfill such requests by competent procedural authorities. In 15 days upon receiving requests, concerned parties must respond in writing to such propositions by competent procedural authorities.

### **Chapter II**

#### **FUNDAMENTAL PRINCIPLES**

#### **Article 7. Upkeep of socialist law enforcement regarding criminal procedures**

Every activity of criminal procedures must abide by this Law. The processing of criminal information, filing of charges, investigation, prosecution and adjudication shall abide only by the grounds, procedures and formalities as defined by this Law.

#### **Article 8. Veneration and protection of human rights and individuals' legitimate rights and interests.**

Competent procedural authorities and persons, when instituting legal proceedings within their duties and authority, must respect and protect human rights and individuals' legitimate rights and interests. Measures imposed, whose validity and requisite are regularly inspected, shall be removed or altered if violating laws or deemed unessential.

#### **Article 9. Conservation of legal equality**

Criminal procedure occurs on the principle under which all people are subject to the same laws of justice, regardless of race, gender, belief, religion, social class and status. Every person committing crime is treated under the law.

Every juridical person is equal before the law, regardless of its form of ownership and economic class.

#### **Article 10. Sustainment of bodily integrity**

Every person is entitled to inviolability of the physical body. No person is arrested without a Court's warrant or Procuracy's decision or approval, except for acts in flagrante.

Emergency custody, arrest, temporary detainment or detention must abide by this Law. Torture, extortion of deposition, corporal punishment or any treatments violating a person's body, life and health are inhibited.

#### **Article 11. Protection of individuals' life, health, honor, dignity and belongings and juridical persons' reputation and property**

Life, health, honor, dignity and belongings of every person are protected by the laws.

The laws penalize all unlawful violations of a person's life, health, honor, dignity and belongings and a juridical person's fame, reputation and property.

Vietnamese citizens cannot be deported or handed to another government.

**Article 12. Alimention of inviolability of residence, privacy, personal secrecy, family secrets, safety and confidentiality of personal mail, telephone and telegraph**

No person can illegally violates others' residence, privacy, personal secrecy, family secrets, safety and confidentiality of mail, telephone, telegraph and other forms of personal communication.

Search of residence, search and seizure or temporary confiscation of mails, phones, telegraphs, electronic data and other forms of private communication must abide by this Law.

**Article 13. Presumption of innocence**

A accused person is deemed innocent until his guilt is evidenced according to the procedures and formalities as defined in this Law and a Court passes a valid conviction.

If grounds for conviction, as per the procedures and formalities in this Law, do not suffice, competent procedural authorities and persons shall adjudge the accused person to be not guilty.

**Article 14. Double jeopardy**

A person is not charged, investigated, prosecuted or tried on an act, for which a Court's effective conviction has been passed, unless that person commits another act jeopardizing the society and deemed criminal by the Criminal Code.

**Article 15. Determination of facts in a lawsuit**

Competent procedural authorities are held liable for proving guilt. A accused person is entitled to but is not obliged to prove his innocence.

Competent procedural authorities, within their duties and authority, must use legitimate measures to determine the facts of a lawsuit in unbiased, thorough and complete ways, to clarify the evidences of guilt and innocence, aggravation and mitigation of criminal liabilities of the accused person.

**Article 16. Guarantee of right of defense for accused persons and protection of legal rights and benefits of defendants and litigants**

A accused person is entitled to defend himself or be defended by a lawyer or another person.

Competent procedural authorities and persons are responsible for informing accused persons, defendants and litigants of all of their rights of defense, legitimate rights and benefits according to this Law. Moreover, competent procedural authorities and persons shall provide explanations and guarantee the implementation of all of such rights and benefits.

**Article 17. Responsibilities of authorities and persons given authority to institute proceedings**

Competent procedural authorities and persons, when instituting proceedings, must strictly conform to the laws and shall be held liable for their actions and decisions.

An individual violating legal regulations on emergency custody of people, arrest, imprisonment, custody, charge, investigation, prosecution, adjudication, sentence enforcement, by nature and level of such violations, shall be disciplined or face criminal charges according to the laws.

#### **Article 18. Responsibilities for filing of charges and handling of criminal cases**

Competent procedural authorities, when detecting signs of criminal activities, are responsible for filing charges and lawsuits within their duties and authority and for taking measures as defined by this Law to ascertain criminals and penalize persons and juridical persons found guilty.

Filing of charges and lawsuits shall only conform to the grounds, procedures and formalities as defined by this Law.

#### **Article 19. Legal compliance in investigative activities**

Investigation authorities and authorities assigned to perform certain activities of investigation must observe the laws when conducting investigation as per this Law.

Every activity of investigation must attend to truths and occur in unbiased, thorough and complete ways to swiftly and precisely uncover all guilty acts and indicate evidences of guilt and innocence, aggravation and mitigation of criminal liabilities, reasons, conditions for crime and other facts essential to handle the cases.

#### **Article 20. Responsibilities for exercising the right of prosecution and overseeing legal compliance in criminal procedure**

The procuracy exercises the right of prosecution and oversees legal compliance in criminal procedure, renders decisions on conviction, expose violations of laws to have all guilty acts, persons and juridical persons committing crime and violating laws exposed and penalized in timely and stringent manners. It must assure that charges, investigation, prosecution, adjudication and sentence enforcement apply to the exact entities precisely for what they commit according to the laws. It must assure that omission of crime and criminals or misjudgment does not occur.

#### **Article 21. Assurance of impartiality of persons given authority to institute or engaging in legal proceedings**

Persons given authority to institute proceedings, interpreters, translators, expert witnesses, valuers and witnesses are not permitted to engage in proceedings if they may not be impartial, for any reasons, to carry out duties.

#### **Article 22. Trial by jury**

Jury trial occurs in a Court of first instance, unless summary procedures are implemented according to this Law.

#### **Article 23. Independence of Judge and Jury and sole compliance to the laws**

Judge and Jury adjudicate independently and comply solely with the laws. Authorities and entities are forbidden to interfere the adjudication by Judge and Jury.

Authorities and entities interfering the adjudication by Judge and Jury in any manners shall be disciplined, face administrative fines or criminal charges, by nature and level of their violations, according to the laws.

#### **Article 24. Collective adjudication**

A Court tries collectively and renders decisions under majority rule, except for summary procedures according to this Law.

#### **Article 25. Timely, just and public trial**

A Court holds trials in timely manner by the regulated deadline and upholds fairness.

A Court tries publicly and every person is entitled to attend the trial, unless otherwise stated in this Law. For special cases involved in state secrets, national traditions, protection of persons aged below 18 or personal privacy as per litigants' rational requests, a Court may try in closed session but must pronounce its judgments publicly.

#### **Article 26. Assurance of oral arguments in adjudication process**

During the charges, investigation, prosecution, adjudication, investigators, prosecutors, persons authorized to institute proceedings, defendants, defense counsels and other persons participating in proceedings are equally entitled to present and evaluate evidences and make requests for clarification of objective truths of the lawsuit.

Documents and evidences from the case file, brought to The procuracy to the Court for trial, must be sufficient and legitimate. All relevant persons, as defined by this Law, must attend a criminal Court. Absence must be because of force majeure or objective obstacles or other situations according to this Law. The Court is responsible for supporting prosecutors, defendants, defense counsels and other participants in legal proceedings to exercise all of their rights and duties and provoke oral arguments in democratic and equal manners before the Court.

All evidences of guilt and innocence, aggravation and mitigation of criminal liabilities, citation of Points, Sections or Articles in the Criminal Code for determination of defendants' crimes, sentences, compensations, and handling of proofs and other facts essential to the lawsuit must be done, argued and specified in court.

The Court's judgments and rulings must be subject to the inspection and assessment of evidences and oral arguments in court.

#### **Article 27. Affirmation of first-instance and appellate procedure**

1. Trial by first-instance and appellate Courts is affirmed.

A first-instance Court's judgments or rulings may be appealed according to this Law. A first-instance Court's judgments or rulings, if not appealed by the deadline as defined in this Law, shall come into effect.

A first-instance Court's judgments, if appealed, shall be reheard by an appellate Court. The appellate Court's judgments or rulings shall come into force.

2. A Court's effective judgments or rulings, if such is found to make a serious error of law or new facts emerge as per this Law, shall be reviewed through the procedures of cassation or reopening, respectively.

#### **Article 28. Warranty of the effect of Court's judgments and rulings**

1. Authorities and entities must observed a Court's judgments or rulings, after given legal effect. Concerned authorities' and entities' compliance must be exercised in grave manner.

2. Authorities and entities, under their missions, authority and duties, are responsible for cooperating, supporting and fulfilling requests from authorities and entities liable for enforcing a Court's judgments and rulings.

### **Article 29. Spoken and written language for criminal procedure**

Vietnamese is the spoken and written language for criminal procedure. Participants in proceedings are permitted to speak and write in their native languages, in the mandatory presence of a translator.

### **Article 30. Civil matters in criminal cases**

Civil matters in criminal cases are resolved during the settlement of criminal cases. If a criminal lawsuit deals with damage claims backed by insufficient evidences and causing little effect on the settlement of such case, civil matters may be separated and settled through civil procedure.

### **Article 31. Guarantee of compensations for crime victims in criminal cases**

1. Persons held in emergency custody, arrested, temporarily detained or held in detention, charged, investigated, prosecuted, tried and sentenced incorrectly or illegally shall be compensated for physical and spiritual damage and restoration of dignity.

The government is held liable for compensating persons, held in emergency custody, arrested, temporarily detained or held in detention, charged, investigated, prosecuted, tried and sentenced incorrectly or illegally by competent procedural authorities and persons, damage and recovery of dignity and interests.

2. Other persons suffering from damage caused by competent procedural authorities and persons are entitled to the Government's compensations.

### **Article 32. Guarantee of rights of complaint and denouncement in criminal procedure**

Individuals are permitted to file complaints or denouncement, while organizations are allowed to file complaints, against violations of legal regulations on criminal procedure by competent procedural authorities and persons or personnel of such entities.

Competent authorities and persons must receive, hear and settle complaints and denouncements in timely and lawful manners. Results of their hearings and solutions shall be given in writing to persons and organizations filing accusations or complaints.

Procedures, formalities and authority for the settlement of complaints and accusations are governed by this Law.

It is inhibited to take vengeance on persons filing complaints or accusations or to abuse rights of complaint and denouncement to vilify others.

### **Article 33. Inspection and supervision of criminal procedure**

1. Competent procedural authorities and persons must regularly inspect the activities of criminal procedure within their powers and manage units receiving, handling criminal information, pressing charges, conducting investigations, prosecuting, adjudicating and enforcing sentences.

2. Governmental authorities, Committee of Vietnam Fatherland Front and its members units, and elective representatives of people are sanctioned to supervise competent procedural authorities and persons' activities and settlement of complaints and denouncement.



If competent procedural authorities and persons are found to violate laws, governmental authorities and elective people's representatives can propose and the Committee of Vietnam Fatherland Front can propose competent procedural authorities to consider and resolve such matters according to this Law. Competent procedural authorities must analyze, handle and respond to the said propositions and request as per the laws.

### **Chapter III**

#### **AUTHORITIES AND PERSONS AUTHORIZED TO INSTITUTE PROCEEDINGS**

##### **Article 34. Presiding authorities and presiding officers**

1. Presiding authorities are:

- a) Investigation authorities;
- b) Procuracy;
- c) Courts.

2. Presiding officers are:

- a) Heads and vice heads of investigation authorities and investigators and investigation officers;
- b) Heads and vice heads of The procuracy, procurators and checkers;
- c) Court presidents, Vice court presidents, judges, jury, Court clerks, verifiers.

##### **Article 35. Authorities and persons assigned to perform certain activities of investigation**

1. The authorities assigned to perform certain activities of investigation are:

- a) Border protection force's units;
- b) Customs authorities;
- c) Forest ranger's units;
- d) Maritime police force's units;
- dd) Fisheries resources surveillances units;
- e) People's police force's units assigned to perform certain activities of investigation (referred to as units assigned to investigate);
- g) Other units in the People's Army, as assigned to perform certain activities of investigation.

Authorities assigned to perform certain activities of investigation in this Section are stipulated in the Law on the organization of criminal investigation authorities.

2. The persons assigned to perform certain activities of investigation are:

- a) Personnel of the Border protection force, as assigned to performed certain activities of investigation, include heads and vice heads of Border reconnaissance department, Drug and crime department; heads and vice heads of Special service against drug and crime; captains and vice captains of Border protection units in provinces and centrally-affiliated cities; commanding officers and deputies in Border protection posts; commanders and deputies of Border protection units at border gates;

- b) Personnel of Customs authorities, as assigned to perform certain activities of investigation, are heads and vice heads of Anti-smuggling and investigation department; heads and vice heads of Post clearance audit department; heads and vice heads of provincial and inter-provincial Departments of customs and those in centrally-affiliated cities; heads and vice heads of Customs departments at border gates;
- c) Personnel of Forest ranger, as assigned to perform certain activities of investigation, include heads and vice heads of Forest protection department, heads and vice heads of Forest ranger departments; heads and vice heads of Forest ranger stations;
- d) Personnel of Maritime police force, as assigned to perform certain activities of investigation, include commanders, vice commanders, zone commanders and vice zone commanders of Maritime police force; heads and vice heads of Specialized and legal department; heads and vice heads of Special service of drug enforcement; heads and vice heads of Naval battalions, Naval flotilla; captains and deputies of Maritime police force's special task units;
- dd) Personnel of Fisheries resources surveillances, as assigned to perform activities of investigation, include heads and vice heads of Bureau of fisheries resources surveillances, heads and vice heads of zonal Bureaus of fisheries resources surveillances;
- e) Personnel of other units of People's Police force, as assigned to perform certain activities of investigation, include directors and vice directors of Fire Police; heads, vice heads, managers and vice managers of People's Police force's units assigned to investigate; warders and vice warders of prisons according to the Law on the organization of criminal investigation authorities;
- g) Personnel of other units of People's Army, as assigned to perform certain activities of investigation include warders and vice warders of prisons; heads of independent regiment units and similar ones.
- h) Investigation officers in the authorities and units as defined in Section 1 of this Article.

**Article 36. Duties, authority and responsibilities of Heads and vice heads of Investigation authorities**

1. Heads of investigation authorities bear the following duties and power:

- a) Organize and direct the processing of criminal information, charges and investigation by investigation authorities;
- b) Make decisions on the appointment or replacement of vice heads of investigation authorities and units handling criminal information, inspect criminal charges and investigation done by vice heads, make decisions on amendments or abolishment of unfounded and illegal decisions made by vice heads.
- c) Make decisions on the appointment or replacement of investigators and investigation officers, inspect the processing of criminal information, criminal charges and investigation done by investigators or investigation officers, and make decisions on amendments or invalidation of unsubstantiated and unlawful decisions made by investigators.
- d) Handle complaints and accusations within the powers of investigation authorities.

The head of the investigation authority, upon his absence, delegates a vice head to carry out the head's missions and power. Vice heads are held liable before the Head for the assignments.

2. Heads of investigation authorities, when instituting criminal proceedings, bear the following duties and power:

a) Make decisions on suspending the processing of denunciations, criminal information disclosed and requisitions for charges (referred to as denunciations, information and requisitions); decisions on pressing or not filing charges, amendments or alterations of decisions on filing lawsuits or charges against suspects; decisions on combining or dividing lawsuits; decisions on mandating investigations;

b) Make decisions on implementing, changing or terminating preventive measures, coercive actions, and means for special investigation and proceedings according to this Law;

c) Make decisions on issuing and annulling warrants on arrest, search, seizure, impoundment and handling of evidences;

d) Make decisions on requests, addition or repetition of expert examinations, burial excavation, experimental investigation, change or request for replacement of expert witnesses. Request valuation, revaluation of property and change of valuers.

dd) Directly inspect and verify criminal information and carry out investigation measures;

e) Draw conclusions on investigations;

g) Make decisions on suspending or terminating or resuming investigations into cases or against suspects;

h) Make orders and decisions and perform other activities of legal proceedings within the powers of investigation authorities.

3. Vice heads of investigation authorities, when mandated to file charges or investigate criminal cases, bear the duties and power as stated in Section 1 and Section 2 of this Article, save Point b, Section 1 of this Article. Vice heads of investigation authorities cannot handle complaints or accusations against their actions and decisions.

4. Heads and vice heads of investigation authorities shall be held liable for their actions and decisions. Heads and vice heads of investigation authorities cannot mandate investigators to carry out their duties and power.

### **Article 37. Duties, authority and responsibilities of investigators**

1. Investigators, as assigned to file charges and investigate criminal cases, have the following duties and authority:

a) Directly inspect, verify and document criminal information;

b) Document criminal cases;

c) Request or recommend the designation and replacement of defense counsels, interpreters and translators;

d) Summon and interrogate suspects; convene denouncers, informants, persons denounced or facing position of charges, legal representatives of juridical persons to obtain their statements; take statements from persons held in emergency custody, arrested, temporarily detained; convoke witness testifiers, crime victims and plaintiffs for their statements;

- dd) Make decisions on delivering by force persons held in emergency custody, arrested, temporarily detained, suspects; escorting by force witness testifiers, persons denounced or charged, crime victims; make decisions on transferring persons under 18 to entities responsible for supervision; decide changes of supervisors of perpetrators under 18;
- e) Enforce emergency custody orders, decisions or orders of arrest, temporary detainment or detention, search, seizure, withholding, distraintment of property, freezing of accounts, handling of evidences;
- g) Search crime scenes, unearth and dissect corpses, examine traces on bodies, confront persons involved, facilitate identifications, conduct experimental investigations;
- h) Perform other duties and authority of legal proceedings within the powers of investigation authorities as per assignments by the head according to this Law.

2. Investigators shall be held liable under the laws and before the head and vice heads of the investigation authority for their actions and decisions.

### **Article 38. Duties, authority and responsibilities of Investigation officers of investigation authorities**

1. Investigation officers, as per assignments given by Investigators, perform the following duties and authority:

- a) Record statements and interrogation in writing and make other written records upon investigators' inspection and verification of criminal information and criminal investigation;
- b) Deliver and convey orders, decisions and other documents on proceedings as per this Law;
- c) Support investigators to prepare documents on criminal information, case files and perform other activities of legal proceedings.

2. Investigation officers are held liable under the laws and before the head, vice heads, investigators for their actions.

### **Article 39. Duties, authority and responsibilities of chiefs, deputies, investigation officers, in Border protection force, Customs, Forest ranger, Maritime police force and Fisheries Surveillance, on assignments of certain activities of investigation.**

1. Chiefs of units assigned to investigate as per Points a, b, c, and dd, Section 2, Article 35 of this Law bear the following duties and authority:

- a) Direct the processing of intra vires criminal information, charges and criminal investigation;
- b) Decide the appointment or replacement of deputies and investigation officers for the handling of criminal information, charges and investigation;
- c) Inspect deputies' and investigation officers' processing of criminal information, charges and investigation;
- d) Decide changes and abrogation of unproven and illicit decisions made by deputies and investigation officers;

dd) Make decisions on handing over persons under 18, who face accusations, to their representative for supervision.

The chief, upon his absence, mandates a deputy to perform his duties and authority. The deputy is held liable before the chief for the duties assigned. Chiefs and deputies are not permitted to mandate investigation officers to perform their duties and authority.

2. When conducting criminal proceedings against perpetrators of misdemeanors in flagrante and having clear evidences and culprits' profile, the persons as defined in Points a, b, c, d and dd, Section 2, Article 35 of this Law bear the following duties and authority:

- a) Collect evidences, documents and items from concerned individuals to check and verify criminal information;
- b) Decide to suspend the processing of denunciations, criminal information disclosed; requisitions for charges, decisions on filing or not pressing charges, amendments to decisions on filing lawsuits; decisions on pressing charges or amendments to decisions of filing charges against suspects;
- c) Directly organize and command the examinations of the scenes;
- d) Make decisions on requisitioning expert examinations, valuation or on search, seizure, impoundment and maintenance of evidences and materials directly related to the lawsuits;
- dd) Summon and interrogate suspects; convene crime victims and litigants for statements; convoke denouncers, informants, persons denounced or facing requisitions for charges for extraction of statements; call in witness testifiers for statements; take statements from persons held in emergency custody;
- e) Decide to implement preventive and coercive measures as per this Law;
- g) Conclude investigations, propose charges or conclusions from investigations and decide to terminate or suspend or resume investigations.

3. When instituting criminal proceedings against perpetrators of ordinary, drastic and exorbitant felonies or complicated misdemeanors, the persons as defined in Points a, b, c, d and dd, Section 2, Article 35 of this Law bear the following duties and authority:

- a) Collect evidences, documents and items from concerned people to inspect and verify criminal information;
- b) Decide to suspend the processing of accusations and criminal information disclosed, propose charges, decide to file or not press charges, alter decisions on filing charges;
- c) Decide to search, seize, temporarily withhold and maintain evidences and documents directly related to the lawsuits;
- d) Convene witness testifiers, crime victims and litigants for statements.

4. Investigation officers have the following duties and authority:

- a) Document criminal information, extract statements from concerned persons to inspect and verify criminal information;
- b) Prepare criminal case files;
- c) Interrogate suspects; obtain statements from denouncers, informants, persons denounced or facing requisitions for charges, persons held in emergency custody, arrested or temporarily detained, witness testifiers, crime victims, litigants;

d) Investigate the scenes, enforce warrants of search, seizure, impoundment and maintenance of evidences and documents directly related to the cases.

5. Chiefs, deputies and investigation officers of border protection force, customs, forest ranger, maritime police force, fisheries resources surveillances, when assigned to carry out certain activities of investigation within their responsibilities, shall be held liable for their actions and decisions. Chiefs and deputies are not permitted to mandate investigation officers to perform their duties and authority.

**Article 40. Duties, authority and responsibilities of chiefs, deputies and investigation officers of other units in People's Police Force and People's Army on assignments of certain activities of investigation**

1. Chiefs of units assigned to investigate as per Point e and Point g, Section 2, Article 35 of this Law bear the following duties and authority:

- a) Direct intra vires activities of charge filing and criminal investigation;
- b) Decide to appoint or replace deputies and investigation officers for filing of charges and criminal investigation;
- c) Inspect deputies' and investigation officers' processing of criminal information, pressing of charges and criminal investigation;
- d) Decide to redress or annul baseless and illegitimate decisions made by deputies and investigation officers.

A deputy, upon the absence of the chief, shall be mandated to perform the chief's duties and authority and assume liabilities before the chief for the duties mandated.

2. When instituting criminal proceedings, the persons as defined in Point e and Point g, Section 2, Article 35 of this Law bear the following duties and authority:

- a) Collect evidences, documents and items from concerned persons to check and attest criminal information;
- b) Decide to suspend the processing of criminal information; decide to press or not to file charges, amend decisions on charge filing;
- c) Direct and command the examination of crime scenes;
- d) Decide to search, seize, temporarily withhold and maintain evidences and documents related directly to the cases;
- dd) Summon denouncers, informants, persons denounced or facing requisitions for charges, witness testifiers, crime victims and litigants for statements.

3. Investigation officers have the following duties and authority:

- a) Document criminal information, acquire statements from relevant persons to inspect and verify criminal information;
- b) Prepare criminal case files;
- c) Gather statements from denouncers, informants, persons denounced or facing requisitions for charges, witness testifiers, defendants and litigants;

d) Investigate crime scenes, enforce orders of search, seizure, impoundment and maintenance of evidences and documents related directly to the lawsuits;

dd) Convey and send orders, decisions and other documents on legal proceedings as per this Law.

4. Chiefs, deputies and investigation officers of units of people's police force and People's Army, when assigned to perform certain activities of investigation within their responsibilities, must assume liabilities for their actions and decisions. Chiefs and deputies are not permitted to mandate investigation officers to perform their duties and authority.

#### **Article 41. Duties, authority and responsibilities of Heads and Vice heads of The procuracy**

1. Heads of The procuracy bear the following duties and authority:

a) Directly organize and command the activities of exercising rights of prosecution and manage legal compliance of criminal procedure;

b) Decide to appoint or replace vice heads of The procuracy, inspect vice heads' activities of exercising rights of prosecution and manage legal compliance of criminal procedure, decide to redress or annul groundless and lawless decisions made by vice heads;

c) Decide to appoint or replace procurators and checkers, inspect and manage procurators' and checkers' activities of exercising rights of prosecution and legal compliance in criminal proceedings, decide to redress or vacate unfounded and illegal decisions made by procurators;

d) Decide to remove, terminate or annul unproven and illicit decisions made by an inferior Procuracy;

dd) Handle complaints and accusations within the powers of The procuracy.

The head of The procuracy, upon his absence, mandates a vice head to perform his duties and authority and assume liabilities before the head for the duties mandated.

2. When exercising rights of prosecution and managing legal compliance in criminal proceedings, the head of The procuracy bears the following duties and authority:

a) Request investigation authorities and units assigned to investigate (referred to as investigation authorities and units assigned) to process criminal information, press charges or amend decisions on filing criminal lawsuits or charges against suspects; decide to press or not to file charges, redress decisions on filing criminal lawsuits or charges against defendants as per this Law;

b) Decide to suspend the handling of criminal information; decide to file or not to press charges, amend decisions on filing lawsuits; decide to press charges against suspects and amend such decisions; decide to join or separate cases;

c) Decide to enforce, alter or terminate preventive and coercive measures, and special investigation methods and proceedings; decide to extend the inspection and verification of criminal information, detention, investigation, temporary imprisonment, prosecution;

d) Decide to search, seize, temporarily withhold, and handle evidences;

dd) Decide the request, addition or repetition of expert examination, experimental investigation; change or demand to replace expert witnesses. Request valuation, re-valuation, and demand to change valuers;

- e) Request heads of investigation authorities, chiefs of units assigned to investigate to change investigators and investigation officers;
- g) Approve or disapprove decisions and orders made by investigation authorities and units assigned to investigate;
- h) Decide to abrogate unproven and unlawful decisions and orders made by investigation authorities and units assigned to carry out certain activities of investigation;
- i) Settle disputes over the authority to handle criminal information, file charges, conduct investigation; and decide to transfer cases;
- k) Decide to enforce or terminate obligatory medical treatment measures;
- l) Decide to implement summary procedures; or terminate such decisions;
- m) Decide to press charges against suspects and return documents to further or reset investigations;
- n) Request the restoration of investigation works, decide to adjourn or dismiss charges or lawsuits against suspects; decide to annul the decision to suspend the processing of criminal information; decide to resume investigations of cases or defendants and to retake cases and lawsuits against suspects;
- o) Make appeals through appellate Courts, reopening and cassation procedures against a Court's judgments and rulings as per this Law;
- p) Exercise the right to express proposition as per the laws;
- q) Issue decisions and orders, and carry out other activities of prosecution within the powers of The procuracy.

3. Vice heads of The procuracy, when assigned to exercise rights of prosecution and manage legal compliance in criminal proceedings, bear the following rights and duties as per Section 1 and Section 2 of this Article, except for Point b, Section 1 of this Article. Vice heads of The procuracy is not permitted to handle complaints and accusations against their own actions and decisions.

4. The head and vice heads of The procuracy shall be held liable for their actions and decisions. The head and vice heads of The procuracy cannot mandate procurators to perform their duties and authority.

#### **Article 42. Duties, authority and responsibilities of Procurators**

1. Procurators, when assigned to exercise rights of prosecution and manage legal compliance in criminal proceedings, have the following duties and authority:

- a) Administer competent entities' handling of criminal information;
- b) Directly manage and prepare documents on criminal information;
- c) Administer the processing of criminal information and charges, implement preventive and coercive measures; administer the competent investigation entities' documentation of criminal information and lawsuits; manage activities of prosecution and investigation done by investigation authorities and units assigned to investigate;



- d) Directly administer scene investigation, autopsy, confrontation, identification, voice recognition, experimental investigation and search;
- dd) Administer the temporary suspension and resumption of the processing of criminal information; suspension, adjournment, resumption and closure of investigations;
- e) Propose requirements for investigation and request investigation authorities to issue or terminate wanted notices against suspects;
- g) Summon and interrogate suspects, convene denouncers, informants, persons denounced or facing requisitions for charges, juridical persons' legal representatives, witness testifiers, litigants for statements; extract statements from persons held in emergency custody;
- h) Make decisions on the coercive delivery of arrestees, suspects; and on the forced escort of witness testifiers, persons denounced or facing requisitions for charges, crime victims; on the entrustment of persons under 18 to authorities and entities in charge of supervision; on the replacement of supervisors of perpetrators under 18;
- i) Directly perform certain activities of investigation as per this Law;
- k) Request the replacement of persons authorized to institute legal proceedings; request and propose the appointment or replacement of defense counsels; request the appointment and replacement of translators and interpreters;
- l) Institute legal proceedings in court; announce charges or decisions on prosecution through summary procedures, and other decisions by The procuracy on pressing charges against suspects; conduct interrogation, present evidences, documents, items, impeachment, arguments and viewpoints regarding the settlement of the cases and conference sessions;
- m) Administer legal compliance of the Court's adjudication and participants in legal proceedings; supervise the Court's judgments, rulings and other documents of legal procedure;
- n) Supervise the enforcement of the Court's judgments and rulings;
- o) Exercise rights to express requests and proposition as per the laws;
- p) Perform other duties and authority of prosecution within the powers of The procuracy as per the assignments by the head of The procuracy as per this Law.

2. Procurators shall be held liable under the laws and before the head and vice heads of The procuracy for their decisions and actions.

#### **Article 43. Duties, authority and responsibilities of Checkers**

1. Checkers perform the duties and exercise power below as per the assignments from the procurators:

- a) Make written records of statements and interrogation and other records of criminal proceedings;
- b) Deliver and convey orders, decisions and other documents of legal procedure as per this Law;
- c) Support procurators to prepare documents on administration and processing of criminal information, and to perform other activities of legal procedure.

2. Checkers shall be held liable under the laws and before the head, vice heads and checkers of The procuracy for their actions.

#### **Article 44. Duties, authority and responsibilities of Court president and Vice court president**

1. The court president bears the following duties and authority:

- a) Directly organize the adjudication of criminal cases; make decisions on the settlement of disputes over the jurisdiction;
- b) Decide to assign Vice court presidents, judges, jury to hear criminal cases; to assign Court clerks to institute legal proceedings on criminal cases; to assign verifiers to verify criminal case files;
- c) Decide to replace judges, jury and Court clerks prior to the start of a trial;
- d) Decide the enforcement of criminal sentences;
- dd) Decide to postpone jail sentences;
- e) Decide to suspend prison sentences;
- g) Decide to expunge criminal records;
- h) Handle complaints and accusations within the powers of the Court.

The court president, upon his absence, must mandate a vice presiding judge to carry out the judge's duties and power. Vice court president shall be held liable before The court president on the duties mandated.

2. When hearing criminal cases, The court president bears the following duties and authority:

- a) Decide to enforce, alter or terminate measures for handling of evidences and detention;
- b) Decide to implement or terminate civil commitment;
- c) Decide to enable and deactivate summary procedures;
- d) Propose and make appeal for cassation procedures against the Court's judgments and rulings in effect;
- dd) Decide and perform other activities of legal proceedings within the Court's powers;
- e) Engage in other activities of legal proceedings as per this Law.

3. Vice court presidents, when assigned to hear criminal cases, bear the duties and authority as defined in Section 1 and Section 2 of this Article, save Point b, Section 1 of this Article. Vice court presidents are not permitted to settle complaints or accusations against their actions and decisions.

4. The court president and Vice court presidents are held liable under the laws for their actions and decisions. The court president and Vice court presidents are not permitted to mandate judges to carry out their duties and powers.

#### **Article 45. Duties, authority and responsibilities of Judge**

1. A judge, when assigned to hear criminal cases, bears the following duties and authority:

- a) Examine case files prior to the start of a trial;
- b) Hear cases;

c) Engage in other activities of legal procedure and vote on matters within the powers of the Trial panel;

d) Transact other activities of legal procedure within the Court's powers as per The court president's assignments.

2. The presiding judge has the duties and powers as stipulated in Section 1 of this Article and below:

a) Decide to implement, alter and abort preventive and coercive measures, save those for detention;

b) Decide to return case files for further investigation;

c) Decide to have cases heard; to dismiss or adjourn lawsuits;

d) Manage the hearing of cases, oral arguments in court;

dd) Decide to have expert examinations started newly or afresh or extended, to perform experimental investigations; to change or have expert witnesses replaced; to order valuation or have valuers changed;

e) Order or requisition the appointment or change of defense counsels; change of supervisors for perpetrators under 18; request the appointment and replacement of translators and interpreters;

g) Decide to summon witness testifiers to the Court;

h) Engage in other duties and powers of legal procedure within the Court's powers as per The court president's assignments according to this Law.

3. Judges shall be held liable under the laws for their actions and decisions.

#### **Article 46. Duties, authority and responsibilities of Jury**

1. The jury on assignments to hear criminal cases bears the following duties and authority:

a) Examine case files prior to the start of a trial;

b) Hear cases;

c) Engage in activities of legal procedure and vote on the Trial panel's intra vires matters.

2. The jury shall be held liable under the laws for their actions and decisions.

#### **Article 47. Duties, authority and responsibilities of Court clerk**

1. Court clerks on assignments to handle criminal proceedings have the following duties and authority:

a) Verify the presence of persons receiving the Court's subpoena; and specify excuses of those absent;

b) Announce the Court's rules;

c) Report to the Trial panel about the list of persons convened and absent;

d) Record the Court's proceedings in writing;

dd) Perform other activities of legal proceedings within the Court's powers as per the assignments by The court president.

2. Court clerks are held liable under the laws and before the judge for their actions.

#### **Article 48. Duties, authority and responsibilities of Verifier**

1. Verifiers on assignment to engage in criminal proceedings have the following duties and authority:

- a) Examine files of lawsuits on which a Court has passed sentences in binding force, as per the assignments by The court president or Vice court presidents;
- b) Conclude activities of verification and report to the tribunal president or Vice court presidents;
- c) Verifiers facilitate The court president's enforcement of sentences within the Court's powers and other assignments from The court president or Vice court presidents.

2. Verifiers shall be held liable under the laws and before The court president and Vice court presidents for their actions.

#### **Article 49. Disapproval or replacement of persons given authority to institute legal proceedings**

Persons given authority to institute legal procedure must refuse to engage in proceedings or submit to replacement in the following events:

1. They are crime victims, litigants, or delegates, relatives of crime victims, litigants, suspects or defendants;
2. They have acted as defense counsels, witness testifiers, verifiers, valuers, interpreters or translators in the lawsuits;
3. Clear grounds of their potential bias at work are found.

#### **Article 50. Individuals authorized to change persons given authority to institute legal proceedings.**

1. Procurators.
2. Detainees, suspects, defendants, crime victims, civil plaintiffs, civil defendants and their representatives.
3. Defense counsels and protectors of legitimate rights and benefits for crime victims, civil plaintiffs and defendants.

#### **Article 51. Replacement of investigators and investigation officers**

1. Investigators and investigation officers must decline to engage in legal proceedings or submit to replacement in the following events:

- a) As per stipulations in Article 49 of this Law;
- b) They have engaged in legal proceedings of the lawsuit as procurators, checkers, judges, assessors (also referred to as jurors), verifiers or Court clerks.

2. The head or vice heads of the investigation authority shall decide the replacement of investigators and investigation officers.

If the replaced investigator is the head of the investigation authority according to Section 1 of this Article, the superior investigation authority shall directly investigate the case.

## **Article 52. Replacement of Procurators and Checkers**

1. Procurators and checkers must reject their engagement in legal proceedings or submit to replacement in the following events:

- a) As per Article 49 of this Law;
- b) They have engaged in legal proceedings in the lawsuit as investigators, investigation officers, judges, assessors, verifiers or Court clerks.

2. The head or vice heads of The procuracy assigned to settle lawsuits shall decide the replacement of procurators at equal level of hierarchy prior to the start of a trial.

If the replaced procurator is the head of The procuracy, the head of the superior Procuracy shall give direct decisions on relevant matters.

If a procurator must be changed during the Court's proceedings, the Trial panel shall suspend the trial.

## **Article 53. Replacement of Judge and Assessors**

1. Judges and assessors must repudiate their hearing of trials or submit to replacement in the following events:

- a) As per Article 49 of this Law;
- b) They appear in the same trial panel and biologically related to each other;
- c) They have heard cases in first-instance or appellate Courts or engaged in legal proceedings in such Courts as investigators, investigation officers, procurators, checkers, verifiers or Court clerks.

2. The court president or Vice court presidents assigned to settle the lawsuit shall decide the replacement of judges and assessors prior to the start of the trial.

If the replaced judge is The court president, the president of the immediate superior Court shall decide relevant matters.

The Trial panel decides the replacement of the judge or assessors by voting in the jury room prior to the stage of interrogation. The jury considers opinions of the assessors to be replaced and make decisions under majority rule.

If the judge or assessors are changed during the Court's proceedings, the Trial panel shall suspend the trial.

## **Article 54. Replacement of Court clerks**

1. Court clerks must demur to engage in legal proceedings or submit to replacement in the following events:

- a) As per Article 49 of this Law;
- b) They have engaged in legal proceedings of the lawsuit as procurators, checkers, investigators, investigation officers, judges, assessors, verifiers or Court clerks.

2. The tribunal president or Vice court presidents assigned to settle lawsuits shall decide to replace Court clerks prior to the start of the trial.

The Trial panel decides the replacement of Court clerks during the Court's proceedings.  
If Court clerks in court must be changed, the Trial panel shall suspend the trial.

## **Chapter IV**

### **PARTICIPANTS IN LEGAL PROCEEDINGS**

#### **Article 55. Participants in legal proceedings**

1. Denouncers, informants and individuals proposing charges.
2. Persons denounced or facing requisitions for charges.
3. Persons held in emergency custody.
4. Arrestees.
5. Temporary detainees.
6. Suspects.
7. Defendants.
8. Crime victims.
9. Civil plaintiffs.
10. Civil defendants.
11. Individuals bearing duties and interests from the lawsuits.
12. Witness testifiers.
13. Witnesses.
14. Expert witnesses.
15. Valuers.
16. Interpreters and translators.
17. Defense counsels.
18. Protectors of legitimate rights and benefits of crime victims and litigants.
19. Protectors of lawful rights and benefits of persons denounced or facing requisitions for charges.
20. Legal representatives of juridical persons committing crime and other delegates as per this Law.

#### **Article 56. Denouncers, informants and individuals proposing charges**

1. Denouncers, informants and entities reporting crime or proposing charges are entitled to:
  - a) Request competent authorities to maintain confidentiality of denunciation, crime reports, propose charges, to protect their life, health, honor, dignity, prestige, property, legitimate rights and benefits and kindred from existing menaces;
  - b) Be informed of the final settlement of denunciations, information and requisitions;

c) Complain about competent procedural authorities and persons' decisions and legal procedure of receiving and handling accusations, criminal information and requisitions for charges.

2. Entities as defined in Section 1 of this Article must present themselves at the requests for authorities empowered to handle criminal information, and must present facts to their knowledge in honesty.

#### **Article 57. Persons denounced or facing requisitions for charges**

1. Persons denounced or facing requisitions for charges are entitled to:

- a) Be informed of their acts denounced or against which charges are proposed;
- b) Be informed and explained about their rights and duties according to this Article;
- c) Give statements and opinions;
- d) Present evidences, documents, items and requests;
- dd) Confer on relevant evidences, documents and items and ask authorized procedural persons to inspect and evaluate such;
- e) Defend or have their legitimate rights and benefits defended;
- g) Be informed of the final settlement of accusations and requisitions for charges;
- h) Complain about competent procedural authorities and persons' decisions and legal procedure.

2. Persons denounced or facing requisitions for charges must appear at the requests for authorities empowered to handle accusations and requisitions for charges.

#### **Article 58. Persons held in emergency custody and arrestees**

1. Persons held in emergency custody or arrested for criminal acts in flagrante and wanted notices are entitled to:

- a) Hear and obtain the warrants of emergency custody, emergency arrest, written approvals of emergency custody and wanted notices;
- b) Be informed of reasons of their temporary detainment and arrest;
- c) Be informed and explained about their rights and duties as per this Law;
- d) Give statements and opinions, and have no obligation to testify against themselves or admit to guilt;
- dd) Present evidences, documents, items and requests;
- e) Confer on relevant evidences, documents and items and request authorized procedural persons to inspect and evaluate such;
- g) Defend themselves or be defended;
- h) Complain about competent procedural authorities and persons' decisions and legal procedure on detainment and arrest.

2. Persons held in emergency custody and arrestees bear the duty to conform to detainment orders and arrest warrants and requests by entities authorized to detain and arrest people according to this Law.

## **Article 59. Temporary detainees**

1. Temporary detainees are held in emergency captivity or arrested for criminal acts in flagrante or wanted notices or those confessing or surrendering and facing existing orders of temporary detainment.
2. Temporary detainees are entitled to:
  - a) Be informed of reasons, obtain decisions and written extension of temporary detainment, written approvals of temporary detainment and other decisions of legal procedure according to this Law;
  - b) Be informed and explained about their duties and rights as per this Article;
  - c) Give statements and opinions, and have no obligation to testify against themselves or admit to guilt;
  - d) Defend themselves or be defended;
  - dd) Present evidences, documents, items and request;
  - e) Confer on relevant evidences, documents and items and request authorized procedural persons to verify and assess such;
  - g) File complaints about competent procedural authorities and persons' decisions and legal procedure on temporary detainment.
3. Temporary detainees are liable for conforming to this Law and the Law on temporary detainment and detention.

## **Article 60. Suspects**

1. Suspects are physical persons or juridical persons facing criminal charges. The rights and duties of juridical persons as suspects are executed by their legal representatives according to this Law.
2. Suspects are entitled to:
  - a) Be informed of reasons for charges against them;
  - b) Be informed or explained about their rights and duties as per this Article;
  - c) Acquire decisions on charges against suspects and amendments to such decisions; written approvals of such decisions or amendments; decisions on enforcement, change or termination of preventive and coercive measures; final reports of investigation; decisions on suspension and suspension of investigations; decisions of suspension and suspension of lawsuits; charges, decisions on prosecution and other decisions on legal proceedings according to this Law;
  - d) Give statements and opinions and bear no obligation to testify against themselves or admit to guilt;
  - dd) Present evidences, documents, items and requests;
  - e) Confer on relevant evidences, documents and items and request authorized procedural persons to check and evaluate such;
  - g) Requisition expert examinations, valuation; changes of authorized procedural persons, expert witnesses, valutors, interpreters and translators;



- h) Defend themselves or be defended;
- j) Read and write digital documents or copies of such regarding charges and vindication or other copies related to their defense, upon requests, after the end of investigations;
- k) Complain about authorized procedural persons' decisions and actions of legal procedure.

3. Suspects bear these duties:

- a) Be present as per subpoenas by persons given authority to institute legal proceedings. If suspects are absent due to any but not force majeure or objective obstacles, they may be delivered by force. Fugitives shall be sought;
- b) Comply with competent procedural authorities and persons' decisions and requests.

4. Minister of Public Security leads and cooperates with the head of the Supreme People's Procuracy, Court president of the Supreme People's Court and Minister of Defense to regulate details of sequence, formalities, time limit and location for suspects' reading and writing of digital documents and copies of such regarding charges, vindication or other copies regarding suspects' pleading, if requested, according to Point i, Section 2 of this Article.

#### **Article 61. Defendants**

1. Defendants are physical persons or juridical persons tried as per a Court's decision. The rights and duties of defendants as suspects are executed by their legal representatives according to this Law.

2. Defendants are entitled to:

- a) Obtain decisions on hearing of lawsuits; decisions on enforcement, change or termination of preventive and coercive measures; decisions on case suspension; judgments, Court's rulings and other decisions on legal proceedings as per this Law;
- b) Attend the trial;
- c) Be informed and explained about their rights and duties as per this Article;
- d) Petition for expert examinations, valuation, change of authorized procedural persons, expert witnesses, valuers, interpreters, translators, summoning of witness testifiers, crime victims, individuals having duties and interests from the lawsuit, expert witnesses, valuers, other participants in legal proceedings and authorized procedural persons to the Court;
- dd) Present evidences, documents, items and requests;
- e) Confer on relevant evidences, documents, items and request authorized procedural persons to inspect and assess such;
- g) Defend themselves or be defended;
- h) Give statements and opinions, bear no obligation to testify against themselves or admit to guilt;
- i) Inquire and request Court presidents to question courtroom participants with the Court president's consent; engage in oral arguments in court;
- k) Give final statement prior to the deliberation of judgments;
- l) Read the Court's report and request amendments to the Court's report;

- m) Appeal against the Court' judgments and rulings;
- n) Complain about competent procedural authorities and persons' decisions and legal proceedings;
- o) Other rights as per the laws.

3. Defendants bear these duties:

- a) Appear as per the Court's subpoena. b) If defendants are absent due to any but not force majeure or objective obstacles, they shall be delivered by force. Fugitives shall be sought;
- b) Conform to the Court's decisions and requests.

### **Article 62. Crime victims**

1. Crime victims are physical persons suffering from direct damage to physical body, mentality and property, or organizations whose property and reputation are impaired or threatened.

2. Crime victims or their legal representatives are entitled to:

- a) Be informed and explained about their rights and duties as per this Article;
- b) Present evidences, documents, items and requests;
- c) Confer on relevant evidences, documents and items and request authorized procedural persons to inspect and evaluate such;
- d) Requisition expert examinations and valuation as per the laws;
- dd) Be informed of results of investigations and lawsuits;
- e) Request the change of authorized procedural persons, expert witnesses, valuers, interpreters and translators;
- g) Recommend punitive measures, compensation level and guarantees of compensation;
- h) Attend the trial; provide opinions, request Court president to question defendants and attendees in court; engage in oral arguments in court to defend their legitimate rights and benefits; read the Court's reports;
- i) Defend or have their legitimate rights and benefits defended;
- k) Engage in other activities of legal procedure as per this Law;
- l) Request competent procedural authorities to protect their life, health, honor, dignity, property, legitimate rights and benefits, kindred against menaces;
- m) Appeal against the Court's judgments and rulings;
- n) Complain about competent procedural authorities and persons' decisions and legal proceedings;
- o) Other rights as per the laws.

3. If a lawsuit is brought at the requests for crime victims, they or their legal representatives shall state accusations in court.

4. Crime victims bear these duties:

a) Be present as per authorized procedural persons' subpoena. If they are absent due to any but not force majeure or objective obstacles, they may be escorted by force;

b) Abide by competent procedural authorities and persons' decisions and request.

5. If an entity is murdered, missing, bereaved of legal capacity, its representative shall execute its rights and duties as per this Law.

Organizations as crime victims, if divided, separated, consolidated or merged, shall have their rights and duties as per this Article possessed by their legal representatives or entities inheriting such duties and rights.

### **Article 63. Civil plaintiffs**

1. Civil plaintiffs are persons and organizations suffering from damage caused by criminal acts and filing damage claim.

2. Civil plaintiffs or their legal representatives are entitled to:

a) Be informed and explained about their rights and duties as per this Article;

b) Present evidences, documents, items and request;

c) Confer on relevant evidences, documents and items and request authorized procedural persons to check and evaluate such;

d) Be informed of results of investigations and lawsuits;

dd) Requisition expert examinations and valuation as per the laws;

e) Request changes of authorized procedural persons, expert witnesses, valuers, interpreters and translators;

g) Recommend level and guarantee measures of compensation;

h) Attend the trial; provide opinions, request Court presidents to question attendees in court; engage in oral arguments in court to defend plaintiffs' legitimate rights and benefits; read the Court's reports;

i) Defend or have their legitimate rights and benefits defended;

k) Complain about competent procedural authorities and persons' decisions and legal proceedings;

l) Appeal against the Court's judgments and rulings on compensations;

m) Other rights as per the laws.

3. Civil plaintiffs bear these duties:

a) Appear as per authorized procedural persons' subpoena;

b) Present facts for damage claims in honesty;

c) Comply with competent procedural authorities and persons' decisions and requests.

### **Article 64. Civil defendants**

1. Civil defendants are persons and organizations incurring liabilities for compensations as per the laws.

2. Civil defendants or their legal representatives are entitled to:

- a) Be informed and explained about their rights and duties as per this Article;
- b) Accept or reject all or parts of civil plaintiffs' claims;
- c) Present evidences, documents, items and requests;
- d) Confer on relevant evidences, documents and items and request authorized procedural persons to inspect and assess such;
- dd) Requisition expert examinations and valuation as per the laws;
- e) Be informed of results of investigations and lawsuits in connection with damage claims;
- g) Request change of authorized procedural persons, expert witnesses, valuator, interpreters and translators;
- h) Attend the trial; provide opinions, request the Court president to question attendees in court; engage in oral arguments to protect defendants' legitimate rights and benefits; read the Court's reports;
- i) Defend or have their legitimate rights and benefits defended;
- k) Complain about competent procedural authorities and persons' decisions and legal proceedings;
- l) Appeal against the Court's judgments and rulings on compensations;
- m) Other rights as per the laws.

3. Civil defendants bear these duties:

- a) Be present as per authorized procedural persons' subpoena;
- b) Present facts related to compensations in honesty;
- c) Conform to competent procedural authorities and persons' decisions and requests.

#### **Article 65. Parties with interests and duties related to the lawsuit**

1. Parties with interests and duties in connection with the lawsuit are individuals and organizations holding benefits and duties pertaining to criminal lawsuits.

2. Parties with interest and duties relating to the lawsuit or their representatives are entitled to:

- a) Be informed and explained about their rights and duties as per this Article;
- b) Present evidences, documents, items and requests;
- c) Requisition expert examinations and valuation as per the laws;
- d) Attend the trial; provide opinions, request the Court president to question attendees in court; engage in oral arguments in court to defend their legitimate rights and benefits; read the Court's reports;
- dd) Defend or have their legitimate rights and benefits defended;
- e) Confer on relevant evidences, documents and items and request authorized procedural persons to verify and assess such;

g) Appeal against the Court's judgments and rulings on matters directly pertaining to their benefits and duties;

h) Complain about competent procedural authorities and persons' decisions and legal proceedings;

i) Other rights as per the laws.

3. Parties with interests and duties relating to the lawsuit bear these duties:

a) Appear as per authorized procedural persons' subpoena;

b) Present facts pertaining to their rights and duties in honesty;

c) Abide by competent procedural authorities and persons' decisions and requests.

#### **Article 66. Witness testifiers**

1. Witness testifiers possess knowledge of facts relating to the crime and lawsuit and receive competent procedural authorities' subpoena to testify.

2. The following persons cannot testify:

a) Defense counsels of accused persons;

b) Persons not conscious of facts pertaining to criminal information and lawsuit or not capable of giving judicious testimonies due to their mental or physical impairment.

3. Witness testifiers are entitled to:

a) Be informed or explained about their rights and duties as per this Article;

b) Request summoning authorities to protect their life, health, honor, dignity, property, legitimate rights and benefits and kindred against menaces;

c) File complaints about competent procedural authorities and persons' decisions and legal proceedings appertaining to matters that they testify for and against;

d) Have their expenditure of travel and other expenses covered by summoning authorities as per the laws.

4. Witness testifiers bear these duties:

a) Be present as per competent procedural authorities' subpoena. If their absence due to any but not force majeure or objective obstacles hinders the handling of criminal information, charges, investigations, prosecution, adjudication, they may be escorted by force;

b) Present facts to their knowledge on criminal information and lawsuits and reasons leading to such knowledge in honesty.

5. If witness testifiers give false testimonies, decline or elude testification for any excuses not relating to force majeure or objective obstacles, they shall incur criminal liabilities as per the Criminal Code.

6. Organizations where witness testifiers work or pursue education are responsible for supporting their testification.

#### **Article 67. Witnesses**

1. Witnesses are requested by competent procedural authorities to witness legal proceedings according to this Law.

2. The following persons cannot be a witness:

- a) Kindred of accused persons or given authority to institute legal proceedings;
- b) Persons deprived of judicious consciousness due to mental or physical impairment;
- c) Persons less than 18 years old;
- d) There are evidences of a person's bias.

3. Witnesses are entitled to:

- a) Be informed and explained about their rights and duties as per this Article;
- b) Request authorized procedural persons to abide by the laws and protect their life, health, honor, dignity, property, legitimate rights and benefits, and kindred against menaces;
- c) Read reports of legal proceedings, and give opinions on legal proceedings that they witness;
- d) Complain about competent procedural authorities and persons' decisions and legal proceedings pertaining to matters that they witness;
- dd) Have expenses covered by summoning authorities as per the laws.

4. Witnesses bear these duties:

- a) Appear as per competent procedural authorities' subpoena;
- b) Witness all legal proceedings as requested;
- c) Sign records of activities that they witness;
- d) Maintain confidentiality of investigative activities that they witness;
- dd) Present facts that they witness in honesty at the requests for competent procedural authorities.

#### **Article 68. Expert witnesses**

1. Expert witnesses possess professional knowledge of matters requiring examinations for experts, who are consulted by competent procedural authorities or requested by participants in legal proceedings to conduct expert examinations as per the laws.

2. Expert witnesses are entitled to:

- a) Read case files in connection with the subjects of expert examination;
- b) Request authorities requisitioning expert examinations or participants in legal proceedings, who petition for expert examinations, to provide documents necessary for reaching conclusions;
- c) Participate in sessions of interrogation, extraction of statements and inquiry of matters related to the subjects of expert examination;
- d) Refuse to conduct expert examinations without adequate time for relevant tasks, sufficient documents or substantial grounds to reach a conclusion or decline to expert examinations surpassing the extent of their professional knowledge;

dd) Put their own opinions in the joint final report if they do not agree to the joint findings from a team of expert witnesses;

e) Other rights as per the Law on expertise.

3. Expert witnesses bear these duties:

a) Be present as per competent procedural authorities' subpoena;

b) Maintain confidentiality of investigation findings grasped during expert examinations;

c) Other duties as per the Law on judicial expert examination.

4. If expert witnesses fabricate findings or object to conclude examinations for any reasons but neither force majeure nor objective obstacles, they shall face criminal liabilities as per the Criminal Code.

5. Expert witnesses must decline to engage in legal proceedings or submit to replacement in the following events:

a) They are concurrently crime victims, litigants, or representatives or kindred of crime victims, litigants, suspects or defendants;

b) Having performed the role of defense counsels, witness testifiers, interpreters, translators or valuers in the lawsuit;

c) Having engaged in legal proceedings of the lawsuit.

6. The entities consulting experts shall decide to replace expert witnesses.

### **Article 69. Valuers**

1. Valuers possess professional knowledge of pricing, who are consulted by competent procedural authorities and requested by participants in legal proceedings to value property as per the laws.

2. Valuers are entitled to:

a) Study case files in connection with the subjects of valuation;

b) Request the entities requisitioning valuation or participants in legal proceedings, who request valuation, to provide documents necessary for valuation;

c) Refuse to perform activities of valuation without adequate time for relevant tasks, sufficient documents or substantial grounds for valuation or declined to requests for valuation surpassing the extent of their professional knowledge;

d) Put their own findings in the joint final report if disagreeing with the conclusions by the Panel of valuation;

dd) Other rights as per the laws.

3. Valuers bear these duties:

a) Appear as per competent procedural authorities' subpoena;

b) Maintain confidentiality of investigation facts grasped during their activities of valuation;

c) Other duties as per the laws.

4. If valuers provide false findings or decline to value property for any reasons but neither force majeure nor objective obstacles, they shall face criminal liabilities as per the Criminal Code.

5. Valuers must repudiate their engagement in legal proceedings or submit to replacement in the following events:

a) They are concurrently crime victims, litigants, or representatives, kindred of crime victims, litigants or suspects, defendants;

b) Having performed the role of defense counsels, witness testifiers, expert witnesses, interpreters or translators in the lawsuit;

c) Having engaged in legal proceedings of the lawsuit.

6. The entities demanding valuation shall decide the replacement of valuers.

### **Article 70. Interpreters and translators**

1. Interpreters and translators are capable of interpreting and translating languages, whose services are demanded by competent procedural authorities when participants in legal proceedings do not speak Vietnamese or documents are made in foreign languages.

2. Interpreters and translators are entitled to:

a) Be informed and explained about their duties and rights as per this Article;

b) Request entities demanding their services to protect their life, health, honor, dignity, property, legitimate rights and benefits and kindred against menaces;

c) Complain about competent procedural authorities and persons' decisions and legal proceedings regarding oral and written translation;

d) Receive payments for interpretation and translation from authorities demanding their services and other benefits as per the laws.

3. Interpreters and translators bear these duties:

a) Be present as per competent procedural authorities' subpoena;

b) Perform tasks of oral and written translation in honesty. If interpreters and translators provide deceitful services, they shall face criminal liabilities as per the Criminal Code;

c) Maintain confidentiality of investigation secrets grasped during their tasks of oral and written translation;

d) Guarantee the execution of their duties before the authorities demanding their services.

4. Interpreters and translators must decline to engage in legal proceedings or submit to replacement in the following events:

a) They are concurrently crime victims, litigants; or representatives, kindred of crime victims, litigants or suspects, defendants;

b) Having performed the role of defense counsels, witness testifiers, expert witnesses, and valuers in the lawsuit;

c) Having engaged in legal proceedings of the lawsuit.



5. The authorities demanding services of oral and written translation shall decide the replacement of interpreters and translators.

6. The stipulations of this Article shall also apply to individuals comprehending signs and behaviors of the mute or the deaf, and writing of the blind.

### **Article 71. Responsibilities for announcement and explanation of rights and duties of participants in proceedings and assurance of their execution of such obligations and rights**

1. Competent procedural authorities and persons are responsible for announcing and explaining the rights and duties of persons participating in legal proceedings and for assuring the latters' execution of such obligations and grants according to this Law.

If a accused person or aggrieved is entitled to legal aid as per the Law on legal aid, competent procedural authorities and persons are responsible for elucidating their right of legal aid. If such person petitions for legal aid, competent procedural authorities and persons shall promptly inform a Governmental legal aid centers.

2. Announcement and explanation must be recorded in writing.

## **Chapter V**

### **DEFENSE OF LEGITIMATE RIGHTS AND BENEFITS OF CRIME VICTIMS AND LITIGANTS**

#### **Article 72. Defense counsels**

1. Defense counsels are enabled by persons facing charges or appointed by competent procedural authorities to perform activities of pleading, the registration of which has been approved by competent procedural authorities and persons/

2. Defense counsels may be:

- a) Lawyers;
- b) Representatives of persons facing charges;
- c) People's advocates;
- d) Legal assistants for charged persons given legal aid.

3. People's advocates are Vietnamese citizens from 18 years of age, pledging allegiance to the Nation, possessing good moral quality, having legal knowledge and sound health to fulfill assignments. Such advocates are assigned by the Committee or affiliations of the Vietnam Fatherland Front to defend their personnel facing charges.

4. The following individuals cannot plead:

- a) Having engaged in legal proceedings of the lawsuit; or being kindred of persons having engaged in legal procedure of the lawsuit;
- b) Having attended the lawsuit as witness testifiers, expert witnesses, valuers, translators, interpreters;
- c) Persons sentenced with criminal records sustained, facing criminal prosecution, or sent to mandatory rehabilitation or education centers through administrative measures.

5. A defense counsel may defend various persons facing charges in one lawsuit if such persons' rights and benefits do not come into collision.

Various defense counsels may defend one person facing charges.

### **Article 73. Rights and duties of defense counsels**

1. Defense counsels are entitled to:

- a) Meet and inquire about persons facing charges;
- b) Be present during the extraction of statements from arrestees and temporary detainees or the interrogation of suspects, and question arrestees, temporary detainees and suspects with the consent of individuals authorized to acquire statements or conduct interrogation. After authorized individuals end a session of statement extraction or interrogation, defense counsels may raise questions to arrestees, temporary detainees and suspects;
- c) Engage in the activities of confrontation, identification, recognition of voice and other investigative activities as per this Law;
- d) Be informed by competent procedural authorities of timing and location for taking statements or interrogating, and schedule and venue for other activities of investigation as per this Law;
- dd) Read the records of legal proceedings, in which they have participated, and decisions on legal procedure against persons whom they defend;
- e) Request the replacement of persons given authority to institute legal proceedings, expert witnesses, valuers, interpreters and translators; and request the changes or termination of preventive and coercive measures;
- g) Petition for legal proceedings according to this Law; for summoning of witness testifiers, other participants in legal procedure or authorized procedural persons;
- h) Gather and present evidences, documents, items and request;
- i) Inspect, assess and confer on relevant evidences, documents and items and request authorized procedural persons to check and evaluate such;
- k) Request competent procedural authorities to collect evidences, add or repeat expert examinations or reevaluate property;
- l) Read, transcribe and photocopy documents from case files related to their activities of pleading upon the end of investigations;
- m) Engage in debates and questioning sessions in court;
- n) File complaints about competent procedural authorities and persons' decisions and legal proceedings;
- o) Lodge appeals against the Court's judgments and rulings if defendants are less than 18 years old or have mental or physical defects as per this Law.

2. Defense counsels bear these duties:

- a) Implement all measures as defined by the laws to clarify facts absolving persons facing charges or mitigating criminal liabilities of suspects and defendants;
- b) Provide legal assistance to protect legitimate rights and benefits of persons facing charges;

- c) Preserve no right to refuse to defend charged persons whom they have agreed to plead for, if excuses do not rely on force majeure or objective obstacles;
  - d) Respect the truth and be inhibited to bribe, coerce or incite other people to provide false statements or documents;
  - dd) Appear as per the Court's subpoena; or, if defense counsels are appointed according to Point 1, Article 76 of this Law, as per a subpoena by investigation authorities or The procuracy;
  - e) It is inhibited to disclose investigation secrets perceived during their activities of pleading; or exploit documents transcribed or copied from case files to violate the government's interests, public benefits, legitimate rights and benefits of authorities and entities;
  - g) It is forbidden to divulge information on the lawsuit and charged person, which they attain when pleading, unless otherwise agreed by the accused person. It is inhibited to exploit such information to infringe the Government's interests, public benefits, legitimate rights and benefits of authorities and entities.
3. If defense counsels break laws, their registration of pleading shall become void and they shall face disciplinary or administrative penalties or criminal prosecution according to the nature and severity of their violations. Moreover, they shall incur amends for damages, if caused, according to the laws.

#### **Article 74. Time of defense counsels' participation in legal proceedings**

Defense counsels engage in legal proceedings upon the prosecution of suspects.

Defense counsels for arrestees and temporary detainees engage in legal proceedings upon the arrestees' appearance in an office of investigation authorities or units assigned to carry out certain activities of investigation or upon the release of a decision on temporary detainment.

The head of the Procuracy is authorized, when confidentiality of investigations into national security breach is vital, to sanction defense counsels' engagement in legal proceedings after investigations end.

#### **Article 75. Selection of defense counsels**

1. Defense counsels are selected by the accused person, his representative or kindred.
2. In 12 hours upon receiving a written request for defense counsel(s) from an arrestee or temporary detainee, competent authorities managing such arrestee and temporary detainee are responsible for conveying such request to the defense counsel(s), their representatives or kindred. If an arrestee or temporary detainee does not specify a defense counsel, competent authorities managing such arrestee or temporary detainee must impart his written request to a representative or kindred, who shall seek defense counsel(s).

In 24 hours upon receiving a written request for defense counsel(s) from a person held in detention, competent authorities managing such person are responsible for conveying such request to defense counsel(s), their representative or kindred. If a person in detention does not specify a defense counsel, competent authorities managing such person shall give his written request to a representative or kindred, who shall seek defense counsel(s).

3. If a representative or kin of arrestees, temporary detainees or persons in detention lodge a written request for defense counsel(s), competent authorities are responsible for promptly informing such persons in custody to attain their opinions on soliciting defense counsels.

4. Personnel of the Committee or affiliations of Fatherland Front in districts, communes, provincial cities or centrally-affiliated cities' metropolis, or their representatives or kindred request the said authorities to assign people's advocate(s) to defend such personnel, who face charges.

#### **Article 76. Appointment of defense counsels**

1. Competent procedural authorities shall appoint defense counsels, who are not sought by accused persons, their representative or kin in the following events:

- a) Suspects or defendants facing charges that may lead to the harshest sentence of 20 years in prison, life imprisonment or death as per the Criminal Code;
- b) Persons facing charges and not capable of defending themselves due to physical defects; those with mental disabilities or those under 18 years of age.

2. Competent procedural authorities must demand or ask the following organizations to assign defense counsels for the cases defined in Point 1 of this Article:

- a) A bar association assigns a law firm to appoint defense counsel(s);
- b) A governmental legal aid center appoints a legal assistant or lawyer to defend persons qualified for legal aid;
- c) The committee or affiliations of Vietnam Fatherland Front appoint people's advocate(s) for their personnel who face charges.

#### **Article 77. Replacement or rejection of defense counsels**

1. The following persons are entitled to reject or request the replacement of defense counsels:

- a) Persons facing charges;
- b) Representatives of persons facing charges;
- c) Kin of persons facing charges.

All rejections or replacements of defense counsels must be approved by persons facing charges, executed in writing and inputted in case files, unless otherwise stated in Point b, Section 1, Article 76 of this Law.

2. If kin of arrestees, temporary detainees or persons in detention reject defense counsel(s) during the stage of investigation, the investigator and such defense counsel(s) shall directly meet the person in custody to confirm the rejection.

3. If a defense counsel is appointed according to Point 1, Article 76 of this Law, the accused person and his representative or kin shall preserve the right to petition for the replacement or rejection of such defense counsel.

If a defense counsel is replaced, a new defense counsel shall be appointed according to Point 2, Article 76 of this Law.

If a defense counsel is rejected, competent procedural authorities shall record in writing such rejection by accused persons or their representatives or kindred according to Point b, Section 1, Article 76 of this Law, shall terminate the appointment of defense counsels.

#### **Article 78. Procedures for registration of defense counsel**

1. In all legal proceedings, a defense counsel must register his activities of pleading.
2. A defense counsel, when registering activities of pleading, must present these documents:
  - a) A lawyer shall present his lawyer registration card with a certified copy of such, and the letter of application for defense counsel by representatives or kin of accused persons;
  - b) A representative of accused persons must present identity card or citizen identification card with certified copies of such, and the letter of confirmation by competent authorities of their relationship with the accused persons;
  - c) A people's advocate must present his identity card or citizen identification card with certified copies of such, and the letter of appointment by the Committee and affiliations of Vietnam Fatherland Front;
  - d) A legal assistant or solicitor providing legal aid must present the letter of appointment by legal aid providers and his legal assistant's card or lawyer registration card, respectively, with certified copy of such.
3. If a defense counsel is appointed as per Article 76 of this Law, the following papers must be presented:
  - a) A lawyer shall present his lawyer registration card with certified copy of such and the letter of appointment by the law firm at which such lawyer practices law, or the letter of assignment by the bar association for individual lawyers;
  - b) A people's advocate shall present his identity card or citizen identification card with certified copy of such and the letter of appointment by the Committee or affiliations of Vietnam Fatherland Front;
  - c) A legal assistant or solicitor providing legal aid shall present his legal assistant's card or lawyer registration card, respectively, with certified copy of such and the letter of appointment by a governmental legal aid center.
4. In 24 hours upon receiving sufficient documents as stated in Point 2 or Point 3 of this Article, competent procedural authorities must verify such papers and the absence of an application for rejection of defense counsel as stated in Point 5 of this Article. Competent procedural authorities, upon completing its verification, shall enter information into a written record for registration of defense counsel, promptly send a notice of defense counsel to the entities registering such defense counsel, and retain papers regarding the registration of defense counsel in the case file. If requirements are not satisfied, denial of registration of defense counsel and reasons shall be informed in writing.
5. Competent procedural authorities deny the registration of defense counsel in one of the following events:
  - a) As per Point 4, Article 72 of this Law;
  - b) The accused person and qualified for defense counsel appointment rejects a defense counsel.

6. The written notice of defense counsel takes effect during legal proceedings, save the following events:

- a) The accused person rejects or requests to have the defense counsel replaced;
- b) A representative or kin of the accused person, according to Point b, Section 1, Article 76 of this Law, reject or request to have the defense counsel replaced;

7. Competent procedural authorities remove the registration of defense counsel and inform the defense counsel and detention facility in one of the following events:

- a) The defense counsel falls to circumstances as defined in Point 4, Article 72 of this Law;
- b) The laws are violated during the progress of pleading.

#### **Article 79. Responsibilities for informing defense counsels**

1. Competent procedural authorities must give the defense counsel an advanced notice in rational time on the schedule and location for legal proceedings that they are permitted to engage in according to this Law.

2. If the defense counsel fails to appear despite of the advance notice by competent procedural authorities, legal proceedings shall occur, unless otherwise defined in Article 291 of this Law.

#### **Article 80. Rendezvous with arrestees, temporary detainees and suspects or defendants in detention**

1. The defense counsel, to meet the arrestee, temporary detainees and suspects or defendants in detention, must present the written notice of defense counsel, the lawyer registration card or the legal assistant's card or the identity card or the citizen identification card.

2. Authorities managing arrestees, temporary detainees, suspects or defendants in detention must inform the defense counsel of the detention facility's rules and demand his strict compliance. If the defense counsel's breach of the rules on meeting is found, such rendezvous shall be immediately terminated and recorded in writing. Such incident shall be reported to competent individuals for treatments as per the laws.

#### **Article 81. Gathering and submitting evidences, documents and items related to activities of pleading**

1. The defense counsel gathers evidences, documents, items and facts for pleading according to Point 2, Article 88 of this Law.

2. In each stage of legal proceedings, the defense counsel shall promptly submit evidences, documents and items for pleading, which he has collected, to competent procedural authorities for the latter's input of such into the case file. The submission and receipt of evidences, documents and items must be executed in writing as per Article 133 of this Law.

3. If the defense counsel fails to gather evidences, documents and items for pleading, he may request competent procedural authorities to collect such.

#### **Article 82. Read, transcribe and photocopy documents from case files**

1. If the defense counsel needs to read, transcribe and photocopy documents from case files for activities of pleading upon the end of investigations, competent procedural authorities are

responsible for arranging time and location for the defense counsel to read, transcribe and photocopy documents from case files.

2. The defense counsel, after reading, transcribing and photocopying documents, must return case files in original conditions to the authorities providing such files. If documents and case files go astray or become ruined, penalties shall be imposed as per the nature and severity of violations according to the laws.

### **Article 83. Defenders of legitimate rights and benefits of persons facing accusations or requisitions for charges**

1. Defenders of legitimate rights and benefits of persons facing accusations or requisitions for charges are sought by individuals accused or facing requisitions for charges to protect their legitimate rights and benefits.

2. Defenders of legitimate rights and benefits of accused persons or facing requisitions for charges may be:

- a) Lawyer;
- b) People's advocate;
- c) Representative;
- d) Legal assistant.

3. Defenders of legitimate rights and benefits of accused persons or facing request for prosecution are entitled to:

- a) Present evidences, documents, items and requests;
- b) Verify, assess and confer on relevant evidences, documents and items and request authorized procedural persons to inspect and evaluate such;
- c) Be present during the extraction of statements from accused persons or facing requisitions for charges or, with the consent of the investigators or procurators, question such persons. After competent individuals end a session of statement extraction, the defender of legitimate rights and benefits of accused persons or facing requisitions for charges is entitled to question such persons.
- d) Be present during a session of confrontation, identification, recognition of voice of accused persons or facing requisitions for charges;
- dd) Lodge complaints about competent procedural authorities and persons' decisions and legal proceedings.

4. Defenders of legitimate rights and benefits of accused persons or facing requisitions for charges bear these duties:

- a) Implement measures as stated by the laws to contribute to the clarification of objective truths of the case;
- b) Providing legal aid to accused persons or facing requisitions for charges to protect their legitimate rights and benefits.

### **Article 84. Defenders of legitimate rights and benefits of crime victims or litigants**

1. Defenders of legitimate rights and benefits of crime victims or litigants are sought by such persons to protect their legitimate benefits and rights.
2. Defenders of legitimate rights and benefits of crime victims and litigants may be:
  - a) Lawyer;
  - b) Representative;
  - c) People's advocate;
  - d) Legal assistant.
3. Defenders of legitimate rights and benefits of crime victims and litigants are entitled to:
  - a) Present evidences, documents, materials and requests;
  - b) Verify, assess and confer on relevant evidences, documents and items and request authorized procedural persons to inspect and evaluate such;
  - c) Petition for expert examination and valuation;
  - d) Be present during competent procedural authorities' extraction of statements, confrontation, identification and recognition of voice of individuals whom they defend; read, transcribe and photocopy documents from case files, upon the end of investigations, in connection with the protection of crime victims' and litigants' rights and interests;
  - dd) Engage in questioning session and oral arguments in court; read the Court's reports;
  - e) File complaints about competent procedural authorities and persons' decisions and legal proceedings;
  - g) Petition for the replacement of authorized procedural persons, expert witnesses, valuers, interpreters and translators;
  - h) Appeal against parts of the Court's judgments and rulings related to the rights, interests and duties of defended persons under 18 years of age or having physical or mental defects.
4. Defenders of legitimate rights and benefits of crime victims and litigants bear these duties:
  - a) Implement measures as defined by the laws to contribute to the clarification of objective truths of the case;
  - b) Provide legal aid to crime victims and litigants to protect their legitimate rights and benefits.

## **Chapter VI**

### **ATTESTATION AND EVIDENCE**

#### **Article 85. Attestation in criminal lawsuits**

Competent procedural authorities, when investing, prosecuting and hearing criminal lawsuits must attest:

1. The existence of the crime, time, space and facts of the crime;
2. The perpetrator of the crime; the presence of guilt, intentional or unintentional acts; the existence of criminal capacity; purposes and motive of the crime;



3. Facts aggravating and mitigating criminal liabilities of suspects, defendants and identity traits of suspects and defendants;
4. Nature and severity of damages caused by the crime;
5. Reasons and conditions leading to the crime;
6. Other facts in connection with the exclusion or exemption of criminal liabilities and impunity.

#### **Article 86. Evidences**

Evidences are de facto and collected as per the sequence and formalities defined by this Law. Evidences are grounds for the determination of a crime, perpetrators of such crime and other valuable facts for the settlement of the case.

#### **Article 87. Sources of evidences**

1. Evidences are collected and determined from these sources:
  - a) Exhibits;
  - b) Statements, presentations;
  - c) Electronic data;
  - d) Findings of expert examination and valuation;
  - dd) Records of legal proceedings, investigation, prosecution, adjudication, sentence enforcement;
  - e) Results of judicial delegation and other international cooperations;
  - g) Other documents and items.
2. Palpable things not collected as per the sequence and formalities as per this Law bear no legal effect and are not evidences for the settlement of criminal lawsuits.

#### **Article 88. Collection of evidences**

1. Competent procedural authorities, to collect evidences, are entitled to perform activities of evidence collection as per this Law, and to request other authorities and entities to provide evidences, documents, items, electronic data and facts that solve the case.
2. Defense counsels, to collect evidences, are entitled to meet persons whom they defend, crime victims, witness testifiers and other individuals knowledgeable about the case to put questions and hear such persons' stories related to the case; to request authorities and entities to provide documents, items and electronic data for pleading.
3. Other participants in legal proceedings, authorities and entities can provide evidences, documents, items, electronic data and relate matters of the case.
4. Competent procedural authorities, when receiving evidences, documents, items and electronic data related to the case from individuals as stated in Point 2 and Point 3 of this Article, shall make written records of submission, verify and assess such as per this Law.
5. In 05 days' time upon making written records of investigative activities, collecting and receiving documents on the case, which procurators do not directly administer according to this Law, investigation authorities and units assigned to investigate are responsible for transferring such records and documents to the Procurarcy for the latter's administration of the establishment

of case files. Such deadline may be extended for at most 15 days in case of objective obstacles. In 03 days' time, the Procuracy affixes seal on records and documents for administration and have them archived and transferred to investigation authorities and units assigned to investigate. The delivery of records and documents are executed in writing according to Article 133 of this Law.

### **Article 89. Evident materials**

Exhibits include tools and means of crimes, objects with criminal traces, criminals' targets, money or other items as satisfactory evidences of crimes and malefactors or of significance to the settlement of cases.

### **Article 90. Preservation of exhibits**

1. Exhibits must be preserved intact and protected from loss, disorder and deterioration. Exhibits are preserved as follows:

a) Sealing of exhibits that must be stored in sealed containers shall be done upon the acquisition of such items. Sealing and removal of seal are executed in writing and inputted in case files. Sealing and removal of seal on exhibits abide by the government's regulations;

b) Exhibits including money, gold, silver, precious metals, precious stones, antiques, explosives, inflammables, toxic, radioactive substances and military arms must undergo expert examination upon the acquisition of such items and must be subsequently transferred in prompt manner to the State Treasury or specialized units for storage. If exhibits are money, gold, silver, precious metals, precious stones and antiques with criminal traces, they shall be put in sealed containers as per Point a of this Section. If exhibits are harmful bacteria, body parts, tissue samples, blood samples and other samples from human body, they shall be preserved at specialized authorities according to the laws.

c) If exhibits cannot be transported to competent procedural authorities for preservation, competent procedural authorities shall give them to lawful owners or managers of such items or to their kindred or to local authorities or organizations adjacent to the said exhibits;

d) If exhibits are susceptible to damage or subject to difficult process of preservation, competent authorities within their powers shall sanction the sale of such items as per the laws and transfer earnings to a temporary account of a competent authority in the State Treasury for management;

dd) If exhibits are preserved by competent procedural authorities, the units in people's police force, People's Army force and other units assigned to investigate are responsible for preserving such exhibits during the stage of investigation and prosecution while authorities for civil sentence enforcement are liable for preserving them during the stage of adjudication and sentence enforcement.

2. If individuals liable for preserving exhibits brook damage, loss, breakage of seal, consumption, illegal use, transfer, swap, concealment or destruction of such exhibits, disciplinary penalties or criminal prosecution shall be imposed according to the nature and severity of violations as per the laws.

If exhibits are inserted, dwindled, modified, swapped, disposed or broken to falsify case files, criminal liabilities shall be imposed. Amends for damage of exhibits are mandatory as per the laws.

### **Article 91. Deposition by witness testifiers**

1. Witness testifiers depose their knowledge of the crimes, cases, kin and their relationship with accused persons or aggrieved, other witness testifiers and respond to questions.
2. If witness testifiers state facts whose origin cannot be clarified, such facts shall not become evidence.

### **Article 92. Deposition by crime victims**

1. Crime victims depose the facts on the crimes, cases, their relationship with accused persons and respond to inquiries.
2. If circumstances leading to crime victims' knowledge of certain facts cannot be clarified, such facts shall not be deemed as evidence.

### **Article 93. Deposition by civil plaintiffs and civil defendants**

1. Civil plaintiffs and civil defendants state facts on amends for damage caused by crimes.
2. If civil plaintiffs or civil defendants fail to clarify situations leading to their knowledge of certain facts, such facts shall not be considered as evidence.

### **Article 94. Deposition by individuals having interests and duties related to the lawsuit**

1. Individuals having duties and interests in connection with the lawsuit state facts directly related to their duties and benefits.
2. If such individuals fail to explain the origin of their acquisition of certain facts, such facts shall not be qualified as evidence.

### **Article 95. Deposition by emergency detainees, accused persons or facing requisitions for charges, offenders confessing or surrendering, arrestees and temporary detainees**

Emergency detainees, accused persons and facing requisitions for charges, offenders confessing and surrendering, arrestees and temporary detainees state facts directly related to their alleged acts of crime.

### **Article 96. Statements by denouncers and informants**

Denouncers and informants state facts related to their denunciation and information of the crimes.

### **Article 97. Deposition by witnesses**

Witnesses state facts that they perceive from legal proceedings.

### **Article 98. Deposition by suspects and defendants**

1. Suspects and defendants state facts of the cases.
2. The admission of crimes by suspects or defendants, if matching other evidences, shall be valid evidence.

The admission of crimes by suspects or defendants shall not be the sole evidence for conviction.

### **Article 99. Electronic data**

1. Electronic data is composed of signals, letters, numbers, images, sound or similar elements created, stored and transmitted or acquired through electronic media.
2. Electronic data is collected through electronic media, computer networks, telecommunication networks, transmission lines and other electronic sources.
3. Electronic data constitutes evident values according to the methods of its creation, storage or transmission; the methods for assurance and maintenance of the entirety of electronic data; and the methods for identifying creators and other proper factors.

#### **Article 100. Results of expert examination**

1. Results of a expert examination are produced by entities conducting such examination in writing to give final professional findings on matters examined as per requisition or petition.
2. Authorities and entities are held liable for conclusions they have made regarding matters examined as per requisition or petition.

If a team of expert witnesses carry out a expert examination, all of its members shall affix signatures on the final report. Each person, if providing different opinions, shall have their findings presented in the final report.

3. If competent procedural authorities disagree with the results of a expert examination, their reasons must be specified. If results are found unclear or inadequate, expert examinations shall be furthered or repeated according to this Law.
4. Findings given by expert witnesses who must decline to perform examinations or submit to replacement shall be deemed null and invalid for the settlement of the case.

#### **Article 101. Results of valuation**

1. Results of valuation are produced by the Panel of valuation in writing to conclude values of property as per requests.

The Panel of valuation is held liable for its findings on property values.

2. All members of the Panel of valuation must affix signatures on the written conclusion of valuation. A member of the Panel, if debating property values determined by the Panel, shall present his findings in the final report.
3. If competent procedural authorities disagree with the findings on valuation, their reasons must be specified. If findings are found obscure, valuation process shall be repeated according to this Law.
4. If findings from the Panel of valuation violate this Law or other laws, they shall be invalid and not usable for the settlement of the case.

#### **Article 102. Records of inspection and verification of criminal information, charges, investigations, prosecution, adjudication**

The facts on inspection and verification of criminal information, charges, investigations, prosecution and adjudication, which are established and recorded in writing according to this Law, shall be evidences.

#### **Article 103. Results of legal delegation and international cooperation**

The results of legal delegation and international cooperation from competent foreign authorities, if matching other evidences, shall become evidences.

#### **Article 104. Other documents and items in the case**

Case facts available in documents and items from authorities and entities may become evidences. If such documents and items possess traits as defined in Article 89 of this Law, they shall be exhibits.

#### **Article 105. Acquisition of exhibits**

Exhibits must be acquired promptly and fully and their actual conditions must be described precisely in writing and in case files. If exhibits cannot be put in case files, they shall be photographed and recorded by camcorder to be stored in case files. Exhibits must be sealed or preserved as per the laws.

#### **Article 106. Handling of exhibits**

1. Investigation authorities and units assigned to investigate make decisions on the handling of exhibits if the case is dismissed at the stage of investigation. The procuracy decides the handling of exhibits if the case is dismissed at the stage of prosecution. The court president governs the handling of exhibits if the case is dismissed at the preliminary stage of adjudication. The Trial panel make decisions on the handling of exhibits if the case is heard.

The enforcement of decisions on the handling of exhibits must be executed in writing.

2. Exhibits are handled as follows:

a) Exhibits including tools or means of crime, objects prohibited from storage and trading shall be seized, confiscated into the state budget or disposed;

b) Exhibits including money or property gained through criminal acts shall be seized and confiscated into the state budget.

c) Exhibits that are not valuable and usable shall be seized and disposed.

3. During the processes of investigation, prosecution and adjudication, the competent authorities and individuals as stated in Section 1 are entitled to

a) Return property seized and detained but not deemed as evidences to legitimate owners or managers of such in promptly manner;

b) Return evidences to legitimate owners or managers if such return is deemed not to affect the settlement of the case and the enforcement of sentences;

c) Evidences susceptible to damage or subject to strenuous preservation may be sold as per the laws. If they are not salable, disposal shall occur;

d) Evidences including wild animals and exotic plants shall be handled by competent specialized control units immediately after the release of findings of expert examinations as per the laws.

4. If disputes over the ownership of exhibits exist, the settlement of such shall be governed by the Civil procedure code.

#### **Article 107. Acquisition of electronic means and data**

1. Electronic media must be obtained promptly and fully, described precisely by actual conditions and sealed upon acquisition. Sealing and unsealing shall abide by the laws.

If electronic data storing means cannot be seized, competent procedural authorities shall copy electronic data into another electronic medium for storage of evidence. Moreover, relevant authorities and entities shall be requested to store and preserve the entirety of electronic data that competent procedural authorities have copied, and assume legal liabilities for storage and preservation of such data.

2. Competent procedural authorities, when attaining, intercepting and copying electronic data from electronic media, computer networks or transmission lines, must execute written records for case files.

3. Upon receiving competent procedural authorities' requisition for expert examination, entities deemed responsible shall restore, search and examine electronic data.

4. Only copies of electronic data shall be restored, sought and examined. Results from restoration, search and expert examination must be converted to readable, audible or visible formats.

5. Electronic media and data are preserved as evidences according to this Law. Electronic data, when displayed as evidences, must come with its storage means or copies.

#### **Article 108. Inspection and evaluation of evidences**

1. Each evidence must be inspected and evaluated to verify its validity, authenticity and connection with the case. The verification of evidences acquired must be adequate to settle criminal cases.

2. Authorized procedural persons within their powers and duties must inspect and evaluate all evidences of the case in fully, unbiased and thorough manners.

### **Chapter VII**

## **PREVENTIVE AND COERCIVE MEASURES**

### **Heading I. PREVENTIVE MEASURES**

#### **Article 109. Preventive measures**

1. Competent procedural authorities and persons within their powers can implement measures of emergency custody, arrest, temporary detainment, detention, bail, surety, residential confinement, exit restriction, in order to preclude crime, to prevent accused persons from evidently obstructing investigations, prosecution, adjudication or from committing other crimes, or to assure the enforcement of sentences.

2. The apprehension of persons refers to emergency custody, arrest of perpetrators of crimes in flagrante or wanted fugitives, capture of suspects and defendants for detention, and arrest of persons for extradition.

#### **Article 110. Emergency custody**

1. Emergency custody of a person is permitted in one of the following events:

a) There are substantial evidences that such person is going to commit a horrific or extremely severe felony;

b) The accomplice committing the crime, or the perpetrator of the crime, who was identified by the crime victim or a person at the crime scene, must be obstructed from escape;

c) A person carrying criminal traces or a suspect whose residence, workplace or tools contain criminal traces must be obstructed promptly from escaping or disposing evidences.

2. The following individuals are entitled to issue an order of emergency custody:

a) Head and vice heads of investigation authorities;

b) Heads of independent units at regiment level and equivalent ones, commanding officers of border protection posts; commanders of border protection units at border gates, captains of border protection units in provinces and centrally-affiliated cities, heads of border reconnaissance departments and drug and crime departments of the border protection force, heads of special services against drug and crime of the border protection force; zone commanders of maritime police force, heads of specialized and legal departments of the maritime police force, heads of special service of drug enforcement of the maritime police force; heads of zonal bureaus of fisheries resources surveillances;

c) Commanding pilots and captains of aircrafts and ships leaving airports or sea ports.

3. The order for emergency custody must specify full name and address of the detainee, reason and grounds for detainment according to Section 1 of this Article and other stipulations in Section 2, Article 132 of this Law. The enforcement of a emergency custody order must abide by Section 2, Article 113 of this Law.

4. Upon holding persons in emergency custody or taking in emergency detainees, investigation authorities and units assigned to investigate, within 12 hours, must take statements promptly, and individuals as stated in Point a and Point b, Section 2 of this Article must issue a temporary detainment order, arrest warrant and discharge order on the detainee. The emergency custody order and relevant documents must be delivered promptly to the equivalent Procuracy or competent ones for ratification.

Individuals as per Point c, Section 2 of this Article, after holding persons in emergency custody, must deliver by force detainees and bring emergency custody documents to investigation authorities adjacent to the first airport or sea port where the airplane or ship lands or docks, when returning.

Upon taking in detainees, investigation authorities must take statements promptly within 12 hours, and individuals as per Point a, Section 2 of this Article must issue a temporary detainment order, arrest warrant or release order on the emergency detainee. The emergency custody order and relevant documents must be delivered to the equivalent Procuracy for approval.

The emergency custody order must specify full name and address of the detainee, reason and grounds for detainment according to Section 1 of this Article and Section 2, Article 132 of this Law.

5. A written request for the Procuracy's approval of an emergency custody order is composed of:

a) The letter of request for the Procuracy's approval of the emergency custody order;

b) The written order for emergency custody, arrest warrant against emergency detainees, temporary detainment order;

- c) The written record of emergency custody;
- d) The written record of emergency detainee's deposition;
- dd) Evidences, documents and items related to emergency custody.

6. The procuracy must strictly administer the grounds for detainment as per Section 1 of this Article. The procurator, if necessary, shall meet the emergency detainee before approving or denying the order for emergency custody. The written record of the emergency detainee's deposition, as made by the procurator, must be retained in the case file.

Upon receiving the written request for approval of emergency custody order, the Procuracy must decide to approve or deny such order in 12 hours. If The procuracy denies the emergency custody order, the individual making such order and investigation authority taking in the detainee must immediately discharge the detainee.

### **Article 111. Arrest of perpetrators of crimes in flagrante delicto**

1. Everyone is permitted to arrest and delivery by force a person, who is caught in and immediately after the act of committing a crime and chased, to the nearest police station, Procuracy or People's committee. The said authorities, when taking in the detainee, must make written record of the incident and delivery by force the detainee or report to competent investigation authorities in prompt manner.
2. Everyone is permitted to disarm the detainee when capturing a person caught in the act of coming a crime.
3. If communal, ward or town police unit or police station detects, arrests and detains a perpetrator of a crime in flagrante, it shall temporarily seize weaponry, retain relevant documents and items, make written record of arrest, take initial statements, protect crime scene as per the laws, deliver by force the detainee or report to competent investigation authorities in prompt manner.

### **Article 112. Apprehension of wanted persons**

1. Everyone is permitted to capture and deliver by force a wanted person to the nearest police station, Procuracy or People's committee. The said authorities, when taking in the arrestee, must make written record of the incident and deliver by force the arrestee and report to competent authorities in prompt manner.
2. Everyone, when capturing a wanted person, is permitted to disarm such person.
3. If communal, ward or town police unit or police station detects, arrests or takes in, it shall temporarily seize weaponry, retain relevant documents and items, make written record of arrest, take initial statements, protect crime scene as per the laws, deliver by force the arrestee or report to competent investigation authorities in prompt manner.

### **Article 113. Apprehension of suspects and defendants for detention**

1. The following individuals are entitled to order and decide the apprehension of suspects and defendants for detention:
  - a) Heads and vice heads of investigation authorities. In this event, the arrest warrant must be approved by the equivalent Procuracy prior to apprehension;



- b) Head and vice heads of a People's Procuracy, and head and vice heads of a Military procuracy;
- c) Court presidents, Vice court presidents of People's Courts, and Court presidents and Vice court presidents of Courts-martial; trial panel.

2. The arrest warrant and written approval of the arrest warrant must specify full name and address of the arrestee, reasons and other details as per Point 2, Article 132 of this Law.

Enforcers of an arrest warrant must read out the warrant, explain its content, arrestee's duties and rights, make written record of the arrest, and give the warrant to the arrestee.

The apprehension of a person at his place of residence must be witnessed by a representative of communal, ward or town authorities and other individuals. The apprehension of a person at his place of work or education must be witnessed by a representative of the place of work or education. The apprehension of a person at other places must be witnessed by a representative of communal, ward or town authorities.

3. Apprehension must not occur at night, except for criminals in flagrante or wanted persons.

#### **Article 114. Essential actions upon emergency custody, arrest or intake of arrestees and detainees**

1. Upon holding a person in emergency custody, arresting persons or taking in arrestees and detainees, investigation authorities and units assigned to investigate must take statements promptly and, within 12 hours, make decisions on temporary detainment or discharge of the arrestee.

2. Investigation authorities, after taking in and acquiring statements from wanted arrestees, must inform the authority issuing the wanted notice for the transfer of the arrestee. After taking in the arrestee, the authority issuing the wanted notice must promptly issue a decision on terminating the wanted notice.

If the authority issuing the wanted notice fails to attain the arrestee promptly, the authority taking in the arrestee, after taking statements, shall issue a decision on temporary detainment and inform the former. If the authority issuing the wanted notice still does not acquire the arrestee upon the end of the temporary detainment, the latter shall extend the time of detainment and submit the written extension of the time of detainment and relevant documents to the equivalent Procuracy for approval.

If failing to acquire the arrestee promptly, the authority issuing the wanted notice and authorized for detention must issue a temporary detention order approved by the equivalent Procuracy to the investigation authority taking in the arrestee. Upon receiving the detention order, the investigation authority taking in the arrestee must delivery by force such arrestee to the nearest detention center in prompt manner.

3. If several wanted notices are issued against an arrestee, the authority taking in the arrestee transfers such arrestee to the nearest authority that issued a wanted notice.

#### **Article 115. Written records of emergency custody and arrest**

1. Enforcers of detainment orders or arrest warrants must execute all matters in writing.

The written record must specify time, date and location of detainment or arrest and where the record is made. It must indicate actions, circumstances during the enforcement of the detainment order or arrest warrant, documents and items seized, health conditions and opinions or complaints of detainees and arrestees and other details as per Article 133 of this Law.

The record shall be read out to the detainee or arrestee and the witnesses. The detainee, arrestee, enforcers of the detainment order or arrest warrant and witnesses must affix signatures onto the record. If a person as stated above has different opinions or disagrees with the record, he is permitted to enter such opinions or disagreement into the record and affix signature below.

The temporary seizure of documents and items from detainees and arrestees must abide by this Law.

2. A written record shall be made upon the transfer of the detainee or arrestee.

Apart from details as defined in Section 1 of this Article, the written record must elaborate the transfer of the deposition record, documents and items acquired, health condition of detainees and arrestees and facts occurring upon the transfer.

#### **Article 116. Notice of emergency custody and arrest**

The individual issuing the detainment order or arrest warrant, after apprehending a person, shall inform his family, workplace, educational facility or local authorities in the commune, ward or town where he resides.

Investigation authorities, in 24 hours after taking in detainees and arrestees, must inform their family members, workplace, educational facility, local authorities in the commune, ward or town where he resides. If detainees and arrestees are foreigners, Vietnamese diplomatic authorities must be informed to deliver notices to diplomatic missions of countries whose citizens are detained or arrested.

If such notice obstructs the pursuit of suspects or investigative activities, investigation authorities taking in detainees and arrestees shall release notices after such obstructions suspend to exist.

#### **Article 117. Temporary detainment**

1. Temporary detainment may apply to persons held in emergency custody or arrested against crimes in flagrante, malefactors confessing or surrendering or persons arrested as per wanted notices.

2. The individuals authorized to issue detainment orders as per Section 2 of Article 110 of this Law are entitled to decide temporary detainment.

A decision on temporary detainment must specify full name and address of the person on temporary detainment, reason, time, starting and final date of temporary detainment and details as per Point 2, Article 132 of this Law. The decision on temporary detainment must be given to the person on temporary detainment.

3. Enforcers of decisions on temporary detainment must inform persons on temporary detainment and explain their duties and rights as per Article 59 of this Law.

4. The individual issuing the decision on temporary detainment, in 12 hours upon making such decision, must send the decision and supporting documents to the equivalent Procuracy or a competent Procuracy. If the temporary detainment is found unjustified or unnecessary, the

Procuracy issues a decision on annulling the decision on temporary detainment. The individual issuing the decision on temporary detainment must immediately discharge the person on temporary detainment.

### **Article 118. Time spent in temporary detainment**

1. The time limit for temporary detainment is 03 days after investigation authorities and units assigned to investigate take in or deliver by force detainees and arrestees to their units, or upon investigation authorities' issuance of temporary detainment decisions against malefactors confessing or surrendering.

2. The individual deciding temporary detainment, if necessary, can extend the time limit for temporary detainment for at most 03 more days. The individual deciding temporary detainment, in special events, can give second extension of the time limit for temporary detainment for at most 03 more days.

Extension of temporary detainment must be approved by the equivalent Procuracy or a competent Procuracy. The procuracy, in 12 hours upon receiving a written request for temporary detainment extension, must approve or deny such request.

3. If grounds for prosecution do not suffice during the period of temporary detainment, investigation authorities and units assigned must promptly discharge the detainees on temporary detainment. Otherwise, the Procuracy, which has extended temporary detainment, shall discharge such detainees in prompt manner.

4. The time spent in detainment shall be subtracted from the time spent in detention. One day spent in detainment gives one day's credit toward the time passed in detention.

### **Article 119. Detention**

1. Detention may apply to suspects and defendants perpetrating a horrific or extremely severe felony.

2. Detention may apply to suspects or defendants committing a felony or misdemeanor punishable with incarceration for more than 02 years as per the Criminal Code if grounds show that:

- a) Such persons commit crimes despite of existing preventive measures against them;
- b) No definite place of residence is known or a defendant's identity is unidentified;
- c) Such persons have absconded and have been arrested as per wanted notices or are evidently going to vanish;
- d) Such persons continue criminal acts or are evidently going to continue crimes;
- d) Such persons commit acts of bribing, coercing or inciting other individuals to give false statements or documents, destroying or forging case evidences, documents and item, shifting property related to the case away, threatening, repressing or avenging witness testifiers, crime victims, denouncers and their kin.

3. Detention may apply to suspects or defendants committing a misdemeanor punishable with maximum 02-year imprisonment as per the Criminal Code if they continue criminal acts or are fugitives arrested as per wanted notices.

4. If suspects or defendants have clear information of residence and identity and are gestating, raising a child less than 36 months of age, suffering from senility or serious diseases, detention shall be replaced by other preventive measures, except that:

a) They abscond and get arrested as per wanted notices;

b) They continue criminal acts;

d) They commit acts of bribing, coercing or inciting other individuals to give false statements or documents, destroying or forging case evidences, documents and item, shifting property related to the case away, threatening, repressing or avenging witness testifiers, crime victims, denouncers or their kin.

d) Suspects or defendants breach national security and detention evidently prevents them from transgressing national security.

5. Authorized individuals as defined in Section 1, Article 113 of this Law are entitled to issue orders and decisions on detention. Detention orders made by individuals as defined in Point a, Section 1, Article 113 of this Law must be approved by the equivalent Procuracy prior to the enforcement of such orders. The procuracy, in 03 days upon receiving a detention order, written request for approval and relevant documents, must approve or deny such request. The procuracy must return documents to investigation authorities upon the former's completion of the ratification process.

6. Investigation authorities must inspect identity papers of persons in detention and inform their family members, workplace, educational facility or local authorities in the commune, ward or town where they reside.

#### **Article 120. Attention to kindred and preservation of property for persons in temporary detainment or detention**

1. If persons on temporary detainment or in detention live with disabled, senile or mentally ill individuals left unattended, the authorities deciding temporary detainment or detention shall assign other relatives to provide them with care. If no relative exists, the authorities deciding temporary detainment or detention shall put them into care by local authorities in the commune, ward or town where they reside. The care of children of persons on temporary detainment or in detention shall comply with the Law on enforcement of temporary detainment and detention.

2. If persons in temporary detainment or detention own houses or property left unattended, the authorities deciding temporary detainment or detention shall implement methods of preservation.

3. The authorities deciding temporary detainment or detention shall give persons on temporary detainment or in detention a notice of the attention to their kindred and property. Such notice shall be executed in writing and stored in case files.

#### **Article 121. Bail**

1. Surety is a preventive measure in lieu of detention. Investigation authorities, procuracies and Courts shall consider the nature and severity of acts against the society and suspects' or defendants' personal records and decide to approve or refuse bail.

2. Organizations may bail suspects or defendants, who are their employees. An organization undertaking bail shall present a written promise that bears the signature of its head.

Individuals who are at least 18 years of age, have good records, abide strictly by the laws, gain stable incomes and are capable for overseeing persons on bail can undertake bail for suspects or defendants who are their kin. In this event, bail must be undertaken by at least 02 individuals. An individual undertaking bail must present a written promise endorsed by his workplace or educational facility or local authorities in the commune, ward or town where he resides.

The written promise from organizations or individuals undertaking bail must guarantee to prevent suspects or defendants from violating duties as prescribed in Section 3 of this Article. Organizations and individuals undertaking bail shall be informed of case facts in connection with their undertaking of bail.

3. Suspects and defendants on bail must guarantee their execution of these duties in writing:

- a) Appear as per a subpoena, unless force majeure or objective obstacles occur;
- b) Not to abscond or continue criminal acts;
- d) Not to commit acts of bribing, coercing or inciting other individuals to give false statements or documents, destroying or forging case evidences, documents and item, shifting property related to the case away, threatening, repressing or avenging witness testifiers, crime victims, denouncers and their kin.

If suspects and defendants violate duties guaranteed in this Section, they shall be put in detention.

4. Authorized individuals as defined in Section 1, Article 113 of this Law, and Presiding judges are entitled to make decisions on bail. The decisions made by individuals as defined in Point a, Section 1, Article 113 of this Law shall be ratified by the equivalent Procuracy prior to the enforcement of such decisions.

5. The length of bail time shall not exceed the time of investigation, prosecution or adjudication as per this Law. Bail time for persons sentenced to imprisonment shall not exceed the time from conviction to enforcement of incarceration sentence.

6. Organizations and individuals undertaking bail but failing to make suspects or defendants conform to duties guaranteed shall incur fines subject to the nature and severity of violations as per the laws.

### **Article 122. Surety**

1. Surety is a preventive measure in lieu of detention. Investigation authorities, procuracies and Courts shall consider the nature and severity of acts against the society and suspects' or defendants' personal records and decide to allow them or their kin to undertake surety.

2. Suspects and defendants on surety must guarantee their execution of these duties in writing:

- a) Appear as per a subpoena, unless force majeure or objective obstacles occur;
- b) Not to abscond or continue criminal acts;
- d) Not to commit acts of bribing, coercing or inciting other individuals to give false statements or documents, destroying or forging case evidences, documents and item, shifting property related to the case away, threatening, repressing or avenging witness testifiers, crime victims, denouncers and their kin.

If suspects and defendants violate duties guaranteed in this Section, they shall be put in detention and the amount of money as surety shall be confiscated into the state budget.

3. Authorized individuals as defined in Section 1, Article 113 of this Law, and Presiding judges are entitled to make decisions on surety. The decisions made by individuals as defined in Point a, Section 1, Article 113 of this Law shall be ratified by the equivalent Procuracy prior to the enforcement of such decisions.

4. The length of surety time shall not exceed the time of investigation, prosecution or adjudication as per this Law. Surety time for persons sentenced to imprisonment shall not exceed the time from conviction to enforcement of incarceration sentence. The procuracy or Court is liable for returning the money as surety to suspects and defendants abiding by all duties guaranteed.

5. Kindred of suspects and defendants permitted by investigation authorities, procuracies or Courts to undertake surety must engage in a written promise to restrain suspects and defendants from violating duties as per Section 2 of this Article. If violations occur, the surety money shall be confiscated into the state budget. Such individuals, upon making written promises, shall be informed of case facts related to suspects or defendants.

6. Minister of Public Security leads and cooperates with Head of Supreme People's Procuracy, Court president and Minister of Defense to regulates details of sequence, formalities, level of surety money, impoundment, return, confiscation of surety money into the state budget.

#### **Article 123. Residential confinement**

1. Residential confinement is a preventive measure that may apply to suspects and defendants having definite place of residence and records assuring their presence as per subpoena by investigation authorities, procuracies or Courts.

2. Suspects and defendants confined to a specific place of residence must guarantee their execution of these duties in writing:

a) Not to be absent from the specified place of resident without the permission by the authority issuing residential confinement orders;

b) Be present as per a subpoena, unless force majeure or objective obstacles occur;

b) Not to abscond or continue criminal acts;

d) Not to commit acts of bribing, coercing or inciting other individuals to give false statements or documents, destroying or forging case evidences, documents and item, shifting property related to the case away, threatening, repressing or avenging witness testifiers, crime victims, denouncers and their kin.

If suspects and defendants violate duties guaranteed in this Section, they shall be put in detention.

3. Authorized individuals as defined in Section 1, Article 113 of this Law, Presiding judges and commanding officers of border protection posts are entitled to issue residential confinement orders.

4. The length of time of residential confinement shall not exceed the time of investigation, prosecution or adjudication as per this Law. The length of time of residential confinement

against persons sentenced to imprisonment shall not exceed the time from conviction to enforcement of incarceration sentence.

5. The individuals issuing residential confinement orders must inform local authorities in the commune, ward or town where suspects or defendants reside, or military units that manage them of the enforcement of the measure. Moreover, suspects and defendants shall be transferred to such local authorities or military units to oversee and supervise them.

If suspects and defendants ought to temporarily leave the specified place of residence due to force majeure or objective obstacles, they must obtain permission from local authorities in the commune, ward and town where they reside, or military units that manage them. Permission must also be granted by individuals issuing residential confinement orders.

6. If suspects and defendants violate duties guaranteed, local authorities near their place of residence or military units managing them must report to the authority issuing residential confinement orders for intra vires measures.

#### **Article 124. Exit restriction**

1. Exit restriction may apply to the following persons when there are evident grounds that their exit from the country denotes evasion:

a) Persons denounced or facing requisitions for charges are suspected of crimes according to sufficient grounds and must be detained from absconding or destroying evidences

b) Suspects and defendants.

2. Authorized individuals as defined in Section 1, Article 113 of this Law, and Presiding judges are entitled to make decisions on exit restriction. Decisions on exit restriction made by individuals as defined in Point a, Section 1, Article 113 of this Law shall be ratified by the equivalent Procuracy prior to the enforcement of such decisions.

3. The length of exit restriction time must not exceed the time limit for processing of criminal information, pressing of charges, investigation, prosecution and adjudication as per this Law. Exit restriction time against persons sentenced to imprisonment shall not exceed the time from conviction to enforcement of custodial sentence.

#### **Article 125. Termination or alteration of preventive measures**

1. Every preventive measure in effect must be terminated in one of the following events:

a) Decision not to institute criminal proceedings;

b) Terminate investigation and dismiss lawsuit;

b) Terminate investigation and lawsuit against suspects;

d) The Court declares a defendant not guilty, exempt from criminal liability, penalty or custodial sentence but imposes a suspended sentence or warning penalty, fine, non-custodial rehabilitation.

2. Investigation authorities, procuracies, and Courts shall terminate or replace preventive measures, if deemed superfluous, with other preventive measures.

The procuracy decides to terminate or replace preventive measures that it has approved during the stage of investigation. The authority requesting approval of a preventive measure excluding

temporary detention sanctioned by The procuracy, in 10 days prior to its loss of effect, must inform The procuracy of such expiration to have it terminated or replaced.

## **Heading II. COERCIVE MEASURES**

### **Article 126. Coercive measures**

Competent procedural authorities and persons can implement measures of coercive delivery, forced escort, property distraintment or freezing of accounts, in order to maintain intra vires activities of charge filing, investigation, prosecution, adjudication, sentence enforcement.

### **Article 127. Coercive delivery and forced escort**

1. Coercive delivery may apply to persons held in emergency custody or facing charges.
2. Forced escort may apply to:
  - a) Witness testifiers absent despite of subpoenas not due to force majeure or objective obstacle;
  - b) Crime victims, not due to force majeure or objective obstacles, refusing expert examination postulated by competent procedural authorities;
  - c) Persons facing denunciation or requisitions for charges and, through sufficient evidences, found involved in criminal acts leading to charges, but resisting subpoena not because of force majeure or objective obstacle.
3. Investigators, heads of units assigned to investigate, procurators, Presiding judges, and trial panel are entitled to make decisions on coercive delivery and forced escort.
4. A decision on coercive delivery or forced escort must specify full name, date of birth, residential place of the person delivered or escorted by force; time and location for the appearance of such person and other details as stated in Section 2, Article 132 of this Law.
5. Enforcers of decisions on coercive delivery or forced escort shall read and explain such decisions and execute written records of coercive delivery or forced escort as per Article 133 of this Law.

Competent people's police force and people's military force shall be responsible for enforcing the decisions on coercive delivery and forced escort.

6. The coercive delivery or forced escort of people must not commence at night. Senile or seriously ill persons with medical facilities' affirmation shall not be delivered and escorted by force.

### **Article 128. Distraintment of property**

1. Distraintment of property only applies to suspects and defendants whose offences are punishable by mulct or confiscation of property as per the Criminal Code, or applies to guarantee compensations over damage.
2. Authorized individuals as defined in Section 1, Article 113 of this Law, and Presiding judges are entitled to make decisions on distraintment of property. Such decisions made by individuals as defined in Point a, Section 1, Article 113 of this Law shall be ratified by the equivalent Procuracy prior to the enforcement of decisions.
3. Only parts of property proportionate to probable degree of fine, seizure or compensation for damage shall be distrainted. The property distrainted shall be preserved by owners or their kin or



legitimate managers. Persons, if consuming, transferring, swapping, concealing or destroying distrained property assigned to them, shall incur criminal liabilities as per the Criminal Code.

4. Distrainment of property must be done in the presence of:

- a) Suspects or defendants or their representatives or family members at least 18 years of age;
- b) Representatives of local authorities in the commune, ward or town where distrained property are located;
- c) Witnesses.

Individuals distraining property shall execute written records, specify names and conditions of each property distrained. Such written records shall be made according to Article 178 of this Law, read out to those present and bear their signatures. Opinions and complaints by persons stated in Point a of this Section against distrainment shall be entered into written records and undersigned by such persons and individuals distraining property.

A record of distrainment shall be executed in four originals. One is given to persons stated in Point a of this Section immediately after distrainment completes. One is given to the local authority at the commune, ward or town where distrained property are located. One is delivered to the equivalent Procuracy. One is stored in the case file.

#### **Article 129. Freezing of accounts**

1. Account freeze only applies to suspects and defendants whose offences are punishable by mulct or confiscation of property as per the Criminal Code, or applies to guarantee compensations over damage upon the detection of such persons' accounts in a credit institution or state treasury. Account freeze also applies to other people's accounts evidently found to hold amounts involved in criminal acts of accused persons.

2. Authorized individuals as defined in Section 1, Article 113 of this Law, and Presiding judges are entitled to make decisions on account freeze. Such decisions made by individuals as defined in Point a, Section 1, Article 113 of this Law shall be ratified by the equivalent Procuracy prior to the enforcement of decisions.

3. Only amounts proportionate to probable degree of fine, seizure or compensation for damage shall be frozen. Persons assigned to freeze and manage accounts but defreezing such accounts shall incur criminal liabilities as per the Criminal Code.

4. Competent presiding authorities, when freezing accounts, must give written decisions on account freeze to the credit institution or state treasury managing the accounts of accused persons or other people's accounts involved in criminal acts of persons facing charges. The delivery of the account freeze order must be executed in writing according to Article 178 of this Law.

The credit institution or state treasury managing accounts of arrestees, detainees, suspects, defendants or other people's accounts involved in criminal acts of arrestees, detainees or defendants, upon receiving the order of account freeze, shall immediately freeze such accounts and execute written records.

A written record of account freeze shall be executed in five originals. One is given to the person facing charges. One is given to other people involved in the accused person. One is given the equivalent Procuracy. One is stored in the case file. One is retained by the credit institution or state treasury.

### **Article 130. Termination of property distraintment and account freeze**

1. Property distraintment and account freeze in force must be terminated in one of the following events:

- a) Suspension of investigation or lawsuit;
- b) Suspension of investigation or lawsuit against suspects;
- c) The Court declares defendants not guilty;
- d) Suspects are not penalized to incur fine, property distraintment or compensation for damage.

2. Investigation authorities, procuracies and Courts terminate property distraintment and account freeze deemed unnecessary.

The procuracy must be informed of the termination or replacement of measures for property distraintment or account freeze during the stage of investigation and prosecution prior to the issuance of decisions.

### **Chapter VIII**

#### **CASE FILE, PROCEDURAL DOCUMENT, TIME LIMIT AND PROCEDURAL EXPENSES**

#### **Article 131. Case file**

1. Investigation authorities, when filing charges, must establish case files.
2. The case file comprises:
  - a) Orders, decisions and requests by investigation authorities and procuracies;
  - b) Procedural records made by investigation authorities and procuracies;
  - c) Evidences and documents related to the case.
3. Evidences and documents acquired by The procuracy or Court during the stage of prosecution and adjudication must be put into the case file.
4. Documents enclosed to the case file must be summarized. Summarization of such documents must specify names, numbers and properties of documents (if available). Documents added to the case file shall be summarized. The case file must be managed, retained and used as per the laws.

#### **Article 132. Procedural documents**

1. Procedural documents include orders, decisions, requests, investigation findings, charges, judgments and other procedural documents universally formatted for procedural activities.
2. Procedural documents must bear:
  - a) Number, issue date and issuing place of the procedural document;
  - b) Grounds for the issuance of the procedural document;
  - c) Contents of the procedural document;
  - d) Full name, position and signature of the individual issuing the procedural document and official seal.

### **Article 133. Records**

1. Procedural activities must be executed in written records universally formatted.

A written record shall specify location, time, date, starting and ending time, details of the procedural activity, individuals authorized to institute legal procedure, participants or persons involved in legal proceedings, their complaints, petitions or recommendations.

2. The record must bear signatures of the individuals as defined in this Law. Such individuals affix signatures to endorse the record's details modified, added, removed or erased.

If participants in legal proceedings do not sign the record, the individual making such record shall write down reasons and ask witnesses to sign the record.

If participants in legal proceedings are illiterate, the individual making the record shall read it out in the presence of witnesses. The record must bear fingerprints of participants in legal proceedings and signatures of witnesses.

If a participant in legal proceedings cannot sign the record due to their mental or physical defects or other reasons, the individual making the record shall read it out in the presence of witnesses and other participants. The record must bear signatures of witnesses.

### **Article 134. Timing**

1. Timing as per this Law is based on hours, days, months and years. Night commences at 22 o'clock and ends at 06 o'clock in the next morning.

A day-based time limit ends at 24 o'clock on the final day of such limit.

A month-based time limit ends on the repeated date in the following month or, if the starting date does not reappear, on the final date of the month. If the final date falls in a regulated day-off, the immediate succeeding work day shall be the final date of the time limit.

A time limit for temporary detainment or detention ends on the date as specified in the order or decision. A month in a month-based time limit has 30 days.

2. A time limit for a petition or document sent by post shall commence on the date shown in the postmark of the sender's postal service provider. A time limit for a petition or document sent to a detention facility shall commence when the head of the detainment facility or the chief supervisor of the detainment cells in a border protection post or the warden of a temporary or permanent detention facility receives such petition or document.

### **Article 135. Procedural expenses**

1. Procedural expenses are composed of Court fee, administrative fees and procedural expenditure.

2. Court fee includes fees for criminal and civil first-instance and appellate Courts hearing criminal cases.

3. Administrative fees include payables for copies of judgments, decisions and other documents from competent procedural authorities and other payables as per the laws.

4. Procedural expenditure comprises:

a) Payables for witness testifiers, interpreters, translators, defense counsels appointed;

- b) Payables for expert examination and valuation;
- c) Other payables as per the laws.

### **Article 136. Responsibilities for settling procedural expenditure and administrative fees**

1. The expenditure as defined in Section 4, Article 135 of this Law is paid by authorities or individuals requisitioning activities or assigned to make payments. If a governmental legal aid center appoints a defense counsel, it shall cover relevant expense.
2. The person convicted or the government incurs the Court fee as per the laws. The person convicted must incur the Court fee according to the Court's rulings. The amount of Court fee and calculation grounds shall be specified in the Court's judgments and rulings.
3. The crime victim, if petitioning for the lawsuit, shall incur the Court fee upon the Court's declaration of the defendant's innocence or upon the suspension of the lawsuit as per the stipulations in Section 2, Article 155 of this Law.
4. The coverage of administrative fees and expenses for procedural activities requested by participants in legal proceedings abides by the laws.

### **Article 137. Issuance, transfer, delivery, posting or announcement of procedural documents**

1. Procedural documents are issued, delivered, posted or announced in the following manners:
  - a) By hand;
  - b) By post;
  - c) At public places;
  - d) Through mass media.
2. The issuance, delivery, posting or announcement of procedural documents must abide by this laws.

### **Article 138. Procedures for issuing and delivering procedural documents by hand**

1. The individuals issuing and delivering procedural documents shall directly pass such documents to the recipients. The recipients must sign a record or delivery journal. The time limit for legal procedure commences on the date of the recipient's affixture of signature onto the record or delivery journal.
2. If the recipient is absent, procedural procedures may be given to his family members with adequate legal capacity and such persons must undertake to hand over documents to the recipient promptly. The date of the family member's affixture of signature is the issue date or sending date of the procedural documents.

If procedural documents cannot be delivered to the recipient as stipulated in this Section, such documents may be handed to local authorities in the commune, ward or town where the recipient resides or his workplace or education facility and forwarded to the recipient. The authorities and organizations concerned must report to the competent procedural authorities making requests about the outcome of the issuance and delivery of procedural documents. The date of the family member's affixture of signature is the issue date or sending date of the procedural documents.

3. If the recipient is absent or his address is unknown, the individuals issuing or delivering documents must execute a written record of their failure confirmed by the representative of authorities near the recipient's dwelling, or his workplace or educational facility.

If the recipient disapproves delivery of procedural documents, the individuals issuing or delivering such documents must execute written records of the recipient's refusal, which shall be confirmed by the representative of authorities near the recipient's dwelling, or his workplace or educational facility.

4. If procedural documents are delivered to an organization, they shall be handed to the representative of such organization, who affixes his signature. The time limit for legal procedure commences on the date of the said representative's affixture of signature onto the record or delivery journal.

#### **Article 139. Procedures for mailing procedural documents**

Procedural documents sent by post must be delivered via registered mail with the recipient's endorsement. The documents endorsed shall be forwarded to competent procedural authorities. The time limit for legal procedure commences on the date of the recipient's endorsement of his receipt of procedural documents.

#### **Article 140. Procedures for posting procedural documents publicly**

1. Proclamation of procedural documents is done when the recipient's address or location is unknown.

2. Procedural documents are publicly posted at the People's committee at the commune, ward or town where the recipient's last known dwelling is situated or his last known workplace or educational facility.

Procedural documents must be publicly posted in at least 15 days from the initial date of proclamation. Proclamation shall be executed in a written record that specifies the date of posting.

The time limit for legal procedure commences on the final date of proclamation.

#### **Article 141. Procedures for announcing procedural documents through mass media**

1. Procedural documents are announced through mass media when proclamation of such documents are ineffective or other circumstances occur as per the laws.

2. Documents announced through mass media shall be posted on 03 consecutive issues of a daily newspaper run by the state and broadcasted by a governmental radio or television station three times per day in 03 continuous days.

The time limit for legal procedure commences on the final date of announcement.

#### **Article 142. Responsibilities for issuing, delivering, posting and announcing procedural documents**

1. Competent procedural authorities and persons shall issue, deliver, post or announce procedural documents to participants in legal proceedings and concerned authorities and entities according to this Law.

2. If an individual does not fulfill or complete his assignments to issue deliver, post or announce procedural documents as per this Law, he shall incur disciplinary or administrative penalties according to the nature and severity of his violations as per the laws.

## **PART TWO**

### **CRIMINAL CHARGE AND INVESTIGATION**

#### **Chapter IX**

#### **CRIMINAL CHARGE**

##### **Article 143. Justifications of criminal charges**

A charge shall only be filed upon the ascertainment of signs of criminal activities. Signs of criminal activities are ascertained by:

1. A person's denunciation;
2. Information disclosed by an organization or individual;
3. Information provided through mass media;
4. A governmental authority's requisitions for charges;
5. Competent procedural authorities' direct exposure of signs of criminal activities;
6. A perpetrator's confession.

##### **Article 144. Denunciations, criminal information disclosed and requisitions for charges**

1. Denunciation refers to an individual's detection and denouncement of activities denoting crimes to competent authorities.
2. Criminal information disclosed refers to the data on activities denoting crimes as disclosed by authorities, organizations and individuals to competent authorities or the criminal information disclosed through mass media.
3. Requisitions for charges refers to a competent governmental authority's written requisition enclosed with relevant evidences and documents to investigation authorities and procuracies authorized to consider and settle cases with signs of criminal activities;
4. Denunciation or criminal information may be made or given verbally or in writing.
5. If a person makes or provides false denunciation or criminal information, he shall incur disciplinary or administrative penalties or face criminal prosecution subject to the nature and severity of violations as per the laws.

##### **Article 145. Responsibilities and authority to receive and process denunciations, criminal information disclosed and requisitions for charges**

1. All denunciations, information and charge requests must be fully acquired and processed in timely manner. The authorities shall be responsible for receiving and not rejecting denunciations, information and requisitions.
2. The authorities responsible for receiving denunciations, criminal information disclosed and requisitions for charges shall include:

- a) Investigation authorities and procuracies that obtain denunciations, information and requisitions;
  - b) Other authorities that take in denunciations and criminal information disclosed.
3. The authority to handle denunciations, information and charge requests is given to:
- a) Investigation authorities processing intra vires denunciations, information and requisitions;
  - b) Units assigned to investigate process denunciations and criminal information disclosed within its powers;
  - c) The procuracy processes denunciations, information and charge requests when investigation authorities or units assigned to performed certain activities of investigation are found to commit serious violations of the laws during their inspection and verification of denunciations, criminal information disclosed, requisitions for charges or omission of crimes. Furthermore, such issues have not been settled despite the Procuracy's written requests.
4. The authorities empowered to process denunciations, information and charge requests are responsible for informing authorities and entities making denunciations, disclosing criminal information and requisitioning for charges of the results of the former's tasks.

#### **Article 146. Procedures for receiving denunciations, criminal information and requisitions for charges**

1. When authorities and entities make direct denunciations, disclose criminal information and requisition for charges, investigation authorities, procuracies and units assigned to investigate are authorized as per Section 2, Article 145 of this Law to execute written records of receipt and enter data into a receipt journal. The acquisition of such information may be recorded by sound or sound-and-visual means.

If denunciations, criminal information and requisitions for charges are delivered by post, by telephone or by other means of communication, entries shall be made into a receipt journal.

2. Investigation authorities and units assigned to investigate, if considering certain denunciations, criminal information disclosed and requisitions for charges ultra vires, shall be held responsible for transferring such information and relevant documents to a competent investigation authority in prompt manner.

The procuracy is responsible for promptly transferring denunciations, information and charge requests and relevant documents to a competent investigation authority.

In the events as defined in Point c, Section 3, Article 145 of this Law, competent authorities processing denunciations, information and charge requests shall, in 05 days upon the Procuracy's requests, transfer relevant documents to The procuracy for consideration and settlement.

3. Ward police units, town police units and police stations shall be responsible for receiving denunciations and criminal information disclosed, making written records of receipt and conducting preliminary verification of such information before promptly transferring such information and relevant documents and items to competent investigation authorities.

Ward police units shall be responsible for acquiring denunciations and criminal information disclosed, making written records of receipt, taking preliminary statements and transferring such information and relevant documents and items to competent investigation authorities.

4. Other authorities and organizations, upon obtaining denunciations and criminal information disclosed, shall transfer such information to competent investigation authorities. In emergency events, information may be given to investigation authorities by phone or other forms of communication. However, such information must subsequently be documented.

5. Investigation authorities and units assigned to investigate, in 03 days upon receiving denunciations, information and requisitions, shall be held responsible for informing the equivalent Procuracy or competent Procuracy of their receipt of information in writing.

#### **Article 147. Time limit and procedures for processing denunciations, criminal information disclosed and requisitions for charges**

1. Investigation authorities and units assigned to investigate, in 20 days upon receiving denunciations, information and requisitions, shall inspect and verify such information and issue one of the following decisions:

- a) Decision to press criminal charges;
- a) Decision not to file criminal charges;
- c) Decide to suspend the processing of denunciations, information and requisitions.

2. If denunciations, criminal information disclosed or requisitions for charges contain complex facts or the verification of such information must be done in several locations, the time limit for processing such information may be extended but shall not exceed 02 months. If activities of investigation and verification cannot end within the time limit as stated in this Section, the head of the equivalent Procuracy or competent Procuracy can sanction one extension of 02 months at most.

Investigation authorities and units assigned to investigate, in at most 05 days before the end of the time limit for investigation and verification, must send a written request for extension to the equivalent Procuracy or competent Procuracy.

3. Competent authorities, when processing denunciations, information and requisitions, shall perform these activities:

- a) Collect data, documents and items from relevant authorities and entities to verify the information;
- b) Examine the scenes;
- c) Conduct autopsy;
- d) Requisition expert examinations and valuation.

4. The sequence, formalities and time limit for the Procuracy's processing of denunciations, information and charge requests are governed by this Article.

#### **Article 148. Suspension of the processing of denunciations, criminal information disclosed and requisitions for charges**

1. Competent authorities, upon the expiration of the time limit as defined in Article 147 of this Law, shall decide to suspend the processing of denunciations, information and charge requests in one of the following events:



- a) Expert examination, valuation and foreign judicial assistance have been requisitioned to no avail;
- b) Though authorities and entities have been asked to provide essential documents and items that lead to the decision to or not to press charges, nothing works.

2. Investigation authorities and units assigned to investigate, in 24 hours upon the decision to suspend the processing of denunciations, information and requisitions, must send such decision and relevant documents to the equivalent Procuracy or competent Procuracy, which administer and forward such decision to the authorities and entities making denunciations, disclosing criminal information and requisitioning charges.

If a suspension decision is unsubstantiated, the Procuracy shall annul such decision to have investigative activities continued. The procuracy, in 24 hours upon its decision to abrogate the suspension, must send its decision to investigation authorities and units assigned to investigate, and authorities and entities making denunciations, disclosing criminal information or requisitioning charges. The time limit for the continued processing of denunciations, information and charge requests shall not exceed 01 month after investigation authorities and units assigned to investigate receive the decision to invalidate the suspension.

3. If the processing of denunciations, information and charge requests is suspended, expert examination, valuation or judicial assistance shall persist until final findings are available.

#### **Article 149. Resumption of the processing of denunciations, criminal information disclosed and requisitions for charges**

1. When the vindication for the suspension of the processing of denunciations, information and charge requests languishes, investigation authorities and units assigned to investigate shall decide to resume the processing of denunciations, information and requisitions. The time limit for the continued processing of denunciations, information and charge requests shall not exceed 01 month upon the decision on resumption.

2. Investigation authorities and units assigned to investigate, in 03 days upon their decision to resume the processing of denunciations, information and requisitions, must send such decision to the equivalent Procuracy or competent Procuracy, and authorities and entities making denunciations, disclosing criminal information or requisitioning charges.

#### **Article 150. Settlement of disputes over the authority to process denunciations, criminal information disclosed and requisitions for charges**

1. The immediate superior Procuracy shall settle disputes over the authority to process denunciations, information and requisitions. The competent Procuracy shall settle disputes over the authority to process denunciations, information and charge requests among units assigned to investigate.

2. The Supreme People's Procuracy or the Central military procuracy shall settle disputes over the authority to process denunciations, information and charge requests among provincial investigation authorities or among military investigation units in military zones, respectively. The provincial People's Procuracy or Military procuracy related to the authority or military zone that first receive denunciations, information and charge requests shall settle disputes over the authority to process denunciations, information and charge requests among district investigation

authorities from various provinces or centrally-affiliated cities or among military investigation units from different military zones.

3. The head of the Supreme People's Procuracy shall settle disputes over the authority to process denunciations, information and charge requests among investigation units of the people's police force, People's Army and Supreme People's Procuracy.

#### **Article 151. Settlement of cases exhibiting signs of crime uncovered directly by authorities given authority to institute legal proceedings**

Competent procedural authorities, when directly exposing signs of crime, shall decide to press charges within their powers or transfer the cases to competent investigation authorities.

#### **Article 152. Offenders confessing or surrendering**

1. The authorities taking in an offender confessing or surrendering must execute written records of his full name, age, occupation, residential address and statements. The authorities taking in offenders confessing or surrendering shall be responsible for informing investigation authorities or procuracies of such matter in prompt manner.

2. Investigation authorities taking in ultra vires offenders confessing or surrendering shall inform competent investigation authorities that handle such offenders.

3. Competent investigation authorities, in 24 hours upon their acceptance of offenders confessing or surrendering, must inform the equivalent Procuracy in writing.

#### **Article 153. Authority to press criminal charges**

1. Investigation authorities shall make decisions on pressing criminal charges against all matters exhibiting criminal signs, save those handled by units assigned to investigate, procuracies or juries as per Section 2, 3 and 4 in this Article.

2. Units assigned to investigate shall make decisions on pressing criminal charges in the events as defined in Article 164 of this Law.

3. The procuracy makes decisions on pressing criminal charges in the following events:

a) The procuracy decides to rescind a decision not to press criminal charges from investigation authorities or units assigned to investigate;

b) The procuracy directly processes denunciations, information and requisitions;

c) The procuracy directly exposes signs of crime or respond to a requisition for charges by the Trial panel.

4. The Trial panel decides to press charges or request The procuracy to press criminal charges if omission of crimes is detected during the trial.

#### **Article 154. Decision to press criminal charges**

1. A decision to press criminal charges must specify grounds for charges, quote relevant Articles and clauses from the Criminal Code and present details as required in Section 2, Article 132 of this Law.

2. The procuracy, in 24 hours upon its decision to press criminal charges, shall send such decision to competent investigation authorities that carry out investigative activities.

Investigation authorities and units assigned to investigate, in 24 hours upon their decision to press criminal charges, shall deliver such decision and relevant documents to the competent Procuracy that administers the charges.

A Court, in 24 hours upon its decision to press criminal charges, must have such decision and relevant documents delivered to the equivalent Procuracy.

#### **Article 155. Filing of criminal charges as per the crime victim's petitions**

1. Only criminal charges against offences as defined in Section 1 of Article 134, 135, 136, 138, 139, 141, 143, 155, 156 and 226 of the Criminal Code can be pressed at the requests for the crime victim or the representative of the crime victim less than 18 years of age or having mental or physical defects or passing away.

2. If the petitioner withdraws his petition for charges, the lawsuit shall be dismissed. If such person is evidently found to withdraw the petition against his will out of coercion or duress, the investigation authority, Procuracy or Court shall maintain the charges regardless of the petition for withdrawal.

3. The crime victim or its representative is not permitted to resubmit a petition withdrawn, unless such withdrawal results from coercion or duress.

#### **Article 156. Amendments to the decision on pressing criminal charges**

1. Investigation authorities, units assigned to investigate or procuracies shall amend their decisions to press criminal charges when gaining justifications that charges deviate from actual criminal acts. Moreover, they shall add criminal charges when identifying other criminal acts left uncharged.

2. Investigation authorities and units assigned to investigate, in 24 hours upon their decisions to amend or add criminal charges, must send such decisions to the equivalent Procuracy or competent Procuracy that administers such charges.

The procuracy, in 24 hours upon the decision to amend or add criminal charges, must send such decision to investigation authorities for investigative activities.

#### **Article 157. Justifications of the decision not to press criminal charges**

A criminal charge shall not be filed in the presence of one of these justifications:

1. Criminal acts do not exist;
2. Acts do not constitute crime;
3. Persons committing dangerous acts against the society have not reached the age of criminal responsibility;
4. Persons whose criminal acts have been sentenced or lawsuits have been dismissed validly;
5. The prescriptive period for criminal prosecution passes;
6. General amnesty has been granted;
7. The person causing peril against the society is deceased, unless other persons must undergo reopening procedure;

8. The crime victim or its representative does not petition for charges against offences as defined in Section 1 of Article 134, 135, 136, 138, 139, 141, 143, 155, 156 and 226 of the Criminal Code.

#### **Article 158. Decision not to press or to drop criminal charges**

1. When one of the justifications as stated in Article 157 of this Law exists, the individuals authorized to press charges shall decide not to file or to drop criminal charges, if filed, and send notices of reasons to the authority or entities making denunciations, disclosing criminal information or requisition charges. If different measures are deemed necessary, the case shall be transferred to competent authorities for settlement.

A decision not to press or to drop criminal charges and relevant documents, in 24 hours upon the issuance of such decision, must be sent to the equivalent or competent Procuracy.

2. The authority or entities making denunciations or disclosing criminal information are permitted to file complaints against the decision not to press criminal charges. The authority and procedures for the settlement of such complaints are defined in Chapter XXXIII of this Law.

#### **Article 159. Duties and authority of The procuracy exercising prosecution rights to handle criminal information**

1. Approve or deny an order on emergency custody, extension of temporary detainment, and other measures that restrict human rights and citizen rights in connection with the handling of criminal information as per this Law.

2. Propose to inspect and verify information, when necessary, and request authorities empowered to process criminal information to conduct inspection and verification.

3. Decide to extend the time limit for the processing of denunciations, criminal information disclosed and requisitions for charges; decide to press criminal charges.

4. Request investigation authorities and units assigned to investigate to press criminal charges.

5. Directly process denunciations, criminal information disclosed or requisitions for charges in the events as defined in the Law.

6. Annul decisions on temporary detainment, decisions to or not to press criminal charges, decisions to suspend the processing of criminal information and other unlawful procedural decisions from investigation authorities and units assigned to investigate.

7. Carry out other duties and powers to exercise prosecution rights as per this Law to prevent omission of crimes and unjust conviction against guiltless people.

#### **Article 160. The procuracy's duties and authority to acquire and administer the processing of criminal information**

1. Receive all denunciations, criminal information disclosed and requisitions for charges from authorities and entities, take in and transfer offenders confessing or surrendering to competent authorities for treatments.

2. Administer the acquisition of information, administer the verification of information and the documentation of criminal information by investigation authorities and units assigned to investigate; administer the suspension of the processing of criminal information; administer the resumption of the processing of criminal information.

3. Request investigation authorities and units assigned to investigate to perform the following activities upon the detection of deficiency or violations in the acquisition and processing of criminal information:

- a) Receive, inspect, verify and decide the processing of criminal information in adequate and legitimate manners;
- b) Inspect the acquisition and processing of criminal information and report to The procuracy;
- c) Provide documents on breach of laws on the acquisition and processing of criminal information;
- d) Correct violations of laws and impose strict penalties against the violators;
- dd) Request the replacement of investigators and investigation officers.

4. Settle disputes over the authority to handle criminal information.

5. Request investigation authorities and units assigned to investigate to provide documents for the administration of the processing of criminal information.

6. Perform other duties and powers to administer the acquisition and processing of criminal information as per this Law.

#### **Article 161. Duties and authority of The procuracy exercising prosecution rights and administering the pressing of criminal charge**

1. The procuracy, when exercising prosecution rights of criminal charges, bears the following duties and authority:

- a) Request investigation authorities and units assigned to investigate to press charges or amend or add criminal charges;
- b) Annul groundless and unlawful decisions to press charges, decisions to amend or add criminal charges, decisions not to file criminal charges;
- c) Appeal to the Court immediately superior to the trial panel that issues an unjustified decision to press criminal charges;
- d) Press charges, amend or add criminal charges in the events as defined in this Law;
- dd) Perform other duties and authority to exercise prosecution rights of criminal charge as per this Law.

2. The procuracy, when administering the filing of criminal charges, bears the following duties and authority:

- a) Administer the legal compliance of charges filed by investigation authorities and units assigned to investigate, make sure that all criminals exposed must face justified and lawful charges;
- b) Request investigation authorities and units assigned to investigate to provide relevant documents for the administration of criminal charges;
- c) Perform other duties and authority to administer criminal charges as per this Law.

#### **Article 162. Responsibilities of investigation authorities and units assigned to investigate for fulfilling requests and decisions by The procuracy on filing of charges**

1. Investigation authorities and units assigned to investigate must execute the requests and decisions to charge from The procuracy.
2. Investigation authorities and units assigned to investigate, despite their protests, bear the obligation to execute decisions as defined in Section 1 and Section 6, Article 159, and Point b, Section 1, Article 161 of this Law and preserve the right to address their angles to the immediate superior Procuracy. The immediate superior Procuracy, in 20 days upon receiving motions from investigation authorities or in 05 days upon obtaining standpoints from units assigned to investigate, shall consider such angles and respond to such authorities and units.

## **Chapter X**

### **GENERAL REGULATIONS ON CRIMINAL INVESTIGATION**

#### **Article 163. The authority to investigate**

1. Investigation authorities of the people's police force shall delve into every crime, save those falling into the powers of investigation authorities of the People's Army or of the Supreme People's Procuracy.
2. Investigation authorities of the People's Army shall inquire into crimes falling into the jurisdiction of a military Court.
3. Investigation authorities of Supreme People's Procuracy or Central military procuracy shall probe violations of judicial activities, corruption, and breach of positions in the sector of justice, as defined in chapter XXIII and chapter XXIV of the Criminal Code, against offenders as officials and employees of investigation authorities, Courts, procuracies, law enforcement authorities and against individuals empowered to engage in judicial activities.
4. Investigation authorities are authorized to investigate criminal cases that occur in their assigned territories. If crimes occur in various or unidentified places, the investigation authority adjacent to the offender's place of exposure, of residence or of capture shall conduct investigative activities.
5. The hierarchy of investigation is composed of:
  - a) District investigation authorities and local military investigation authorities shall conduct criminal investigations into crimes within jurisdiction of a district Court or local military Court;
  - b) Provincial investigation authorities shall carry out criminal investigations into crimes within the jurisdiction of a provincial Court. Provincial investigation authorities shall, if their direct involvement is deemed vital, inquire into cases within the investigative powers of district investigation authorities, which happen in various district, towns, provincial cities, cities under centrally-affiliated cities or denote foreign elements.

Military investigation authorities of military zones shall conduct criminal investigations into crimes within the jurisdiction of a military Court of a military zone or, if their direct engagement is deemed essential, within the powers of local investigation authorities.
  - c) Investigation authorities of the Ministry of Public Security or Ministry of Defense shall conduct criminal investigations into severe felonies, which were dismissed by orders of the judges' panel of the Supreme People's Court for re-investigation. Moreover, such authorities, if their direct involvement is deemed imperative, shall conduct criminal investigations into severe

and complex felonies involving several provinces and centrally-affiliated cities or many countries.

**Article 164. Duties and authorities of units, as assigned to investigate, under border protection force, customs, forest ranger, maritime police force, fisheries resources surveillances and people's police force, People's Army**

1. Units of border protection force, customs, forest ranger, maritime police force and fisheries resources surveillances, when exposing acts that exhibit signs of crime as per their assignments to investigate, shall bear these duties and authority:

a) Decide to press criminal charges or institute legal proceedings against defendants, conduct investigations and transfer case files to the competent Procuracy in 01 month upon the issuance of a decision to press criminal charges against evident misdemeanors in flagrante and offenders with transparent personal records;

b) Decide to press criminal charges, initiate preliminary investigations and transfer case files to the competent Procuracy in 07 days upon the issuance of a decision to press criminal charges against serious crimes, felonies, severe felonies or complex misdemeanors;

2. Apart from investigation authorities of the people's police force and People's Army as per Article 163 of this Law, other units assigned to investigate, if unmasking events that exhibit signs of crime, shall be authorized to file criminal charges, institute preliminary investigations and pass case files to the competent investigation authorities in 07 days upon the issuance of a decision to file criminal charge.

3. Units of the border protection force, customs, forest ranger, maritime police force, fisheries resources surveillances and other units of the people's police force and People's Army, when assigned to investigate, must perform execute precise duties and powers as defined in Article 39 and Article 40 of this Law and implement exact principles, sequence and procedure for investigation according to this Law. The procuracy shall be responsible for exercising prosecution rights and administering legal compliance of the said authorities' investigative activities.

4. The Law on the organization of criminal investigation authorities shall govern particular investigative powers of units under the border protection force, customs, forest ranger, maritime police force, fisheries resources surveillances and people's police force, People's Army.

**Article 165. Duties and authorities of The procuracy exercising prosecution rights during the stage of criminal investigation**

1. Request investigation authorities and units assigned to investigate to file charges, amend or add criminal charges and legal proceedings against defendants.

2. Approve decisions to charge and decisions to amend or supplement charges against defendants or annul baseless and illegal ones.

3. Press charges, amend or increase criminal charges and legal proceedings against defendants in the events as stated in this Law.

4. Approve or reject emergency custody orders, extension of temporary detainment, detention, bail, surety, search warrant, seizure, impoundment of items, mails, telegraphs, postal packages, special investigation methods and proceedings; ratify procedural decisions by investigation

authorities and assigned to investigate according to this Law or deny groundless and illicit ones; annul flimsy and illegal decisions on legal proceedings from investigation authority and units assigned to investigate. A decision to reject or annul matters must specify reasons.

5. Decisions to implement, alter or terminate preventive and coercive measures shall abide by this Law.

6. Make requests for investigation and request investigation authorities and units assigned to investigate to inquire into crimes and offenders; request investigation authorities to hunt down suspects and implement special investigation methods and proceedings.

7. Directly perform certain activities of investigation to verify and add documents and evidences for the decision to charge or for the ratification of orders and decisions made by investigation authorities and units assigned to investigate, or to respond to unjust cases, omission of crimes or breach of laws that have not been settled despite the Procuracy's written requests.

8. Press criminal charges or request investigation authorities to file criminal charges upon the revelation of signs of crimes committed by authorized individuals handling denunciations, information and charge requests or filing charges or investigating;

9. Decide to extend the time limits for investigation or detention; to transfer cases, implement summary procedures or civil commitment; nullify decisions to join or separate cases.

10. Carry out other duties and powers to exercise prosecution rights as per this Law.

#### **Article 166. Duties and authority of The procuracy administering criminal investigations**

1. Administer legal compliance of charges, investigation and documentation by investigation authorities and units assigned to investigate.

2. Administer criminal proceedings by participants; requisition from competent authorities and entities strict actions towards participants in legal proceedings, who violate laws.

3. Settle disputes over the authority to investigate.

4. Request investigation authorities and units assigned to investigate to provide relevant documents for the administration of legal compliance of charges and investigations, if deemed necessary.

5. Request investigation authorities and units assigned to investigate to perform these activities upon the exposure of inadequate investigations or violations of laws:

a) Conduct investigations that abide by the laws;

b) Inspect the investigations and report to The procuracy;

c) Provide documents on deeds and decisions to charge in violation of investigative laws.

6. Request investigation authorities and units assigned to investigate to correct violations of charge and investigation.

7. Request heads of investigation authorities and units assigned to investigate to replace investigators and investigation officers and to impose strict actions towards such individuals violating procedural laws.

8. Request concerned authorities and organizations to implement measures that preclude crimes and breach of laws.



9. c) Perform other duties and authority to administer criminal investigations as per this Law.

**Article 167. Responsibilities of investigation authorities and units assigned to investigate for fulfilling requests and decisions by The procuracy during the stage of investigation**

1. Investigation authorities and units assigned to investigate must fulfill the Procuracy's requests and decisions during the stage of investigation.

2. Investigation authorities and units assigned to investigate, despite their protests, bear the obligation to execute decisions as defined in Section 4 and Section 5, Article 165 of this Law and preserve the right to address such matters to the immediate superior Procuracy. The immediate superior Procuracy, in 20 days upon receiving a motion from investigation authorities or in 05 days upon obtaining standpoints from units assigned to investigate, shall consider such angles and inform such authorities and units of final decisions.

**Article 168. Responsibilities of authorities, organizations and individuals for fulfilling requests and decisions by procuracies, investigation authorities and units assigned to investigate**

Authorities and entities must strictly implement decisions and requests by procuracies, investigation authorities and units assigned to investigate during the stage of criminal investigation. Failure to comply not due to force majeure or objective obstacles shall be punishable according to the laws.

**Article 169. Transfer of cases for investigation**

1. An equivalent Procuracy shall decide to transfer a case for investigation in one of the following events:

- a) An equivalent investigation authority considers the case beyond its investigative powers and requests case transfer;
- b) A superior investigation authority withdraws the case for investigation;
- c) The investigator replaced is the head of the investigation authority;
- d) The procuracy requests case transfer but the investigation authority does not respond.

2. The provincial People's Procuracy or military People's Procuracy of military zone shall decide to have cases transferred out of a province, centrally-affiliated city or military zone, respectively.

3. A case is transferred for intra vires investigation through the following formalities:

- a) The competent Procuracy shall, in 03 days upon receiving a request from the investigation authority, decide to transfer the case;
- b) The procuracy shall, in 24 hours upon making a decision on case transfer, deliver such decision to the investigation authority inquiring into the case, the investigation authority authorized to continue investigation, suspect or his representative, defense counsel, crime victim and competent Procuracy.

4. The investigation authority inquiring into the case shall, in 03 days upon receiving the decision on case transfer, be held responsible for transferring the case to the investigation authority authorized to continue investigation.

5. The time limit for investigation resumes upon the investigation authority's receipt of the case file and continues to the end of the time limit as defined in this Law. If the investigation is incomplete at the end of its time limit, the competent Procuracy shall consider and decide an extension of the investigation according to general stipulations in this Law.

#### **Article 170. Joinder or separation in criminal cases for investigation**

1. Investigation authorities can join multiple issues for intra vires investigation of a single case in one of the following events:

- a) The suspect commits multiple crimes;
- b) The suspect commits a crime in multiple times;
- c) Several suspects commit one crime, or accomplices and accessories who conceal or fail to report the suspect or use property obtained by crime.

2. Investigation authorities shall only be permitted to separate issues from a case, if such separation is necessary because investigations into all crimes present cannot be finished in timely manner and such separation does not affect the determination of entire objective truths of the case.

3. A decision on joinder or separation must be sent to the equivalent Procuracy in 24 hours upon the issuance of such decision. The procuracy, if disagreeing with the investigation authority's decision on joinder or separation, shall decide to annul such decision and state reasons.

#### **Article 171. Mandate of investigation**

1. An investigation authority shall mandate another investigation authority, if deemed necessary, to conduct certain investigations. The decision to mandate investigation must specify requests and be sent to the investigation authority mandated and its equivalent Procuracy.

2. The investigation authority mandated must fulfill every task mandated in a period set by the mandating investigation authority and shall be held liable for the results of the former's implementation of the mandate. The authority mandated, if failing the assignments, shall promptly inform in writing the mandating investigation authority of reasons of such failure.

3. The procuracy at equivalent level of the investigation authority mandated shall be held responsible for exercising prosecution rights and administer the mandated authority's investigative activities and for reporting the results of such tasks to The procuracy mandating the enforcement of prosecution rights and administration of investigations.

#### **Article 172. Time limit for investigation**

1. The time limit for a criminal investigation shall not exceed 02 months for misdemeanors, 03 months for felonies and 04 months for horrific and extremely severe felonies. The time limit applies from the filing of charges to the end of the investigation.

2. If an investigation must be extended due to the case's complexity, the investigation authority shall, within 10 days prior to the expiry date of the time limit, requisition the Procuracy's extension of investigation.

An investigation is extended as follows:

- a) An investigation into misdemeanors may be extended once for 02 more months;

b) An investigation into felonies may be extended twice, for 03 more months in the first time or for 02 more months in the second time;

c) An investigation into horrific felonies may be extended twice, for 04 more months each time;

d) An investigation into extremely severe felonies may be extended thrice, for 04 more months each time.

3. If the investigation into extremely severe felonies is incomplete, despite the expiration of its time limit, due to the case's complexity, the head of the Supreme People's Procuracy may sanction one extension for at most 04 more months.

The head of the Supreme People's Procuracy is entitled to extend an investigation into breach of national security once for at most 04 more months.

4. If a decision to press criminal charges or to join issues into one lawsuit is amended, the total time limit for investigation shall not exceed the limits as defined in Section 1, 2 and 3 of this Article.

5. The procuracy's authority to extend an investigation:

a) An investigation into misdemeanors is extended by a district People's Procuracy or local Military procuracy. If a provincial investigation authority or military investigation authority of a military zone handles the investigation, the equivalent provincial People's Procuracy or Military procuracy of the military zone shall decide the extension of investigation;

b) A district People's Procuracy or local Military procuracy shall ratify the first and second extensions of an investigation into felonies. If a provincial investigation authority or military investigation authority of a military zone handles the investigation, the equivalent provincial People's Procuracy or Military procuracy of the military zone shall decide the first and second extensions of such investigation;

c) A district People's Procuracy or local Military procuracy shall ratify the first extension of an investigation into horrific felonies while the provincial People's Procuracy or Military procuracy of a military zone shall decide the second extension. If a provincial investigation authority or military investigation authority of a military zone handles the investigation, the equivalent provincial People's Procuracy or Military procuracy of the military zone shall decide the first and second extensions of such investigation;

c) A provincial People's Procuracy or Military procuracy of a military zone shall ratify the first and second extensions of an investigation into extremely severe felonies while the Supreme People's Procuracy or central military People's Procuracy shall decide the third extension;

6. If an investigation authority of the Ministry of Public Security, Ministry of Defense or People's Supreme Procuracy handles the investigation, the Supreme People's Procuracy or Central military procuracy shall decide to extend the investigation.

### **Article 173. Time limit for detention for investigation**

1. The time limit for temporary detention of suspects for investigation shall not exceed 02 months for misdemeanors, 03 months for felonies and 04 months for horrific and extremely severe felonies.

2. If an investigation must be prolonged due to a variety of complex facts in the case and no grounds for change or termination of detention exist, the investigation authority shall, within 10 days prior to the expiration of the time limit, request The procuracy to extend the detention.

Detention is extended as follows:

- a) Detention of offenders of misdemeanors may be extended once for 01 more month;
- b) Detention of offenders of felonies may be extended once for 02 more month;
- c) Detention of offenders of horrific felonies may be extended once for 03 more month;
- d) Detention of offenders of extremely severe felonies may be extended twice, for 04 more months each time.

3. The procuracy's authority to extend detention:

b) A district People's Procuracy or local Military procuracy is entitled to extend detention of offenders of misdemeanors, felonies and horrific felonies. If a provincial investigation authority or a military zone's investigation authority handles the investigation, the equivalent provincial People's Procuracy or Military procuracy of the military zone is entitled to extend detention of offenders of misdemeanors, felonies, horrific felonies and to decide the first extension of detention of offenders of extremely severe felonies;

b) If the investigation is incomplete despite the expiration of the first extension as stated in Point a of this Section and no grounds for change or termination of temporary detention exist, the provincial People's Procuracy or Military procuracy of the military zone may decide the second extension against offenders of extremely severe felonies.

4. If an investigation authority of the Ministry of Public Security, Ministry of Defense or People's Supreme Procuracy handles the investigation, the Supreme People's Procuracy or Central military procuracy shall decide to extend the investigation.

5. The head of the Supreme People's Procuracy is entitled to extend the detention of violators of national security once for at most 04 more months. If the investigation is incomplete despite the expiration of the extension(s) as stated in this Section and no grounds for change or termination of temporary detention exist, the head of the Supreme People's Procuracy is entitled to ratify 1-month extension against felonies, 2-month extension against horrific felonies, and 4-month extension against extremely severe felonies. If no grounds for termination of detention exist in a special case of extremely severe felony of national security breach, the head of the Supreme People's Procuracy shall decide to maintain detention until the investigation closes.

6. If no grounds for change or termination of detention exist in a special case of horrific felonies not related to national security breach, the head of the Supreme People's Procuracy is entitled to sanction one 4-month extension. If no grounds for termination of detention against a special case, the head of the Supreme People's Procuracy shall decide to extend the detention by the entire length of time of the investigation.

7. If detention in force is deemed unnecessary, the investigation authority must request The procuracy to terminate the detention to discharge the detainee in timely manner or implement other measures, if necessary.

The detainee must be discharged when the detention expires. Competent procedural authorities, if necessary, shall implement other preventive measures.

### **Article 174. Time limit for resumption of investigation, further investigation, re-investigation**

1. If an investigation resumes as per Article 235 of this Law, the time limit for the continued investigation shall not exceed 02 months for misdemeanors and felonies and 03 months for horrific and extremely severe felonies. Such time limit applies from the issue date of the decision to resume investigation to the closure of the investigation.

If an investigation must be extended due to the case's complexity, the investigation authority shall, within 10 days prior to the expiry date of the time limit, requisition the Procuracy's extension of investigation.

An investigation is extended as follows:

- a) An investigation into misdemeanors may be extended once for 01 more month;
- b) An investigation into felonies and horrific felonies may be extended once for 02 more months;
- c) An investigation into extremely severe felonies may be extended once for 03 more months.

The authority to extend investigations into each type of crime is defined in Section 5, Article 172 of this Law.

2. If The procuracy returns case files for further investigation, the time limit for the additional investigation shall not exceed 02 months. If a Court returns case files for further investigation, the time limit added shall not exceed 01 month. The procuracy can return case files for further investigation twice. The presiding judge of a Court can return case files for further investigation once and the Trial panel can return case files for additional investigation once.

The time limit for an additional investigation commences upon the investigation authority's retrieval of case files and request for further investigation/

3. If case files are returned for re-investigation, the time limit and extension of investigation shall be governed by Article 172 of this Law.

The time limit for investigation commences upon the investigation authority's retrieval of case files and request for re-investigation.

4. The investigation authority, when resuming, furthering and resetting an investigation, is entitled to implement, alter or terminate preventive and coercive measures as per this Law.

If a detention is deemed necessary as per the grounds defined in this Law, the time limit for detention for resumption or furthering of the investigation shall not exceed the relevant time limit as defined in Section 1 and Section 2 of this Article.

The time limit and extension of detention for re-investigation are governed by Article 173 of this Law.

### **Article 175. Settlement of requisitions from participants in legal proceedings**

1. When participants in legal proceedings lodge requisitions related to the case, investigation authorities, units assigned to investigate, and procuracies within their powers shall process such requisitions and have petitioners informed of results. Investigation authorities, units assigned to investigate or procuracies, if rejecting such requisitions, must respond and state reasons.

2. Participants in legal proceedings, if disagreeing with feedbacks from investigation authorities, units assigned to investigate or procuracies, shall be permitted to lodge complaints. Lodging and settlement of complaints are defined in chapter XXIII of this Law.

#### **Article 176. Witnesses' attendance**

Witnesses shall be summoned to observe activities of investigation in the events stated in this Law.

Witnesses shall be responsible for confirming contents and results of the tasks that authorized procedural persons have performed in their presence. Witnesses may state personal opinions. Such opinions shall be recorded in writing.

#### **Article 177. Non-disclosure of investigation secrets**

If an investigation must be kept confidential, investigators, investigation officers, procurators and checkers shall demand participants in legal proceedings not to disclose investigation secrets. Such demands shall be recorded in writing.

If investigators, investigation officers, procurators, checkers or participants in legal proceedings disclose investigation secrets, they shall incur disciplinary or administrative penalties or face criminal prosecution according to the nature and degree of their violations as per the laws.

#### **Article 178. Investigation records**

Authorized procedural persons, when investigating, must execute their investigations in writing as per Article 133 of this Law.

Investigators and investigation officers, who make written records, must read out such records to the participants in legal proceedings and explain participants' rights to add their notions and remarks about the records. Additional notions and remarks shall be put into the records. If additional notions are rejected, reasons must be specified in the records. Participants in legal proceedings, investigators and investigation officers shall affix signatures onto the records.

If the records are made by procurators or checkers, such records shall be governed by this Article. The records shall be promptly sent to investigators who shall put them in case files.

The making of such records during the stage of charge shall be governed by this Article.

### **Chapter XI**

#### **FILING OF CHARGES AGAINST SUSPECTS AND SUSPECT INTERROGATION**

##### **Article 179. Filing of charges against suspects**

1. When a person or juridical person is found on sufficient evidences to commit an act defined by the Criminal Code as a crime, investigation authorities shall decide to file charges against suspects.

2. A decision to charge a suspect shall specify time and location for the issuance of such decision; full name and position of the issuer; date of birth, nationality, ethnicity, religion, gender, residential place, occupation of the suspect; crimes against which the suspect is charged, Articles and Sections quoted from the Criminal Code; time, location and other facts of the crimes.

If the suspect is charged against multiple crimes, the decision to charge must specify each crime and Articles and relevant Sections quoted from the Criminal Code.

3. Investigation authorities, in 24 hours upon their decision to charge suspects, must send such decision and relevant documents on charges against suspects to the equivalent Procuracy for approval. The procuracy, in 03 days upon receiving a decision to charge suspects, shall approve or annul such decision or request additional evidences and documents that support its approval and respond to the investigation authority in prompt manner.

If the Procuracy requests further documents and documents, it shall, in 03 days upon receiving such additional evidences and documents, approve or annul the decision to charge suspects.

4. The procuracy, upon the exposure of a perpetrator committing uncharged acts defined as crimes by the Criminal Code, shall request investigation authorities to file charges against the suspect or, if investigation authorities do not respond to such request, shall directly press charges. The procuracy, in 24 hours upon issuing a decision to charge a suspect, must send such decision to investigation authorities for investigation.

The procuracy, when acquiring investigative documents and findings and uncovering other perpetrators of uncharged acts defined as crimes in the Criminal Code, shall press charges against such suspects and return documents to investigation authorities for further investigation.

5. Investigation authorities, upon receiving the Procuracy's decision to charge or approval of their decisions to charge the suspects, must promptly deliver such decision(s) and explain the suspects' rights and duties.

Investigation authorities, upon receiving the approval of their decisions to charge suspects, must take photographs and make identity records of accused persons for the case file.

The delivery of the said decisions shall be executed in writing as per Article 133 of this Law.

#### **Article 180. Amendments to the decision on pressing charges against suspects**

1. Investigation authorities or procuracies shall amend their decisions to charge suspects in one of the following events:

a) The suspects are evidently found not to commit charged crimes during the process of investigation;

b) A decision to charge contains incorrect full name, age and personal details of the suspects.

2. Investigation authorities and procuracies, if there are grounds on suspects' commission of other acts defined as crimes in the Criminal Code, shall supplement their decisions to charge suspects.

3. Investigation authorities, in 24 hours upon altering or supplementing their decisions to charge suspects, must send such decisions and relevant documents to the equivalent Procuracy for approval. The procuracy, in 03 days upon receiving the said amendments or supplements to charges against suspects, shall approve or reject such amendments or supplements or request additional evidences and documents that support its approval and respond to investigation authorities in prompt manner.

If The procuracy requests further documents and documents, it shall, in 03 days upon receiving such additional evidences and documents, approve or reject the said amendments or supplements.

The procuracy, in 24 hours upon amending or supplementing charges against suspects, shall have investigation authorities informed for investigation.

4. Investigation authorities, upon obtaining the Procuracy's amendments or supplements to charges or its approval or rejection of amendments or supplements, shall inform persons charges of such details.

The delivery of the said decisions shall be executed in writing as per Article 133 of this Law.

#### **Article 181. Suspension of suspects from duty**

Investigation authorities, units assigned to investigate and procuracies, when considering a suspect's holding of office as obstruction of investigation, shall be entitled to request authorities or organizations in control of suspects to suspend them from duty. The said authorities and organizations, in 07 days upon receiving such request, must respond in writing to investigation authorities, units assigned to investigate and procuracies that issuing the request.

#### **Article 182. Summoning of suspects**

1. Investigators, when convening a suspect, must send out a subpoena. A subpoena for a suspect shall specify the suspect's full name and residential address; time, date and location for his appearance, schedule of tasks, contact individuals and liabilities for absence not due to force majeure or objective obstacles.

2. The subpoena shall be sent to local authorities at the commune, ward or town where the suspect resides or his workplace or educational facility. The authorities or organizations receiving the subpoena are held responsible for forwarding it to the suspect in prompt manner.

The suspect, when receiving the subpoena, must sign and date the recipient's Section. The forwarder of the subpoena shall deliver the subpoena's Section bearing the suspect's signature to the authority issuing the subpoena. If the suspect does not affix signature, a written record of his non-compliance shall be made and sent to the summoning authority. If the subpoena cannot be delivered due to the suspect's absence, it shall be given to his family member possessing legal capacity, who affixes signature and forward the paper to the suspect.

3. The suspect bear the obligation to appear as per the subpoena. Avoidance behavior or absence not due to force majeure or objective obstacles shall lead to investigators' decision to deliver by force.

4. Procurators, if necessary, may convene suspects. Summoning of a suspect shall be governed by this Article.

#### **Article 183. Suspect interrogation**

1. Investigators, upon the issuance of a decision to charge a suspect, shall interrogate suspects. A suspect may be interrogated at the investigated scenes or at suspects' place of residence. Investigators, before interrogating a suspect, must inform procurators and defense counsels of the time and location for interrogation. Procurators, if necessary, shall participate in the suspect interrogation.



2. Investigators, before conducting the first session of interrogation, must explain to the suspect his rights and duties as defined in Article 60 of this Law. Such activities shall be recorded in writing.

If there are several suspects, they shall be separately interrogated and prevented from interacting with each other. A suspect may be permitted to write his statements.

3. Suspect interrogation does not occur at night, unless otherwise indispensable. Reasons must be clarified in the written record.

4. Procurators interrogate suspects, who claim innocence or complain of investigative activities, or in the presence of grounds showing investigative activities' non-compliance with laws or in other events deemed necessary. Procurators' suspect interrogation shall be governed by this Article.

5. Investigators, investigation officers, procurators and checkers extorting statements and torturing suspects shall incur criminal liabilities as per the Criminal Code.

6. Suspect interrogation at a detention facility or the office of investigation authorities or units assigned to investigate shall be recorded by sound or sound-and-visual means.

Suspect interrogation at various places shall be recorded by sound or sound-and-visual means at the requests for the suspect or competent procedural authorities and persons.

#### **Article 184. Written records of suspect interrogation**

1. Every session of suspect interrogation shall be recorded in writing.

A written record of suspect interrogation shall be made according to Article 178 of this Law and contain all statements from the suspect, questions and answers. Investigators and investigation officers are inhibited to alter the suspect's statements.

2. Investigators and investigation officers, after conducting interrogation, shall read out the written record or let the suspect read it. If there are amendments to the written record, investigators, investigation officers and suspects shall affix signatures to endorse such. If a written record has several pages, the suspect shall sign every page. If the suspect writes the statement by himself, investigators, investigation officers and suspects shall affix signatures to endorse such self-declared statement.

3. If an interpreter attends the suspect interrogation, investigators and investigation officers must explain the interpreter's rights and duties and the suspect's right to change the interpreter. Every page of the interrogation record shall bear the interpreter's signature.

If a defense counsel or representative of the suspect attends the interrogation, investigators and investigation officers must explain the attendees' rights and duties during the process of interrogation. Suspects, defense counsel or representative shall affix signatures onto the written record of interrogation. If the defense counsel is permitted to address questions to the suspect, the written record must contain all inquiries raised by the defense counsel and the suspect's responses.

4. If a procurator interrogates the suspect, the written record shall abide by this Article. The written record of suspect interrogation shall be promptly sent to investigators to be put into case files.

## **Chapter XII**

### **DEPOSITION BY TESTIFIERS, CRIME VICTIMS, CIVIL PLAINTIFFS, CIVIL DEFENDANTS AND PERSONS HAVING INTERESTS AND DUTIES IN CONNECTION WITH THE CASE, CONFRONTATION AND IDENTIFICATION**

#### **Article 185. Summoning of witness testifiers**

1. Investigators, when summoning witness testifiers for deposition, shall send out a subpoena.
2. A subpoena for a witness testifier shall specify the witness testifier's full name, residential address or work address or educational facility's address; time, date and location for his appearance, objectives, tasks and schedule, contact individuals and liabilities for absence not due to force majeure or objective obstacles.
3. The delivery of the subpoena is as follows:
  - a) The subpoena is given to the witness testifier directly or through local authorities at the commune, ward or town where the witness testifier resides or his workplace or educational facility. In all circumstances, signatures must be affixed to confirm the delivery of the subpoena. Local authorities at the commune, ward and town where the witness testifier resides or his workplace or educational facility shall be responsible for supporting the witness testifier to perform his duties;
  - b) The subpoena for a witness testifier less than 18 years of age shall be given to his parents or representative.
  - c) The delivery of the subpoena for the witness testifier according to a foreign entity's judicial delegation shall be governed by this Article and the Law on judicial assistance.
4. Procurators, if necessary, may convene the witness testifier for deposition. Summoning of a witness testifier shall be governed by this Article.

#### **Article 186. Deposition by witness testifiers**

1. A witness testifier's deposition shall be carried out at the investigative scene, his residential place or workplace or educational facility.
2. If there are several witness testifiers in a case, each person shall give testimonies separately and prevented from interacting with others during the process of deposition.
3. Investigators and investigation officers, before conducting depositions, must explain witness testifiers' rights and duties as per Article 66 of this Law. Such activities shall be recorded in writing.
4. Investigators, before inquiring into the case, must ask about the relationship of the witness testifiers, suspects and defendants and personal information of the witness testifiers. Investigators, before raising questions, shall ask the witness testifiers to speak or write their knowledge of the case in honest and voluntary manners.
5. If investigators' deposition sessions are deemed biased or unlawful, procurators shall take statements from witness testifiers. If evidences and documents must be clarified to facilitate the Procuracy's charges or its approval or rejection of the investigation authority's decision to charge, witness testifiers' statements shall be taken by procurators. Witness testifiers' depositions shall be governed by this Article.

### **Article 187. Written records of witness testifiers' depositions**

A written record of witness testifiers' depositions shall be made according to Article 178 of this Law.

Witness testifiers' depositions may be recorded by sound or sound-and-visual means.

### **Article 188. Summoning of crime victims and litigants for deposition**

Summoning of crime victims and litigants for deposition shall be governed by Article 185, 186 and 187 of this Law.

The taking of testimonies from crime victims and litigants may be recorded on sound recorder or camcorder.

### **Article 189. Confrontation**

1. If testimonies from two or several persons come into conflict despite various investigative measures implemented, investigators shall conduct a confrontation. Investigators, before carrying out a confrontation, must inform the equivalent Procuracy to assign procurators administering the confrontation. Procurators must be present to administer the confrontation. The procurators' absence shall be clearly described in the written record of confrontation.

2. Investigators must explain liabilities against witness testifiers or crime victims refusing, avoiding or falsifying depositions, prior to their participation in a confrontation. Such process shall be recorded in writing.

3. Investigators, at the beginning of the confrontation, shall inquire into the mutual relationship of attendees before asking about facts to be clarified. Investigators, after listening to the confrontation, may raise additional questions to each attendee.

Investigators, during the confrontation, can present relevant evidences, documents and items. Attendees may question each other. Their questions and answers shall be reduced to writing.

Attendees' previous statements shall be restated only after the attendees in the confrontation complete their depositions.

4. The written record of confrontation is made according to Article 178 of this Law. The confrontation may be recorded by sound or sound-and-visual means.

5. Procurators, if necessary, may organize the confrontation. Confrontation shall be governed by this Article.

### **Article 190. Identification**

1. Investigators, when necessary, may present persons, photos or items to witness testifiers, suspects or defendants for identification.

There must be at least three externally identical persons, photos or items to be identified, except for the identification of corpses.

Investigators, prior to the identification, must inform the equivalent Procuracy to assign procurators administering the process of identification. Procurators must be present to administer the identification. The procurators' absence shall be clearly described in the written record of identification.

2. The following persons bear the obligation to attend a process of identification:

- a) Witness testifiers, crime victims or defendants;
- b) Witnesses.

3. Investigators must explain liabilities against witness testifiers or crime victims refusing, avoiding or falsifying depositions, prior to their participation in a session of identification. Such activities shall be recorded in writing.

4. Investigators must first inquire into the identifying persons' knowledge of facts, traces and traits that may facilitate their progress of identification.

During the process of identification, investigators shall not raise suggestive questions. After the identifying person recognizes an individual, item or photo displayed for identification, investigators shall request to know his justifications from traces and traits that result in the recognition of such individual, item or photo.

5. The written record of identification shall be made according to Article 178 of this Law. The written record shall specify the identity and health conditions of the identifying person and individuals to be identified; characteristics of items and photos shown for identification, identifying persons' statements; lighting conditions during the process of identification.

#### **Article 191. Recognition of voices**

1. Investigators, when necessary, may let crime victims, witness testifiers or arrestees, detainees and defendants to recognize voices.

There must be at least three voices in similar timbre and loudness.

Investigators, prior to the recognition of voices, must inform the equivalent Procuracy to assign procurators administering the process of voice recognition. Procurators must be present to administer the process of voice recognition. The procurators' absence shall be clearly described in the written record of voice recognition.

2. The following persons bear the obligation to attend a process of voice recognition:

- a) Expert witnesses of sound;
- b) Persons requested to recognize voices;
- c) Persons presented to be recognized by voice, unless voice recognition is done through a sound recorder;
- d) Witnesses.

3. Investigators must explain liabilities against witness testifiers or crime victims refusing, avoiding or falsifying depositions, prior to their participation in a session of voice recognition. Such activities shall be recorded in writing.

4. Investigators must first ask identifying persons about their knowledge of traits that help their recognition of voices.

During the process of voice recognition, investigators shall not raise suggestive questions. After the identifying person recognizes one of the voices projected, investigators shall ask him to explain traits that he relies on to recognize a voice.

5. The written record of voice recognition shall be made according to Article 178 of this Law. The written record shall specify the identity and health conditions of the identifying person and

individuals whose voices are recognized; characteristics of voices projected for recognition, identifying persons' statements; lighting conditions during the process of voice recognition.

## **Chapter XIII**

### **SEARCH, SEIZURE AND IMPOUNDMENT OF DOCUMENTS AND ITEMS**

#### **Article 192. Justifications for search of body, residence, workplace, area, vehicle, document, item, mail, telegraphy, postal package and electronic data**

1. Search of body, residence, workplace, area, vehicle shall only be permissible in the presence of justifications showing the existence of criminal instruments, documents, items, property obtained by crime or other objects, electronic data, documents related to the case on the body or in the residence, workplace, site and vehicle.

Search of residence, workplace, area and vehicle shall be conducted to seek wanted persons or search and rescue crime victims.

2. If there are justifications showing the existence of criminal instruments, documents, items and property related to the case in mails, telegraphs, postal packages and electronic data, such items and data shall be searched.

#### **Article 193. The authority to issue search warrants**

1. Competent individuals as defined in Section 1, Article 113 of this Law are entitled to issue search warrants. Search warrants issued by individuals as defined in Section 2, Article 35 and Point a, Section 1, Article 113 of this Law must be approved by The procuracy prior to the enforcement of such warrants.

2. In emergency events, competent individuals as defined in Section 2, Article 110 of this Law shall be entitled to issue search warrants. Individuals issuing search warrants, in 24 hours upon the completion of the search, must send written notices to the equivalent Procuracy or The procuracy empowered to exercise prosecutors; rights and administer cases and lawsuits.

3. Investigators, before conducting the search, must inform the equivalent Procuracy of the time and location of the search to have procurators assigned to administer the search, except for emergency circumstances. Procurators must be present to administer the search. The procurators' absence shall be clearly described in the written record of the search.

4. All cases of search shall be executed in writing according to Article 178 of this Law and entered into case files.

#### **Article 194. Search of body**

1. Enforcers of a search warrant, before searching body, must read out the warrant and let the searched person read it. The searched person and attendees in the search shall hear explanations of their rights and duties.

Searchers must request the searched persons to present documents and items related to the case. If they refuse or present insufficient items and documents related to the case, the search shall occur.

2. The search of a person's body shall be carried out by a person of same gender and witnessed by other individuals of same gender. The search process shall not affect the life, health, property, honor and dignity of the person searched.

3. Body search shall be permissible without a warrant in case of an arrest or in the presence of justifications asserting that the person present at the location of the search is concealing weapons, evidences, documents and items in connection with the case.

#### **Article 195. Search of residence, workplace, area and vehicle**

1. Search of residence requires the presence of the suspect or a co-resident person from 18 years of age, representatives of local authorities at communal of the commune, ward or town (at communal or lower level). If the suspect or the co-resident person is intentionally absent, absconds or fails to appear for any reasons, the search of residence, if not deferrable, shall be conducted in the presence of the representatives of local authorities at communal or lower level and two witnesses.

Search of residence shall not commence at night, except for emergency circumstances that must be specified in writing.

2. The person, when his residence is searched, must be present. Despite the absence of such person, the search of residence, if not deferrable, shall occur and be reduced to writing.

Search of workplace requires the presence of the representative of the organization employing the suspect. If the said representative of the employer is absent, the search shall occur in the presence of the representatives of local authorities at communal or lower level and 02 witnesses.

3. Search of an area requires the presence of the representatives of local authorities and witnesses.

4. Search of a vehicle requires the presence of the owner or manager of such vehicle or witnesses. If the owner or manager of the vehicle is absent, absconds or fails to appear for any reasons, the search, if not deferrable, shall occur in the presence of two witnesses.

A relevant specialist may be summoned to participate in the search of a vehicle.

5. The persons attending a search of residence, workplace, area or vehicle shall not be left to the discretion of leaving the place searched, contacting or interacting with each other or other individuals until the completion of the search.

#### **Article 196. Seizure of electronic media and data**

1. Seizure of electronic media and data is conducted by authorized procedural persons. Relevant specialists may be summoned to attend the search. If seizure is not viable, data shall be transferred to a storage medium and stored as a piece of evidence.

2. Seizure of electronic media may include accompanying peripherals and relevant documents.

#### **Article 197. Seizure of mails, telegraphs and postal packages at the premises of providers of postal or telecommunications services**

1. Investigation authorities, when affirming the necessity of the seizure of mails, telegraphs and postal packages at the premises of providers of postal or telecommunications services, shall issue a search warrant. The said warrant, prior to enforcement, must be approved by an equivalent Procuracy.

2. If the seizure of the said items cannot be delayed, investigation authorities shall carry it out and specify reasons in writing. The report of the seizure, after completed, and relevant documents shall be promptly delivered to the equivalent Procuracy for ratification.

The procuracy, in 24 hours upon receiving the request for ratification and documents related to the seizure of mails, telegraphs and postal packages, shall decide to approve and reject the request. If The procuracy rejects the said request, the issuer of the seizure warrant shall immediately return the items seized to the providers of postal and telecommunications services. Moreover, the recipients of mails, telegraphs or postal packages seized shall be informed.

3. The enforcers of the warrant, before seizing items, must inform the managerial personnel of the concerned providers of postal or telecommunications services. Managerial personnel of concerned providers of postal or telecommunications services must support the enforces of the warrant to accomplish their missions.

Seizure of mails, telegraphs and postal packages requires the presence of the representative of postal or telecommunications service providers, who shall sign the written record of the seizure.

The authority issuing the seizure warrant shall notice the recipients of mails, telegraphs and postal packages seized. If the said notice obstructs investigative activities, the authority issuing the seizure warrant shall promptly deliver the notice upon the disappearance of such obstruction.

#### **Article 198. Impoundment of documents and items during a search**

1. Investigators, when conducting a search, shall be permitted to impound items deemed as evidences and documents in direct connection with the case. Items prohibited from storage or circulation shall be seized and transferred to competent authorities in prompt manner. If sealing is necessary, items shall be sealed in the presence of the owner, manager, witnesses, family members as representatives, and representatives of local authorities at communal or lower level.

2. The impoundment of items and documents during a search shall be executed in writing as per Article 133 of this Law. A written record of impounds shall be made into four originals. One is given to the owner or manager of the items or documents. One is stored in the case file. One is submitted to the equivalent Procuracy. One is delivered to the authority managing items and documents impounded.

#### **Article 199. Responsibilities for preserving vehicles, documents, items, electronic data, mails, telegraphs, postal packages seized, impounded or sealed**

1. Vehicles, documents, items, electronic data, mails, telegraphs and postal packages seized, impounded or sealed must be preserved in intact conditions.

2. Criminal liabilities as per the Criminal Code shall be imposed on persons breaking seals, consuming, transferring, swapping, hiding or ruining vehicles, documents, items, electronic data, telegraphs and postal packages.

#### **Article 200. Liabilities of individuals issuing and enforcing warrants of search, seizure and impoundment.**

Individuals issuing or enforcing warrants of search, seizure or impoundment in illegal manners shall incur disciplinary treatments or face criminal prosecution according to the nature and degree of violations as per the laws.

### **Chapter XIV**

#### **CRIME SCENE EXAMINATION, AUTOPSY, INSPECTION OF TRACES ACROSS A BODY, EXPERIMENTAL INVESTIGATION**

## **Article 201. Crime scene examination**

1. Investigators organize the examination of the scenes where crimes occur or criminals are detected to seek criminal traces, evidences, relevant documents, items and electronic data and to elucidate facts significant to the case.

2. Investigators, before examining crime scenes, must inform the equivalent Procuracy of the time and location of an examination to have procurators assigned to administer such examination. Procurators must be present to administer a crime scene examination.

An examination of crime scenes requires the presence of witnesses. Suspects, defense counsels, crime victims and witness testifiers may be permitted and specialists may be summoned to participate in the examination.

3. A crime scene examination requires the taking of photographs and making of crime scene sketches, descriptions, measurements and mockups. Moreover, criminal traces, documents and items related to the case shall be examined on-site and collected. Results of the examination shall be clearly reduced to writing. The written record of crime scene examination shall be made according to Article 178 of this Law.

If documents and items seized cannot be examined on-site, they shall be kept intact or sealed and transported to the investigation site.

## **Article 202. Autopsy**

1. Forensic post-mortem expert witnesses shall conduct an autopsy under the management of investigators. An autopsy shall require witnesses.

Investigators, before examining corpses, shall inform the equivalent Procuracy of the time and location of the autopsy to have procurators assigned to administer such examination. Procurators must be present to administer an autopsy.

2. Forensic autopsy technicians may be summoned to participate in a post-mortem examination to expose and collect traces for expert examination.

3. An autopsy requires the taking of photographs and description of traces across the body. Photographs and samples shall be taken and preserved for expert examination. Results of the post-mortem examination shall be specified in writing. The written record of autopsy is made according to Article 178 of this Law.

4. Investigation authorities, if requiring burial excavation, shall issue a decision and have the deceased person's family members informed in advance. If family members of the deceased do not exist or are unidentified, representatives of local authorities at the commune, ward or town where the body is buried shall be informed.

## **Article 203. Inspection of traces across a body**

1. Investigators, when necessary, shall inspect the body of an emergency detainee, arrestee, person on temporary detainment, suspect, crime victim or witness testifier for criminal traces or other signs significant to solve the case. Investigation authorities, when necessary, shall requisition expert examination.

2. The inspection of traces across the body of a person must be carried out and witnessed by individuals of same gender. A doctor of medicine, if necessary, shall be summoned.



It is prohibited to violate the health, honor and dignity of the person whose body is inspected for traces.

An inspection of bodily traces shall be described in a written record. Photographs or expert examination shall be required if necessary.

The written record of bodily trace inspection shall be made according to Article 178 of this Law.

#### **Article 204. Experimental investigation**

1. Investigation authorities, in order to inspect and verify documents and acts significant to solve the case, may conduct experimental investigation by reproducing a crime scene, replaying acts, situations or other facts of a certain event and by performing other experimental activities deemed necessary. An experimental investigation requires measurements, photographs, video recording, sketches. Results of the experimental investigation shall be specified in writing.

An experimental investigation is prohibited from violating the life, health, honor, dignity and property of participants in the investigation and other people.

2. Investigators, before conducting an experimental investigation, must inform the equivalent Procuracy of the time and location of the investigation. Procurators must be present to administer an experimental investigation. The procurators' absence shall be specified in writing.

3. Investigators shall organize the execution of an experimental investigation. Witnesses during the investigation is required.

Investigation authorities may summon a specialist to participate in an experimental investigation. Temporary detainees, suspects, defense counsels, crime victims and witness testifiers, if necessary, may be participate in an experimental investigation.

4. The procuracy, if necessary, shall administer an experimental investigation. Experimental investigations shall be conducted according to this Article.

### **Chapter XV**

#### **EXPERT EXAMINATION AND VALUATION**

##### **Article 205. Requisition for expert examination**

1. Competent procedural authorities, in an event deemed necessary or defined in Article 206 of this Law, decide to requisition expert examinations.

2. A decision to requisition expert examination shall specify:

- a) Names of the authority and competent individual requisitioning expert examination;
- b) Full name of organizations and persons requested to conduct expert examination;
- c) Name and traits of the subject to be examined;
- d) Name of a relevant document or sample enclosed (if available);
- dd) Contents of requisitions for expert examination;
- e) Date of the expert examination and deadline for findings.

3. An authority, in 24 hours upon issuing a decision to requisition expert examination, must send such decision, documents and examined subjects to the entities conducting the examination.

Moreover, such decision shall be sent to The procuracy empowered to exercise prosecution rights and administer investigative activities.

#### **Article 206. Mandatory expert examinations**

Expert examinations are mandatory to corroborate:

1. mental conditions of the accused person when doubts of their criminal capacity arise. Mental conditions of witness testifiers or crime victims shall be verified when there are doubts of their awareness and capacity of providing accurate statements on facts of a case;
2. the age of suspects, defendants and crime victims if it is significant to solve the case and there is no document to determine their exact age or the authenticity of such documents is doubtful;
3. causes of death;
4. properties of injuries, degree of harms against health or work capacity;
5. narcotics, military weapons, explosives, inflammables, toxic, radioactive substances, counterfeit money, gold, silver, precious metal, precious stones, antiques;
6. level of environmental pollution.

#### **Article 207. Petition for expert examinations**

1. Litigants or their representatives are entitled to petition competent procedural authorities for requisitioning expert examinations of matters regarding their legitimate rights and benefits, except for examinations that determine criminal liabilities of accused persons.

Presiding authorities, in 07 days upon receiving the petition, must consider and decide to requisition expert examinations. Petitioners shall be informed in writing of the rejection of their petitions and reasons. Petitioners shall be entitled, when the deadline passes or they receive the written rejection from competent procedural authorities, to consult expert witnesses by themselves.

2. Petitioners of expert examinations shall have rights and duties as per the Law on judicial expert examination.

#### **Article 208. Time limit for expert examination**

1. Time limit for mandatory expert examination is:
  - a) 03 months at most for events as defined in Section 1, Article 206 of this Law;
  - b) 01 month at most for events as defined in Section 3 and Section 6, Article 206 of this Law;
  - c) 09 days at most for events as defined in Section 2, 4 and 5, Article 206 of this Law.
2. Time limit for expert examination for other events shall be subject to the decision to requisition expert examination.
3. If expert examination fails to occur within the time limit as stated in Section 1 and Section 2 of this Article, entities conducting such examinations must inform authorities and persons requesting examinations in writing of such delay and reasons.
4. Time limit for expert examination as stated in this Article applies to expert examinations added or repeated.

### **Article 209. Process of expert examination**

1. The process of expert examination shall occur at premises of authorities conducting examinations or at places of investigation upon the issuance of a decision to requisition examinations.

Investigators, procurators, judges and petitioners for expert examinations can participate in the examinations after informing expert witnesses of their attendance.

2. Expert examinations shall be conducted by individuals or group of persons.

### **Article 210. Additional expert examinations**

1. Additional expert examinations shall be conducted in the following events:

a) Findings from an expert examination are obscure or inadequate;

b) Expert examinations must be carried out on new matters in connection with existing facts of the case, which were verified through previous examinations.

2. Additional expert examinations may be conducted by entities performing previous ones or other entities.

3. The requisition for additional expert examinations shall be processed in the same method of the first examination.

### **Article 211. Repeated expert examinations**

1. Expert examinations shall be repeated when the accuracy of the first examination is in doubt. A repeated expert examination must be performed by different expert witnesses.

2. The authority requisitioning expert examinations shall decide the repetition of an examination on its own discretion or according to petitions by participants in legal proceedings. If the individual authorized to requisition expert examination rejects the request for examination repetition, the person making such request shall be informed in writing of the rejection and reasons.

3. If the repeated expert examination and the initial one inspect the same matter but produce different findings, the individual authorized to requisition examinations shall make decisions on repeating the examination for the second time. The second repeated expert examination shall be conducted by the panel of expert examination according to the Law on judicial expert examination.

### **Article 212. Repetition of expert examination in special circumstances**

The head of the Supreme People's Procuracy or Court president of the Supreme People's Court, in special circumstances, shall decide the repetition of expert examinations after the panel of expert examination present its findings. A new panel shall repeated an expert examination in special circumstances. Participants in the previous examination shall not attend the repeated one. Findings of the repeated expert examination in this event shall contribute to the settlement of the case.

### **Article 213. Conclusion of expert examinations**

1. The conclusion of an expert examination must specify findings on matters, of which examinations have been requisitioned, and other matters as per the Law on judicial expert examination.

2. Entities performing expert examinations, in 24 hours upon generating findings, shall deliver such results to the authorities or persons requesting examinations.

The authorities or persons requesting expert examinations, in 24 hours upon receiving the said findings, shall forward them to The procuracy that exercise prosecution rights and administer investigative activities.

3. The authorities or persons requesting expert examinations, in order to clarify findings, shall be entitled to ask for expert witnesses' explication of such findings and further details of facts deemed necessary.

#### **Article 214. Rights of suspects, defendants, crime victims and other participants in legal proceedings to findings of expert examinations**

1. Competent procedural authorities, in 07 days upon receiving petitions for expert examinations from suspects, defendants, crime victims and other participants in legal proceedings, shall consider and make decisions on requisition for expert examinations.

2. Competent procedural authorities, in 07 days upon obtaining findings of expert examinations, shall inform suspects, defendants, crime victims and other participants in legal proceedings of such findings.

3. Suspects, defendants, crime victims and other participants in legal proceedings shall be entitled to state their opinions on findings of expert examinations or to petition for additional or repeated examinations. Investigation authorities, procuracies and Courts must record the said persons' direct statements in writing.

4. If investigation authorities, procuracies and Courts reject petitions by suspects, defendants, crime victims or other participants in legal proceedings, petitioners shall be informed in writing of such rejection and reasons.

#### **Article 215. Requisition for valuation**

1. Competent procedural authorities, when requiring the valuation of property for the settlement of criminal cases, shall requisition valuation in writing.

2. A written requisition for valuation shall specify:

a) Names of the authority and competent individual requisitioning valuation;

b) Name of the panel that is requested to value property;

c) Name and traits of the property to be valued;

d) Name of relevant documents (if any);

dd) Contents of requisitions for valuation;

e) Date of valuation and deadline for findings.

3. The authorities requesting valuation, in 24 hours upon issuing the written request for valuation, must deliver such request, documents and objects to be valued to the Panel of

valuation. Moreover, the written request for valuation shall be sent to the Procuracy that exercise prosecution rights and administer investigative activities.

4. The requisition for property valuation to settle civil cases in criminal lawsuits shall be governed by the laws on civil procedure.

#### **Article 216. Deadline for valuation**

Time limit for process and conclusion of property valuation shall be subject to the written request for valuation. If property valuation fails to occur within the requested time limit, the Panel of valuation shall promptly inform authorities or persons requesting valuation in writing of such delay and reasons.

#### **Article 217. Process of property valuation**

1. The Panel of valuation shall value property. The meeting for property valuation shall be carried out at the location of the property appraised or other places as per decisions of the Panel of valuation.

Investigators, procurators and judges can attend the property valuation meeting after informing the Panel of valuation in advance. The said individuals, when permitted by the Panel of valuation, can provide their opinions.

2. The government shall regulate the details of the establishment and operation of the Panel of valuation; sequence and procedure for valuation of property.

#### **Article 218. Repetition of property valuation**

1. If findings of the initial process of valuation are in doubt, competent procedural authorities shall requisition the repetition of the valuation process on their own discretion or according to petitions by accused persons or other participants in legal proceedings. The repeated valuation process shall be conducted by the immediate superior Panel of valuation.

2. If the initial and repeated processes of valuation generate contradictory findings on the value of the property appraised, competent procedural authorities shall requisition in writing the repetition of the valuation process for the second time. The second repeated valuation process shall be conducted by a competent Panel of valuation. Findings of the repeated valuation process in this event shall contribute to the settlement of the case.

#### **Article 219. Valuation of property missing or evanishing**

If the property missing or evanishing must be appraised, the process of valuation shall be subject to the documents that compile information and papers on such property.

#### **Article 220. Repetition of property valuation in special circumstances**

The head of the Supreme People's Procuracy or Court president of the Supreme People's Court, in special circumstances, shall decide the repetition of property valuation after the Panel of valuation provides findings of the second repeated valuation process. A new panel shall perform the valuation process repeated in special circumstances. Participants in the previous valuation process shall not attend the repeated one. Findings of the repeated valuation process in this event shall contribute to the settlement of the case.

#### **Article 221. Conclusion of property valuation**

1. The conclusion of a property valuation process must specify findings on the value of the property according to the request for valuation and other details as per the laws.
2. The Panel of valuation, in 24 hours upon concluding the valuation process, must send its findings to the authorities and persons requesting valuation.

The authorities or persons requesting valuation, in 24 hours upon receiving the said findings, shall forward them to The procuracy that exercise prosecution rights and administer investigative activities.

3. The authorities requesting valuation, in order to clarify findings, shall be entitled to ask the Panel of valuation for explanations of such findings and further details of facts deemed necessary.

### **Article 222. Rights of suspects, defendants, crime victims and other participants in legal proceedings to findings of property valuation**

1. Competent procedural authorities, in 07 days upon receiving petitions for property valuation from suspects, defendants, crime victims and other participants in legal proceedings, shall consider and make written decisions on requisition for property valuation.
2. Competent procedural authorities, in 07 days upon acquiring findings of property valuation, shall inform suspects, defendants, crime victims and other participants in legal proceedings of such findings.
3. Suspects, defendants, crime victims and other participants in legal proceedings shall be entitled to state their opinions on the findings of property valuation and to request the repetition of property valuation. Investigation authorities, procuracies and Courts must record the said persons' direct statements in writing.
4. If investigation authorities, procuracies and Courts reject petitions by suspects, defendants, crime victims or other participants in legal proceedings, petitioners shall be informed in writing of such rejection and reasons.

## **Chapter XVI**

### **SPECIAL METHODS OF INVESTIGATION AND LEGAL PROCEEDINGS**

#### **Article 223. Special methods of investigation and proceedings**

After filing charges, authorized procedural persons during the stage of investigation shall be entitled to enforce special methods of investigation and proceedings:

1. Secret recording by sound or sound-and-visual means;
2. Secret phone tapping;
3. Secret collection of electronic data.

#### **Article 224. Circumstances for enforcement of special methods of investigation and proceedings**

Special methods of investigation and proceedings shall apply to these circumstances:

1. Breach of national security, drug-related crimes, corruption, terrorism, money laundering;
2. Other organized crimes categorized as extremely severe felonies.

## **Article 225. Duties and authority to decide and enforce special methods of investigation and proceedings**

1. Heads of provincial investigation authorities and military investigation authorities of a military zone or higher level shall decide to enforce special methods of investigation and proceedings on their own discretion or as per requests for heads of provincial People's Procuracy and Military procuracy of the military zone. If a district investigation authority or local military investigation authority handles the case, the heads of such authorities shall recommend the heads of the provincial investigation authority or military investigation authority of the military zone to consider and enforce such methods.

2. A decision to implement special methods of investigation and proceedings must specify essential information of the subjects for such methods, names of methods, duration, location for enforcement, authorities enforcing special methods of investigation and proceedings and other details as per Section 2, Article 132 of this Law.

3. The decision to implement special methods of investigation and proceedings, before executed, must be approved by the head of the equivalent Procuracy. The head of the investigation authority issuing such decision is responsible for controlling the enforcement of the methods in strict manner and promptly requesting The procuracy to terminate methods deemed unnecessary.

Specialized units of the people's police force and people's arm shall be responsible for implementing special methods of investigation and proceedings according to the laws.

4. Heads of investigation authorities, competent procuracies and enforcers of special methods of investigation and proceedings must maintain confidentiality.

## **Article 226. Time limit for special methods of investigation and proceedings**

1. Time limit for a special method of investigation and proceedings shall not exceed 02 months upon the approval by the head of The procuracy. Time limit may be extended in complex circumstances but shall not exceed the time limit for investigation as defined in this Law.

2. The head of the investigation authority issuing the enforcement decision, in at least 10 days prior to the expiration of the time limit for special methods of investigation and proceedings, shall request the head of The procuracy in writing to consider and approve the extension, if deemed essential by the former.

## **Article 227. Use of information and documents collected through special methods of investigation and proceedings**

1. Information and documents collected through special methods of investigation and proceedings shall only be used to press charges, investigate, prosecute and adjudicate criminal lawsuits. Documents and information irrelevant to the case must be disposed in timely manner.

It is prohibited to exploit such information, documents and evidences for other purposes.

2. Information and documents collected through special methods of investigation and proceedings may be used as evidences to solve the case.

3. Investigation authorities shall be responsible for informing the head of The procuracy approving the former's decision of the results of special methods of investigation and proceedings.

### **Article 228. Termination of special methods of investigation and proceedings**

The head of The procuracy approving the decision to enforce special methods of investigation and proceedings shall annul such decision promptly in the following events:

1. As per the written request by the head of the competent investigation authority;
2. There are violations in the process of special methods of investigation and proceedings;
3. Special methods of investigation and proceedings are no longer necessary.

## **Chapter XVII**

### **SUSPENSION AND CLOSURE OF INVESTIGATION**

#### **Article 229. Suspension of investigation**

1. Investigation authorities shall decide to suspend investigative activities in one of the following events:

a) Suspects are unidentified or their whereabouts are unknown despite the expiration of the investigation time limit. If the location of suspects is unknown, investigation authorities must issue wanted notices before suspending the investigation;

b) If judicial expert examination finds that suspects suffer from mental illness or fatal diseases, the investigation may be suspended ahead of schedule;

c) Time limit for investigation expires while expert examination, property valuation or judicial assistance, though requested, does not progress. In such event, expert examination, valuation process and judicial assistance shall continue until results are achieved.

2. If there are several suspects in one case but the reason for suspension of investigation does not apply to all of them, the investigative activities against each suspect shall be suspended separately.

3. Investigation authorities, in 02 days upon deciding to suspend the investigation, shall send such decision to the equivalent Procuracy, suspects, their defense counsels or representatives and deliver notices to the crime victims, litigants and protectors of their legitimate rights.

#### **Article 230. Termination of investigation**

1. Investigation authorities shall decide to terminate investigative activities in one of the following events:

a) As per justifications as defined in Section 2, Article 155 and Article 157 of this Law or in Article 16 or Article 29 or Section 2, Article 91 of the Criminal Code;

b) Time limit for investigation expires though suspects are not proved to commit crimes.

2. A decision to terminate investigation shall specify time and issuing place of the decision, reasons and justifications, termination of preventive and coercive measures, return of documents and items impounded (if any), handling of evidences and relevant matters.

If there are several suspects in one case but the reason for suspension of investigation does not apply to all of them, the investigative activities against each suspect shall be terminated separately.



3. The procuracy, in 15 days upon receiving the decision to terminate investigation and case files from investigation authorities, shall consider justifications of such decision and return case files to investigation authorities that handle intra vires matters. If the suspension decision is deemed unjustified, it shall be abrogated and investigation authorities shall be requested to resume investigative activities. If justifications of prosecution suffice, the Procuracy shall nullify the decision on investigation suspension and decide to prosecute according to the time limit, sequence and formalities as stated in this Law.

#### **Article 231. Seeking of suspects**

1. Investigative authorities shall decide to issue wanted notices against suspects on the loose or in unknown places.

2. A wanted notice shall specify full name, date of birth, residential address of suspects, their traits for identification, crimes against which suspects are charged and other details as per Section 2, Article 132 of this law; and suspects' photos (if available).

A wanted notice for a suspect shall be sent to the equivalent Procuracy and publicly announced for everyone to detect and detain the wanted person.

3. Upon the capture of the suspect as per the wanted notice, the investigation authority issuing such notice shall terminate it. A decision to terminate wanted notice shall be sent to the equivalent Procuracy and publicly announced.

#### **Article 232. Closure of investigation**

1. Investigation authorities, when closing an investigation, must conclude the investigation in writing.

2. The investigation ends when the investigation authorities concluding the investigation requisition charges or terminate the investigation.

3. The written conclusion of investigation shall specify date, full name and position of the person concluding the investigation and bear his signature.

4. Investigation authorities, in 02 days upon concluding the investigation in writing, shall send such conclusion to requisition charges or enclose a decision to terminate investigation and case files to the equivalent Procuracy. Suspects or their representative or defense counsels shall be given a copy of the conclusion of investigation for charges or suspension of investigation. Crime victims, litigants and protectors of their legitimate rights shall be informed.

#### **Article 233. Conclusion of investigation during the stage of prosecution**

During the stage of prosecution, the written conclusion of investigation shall specify the progress of crimes; evidences of suspects' commission of crimes, their artifices, motives, purposes, nature and degree of damage caused by the crimes; preventive and coercive measures enforced, altered or terminated; factors aggravating and mitigating criminal liabilities, traits and personal record of suspects; seizure and impoundment of documents and items, handling of evidences; reasons and circumstances leading to the crimes and other facts significant to the case; reasons and justifications of prosecution; offence titles, Articles, Sections and Points quoted from the Criminal Code; recommendations for the settlement of the case.

The written conclusion of investigation shall specify issue date, full name and position of the person concluding the investigation and bear his signature.

### **Article 234. Conclusion of an investigation terminated**

When an investigation is terminated, the written conclusion of investigation shall specify events, process of investigation, reasons and justification of investigation suspension.

The written conclusion of investigation shall specify issue date, full name and position of the person concluding the investigation and bear his signature.

A decision to terminate investigation shall specify time and issuing place of the decision, reasons and justifications, termination of preventive and coercive measures, return of documents and items impounded (if any), handling of evidences and relevant matters.

### **Article 235. Resumption of investigation**

1. Investigation authorities, when having justifications to annul the decision to terminate or suspend investigation, shall decide to resume the investigation if the prescriptive period for criminal prosecution remains effective.

If the investigation is terminated according to Section 5 and Section 6, Article 157 of this Law without the consent of the suspect who petitions for repetition of investigation, investigation authorities or equivalent procuracies shall decide to resume the investigation.

2. Investigation authorities, in 02 days upon deciding to resume the investigation, shall send such decision to the equivalent Procuracy, suspects, their defense counsels or representatives and deliver notices to the crime victims, litigants and protectors of their legitimate rights.

## **PART THREE**

### **PROSECUTION**

#### **Chapter XVIII**

#### **GENERAL**

### **Article 236. Duties and authorities of The procuracy exercising prosecution rights during the stage of prosecution**

1. Decide to implement, alter or terminate preventive and coercive measures; request investigation authorities to issue wanted notices against suspects.
2. Request authorities and entities to provide documents related to the case when necessary
3. A Court returns documents to investigation authorities, which The procuracy deems unnecessary, for further investigation; therefore, the Procuracy is entitled to directly carry out certain activities of investigation. Moreover, its direct investigative activities can contribute to the verification and addition of documents and evidences for making decisions to prosecute.
4. Decide to press charges, amend or supplement decisions to file lawsuits or charges against suspects upon the detection of criminal acts or other offenders not charged or investigated.
5. Decide to return documents to investigation authorities for further investigation.
6. Decide to join and separate cases; transfer lawsuits to competent authorities for prosecution, implement summary procedures and civil commitment.
7. Decide to or not to extend the time limit for prosecution, and duration of preventive and coercive measures.

8. Decide to prosecute.
9. Decide to dismiss or adjourn cases; to dismiss or adjourn lawsuits against suspects; to resume cases or lawsuits against suspects.
10. Carry out other duties and powers to make decisions on prosecution as per this Law.

**Article 237. Duties and authorities of The procuracy administering activities during the stage of prosecution**

1. The procuracy, when administering activities during the stage of prosecution, bears these duties and authority:
  - a) Administer criminal proceedings of participants in legal procedure; request competent authorities and entities to implement strict measures against participants in legal proceedings, who breach laws;
  - b) Request concerned authorities and organizations to implement preventive measures against crimes and breach of laws;
  - c) Perform other duties and authority to administer activities during the stage of prosecution according to this Law.
2. Competent authorities and entities, in 10 days upon receiving requests as stated in Point a and Point b, Section 1 of this Article, shall be responsible for informing The procuracy of the their fulfillment of such requests.

**Article 238. Delivery of case files and written conclusions of investigation**

1. When investigation authorities and units assigned to investigate hand over case files and written conclusions of investigation for prosecution and evidences (if any), the Procuracy shall inspect and handle information in the following manner:
  - a) If case files and accompanying exhibits (if any) suffice according to the list of documents and evidences and suspects or their representatives receive the written conclusion of investigation, the Procuracy shall obtain case files;
  - b) If case files and accompanying exhibits (if any) do not suffice according to the list of documents and evidences, or the written conclusion of investigation is not given to suspects or their representatives, the Procuracy shall refuse to take in case files and request investigation authorities and units assigned to investigate to supplement documents and exhibits or to provide suspects or their representatives with the written conclusion of investigation.
2. The delivery of case files and written conclusion of investigation shall be executed in writing as per Article 133 of this Law and inputted into case files.

**Article 239. The authority to prosecute**

1. The procuracy exercising prosecution rights and administering investigative activities shall make decisions on prosecution. A procuracy's authority to prosecute shall be subject to the Court's jurisdiction over the case.

If a case goes beyond a Procuracy's authority to prosecute, the Procuracy shall promptly decide to transfer the case to another competent Procuracy. A provincial People's Procuracy or Military procuracy of a military zone shall decide the transfer of cases to procuracies out of the province, centrally-affiliated city or military zone.

A superior Procuracy shall decide to prosecute cases, against which it exercises prosecution rights and administer investigation. The superior Procuracy, in 02 month prior to the closure of the investigation, must inform the lower Procuracy, at the level equivalent to that of the first-instance Court having jurisdiction over the case, to assign procurators to examine case files. The superior Procuracy, when issuing a decision to prosecute, shall assign the lower Procuracy to exercise prosecution rights and administer the process of adjudication. The competent inferior Procuracy, upon receiving case files and charging documents, shall exercise prosecution rights and administer the process of adjudication as per this Law.

2. A Procuracy, in 03 days upon issuing a decision on case transfer, must inform in writing the investigation authority closing the investigation, suspects or their representatives, defense counsels, aggrieved persons and other participants in legal proceedings.

The delivery of case files and charging documents shall occur as per Section 2, Article 240 of this Law. In such event, the time limit for prosecution shall commence after the prosecutor authorized to prosecute receives case files.

#### **Article 240. Time limit for the issuance of decisions to prosecute**

1. A Procuracy, in 20 days for misdemeanors and felonies or 30 days for horrific and extremely severe felonies upon receiving case files and written conclusion of investigation, must make one of the following decisions:

- a) Prosecute suspects in a Court;
- b) Return documents for further investigation;
- c) Dismiss or adjourn the case; dismiss or adjourn lawsuits against suspects;

The head of The procuracy, when necessary, may extend the time limit for the issuance of a decision to prosecute for 10 more days for misdemeanors or felonies or 15 more days for horrific felonies or at most 30 more days for extremely severe felonies.

2. The procuracy, in 03 days upon making one of the decisions as stated in Section 1 of this Article, must inform suspects, their defense counsels or representatives and crime victims of the return of documents for further investigation. Moreover, it shall in 03 days provide suspects or their representatives, investigation authorities and defense counsels with charging documents, decisions to adjourn or dismiss the case or lawsuit against suspects. Furthermore, it shall send notices to crime victims, litigants and protectors of their legitimate rights and benefits.

The delivery of the said documents shall be executed in writing according to Article 133 of this Law and be inputted in case files.

If the case is complex, the time limit for the delivery of charging documents and decisions on suspension or dismissal of the case to suspects or their representatives may be extended for 10 more days at most.

3. The decisions as stated in Section 1 of this Article, when made, must be promptly sent to the superior Procuracy. The head of the superior Procuracy shall be entitled to revoke, terminate or annul decisions deemed groundless or unlawful and to request the lower Procuracy to make lawful decisions.

#### **Article 241. Implementation, alteration and termination of preventive and coercive measures**

The procuracy, when receiving case files and written conclusion of investigation, shall be entitled to decide to implement, alter or terminate preventive and coercive measures according to this Law.

The time limit for preventive measures during the stage of prosecution shall not exceed that defined in Section 1, Article 240 of this Law.

#### **Article 242. Joinder or separation in cases during the stage of prosecution**

1. The procuracy shall decide to join issues into one case in the following events:

- a) The suspect commits multiple crimes;
- b) The suspect commits a crime in multiple times;
- c) Several suspects commit one crime, or there are accomplices and accessories who conceal or fail to report the suspect or use property obtained by crime.

2. When the lawsuit against the suspect is suspended, the Procuracy shall decide to separate issues from a case in the following events, if separation is deemed not to affect the determination of unbiased and comprehensive truths:

- a) Suspects abscond;
- b) Suspects suffer from fatal diseases;
- c) Civil commitment is imposed on suspects.

### **Chapter XIX**

#### **DECISION TO PROSECUTE SUSPECTS**

##### **Article 243. Decision to prosecute suspects**

The procuracy shall decide to prosecute a suspect in a Court through charging documents.

Charging documents shall detail the progress and acts of crime; evidences clarifying suspects' crimes, their artifices, motives, purposes, nature and degree of damage caused by the crimes; preventive and coercive measures enforced, altered or terminated; factors aggravating and mitigating criminal liabilities, traits and personal record of suspects; seizure and impoundment of documents and items, handling of evidences; reasons and circumstances leading to the crimes and other facts significant to the case.

The conclusion of the charging documents shall specify offence titles and articles, sections and points quoted from the Criminal Code.

Charging documents shall specify their date of issuance, full name and position of the person releasing such documents and bear his signature.

##### **Article 244. Transfer of case files and charging documents to the Court**

The procuracy, in 03 days upon issuing charging documents, must submit case files and charging documents to the Court. The time limit for filing papers and charging documents of a complex case in the Court may be extended for 10 more days at most.

If suspects are in detention, the Procuracy shall, in 07 days prior to the end of the detention, inform the Court to consider and decide the detention of such suspects before obtaining case files.

### **Article 245. Return of case files for further investigation**

1. The procuracy shall decide to return case files and request investigation authorities to conduct further investigative activities in one of the following events:

- a) Evidences do not suffice to evince one of the matters as stated in Article 85 of this Law; however, the Procuracy fails to supplement evidences by itself;
- b) There are justifications to press charges against the suspect for one or many crimes;
- c) Accomplices or other offenders related to the case have not been charged;
- d) Serious violations of legal procedure occur.

2. A decision to return documents and request further investigation must detail additional issues to be investigated according to Point 1 of this Article and Point 2, Article 132 of this Law.

3. Investigation authorities shall be responsible for fulfilling requests that are stated in the Procuracy's decision to return documents for further investigation. If they fail to accomplish the requests due to force majeure or objective obstacles, reasons of such failure must be clearly reported in writing.

Investigation authorities, when closing additional investigation, shall conclude such investigation in writing. The written conclusion of the additional investigation shall specify additional findings and standpoints for the settlement of the case. If the additional findings basically conflict with previous ones, investigation authorities shall issue a new conclusion of investigation to replace the old one.

The transfer of case files and additional conclusion of investigation to The procuracy and the delivery of notices of additional findings shall be governed by Article 232 and Article 238 of this Law

### **Article 246. Handling of the Court's request for further investigation**

If the Court decides to return case files and request further investigation, the Procuracy shall consider justifications for further investigation and handle such request in the following manner:

1. The Court reach a justified decision to return documents to investigation authorities, which The procuracy deems unnecessary, for further investigation; therefore, the Procuracy is entitled to directly carry out certain activities of investigation to supplement documents and evidences. However, the Procuracy, if unable to conduct further investigation, shall forward documents to investigation authorities for additional investigative activities.

If additional findings alter the fundamentals of existing charging documents, the Procuracy shall redress such documents and convey documents to the Court. If additional findings lead to the dismissal of the case, the Procuracy shall decide to have the case dismissed and send a notice to the Court;

2. The procuracy, if finding no justifications for the return of documents for further investigation, shall state its reasons, maintain the decision to prosecute and send documents back to the Court.

### **Article 247. Suspension of cases**

1. The procuracy shall decide to suspend a case in the following events:

b) If judicial expert examination finds that the suspect suffer from mental illness or fatal diseases, the case may be suspended prior to the expiration of the time limit for the issuance of a decision to prosecute;

b) Though the time limit for issuing a decision to prosecute expires, the suspect absconds to an unknown location. In this event, investigation authorities shall be requested to release a wanted notice against the suspect prior to the suspension of the case. The search for the suspect shall abide by Article 231 of this Law;

c) Time limit for issuing a decision to prosecute expires while expert examination, valuation process or judicial assistance, though requested, does not progress. In such event, expert examination, valuation process and judicial assistance shall continue until results are achieved.

2. A decision to suspend a case must specify reasons and justifications for suspension, relevant details and other matters as stated in Section 2, Article 132 of this Law.

If there are several suspects in one case but the reason for case suspension does not apply to all of them, the lawsuit against each suspect shall be suspended separately.

#### **Article 248. Dismissal of cases**

1. The procuracy shall decide not to prosecute and to dismiss the case when possessing one of the justifications as defined in Section 2, Article 155 and Article 157 of this Law or as stated in Article 16 or Article 19 or Section 2, Article 91 of the Criminal Code.

2. A decision to dismiss a case must specify reasons and justifications for the dismissal of the case, termination of preventive and coercive measures, handling of evidences, documents and items impounded (if any), other relevant matters and other details as stated in Section 2, Article 132 of this Law. If there are many suspects in one case but the justifications for case dismissal do not apply to all of them, the case shall be dismissed separately for each suspect.

#### **Article 249. Resumption of cases**

1. The procuracy, when having justifications to annul the decision to suspend or dismiss a case, shall decide to resume the case if the prescriptive period for criminal prosecution remains effective. If the case is dismissed according to Section 5 and Section 6, Article 157 of this Law without the consent of the suspect who petitions for case resumption, the Procuracy shall decide to resume the case. The case can be resumed fully or partly against each suspect.

2. A decision to resume a case must specify reasons and justifications for case resumption, relevant matters and details as stated in Section 2, Article 132 of this Law.

3. The procuracy, in 03 days upon making the decision, shall send the decision to resume case or lawsuit against a suspect to the suspect, his defense counsel or representative, authorities closing the investigation; and send a notice to the crime victims, litigants and protectors of their legitimate rights and benefits.

The delivery of the decision to resume the case or lawsuit against the suspect shall be executed in writing and inputted into the case file.

4. The time limit for issuing a decision to prosecute upon the resumption of the case shall be subject to universal stipulations in this Law and commence upon the Procuracy's issuance of the decision to resume the case.

5. The procuracy, when resuming a case, shall be entitled to enforce, alter or terminate preventive and coercive measures as per this Law.

If there are justifications for detention as per this Law, the duration of detention for the resumption of the case shall not exceed the time limit for the issuance of a decision to prosecute.

## **PART FOUR**

### **CRIMINAL ADJUDICATION**

#### **Chapter XX**

##### **GENERAL**

##### **Article 250. Direct, verbal and uninterrupted adjudication**

1. The trial shall be conducted through verbal communication.

The Trial panel shall directly determine facts of the case by asking and listening to the defendants, crime victims or their representatives, witness testifiers, expert witnesses and other attendees summoned by the Court. The jury shall consider and examine documents and evidences collected; announce written records and documents and engage in other legal proceedings to inspect evidences. The jury shall listen to procurators, defense counsels, and protectors of legitimate benefits and rights of the crime victims and litigants.

2. The trial shall not be interrupted, save break time and halt.

##### **Article 251. Temporary halt to trial**

1. The trial may be halted in one of the following events:

a) Evidences, document and items must be verified, gathered or supplemented; however, such tasks are not viable in court and shall be fulfilled in 05 days' time upon the temporary halt to the trial;

b) Authorized procedural persons and participants in legal proceedings, due to health conditions, force majeure or objective obstacles, cannot continue their attendance in court; however, they can reappear in court in 05 days' time upon the temporary halt to the trial;

c) The court clerk is absent from the Courtroom.

2. The temporary halt to the trial shall be inputted into the written record of the Court and announced to participants in legal proceedings. The duration of a temporary halt to a trial shall not exceed 05 days upon the issuance of the decision to halt the trial. Upon the expiration of the halt, the trial resumes. If the trial cannot resume, it shall be adjourned.

##### **Article 252. The Court's verification, collection and addition of evidences**

A Court verifies, collects and adds evidences through the following activities:

1. Obtain evidences, documents and items in connection with the case from authorities and entities;

2. Request authorities and entities to provide documents and items related to the case;

3. Assess on site evidences not movable to the Courtroom;

4. Assess crime scenes or other sites in connection with the case;



5. Requisition expert examination or property valuation, except for situations that require mandatory expert examination or property valuation as per Article 206 and Article 215 of this Law; requisition additional or repeated expert examinations and repeated valuation of property;
6. If The procuracy fails to provide additional proofs according to the Court's request, the Court shall verify and collect documents and evidences to settle the case.

#### **Article 253. Procurement of evidences, documents and items related to the case**

1. The presiding judge of the Court shall procure evidences, documents and items of the case from authorities and entities and pose questions to the providers of such articles about matters in connection with such evidences, documents and items. The procurement shall be executed in writing.
2. The Court, upon receiving evidences, documents and items from authorities and entities, must forward such to the equivalent Procuracy. The procuracy, in 03 days upon receiving evidences, documents and items, shall assess and return such articles to the Court to be put in the case file.

#### **Article 254. Composition of a trial panel**

1. A trial panel of a first-instance Court is composed of one judge and two assessors. A trial panel of a first instance Court adjudicating a serious and complex case shall comprise two judges and three assessors.

Two judges and three assessors shall constitute a trial panel of a first-instance Court adjudicating defendants whose crimes are punishable by life imprisonment or death as per the Criminal Code.

2. A trial panel of an appellate Court shall comprise three judges.

#### **Article 255. Decision to hear a case**

1. A decision to bring a case to trial shall detail:
  - a) Issue date of the decision; name of the Court's issuing the decision; date, time and location of the trial;
  - b) Public or secret trial;
  - c) Full name, date of birth, place of birth, occupation and residential address of the defendants;
  - d) Offence titles, points, sections and articles of the Criminal Code, which are quoted by The procuracy to prosecute defendants;
  - dd) Full name of judge(s), assessors, Court clerk; full name of reserve judge(s), assessor(s) and Court clerk(s), if any;
  - e) Full name of procurators exercising prosecution rights and administering the trial; full name of reserve procurators (if any);
  - g) Full name of defense counsels (if any);
  - h) Full name of interpreters (if any);
  - i) Full name of other individuals summoned to the Court;
  - k) Evidences taken to and assessed in court.

2. A decision to hear a case in an appellate Court shall state details as defined in Point a, b, e, g, h, i and k, Section 1 of this Article; offence titles and punishments ruled by the first-instance Court; full name of the appellant and appellee; The procuracy filing appeals; full name of judge(s) and Court clerk; full name of reserve judge(s) and Court clerk(s), if any.

#### **Article 256. Internal rules of a Court**

1. Every person in court must be dressed properly, conform to the security check and follow the guidelines given by The court clerk.
2. Every person in court must respect the Trial panel, maintain order and follow the instructions by The presiding judge.
3. Every person in court must stand up when the Trial panel enters the Courtroom and pronounces judgments. The defendants must stand up when the procurator announce the charges or the decision to prosecute. The persons summoned by the Court must obtain The presiding judge's permission before stating their opinions. The persons giving opinions must stand up when stating their viewpoints and responding to questions.

The presiding judge may permit individuals to remain seated due to health conditions.

4. In court, the defendants in detention shall only interact with their defense counsels. They must obtain The presiding judge's permission before interacting with other people.
5. People less than 16 years of age shall not enter the Courtroom, unless summoned by the Court.

#### **Article 257. Courtroom**

1. The Courtroom must be arranged to uphold solemnity, safety and equality between individuals exercising prosecution rights and lawyers or defense counsels.
2. The court president of the Supreme People's Court shall regulate the details of this Article.

#### **Article 258. Records of Court**

1. A written record of a Court shall detail time, date and location of the trial and every event in court from start to finish. Apart from the written record, the Court's progress may be recorded by sound or sound-and-visual means.
2. Questions, answers, presentations and rulings in court shall be inputted into the written record.
3. The presiding judge, at the end of the trial, must examine the Court record. The signatures of his and The court clerk's shall be affixed on to the record.
4. After The presiding judge and Court clerk sign the Court record, the procurator, defendants, defense counsels, crime victims, litigants and protectors of legitimate rights and benefits of crime victims and litigants and their representatives shall be permitted to read the Court record. If amendments to the Court record are requested, The court clerk shall input such amendments into the Court record. A Court record shall not be erased or modified directly. Amendments shall be inputted at the bottom of the record and endorsed by the signatures of The presiding judge and Court clerk. If The presiding judge disapproves such request, he must state reasons in The court clerk.

#### **Article 259. Records of deliberation**

1. Deliberation must be executed in writing.

All members of the Trial panel must sign the record of deliberation in the retiring room before pronouncing judgments.

2. The record of deliberation by a trial panel of a first-instance Court shall detail:

- a) Time and date of the record; name of the Court holding the trial;
- b) Full name of judge(s) and assessors;
- c) The case being adjudicated;
- d) Result of the Trial panel's voting on issues argued according to Section 3, Article 326 of this Law, and other opinions (if any).

3. The record of deliberation by a trial panel of an appellate Court must specify details as per point a, c and d, Section 2 of this Article and full name of judges.

### **Article 260. Judgments**

1. A Court passes judgments in the name of the Socialist Republic of Vietnam.

Judgment provided in written form must bear signatures of all members of the Trial panel.

2. The judgments of a first instance Court must specify:

a) Name of the first-instance Court; case number and initial date of admission; number and date of the judgment, full name of members in the Trial panel, Court clerk and procurators; full name, date of birth, place of birth, residential address, occupation, educational level, ethnicity, criminal records and previous convictions of the defendants; date of temporary detainment or detention of the defendants; full name, age, occupation, place of birth, residential address of representatives of the defendants; full name of defense counsels, witness testifiers, expert witnesses, valuers, interpreters, translators and other individuals summoned by the Court to attend the trial; full name, age, occupation and residential address of the crime victims, litigants and their representatives; number and date of the decision to hear the case; public or secret trial; time and location of the trial;

b) Number and date of charging documents and decisions to prosecute; name of The procuracy prosecuting; defendants' acts as per the crimes prosecuted by The procuracy; crimes and points, sections, articles quoted from the Criminal Code and punishments, additional penalties, judicial remedies, compensations for damage, which are recommended by The procuracy against the defendants; handling of evidences;

c) Opinions given by defense counsels, crime victims, litigants and other individuals summoned by the Court to attend the trial;

d) The Trial panel's judgments must analyze evidences establishing guilt or innocence, determine the defendants' state of being guilty of what crimes or guiltless, points, sections and articles quoted from the Criminal Code and other legislative documents, factors aggravating and mitigating criminal liabilities and solutions. If the defendants are found guiltless, the judgment must detail justifications of their innocence and the restoration of their honor, legitimate rights and benefits as per the laws;

dd) The analysis of reasons that the Trial panel rely on to reject justifications of accusation or acquittal and requests from procurators, defendants, defense counsels, crime victims, litigants and their representatives and protectors of their legitimate rights and benefits;

- e) The analysis of the legality of legal proceedings and relevant decisions of investigators, procurators and defense counsels during the investigation, prosecution and adjudication;
- g) The Trial panel's rulings over each issue of the case, Court fee and right to appeal against the judgments. Rulings, if immediately executed, must be specified.

3. The judgment of an appellate Court must specify:

a) Name of the appellate Court; case number and initial date of admission; number and date of the judgment, full name of members in the Trial panel, Court clerk and procurators; full name, date of birth, place of birth, residential address, occupation, educational level, ethnicity, criminal records and previous convictions of the defendants filing or facing appeals and those who do not but are reviewed by the appellate Court; date of temporary detainment or detention of the defendants; full name, age, occupation, place of birth, residential address of representatives of the defendants; full name of defense counsels, witness testifiers, expert witnesses, valuers, interpreters, translators and other individuals summoned by the Court to attend the trial; full name, age, occupation and residential address of the crime victims, litigants and their representatives; name of The procuracy filing appeals; public or secret trial; time and location of the trial;

b) Summary of the case, rulings from the judgment of the first-instance Court; details of the appeals; judgments by the appellate trial panel, justifications for approval or disapproval of appeals; points, sections and articles quoted from the Criminal Code and other legislative documents, which the appellate judicial Court base on to settle the case;

c) The appellate trial panel's rulings over each issue of the case, which arise due to the appeals, fees of first-instance and appellate Courts.

#### **Article 261. Amendments to a judgment**

1. A judgment shall not be amended unless it contains apparent errors in spelling or figures due to confusion or miscalculation.

Amendments to a judgment shall not alter the nature of the case or lead to the disadvantage of defendants or other participants in legal proceedings.

Amendments to a judgment shall be executed in writing and promptly given to the individuals as defined in Article 262 of this Law.

2. Amendments to a judgment as per Section 1 of this Article shall be subject to the decisions by The presiding judge of the Court passing such judgment. If The presiding judge is unable to adopt the said amendments, The court president of the Court adjudicating the case shall ratify them.

#### **Article 262. Delivery of judgments**

1. A first-instance Court, in 10 days upon pronouncing a judgment, must deliver such judgment to the defendants, crime victims, the equivalent Procuracy, defense counsels and defendants convicted in absentia according to Point c, Section 2, Article 290 of this Law, the immediate superior Procuracy, equivalent investigation authority, competent authority enforcing criminal sentences, detention or penal facility holding defendants in captivity. Moreover, written notices shall be sent to local authorities at the commune, ward or town where defendants reside or to

defendants' workplaces or educational facilities. Furthermore, litigants or their representatives shall receive copies or relevant extracts of the judgments.

The judgments, if passed in a trial in absentia according to Point a or Point b, Section 2, Article 290 of this Law, shall be posted at the People's committee of the commune, ward or town where defendants last resided or at their last workplaces or educational facilities within the time limit as stated above.

The first-instance Court shall deliver its judgments to a competent authority enforcing civil sentences if such judgments expresses pecuniary fine, confiscation of property and civil rulings according to the Law on civil sentence enforcement.

2. An appellate Court, in 10 days upon pronouncing a judgment or issuing a ruling, must deliver such appellate judgment or ruling to the equivalent Procuracy, competent authority enforcing criminal sentences, investigation authorities, procuracies, the Court of first instance, detention or penal facility holding defendants in captivity, appellants, individuals having interests and duties related to the appeals or their representatives. Moreover, the competent authority enforcing civil sentences shall receive the appellate judgment expressing pecuniary fines, confiscation of property and civil rulings. Furthermore, written notices shall be sent to local authorities of the commune, ward or town where defendants reside or to their workplaces or educational facilities. If the Higher People's Court hears the appeals, the time limit stated above may be extended for 25 more days at most.

#### **Article 263. Interpretation in a Courtroom**

1. If a defendant, crime victim, litigant or witness testifier does not speak Vietnamese or suffers from mutism or deafness, an interpreter shall explicate presentations, questions and answers in court, the Trial panel's rulings and relevant matters for them to perceive.

2. The interpreter must translate presentations, questions and answers made by individuals as defined in Section 1 of this Article into Vietnamese for the Trial panel and other attendees in court to grasp.

#### **Article 264. Requisition for rectification of shortcomings and violations in managerial tasks**

1. The Court, when passing a judgment, shall ask concerned authorities and organizations to implement essential measures to rectify causes and circumstances leading to criminal acts at such authorities or organizations. Authorities and organizations, in 30 days upon receiving the Court's requisition, must inform the Court in writing of measures taken.

2. The Court's requisition, along with the judgments, may be read out in court or sent privately to concerned authorities or organizations.

#### **Article 265. Requisition for competent authorities' revision of legislative documents**

The Court, when adjudicating a criminal case, shall detect and propose competent authorities' revision or abrogation of legislative documents in violation of the Constitution, laws, resolutions passed by the National Assembly, ordinances and decrees passed by Standing Committee of the National Assembly to guarantee legitimate rights and benefits of authorities and entities.

The contemplation of matters and respond to the Court about the handling of legislative documents proposed shall be governed by the laws.

**Article 266. Duties and authorities of The procuracy exercising prosecution rights during the stage of adjudication**

1. The procuracy, when exercising prosecution rights during the stage of a trial of first instance, shall bear the following duties and authority:

a) Announce the accusations and decisions to prosecute through summary procedures and other decisions on charges against defendants in court;

b) Pose questions, assess evidences, and examine scenes;

c) Engage in the arraignment, oral arguments, revoke parts or all of the decisions to prosecute, conclude other equivalent or lesser crimes, and state the Procuracy's standpoints on the settlement of the case in court;

d) Appeal against the judgments or rulings of the Court, which are unjust or incorrect or which omit crimes and offenders.

dd) Perform other duties and authority to exercise prosecution rights at a first-instance trial as per this Law.

2. The procuracy, when exercising its prosecution rights to hear appeals, shall bear these duties and authority:

a) State opinions on the appeals;

b) Add new evidences;

c) Amend the appeals o revoke parts or all of the appeals;

d) Pose questions, assess evidences, and examine scenes;

dd) State the Procuracy's opinions on the settlement of case in court and meeting session;

e) Engage in oral arguments with the defendants, defense counsels and other participants in legal proceedings in court;

g) Perform other duties and authority when exercising prosecution rights at an appellate trial as per this Law.

**Article 267. Duties and authority of the Procuracy administering the trial**

1. Administer legal compliance of the Court's hearing of criminal cases.

2. Administer legal compliance of participants in legal proceedings, request competent authorities to handle participants in legal proceedings, who breach the laws.

3. Administer judgments, rulings and other procedural documents of the Court

4. Request the equilvaint Court or lower authorities to transfer the cases to consider and decide the appeals.

5. Appeal against the Court's judgments and decision in serious of violations of legal proceedings.

6. Request the Court, authorities and entities to conduct procedural activities as defined in this Law; request the Court to rectify procedural violations.

7. Request concerned authorities and organizations to implement preventive measures against crimes and breach of law in managerial tasks.

8. Exercise the right to make other requests and perform other duties and powers when administering the criminal trial as per this Laws.

## **Chapter XXI**

### **TRIAL OF FIRST INSTANCE**

#### **Volume I. JURISDICTION OF COURTS**

##### **Article 268. Jurisdiction of a Court**

1. A district People's Court or local military Court hears criminal cases of misdemeanors, felonies and horrific felonies at first instance, except for the following crimes:

- a) Breach of national security;
- b) Sabotage of peace, crimes against humanity and war crimes;
- c) Crimes as defined in Article 123, 125, 126, 227, 277, 278, 279, 280, 282, 283, 284, 286, 287, 288, 337, 368, 369, 370, 371, 399 and 400 of the Criminal Code;
- d) Crimes committed outside the territories of the Socialist Republic of Vietnam.

2. A provincial People's Court or military Court of a military zone hears following cases at first instance:

- a) Criminal cases beyond the jurisdiction of a district People's Court or local military Court;
- b) Criminal cases related to defendants, crime victims or litigants who live abroad or in connection with property involved in other lawsuits occurring on foreign territories;
- c) A criminal lawsuit, though within the jurisdiction of a district People's Court or local military Court, comprise complex facts making it hard to assess or reach unanimity upon the properties of the case or is involved in various sectors and levels of authority or is brought against a defendant who is a judge, procurator, investigator, primary governmental leaders in district, township, provincial city or city of a centrally-affiliated city, religious dignitary or individual having high prestige in a community of minority.

##### **Article 269. Territorial jurisdiction**

1. A Court, whose location is most adjacent to the scene of a crime, shall have jurisdiction over the criminal lawsuit against that crime. If crimes occur in various places or at an unknown site, the Court most adjacent to the site where investigative activities are finished shall retain jurisdiction.

2. The provincial People's Court at the last residential place of a defendant committing a crime abroad shall have jurisdiction if such person is tried in Vietnam. If a defendant's last residential place in Vietnam is unknown, The court president of the Supreme People's Court shall, as the case may be, decide to assign the People's Court of the city of Hanoi or the city of Ho Chi Minh or the city of Da Nang to hear the case.

A defendant committing a crime abroad, if falling within the jurisdiction of a military Court, shall be tried by the military Court of a military zone as per the decision by The court president of the Central military court.

**Article 270. Jurisdiction over crimes occurring aboard an aircraft or ocean ship of the Socialist Republic of Vietnam, which is operating outside the airspace or territorial waters of Vietnam**

A Vietnamese Court most adjacent to the airport or harbor, where an aircraft or ocean ship of the Socialist Republic of Vietnam is registered or first arrives, shall have jurisdiction over crimes occurring on such aircraft or ocean ship operating outside the airspace or territorial waters of Vietnam.

**Article 271. Trial against a defendant committing multiple crimes that fall within the jurisdiction of a Court at different level**

A superior Court shall hear the entire case involved in multiple crimes, some of which come within its jurisdiction.

**Article 272. Jurisdiction of a military Court**

1. A military Court has jurisdiction over:

- a) A criminal case against a defendant who is a serviceman on active duty, state employee, worker, national defense official or reserve soldier undergoing focus training or combat availability tests; militia undergoing focus training or subordinated to the People's Army in combat, citizens mobilized, convoked or contracted to serve the People's Army;
- b) A criminal case against a defendant who is not stated in Point a, Section 1 of this Article and is involved in military secrets or causes damage to the life, health, honor and dignity of servicemen on active duty, state employees, workers, national defense officials, reserve soldiers undergoing focus training or combat availability tests or causes damage to the property, honor and reputation of the People's Army or commits crimes in a military barrack or military area under the management and protection of the People's Army.

2. A military Court has jurisdiction over all crimes occurring in areas under martial law.

**Article 273. Trial against a defendant committing multiple crimes that fall within the jurisdiction of a People's Court and Military Court**

If a defendant or crime comes within the jurisdiction of a Military Court and another defendant or crime in the same case falls within the jurisdiction of a People's Court, the case shall be subject to the following jurisdiction:

1. If issues of the case can be separated, the Military Court shall judge defendants and crimes within its jurisdiction and the People's Court shall judge defendants and crimes within its jurisdiction;
2. If separation is not viable, the Military Court shall hear the entire case.

**Article 274. Case transfer during the stage of adjudication**

1. A Court shall return files of a case beyond its jurisdiction to The procuracy initiating prosecution, which shall transfer the case to a competent Procuracy for prosecution.

The procuracy initiating prosecution, in 03 days upon retrieving case files, shall issue a decision to transfer them to a competent Procuracy for intra vires prosecution. The transfer of a case out of a province, centrally-affiliated city or a military zone shall abide by Article 239 of this Law.



The procuracy, if considering thin court returning case files still has juridistion over the case, shall give such documents back to the Court with an enclosed letter of explanation. If the Court still deem the case ultra vires, the dispute over jurisdiction shall be settled according to Article 275 of this Law. The procuracy must conform to the decisions of the competent Court.

2. The time limit for prosecution and the enforcement of preventive measures shall be governed by Article 240 and Article 241 of this Law.

#### **Article 275. Settlement of disputes over jurisdiction**

1. The court president of a provincial People's Court or a Military court of a military zone shall make decisions on disputes over jurisdiction among People's Courts at district level in the same province or centrally-affiliated city or Military courts in the same military zone.

2. The court president of a provincial People's Court or a Military court of a military zone most adjacent to the site where investigative activities end shall make decisions on disputes over jurisdiction among district People's Courts in various provinces or centrally-affiliated cities or Military courts from different military zones.

3. The court president of the Supreme People's Court or the Central military court shall make decisions to settle disputes over jurisdiction among provincial People's Courts or Military courts of military zones.

4. The court president of the Supreme People's Court shall make decisions on disputes over jurisdiction between a People's Court and Military court.

The transfer of a case for intra vires prosecution shall abide by Article 274 of this Law.

### **Volume II. TRIAL PREPARTION**

#### **Article 276. Obtain case files, charging documents and admit the case**

1. When the Procuracy delivers charging documents, case files and evidences (if available), the Court shall examine and handle such papers and objects in the following manner:

a) If case files and accompanying exhibits (if any) suffice according to the list of documents and exhibits, and the suspect or his representative receives charging documents, the case file shall be admitted;

b) If case files and accompanying exhibits (if any) do not suffice according to the list of documents and exhibits, or the suspect or his representative does not receive charging documents, the case file shall not be admitted. In this event, the Procuracy shall be requested to supplement documents and exhibits or send charging documents to the suspect or his representative.

2. The delivery of case files and charging documents shall be executed in writing according to Article 133 of this Law and be inputted into the case file.

The court, upon receiving case files and charging documents, shall admit the case. The court president of the Court, in 03 days upon admitting the case, shall appoint The presiding judge who hears the case.

#### **Article 277. Time limit for trial preparation**

1. The presiding judge, in 30 days for misdemeanors, 45 days for felonies, 02 months for horrific felonies and 03 months for extremely severe felonies upon the admission of the case, shall make one of the following decisions:

- a) Hear the case;
- b) Return documents for further investigation;
- c) Suspend or dismiss the case.

The court president of the Court may decide to extend the time limit for preparation for trial against a complex case for 15 more days for misdemeanors and felonies and 30 more days at most for horrific felonies and extremely severe felonies. The equivalent procuracy must be promptly informed of the extension of the time limit for trial preparation.

2. If a case is returned for further investigation, the Presiding judge, in 15 days upon retrieving documents, must decide to hear the case. If a case is resumed, the time limit for trial preparation shall abide by universal stipulations of this Law and commences as of the date of the Court's decision to resume the case.

3. The court, in 15 days upon issuing a decision to hear the case, must hold a trial. If force majeure or objective obstacles occur, the Court may initiate the trial within 30 days.

#### **Article 278. Implementation, alteration and termination of preventive and coercive measures**

1. The presiding judge, after admitting a case, shall decide to implement, alter and terminate preventive or coercive measures. However, the Court president or Vice court president shall make such decisions on detention measure.

2. The time limit for detention prior to trial shall not exceed that for trial preparation as stated in Section 1, Article 277 of this Law.

3. If the time limit for detention of a defendant in detention expires upon the initiation of the trial, the Trial panel shall consider the necessity of detention for trial and issue a detention order that loses effect at the end of the trial.

#### **Article 279. Processing of requests before trial**

1. The presiding judge, before initiating a trial, must process these requests:

- a) Requests by procurators and participants in legal proceedings for the provision and addition of evidences, summoning of witness testifiers, authorized procedural persons and other participants in legal proceedings to the court, and for the replacement of members of the Trial panel or Court clerk;
- b) Requests by defendants or their representatives, defense counsels for alteration or termination of preventive and coercive measures;
- c) Requests by procurators and participants in legal proceedings for a trial through summary procedures or for a public or secret trial;
- d) Requests by participants in legal proceedings for their absence from the courtroom.

2. The presiding judge, if considering such requests justified, shall grant those within his powers or inform competent individuals to handle the requests according to this law. Moreover, the

persons issuing such requests shall be informed. Rejection and reasons shall be informed in writing.

#### **Article 280. Return of documents for further investigation**

1. The presiding judge shall decide to return documents to the Procuracy for further investigation in one of the following events:

- a) Evidences for matters defined in Article 85 of this Law are not sufficient and cannot be supplemented in court;
- b) There are grounds showing the existence of the suspect's other acts, apart from those prosecuted by the Procuracy, deemed as crimes in the Criminal Code;
- c) There are grounds showing the existence of other accomplices or offenders of criminal acts, as per the Criminal Code, involved in the case and facing no charges;
- d) The charges, investigation and prosecution have constituted serious violations of legal proceedings.

2. If the Procuracy finds grounds to have documents returned for additional investigation, it shall request the Court in writing for document return.

3. A decision to return documents for further investigation must specify issues to be further investigated. Such decision and case files shall be given to the Procuracy in 03 days upon the issuance of the decision.

If additional findings lead to the dismissal of the case, the Procuracy shall decide to have the case dismissed and inform the Court in 03 days upon the issuance of such decision.

If additional findings lead to the alteration of the decision to prosecute, the Procuracy shall issue new charging documents that replace the previous ones.

If the Procuracy fails to provide additional information as per the Court's requests and retain its decision to prosecute, the Court shall commence the trial.

#### **Article 281. Case suspension**

1. The presiding judge shall decide to suspend a case in one of the following events:

- a) There are justifications for case suspension as defined in Point b and Point c, Section 1, Article 229 of this Law;
- b) The location of a suspect or defendant is unknown despite the expiration of the time limit for trial preparation. In this event, investigation authorities shall be requested to seek such defendant or suspect prior to the suspension of the case. The seeking of a suspect or defendant shall abide by Article 231 of this Law;
- c) Await the result of the processing of legislative documents as per the Court's requisitions.

2. If there are several suspects or defendants in one case but the reason for case suspension does not apply to all of them, the lawsuit shall be suspended for each suspect or defendant separately.

3. The decision to suspend the case must specify reasons for suspension and details as stated in Section 2, Article 132 of this Law.

#### **Article 282. Case dismissal**

1. The presiding judge shall decide to dismiss a case in one of the following events:
  - a) There are justifications for case dismissal as defined in Section 2, Article 155 or Point 3, 4, 5, 6 and 7, Article 157 of this Law;
  - b) The procuracy revokes all decisions to prosecute before the trial commences.

If there are several suspects or defendants in one case but the reason for case dismissal does not apply to all of them, the lawsuit shall be dismissed for each suspect or defendant separately.

2. The decision to dismiss the case must specify reasons for dismissal and details as stated in Section 2, Article 132 of this Law.

### **Article 283. Case resumption**

1. If the prescriptive period for criminal prosecution is still effective and there are grounds to annul the decision to suspend or dismiss a case, the Presiding judge issuing such decision shall decide to resume the case.

If the Judge issuing the decision to suspend or dismiss the case is obstructed, the Court president shall issue the decision to resume the case.

2. If the case is suspended or dismissed for each suspect or defendant separately, the decision on case resumption shall apply to each of them.
3. The decision to resume the case must specify reasons for case resumption and details as stated in Section 2, Article 132 of this Law.
4. The court, when resuming the case, shall be entitled to implement, alter or terminate preventive and coercive measures as per this Law.

If there are justifications for the necessity of detention as per this Law, the duration of detention for case resumption shall not exceed the time limit for trial preparation.

### **Article 284. Request for the Procuracy's addition of documents and evidences**

1. The presiding judge, when requiring additional documents and evidences necessary to settle to the case without the return of case files for further investigation, shall request the Procuracy to supplement such papers and proofs.
2. The request for additional documents and evidences shall be executed in writing and sent to the equivalent Procuracy in 02 days upon the issuance of the written request. Such request must specify documents and evidences to be added.
3. The procuracy, in 05 days upon receiving the Court's request, shall provide the Court with additional documents and evidences as requested. If the Procuracy fails to provide additional documents or evidences, the court shall commence the trial.

### **Article 285. The procuracy's revocation of the decision to prosecute**

The procuracy, when finding a justification as per Article 157 of this Law or Article 16 or Article 29 or Section 2, Article 91 of the Criminal Code, shall decide to revoke the decision to prosecute prior to the start of the trial and to request the Court to dismiss the case.

### **Article 286. Delivery of a first-instance Court's decisions**

1. A decision to hear a case shall be given to the defendant or his representative, defense counsel, crime victim and litigant in 10 days at most prior to the start of the trial.

A decision to hold a trial in absentia shall be given to the defendant's defense counsel or representative. Such decision shall also be posted publicly at the People's committee at the commune, ward or town where the defendant last resided or his last workplace or educational facility.

2. The court's decision to suspend, dismiss or resume a case shall be given to the suspect, defendant, crime victim or their representatives and other participants in legal proceedings in 03 days upon the issuance of such decision.

3. The delivery of a decision to appoint a Judge presiding the court, to try a case, to suspend, dismiss or resume a case to the equivalent procuracy must occur in 02 days upon the issuance of such decision. A decision to dismiss or suspend a case must be sent to the immediate superior Procuracy in 02 days upon the issuance of such decision.

4. A decision to implement, alter or terminate preventive or coercive measure shall be given, in 24 hours upon the issuance of such decision, to the suspect, defendant, the equivalent Procuracy, detention facility holding the suspect or defendant in captivity.

#### **Article 287. Summoning of individuals to the trial for questioning**

The presiding judge shall consider the decision to hear the case and requests by procurators, defense counsel and other participants in legal proceedings to summon individuals to the trial for questioning.

### **Volume III. GENERAL REGULATIONS ON COURT PROCEEDINGS**

#### **Article 288. Attendance of members of the Trial panel and Court clerk**

1. The trial shall proceed only in the presence of full members of the Trial panels and the Court clerk. The members of the Trial panel must hear the case from start to finish.

2. If a Judge or Assessor cannot continue hearing the case but a reserve Judge or Assessor attends the trial from the start, the reserve one shall be the replace member of the Trial panel. If the Trial panel consists of two judges but the Presiding judge cannot continue attending the trial, the other Judge shall preside the court and a reserve Judge shall be the replace member of the Trial panel.

3. If a reserve Judge or Assessor is not available or a judge substituting the presiding judge is not available as per Section 2 of this Article, the trial shall be halted.

4. If the Court clerk is changed or cannot continue attending the court, the trial may progress in the presence of a reserve Court clerk. If a replace clerk is not available, the trial shall be halted.

#### **Article 289. Attendance of Procurators**

1. A procurator of the equivalent Procuracy must appear in court to exercise prosecution rights and administer the trial. If the procurator is absent, the trial shall be halted. Many procurators may attend a lawsuit composed of serious and complex elements. If procurator(s) cannot attend the trial, reserve procurator(s) attending the trial from the start shall become replace(s) to exercise prosecution rights and administer the trial.

2. If procurator(s) must be replaced or cannot continue exercising prosecution rights or administering the trial in the absence of reserve procurator(s), the trial shall be halted.

#### **Article 290. Defendants' attendance in the court**

1. A defendant must be present in the court as per the Court's subpoena during the trial. If the defendant is absent not due to force majeure or objective obstacles, he shall be delivered by force to the court. If his absence results from force majeure or objective obstacles, the trial shall be halted.

If the defendant suffers from mental illness or fatal disease, the Judicial panel shall suspend the case until the defendant is cured.

If the defendant absconds, the Trial panel shall suspend the case and request investigation authorities to seek for him.

2. The court can only hold a trial in absentia in the following events:

- a) The defendant has absconded and remains elusive despite the wanted notice;
- b) The defendant is on foreign soil and cannot be summoned to the court;
- c) The trial panel approves a request for trial in absentia;
- d) The defendant's absence is not because of force majeure or objective obstacles and does not hinder the trial.

#### **Article 291. Attendance of defense counsels**

1. The defense counsel must appear in court to plead for persons whom they agree to advocate. The defense counsel may send the written statement of defense to the Court in advance. If the defense counsel is absent for the first time due to force majeure or objective obstacles, the trial shall be halted unless the defendant agrees to be tried in the absence of the defense counsel. If the defense counsel is absent not due to force majeure or objective obstacles or fails to appear as per the valid second subpoena, the court shall hold the trial.

2. If a defense counsel appointed as per Section 1, Article 76 of this Law is absent, the Trial panel shall halt the trial unless the defendant or his representative agrees to engage in the trial in the absence of the defense counsel.

#### **Article 292. Attendance of crime victims, litigants or their representatives**

1. If crime victim(s), litigant(s) or their representatives are absent, the Trial panel, as the case may be, shall decide to halt or continue the trial.

2. If the absence of the crime victim(s) or litigant(s) only obstructs the settlement of compensations for damage, the Trial panel may separate the issue of compensation for later adjudication as per the laws.

#### **Article 293. Attendance of witness testifiers**

1. Testifiers shall attend the trial to elucidate facts of a case. If a testifier is absent but gives statements to investigation authorities, the presiding judge shall announce such statements. If a witness testifier for vital issues of the case is absent, the Trial panel shall, as the case may be, decide to halt or continue the trial.

2. If a witness testifier is summoned by the Court but is intentionally absent not due to force majeure or objective obstacles, the Trial panel shall decide to escort by force such witness testifier, whose absence is deemed to hinder the trial, according to this Law.

**Article 294. Attendance of expert witnesses and valutors**

1. Expert witnesses and property valutors shall attend the trial as per the Court's subpoena.
2. If the expert witness or valuator is absent, the Trial panel, as the case may be, shall decide to halt or continue the trial.

**Article 295. Attendance of interpreters and translators**

1. Interpreters and translators, when summoned by the Court, shall attend the trial.
2. If the interpreter or translator is absent without a replace, the Trial panel shall decide to halt the trial.

**Article 296. Attendance of Investigators and other individuals**

During the process of trial, the Trial panel may summon Investigators, authorized procedural persons handling the lawsuit and other individuals, if deemed necessary, to adduce matters related to the case.

**Article 297. Temporary halt to trial**

1. The court shall halt the trial in one of the following events:
  - a) There are justifications as defined in Article 52, 53, 288, 289, 290, 291, 292, 293, 294 and 295 of this Law;
  - b) Evidences, documents or items must be verified or supplemented outside the court;
  - c) Expert examinations must be furthered or repeated;
  - d) Valuation processes must be furthered or repeated.

If the trial is halted, it shall restart.

2. The duration of a temporary halt to a trial at first instance shall not exceed 30 days upon the issuance of a decision to halt the trial.

3. A written decision to halt a trial shall specify these primary details:

- a) The issue date of the decision;
- b) The name of the Court and full name of the Judge(s), Assessors and Court clerk;
- c) The full name of Procurator(s) exercising prosecution rights and administering the trial in court;
- d) The case being adjudicated;
- d) The reasons of the temporary halt to the trial;
- e) The time and location for the resumption of the trial

4. The presiding judge shall represent the Trial panel to sign the written decision to halt the trial. If the presiding judge is absent or replaced, the Court president shall decide to halt the trial.

A decision to halt a trial, in 02 days upon the issuance of the decision, must be announced to the participants in legal proceedings in court, be sent to the equivalent Procuracy and to individuals absent from the court.

#### **Article 298. Limits of adjudication**

1. A court shall adjudicate defendants and acts of crimes prosecuted by a Procuracy and brought to trial as per the Court's decision.
2. The court, when adjudicating defendants, may adduce different sections in a legal article, which the Procuracy quote for prosecution, or may consider other crimes equal or lesser than those prosecuted by the Procuracy.
3. If the defendants must be tried for crimes that outweigh those prosecuted by the Procuracy, the Court shall return documents for the Procuracy to re-prosecute and have defendants or their representatives and defense counsels informed of reasons. If the Procuracy still prosecute the original crimes, the Court shall be entitled to adjudge the defendants to crimes of higher degree.

#### **Article 299. Pronouncement of a Court's judgments and rulings**

1. The trial panel shall discuss and pass judgments in the retiring room.
2. The decisions to change Trial panel's members, procurator(s), court clerk, expert witness(s), valuator(s), interpreter(s), translator(s) or to suspend or dismiss cases, to halt a trial, to hold or discharge defendants in detention shall be discussed and passed in writing the retiring room.
3. The decisions on other matters, as discussed and passed by the Trial panel in the retiring room, may not be executed in writing but must be inputted in the court record.

### **Volume IV. FORMALITIES TO COMMENCE COURT PROCEEDINGS**

#### **Article 300. Preliminary activities to commence a trial**

The court clerk, prior to the start of the trial, shall perform these tasks:

1. Verify the attendance and perceive reasons for the absence of the individuals summoned by the Court;
2. Announce the court's rules.

#### **Article 301. Start of trial**

1. The presiding judge commences the trial and utter the decision to hear the case.
2. The court clerk reports to the Trial panel on the attendance and absence, with reasons, of the individuals summoned by the Court.
3. The presiding judge reviews the presence of the individuals responding to the Court's subpoena, examines personal records and announce their rights and duties.

#### **Article 302. Handling of requests for the replacement of Judges, Assessors, Procurators, Court Clerks, expert witnesses, property valutors, interpreters or translators**

The presiding judge shall ask the Procurators and participants in legal proceedings in court about requests and reasons for the replacement of Judges, Assessors, Procurators, Court clerks, expert witnesses, valutors, interpreters or translators. The trial panel shall consider and ratify such requests, if raised.



### **Article 303. Undertaking by interpreters, translators, expert witnesses and property valuers**

The presiding judge, after elucidating the rights and duties of interpreters, translators, expert witnesses and property valuers, shall demand their commitments to accomplish their missions.

### **Article 304. Oath and exclusion of witness testifiers**

1. The presiding judge, after explaining the witness testifiers' rights and duties, shall demand them to undertake to honest testimony.
2. The presiding judge, prior to the questioning of witness testifiers about the case, shall decide measures to exclude witness testifiers from hearing each other's testimonies or interacting with concerned people. If the defendant's statements and witness testifiers' testimonies come under mutual influence, the presiding judge shall isolate defendants from witness testifiers before witness testifiers undergo questioning session.

### **Article 305. Handling of requests for evidence assessment and temporary halt to trial out of absence**

The presiding judge must ask Procurators and participants in legal proceedings in court about requests for the summoning of additional witness testifiers or display of more exhibits and documents for assessment. If a participant in legal proceedings is absent or appear in court but fails to engage in legal proceedings due to ill health conditions, the presiding judge shall ask about requests for a temporary halt to the trial. The trial panel shall consider and ratify such requests, if raised.

## **Volume V. FORMALITIES TO CONDUCT COURT PROCEEDINGS**

### **Article 306. Announcement of charges**

Procurators, before engaging in the questioning session, shall announce the charges and state additional opinions, if available. Additional opinions must not exacerbate the defendants' situations.

### **Article 307. Sequence of questioning**

1. The trial panel must ascertain sufficient facts of each event and every crime in the case and per capita. The presiding judge shall govern the questioning session and decide the rational order of persons raising questions.
2. Each person shall be questioned by the presiding judge then, as per his decisions, by other Judges, Assessors, Procurators, defense counsels, and protectors of litigants' legitimate rights and benefits.

Participants in court proceedings shall be entitled to petition the presiding judge for his inquiry into facts that require further clarification.

Expert witnesses and property valuers shall be asked about matters related to expert examinations and property valuation.

3. The trial panel, when running the questioning session, shall examine exhibits in connection with the case.

### **Article 308. Disclosure of statements gathered during the stage of investigation or prosecution**

1. If the person questioned appears in court, the Judicial panel and procurators shall not disclose their statements gathered during the stage of investigation or prosecution.
2. Statements gathered during the stage of investigation or prosecution shall be disclosed in one of the following events:
  - a) The person questioned gives testimonies in court, which conflict with his statements taken during the stage of investigation or prosecution;
  - b) The person questioned does not give testimonies in court or does not remember his statements taken during the stage of investigation or prosecution;
  - c) The person questioned petitions for the disclosure of his statements taken during the stage of investigation or prosecution;
  - d) The person questioned is absent or deceased.
3. The trial panel shall not disclose documents of a case to, in special events, maintain the confidentiality of state secrets, trade secrets, business secrets or personal secrets, family secrets must be maintained, if deemed necessary or as per requests by participants in legal proceedings, or to preserve national conventions.

#### **Article 309. Questioning of defendants**

1. The presiding judge shall decide to have each defendant questioned separately. If a defendant's testimonies influence another defendant's statements, the presiding judge must exclude them from hearing each other. The defendant excluded shall be informed of the prior defendant's testimonies and be permitted to raise questions to that defendant.
2. A defendant shall state his opinions regarding the charging documents and facts of the case. The trial panel inquires further about details that a defendant has not elucidated or that come into collision.

Procurators shall ask defendants about evidences, documents and items in connection with conviction or acquittal and other facts of the case.

Defense counsels shall ask defendants about evidences, documents and items related to their tasks of defense and facts of the case.

Protectors of legitimate rights and benefits of crime victims and litigants shall ask defendants about facts regarding their protection of litigants' legitimate benefits and rights.

Participants in court proceedings shall be permitted to petition the presiding judge to inquire further about facts related to them.

3. If a defendant does not answer questions, the Trial panel, Procurators, defense counsels, protectors of legitimate benefits and rights of aggrieved persons and litigants shall ask other persons and examine exhibits and documents pertaining to the case.

A defendant, with the presiding judge's permission, shall ask other defendants about matters linked to him.

#### **Article 310. Questioning of crime victims, litigants or their representatives**

Crime victims, litigants or their representatives shall present the case's facts associated with them. After such persons' presentations, the Trial panel, Procurators, defense counsels and

protectors of legitimate rights and benefits of crime victims and litigants shall ask them more about insufficient or contradictory details in their speech.

Defendants, when permitted by the presiding judge, shall raise questions to crime victims, litigants or their representatives about matters related to the defendants.

### **Article 311. Questioning of witness testifiers**

1. Each witness testifier shall be questioned separately. None of the witness testifiers is allowed to gain knowledge of each other's questions and answers.

2. The trial panel, when questioning a witness testifier, shall inquire about the witness testifier's relationship with defendants and litigants of the case. The presiding judge shall request witness testifiers to expound the facts of the case, which came to their knowledge, and have them clarify inadequate or inconsistent details in their testimonies. Procurators, defense counsels and protectors of legitimate rights and benefits of crime victims and litigants may pose additional questions to witness testifiers.

With the presiding judge's consent, a defendant may ask witness testifiers about matters that are connected to the defendant.

3. Witness testifiers, after giving testimonies, shall remain in the courtroom for further questioning.

4. If there are evidences of violations or risks of violations against the life, health, property, honor and dignity of a witness testifier or his kindred, the Trial panel shall decide to have them secured by protective measures according to this Law or other relevant laws.

5. The court, if necessary, shall question witness testifiers through a network of computers or telecommunications.

### **Article 312. Assessment of exhibits**

1. Exhibits, images or written attestation of exhibits shall be displayed for assessment in court.

The trial panel, along with procurators, defense counsels and participants in court proceedings, shall assess immovable exhibits on site, if necessary. The onsite assessment of exhibits shall be executed in writing according to Article 133 of this Law.

2. Procurators, defense counsels and other participants in court shall be permitted to state their opinions regarding the exhibits. The trial panel, procurators, defense counsels and protectors of the legitimate rights and benefits of litigants and crime victims can inquire courtroom participants further about matters linked with exhibits.

### **Article 313. Audible or visual records**

The trial panel shall decide to have audible or visual records played in court to assess evidences, documents and items related to the case or verify the defendants' claims of torture or confession extortion.

### **Article 314. Scene assessment**

The trial panel, along with procurators, defense counsels and participants in court proceedings, shall assess crime scenes or other sites in connection with the case, if necessary. Procurators, defense counsels and other participants in court proceedings shall be entitled to make remarks on

the crime scenes or other sites linked with the case. The trial panel can ask courtroom participants more about matters regarding such locations.

The process of scene assessment shall be executed in writing according to Article 133 of this Law.

#### **Article 315. Presentation and announcement of reports and documents from authorities and organizations**

Authorities and organizations shall assign representatives to expound on their reports and documents. If their representatives do not attend the trial, the Trial panel shall announce such reports and documents in court.

Procurators, defendants, defense counsels and other participants in court proceedings shall be entitled to make remarks on the said documents and reports and raise questions to the representatives of the said authorities or organizations and to other participants in court proceedings about matters related to such documents and reports.

#### **Article 316. Questioning of expert witnesses and property valuers**

1. The trial panel shall, on its own discretion or as per requests by Procurators, defense counsels or other participants in court, request expert witnesses and property valuers to state their findings on matters examined or property valued. Expert witnesses and property valuers, when reporting, are entitled to give additional explanations and justifications for their findings.
2. Procurators, defense counsels and other participants in court proceedings shall be entitled to comment on the findings of expert examinations and property valuation. Moreover, they shall be permitted to ask about unclear or contradictory details of such findings or the details that conflict with other facts of the case.
3. If expert witnesses or property valuers are absent from the court, the presiding judge shall announce the findings of expert examinations and property valuation.
4. The trial panel shall order that expert examinations are furthered or repeated or property valuation process starts again, if deemed necessary.

#### **Article 317. Remarks by Investigators, Procurators, persons participating in or given authority to institute legal proceedings**

The trial panel shall, on its discretion or at the requests for authorized procedural persons, request Investigators, Procurators, persons participating in or given authority to institute legal proceedings to give their opinions, if deemed necessary to clarify decisions and proceedings during the stage of investigation, prosecution and adjudication.

#### **Article 318. End of questioning session**

The presiding judge, when considering facts of the case fully assessed, shall ask Procurators, defendants, defense counsels and other participants in court proceedings about their further questions. If no further question exists, the questioning session shall end. If further questions raised are deemed necessary, the presiding judge shall decide to sustain the questioning session.

#### **Article 319. Procurator's revocation of decisions on prosecution or conclusion of lesser charges in court**

Procurators, after ending their questioning session, can revoke parts or all of their decisions to prosecute or conclude lesser charges.

#### **Article 320. Sequence of oral arguments**

1. Procurators, after finishing their questioning session, shall draw conclusions. If grounds for conviction are not found, all decisions to prosecute shall be revoke and the Court shall be requested to declare defendants not guilty.
2. Defendants and defense counsels shall give arguments to defend the former. Defendants and their representatives shall be entitled to supplement the defense arguments.
3. Crime victims, litigants and their representatives state their arguments to defend their legitimate rights and benefits. Other protectors of such people's legitimate benefits and rights shall be entitled to present and supplement arguments.
4. If charges are pressed at the requests by the crime victims, the Procurators shall draw conclusions before the aggrieved and their representatives state and supplement arguments.

#### **Article 321. Conclusion by Procurators**

1. Procurators, when reaching conclusions, must contemplate evidences, documents and items examined in court and arguments given by defendants, defense counsels, protectors of legitimate rights and benefits of crime victims and litigants, and other participants in court proceedings.
2. The content of such conclusions must analyze and assess, in unbiased, comprehensive and thorough manners, evidences of guilt or innocence; nature and harmful extent of crimes against society; consequences of crimes; personal records and roles of defendants in crimes; offence titles; points, sections and articles quoted from the Criminal Code, factors aggravating or mitigating criminal liabilities; level of compensations for damage, handling of evidences, judicial remedies; reasons and circumstances leading to crimes and other significant facts of the case.
3. Procurators shall propose the conviction of defendants on parts or all of charges or lesser crimes; primary and additional penalties, judicial remedies, liabilities for amends, handling of evidences.
4. Preventive measures against crimes and breach of laws shall be proposed.

#### **Article 322. Oral arguments in court**

1. Defendants, defense counsels and other participants in legal proceedings shall be entitled to present their opinions, evidences and arguments in response to Procurators' presentation of evidences of guilt and innocence; nature and harmful extent of crimes against society; consequences of crimes; personal records and roles of defendants in the case; factors aggravating and mitigating criminal liabilities, penalties; civil liabilities, measures for handling evidences, judicial remedies; reasons and circumstances leading to crimes and other significant facts of the case.

Defendants, defense counsels and other participants in legal proceedings shall be entitled to state their propositions.

2. Procurators must display evidences, documents and arguments to respond to the last of each standpoint given by the defendants, defense counsels and other participants in court proceedings.

Individuals engaging in oral arguments shall be entitled to respond to other people's opinions.

3. The presiding judge shall not restrict the time for oral arguments and shall endorse Procurators, defendants, defense counsels, crime victims and other participants in legal proceedings to argue and state all viewpoints. However; opinions not related to the case or repeated shall be removed.

The presiding judge shall demand Procurators' obligation to respond to standpoints of defense counsels and other participants in legal proceedings if Procurators do not debate such standpoints.

4. The trial panel must listen and acknowledge every standpoint from Procurators, defendants, defense counsels and other individuals providing oral arguments in court to judge truths of the case in impartial and comprehensive manners. The trial panel, if overruling standpoints of courtroom participants, must clarify its justifications that are inputted into the court record.

#### **Article 323. Resumption of questioning session**

If oral arguments expose unasked or unclear facts of the case, the Trial panel must resume the questioning session. Oral arguments shall continue upon the end of the questioning session.

#### **Article 324. Defendants' last words**

1. When no more argument is made, the presiding judge declares the end of the oral argument session.

2. Defendants shall speak their last words. No question shall be raised after the defendants utter their last words. If the defendants' last words reveal new facts significant to the case, the Trial panel shall decide to resume the questioning session. The trial panel shall be entitled to request the defendants not to digress from the case. However, no time limit shall be imposed on the defendants' final speech.

#### **Article 325. Revocation of decisions to prosecute or to conclude lesser charges in court**

1. The trial panel shall sustain the trial though the Procurators revoke parts of the decision to prosecute or draw conclusions on lesser offences.

2. If the Procurators revoke the entire decision to prosecute before the deliberation session, the Trial panel shall request courtroom participants to state their opinions on the revocation of the decision to prosecute.

### **Volume VI. DELIBERATION AND PRONOUNCEMENT OF JUDGMENTS**

#### **Article 326. Deliberation of judgments**

1. Only Judges and Assessors (also referred to as Jurors) are empowered to deliberate judgments. The deliberation session occurs in the retiring room.

The presiding judge chairing the deliberation session shall be responsible for stating each issue of the case that must be settled through the Trial panel's deliberation. The presiding judge himself or assigns a member of the Trial panel to execute the written record of deliberation. Members of the Trial panel must settle all and every issue of the case under majority rule. The votes shall be first casted by the Assessors then by the Judge(s). If the opinions do not win most of the vote, each of the trial panel's members' opinions shall be re-discussed and re-voted for the most voted ones. The minority voters shall be permitted to state their opinions in writing, which are inputted into the case file.

2. The deliberation session shall only consider evidences and documents verified in court on the basis of fully and thoroughly examined evidences and standpoints of Procurators, defendants, defense counsels and other participants in legal proceedings.

3. The following issues of a case must be settled through deliberation:

- a) The case is suspended or documents are returned for further investigation;
- b) The legality of evidences and documents gathered by Investigation authorities, Investigators, Procuracies and Procurators or provided by lawyers, suspects, defendants and other participants in legal proceedings;
- c) The existence of justifications for the conviction of the defendants. If justifications for conviction suffice, the points, sections and articles applicable from the Criminal Code must be specified.
- d) Penalties and judicial panels imposed on the defendants; liabilities for compensations; civil matters in the criminal lawsuit;
- dd) The defendants' exemption from criminal liabilities or penalties;
- e) Criminal court fee, civil court fee; handling of evidences; property seized, accounts frozen;
- g) The validity of acts and procedural decisions of Investigators, Procurators and defense counsels during the processes of investigation, prosecution and adjudication;
- h) Propositions for the prevention of crimes and correction of violations.

4. If the Procurators revoke the entire decision to prosecute, the Trial panel shall continue settling the issues of the case by the sequence defined in section 1 of this Article. If justifications absolve a defendant of guilt, the Trial panel shall declare the defendant not guilty. The trial panel, if considering the revocation of the decision to prosecute groundless, shall decide to suspend the lawsuit and inform the head of the equivalent or immediate superior Procuracy of such matter.

5. If a case comprises a variety of complex facts, the Trial panel can decide to extend the duration of the deliberation for 07 more days at most upon the end of the oral argument session in court. The trial panel must inform the courtroom participants and other participants in legal proceedings, who are absent from the court, of the time, date and location for the pronouncement of judgments.

6. The trial panel, when finishing the deliberation session, shall decide one of the following matters:

- a) Pass and pronounce the sentences;
- b) Resume the sessions of questioning and oral argument if some facts of the case remain unasked or unclear;
- c) Return case files to the Procuracy for further investigation and the Procuracy's addition of documents and evidences;
- d) Suspend the lawsuit.

The trial panel must inform the courtroom participants and other participants in legal proceedings, who are absent from the court, of the decisions as stated in Point c and Point d of this Section.

7. If crimes are omitted, the Trial panel shall decide to file a lawsuit according to Article 18 and Article 153 of this Law.

#### **Article 327. Pronouncement of judgments**

The presiding judge or a member of the Trial panel shall read the sentence document. In a closed trial, only the ruling section of the sentence document shall be read. Additional explanations on the abidance by the sentences and the right to appeal may be provided after the reading of the sentence document.

#### **Article 328. Discharge of defendants**

In the following events, the Trial panel must declare the immediate discharge, in the courtroom, of a defendant in detention, if he is not held in detention for another crime:

1. The defendant is guiltless;
2. The defendant is exempt from criminal liabilities or penalties;
3. The defendant is not sentenced to imprisonment;
4. A suspended jail sentence is imposed on the defendant;
5. The length of the jail sentence is equal to or shorter than the length of the detention of the defendant.

#### **Article 329. Detention of defendants after the pronouncement of sentences**

1. If a defendant held in detention is sentenced to jail and such detention is deemed necessary to enforce the sentence, the Trial panel shall decide to hold such defendant in detention, unless otherwise stated in Section 4 and Section 5, Article 328 of this Law.
2. If a defendant not held in detention is sentenced to jail, he shall only be put in detention for the enforcement of the sentence upon the effect of the sentence. The trial panel can decide to hold a defendant in detention in court if justifications show that he may abscond or continue criminal acts.
3. The time limit for the detention of a defendant, as per Section 1 and Section 2 of this Article, is 45 days upon the pronouncement of the sentence.
4. If a defendant is sentenced to death, the Trial panel shall decide, in the sentence document, to continue the detention of the defendant for the enforcement of the sentence.

### **Chapter XXII**

#### **APPELLATE TRIAL**

#### **Volume I. CHARACTERISTICS OF APPELLATE TRIAL AND RIGHT TO APPEAL**

#### **Articles 330. Characteristics of appellate trial**

1. Appellate trial means that the immediate superior Court re-tries a case or re-considers the decisions passed by the first instance court, whose judgments and rulings pronounced for the case are appealed before coming into force.



2. The decisions in a first instance court, which are appealed, refer to decisions to suspend or dismiss the case or lawsuit against suspects and defendants and other decisions in the first instance court as per this Law.

### **Article 331. Right to appeal**

1. Defendants, crime victims and their representatives shall have the right to appeal against the judgments or rulings of the first instance court.

2. Defense counsels shall have the right to appeal protect the benefits of individuals aged below 18 or having mental or physical defects, who they have defended.

3. Civil plaintiffs, civil defendants and their representatives shall have the right to appeal against parts of the judgments or rulings, that are related to compensations for damage.

4. Individuals having benefits and duties from the case and their representatives shall have the right to appeal against parts of the judgments or rulings, which are associated with their duties and benefits.

5. The protectors of legitimate rights and benefits of crime victims or litigants aged less than 18 or having mental or physical defects shall have the right to appeal against parts of the judgments or rulings, which are in connection with the benefits and duties of those under their protection.

6. A person declared not guilty by a Court shall have the right to appeal against the justifications of the first-instance court's verdict of no guilty.

### **Article 332. Appellate procedure**

1. The appellant lodges an appeal to the court that conducted the first instance trial or a court of second instance.

If the defendant is held in detention, the warden of the detention center or head of the detention facility must enable the defendant's execution of his right to appeal. The warden or head shall obtain and forward the written appeal to the first-instance court that issued the judgments or rulings appealed.

The appellant can directly present his appeal to the court that conducted the first-instance trial or the appellate court. The court must make a written record of the appeal as per Article 133 of this Law.

The appellate court, that has made the written record of the appeal or received the written appeal, shall send such record or written appeal to the first instance court for further activities according to general regulations.

2. A written appeal shall contain these primary details:

- a) The date of the written appeal;
- b) The full name and address of the appellant;
- c) The reasons and petitions of the appellant;
- d) The signature or fingerprint of the appellant.

3. The written or direct appeal shall be enclosed with additional evidences, documents and items, if available, that evince the grounds of such appeal.

### **Article 333. Time limit for appeal**

1. The time limit for appeal against a first-instance court's judgments is 15 days upon the pronouncement of such judgments. If the defendant or litigant is absent from the court, the time limit for appeal commences upon his receipt or the proclamation of the judgments according to the laws.
2. The time limit for appeal against a first-instance court's rulings is 07 days and commences when the person entitled to appeal receives such rulings.
3. The entry date of an appeal is determined as follows:
  - a) The date shown in the postmark on the mail containing the written appeal sent by post;
  - b) If the written appeal is forwarded by the warden of the detention center or head of the detention facility, the entry date of the appeal shall be the date when the warden or detention head receives the written appeal. The warden or detention head must specify and confirm the date of receipt by affixing his signature on the written appeal;
  - c) If the appellant submits the written appeal in court, the entry date of the appeal shall be fixed upon the Court's receipt of the written appeal. If the appellant directly appeals in court, the entry date of the appeal shall be fixed upon the Court's written record of such appeal.

### **Article 334. Procedures for admission and processing of appeals**

1. The first-instance court, after receiving the written appeal or executing a written record of the appeal, must enter details into a receipt journal and verify the validity of such appeal according to this Law.
2. If the written appeal is valid, the first-instance Court shall send a notice of appeal according to Article 338 of this Law;
3. If the written appeal is valid but its content is obscure, the first-instance Court must promptly inform the appellant for the latter's elucidation.
4. If the content of the written appeal conforms to this Law but the time limit for appeal expires, the first-instance court shall request the appellant to present his excuses and evidences, documents and items, if available, which justify his late submission of the written appeal.
5. If the petitioner does not have the right to appeal, the Court shall return the petition, in 03 days upon the receipt of such paper, and notice the petitioner and equivalent Procuracy in writing. Such written notice must specify reasons for the return of the petition.

A complaint can be lodged against the return of such petition in 07 days upon the receipt of the notice. The processing of such complaint shall abide by the stipulations in Chapter XXXIII of this Law.

### **Article 335. Late appeal**

1. The filing of a late appeal shall be permissible on condition that the appellant has been obstructed by force majeure or objective obstacles to lodge an appeal within the time limit as defined by this Law.
2. The court of first instance, in 03 days upon receiving a late appeal, shall forward to the appellate court the written appeal, the appellant's letter explaining the retardation of the appeal and evidences, documents and items (if available).

3. The appellate court, in 10 days upon receiving the late appeal enclosed with evidences, documents and items (if any), shall establish a Panel of three Judges to scrutinize the late appeal. The panel that contemplates the late appeal shall be entitled to decide to endorse or reject such appeal in writing and specify its reasons in the written decision.

4. The procurator of the equivalent Procuracy shall attend the meeting, in which the late appeal is perused. The appellate Court, in 03 days prior to its contemplation of the late appeal, shall send a copy of the late appeal with evidences and documents (if any) to the equivalent Procuracy. The procurator shall express the Procuracy's standpoints on the ratification of the late appeal.

5. The decision by the late appeal review Panel shall be sent to the appellant, the Court of first instance and the Procuracy equivalent to the appellate Court.

If the appellate Court accepts the late appeal, the Court of first instance shall go through the formalities as defined in this Law and send the case file to the appellate Court.

### **Article 336. Appeal by the Procuracy**

1. An appeal can be lodged by a Procuracy equivalent to the court of first instance or the immediate superior Procuracy to protest a judgment or ruling passed by such court.

2. An appeal by the Procuracy shall contain these primary details:

a) The issue date and number of the decision to appeal;

b) The name of the Procuracy that decides to appeal;

c) The appeal is filed against parts or the whole of judgments or rulings of the first instance court;

d) The reasons, justifications for appeal and requests by the Procuracy;

dd) Full name and position of the individual signing the written decision to appeal.

### **Article 337. Time limit for protest**

1. The time limit for protests against a first-instance court's judgments is 15 days for the equivalent Procuracy and 30 days for the immediate superior Procuracy upon the Court's pronouncement of such judgments.

2. The time limit for protests against a first-instance court's rulings is 15 days for the equivalent Procuracy and 30 days for the immediate superior Procuracy upon the Court's issuance of such rulings.

### **Article 338. Notice of appeals and delivery of prosecution decisions to appeal**

1. The first-instance court shall notice the equivalent Procuracy and concerned individuals in writing about the appeal in 07 days upon the expiration of the time limit for appeal. Such written notice must specify the appellant's requests.

2. The procuracy, in 02 days upon issuing the decision to appeal, shall deliver such appeal with additional evidences, documents and appeals (if any) to the Court that held the first-instance trial, the defendants and concerned individuals. The procuracy filing the appeal must send its decision to appeal to another Procuracy that has jurisdiction of appeals.

3. Participants in legal proceedings, who are informed in writing of the appeal or protest, shall be entitled to state their opinions on the content of such appeal in writing to the appellate Court. Their opinions shall be inputted into the case file.

#### **Article 339. Results of appeals or protests**

Parts of the Court's judgments and rulings being appealed shall not be enforced, unless otherwise defined in Article 363 of this Law. If an appeal is filed against the whole of the Court's judgments or rulings, the enforcement of all judgments or rulings shall be postponed, except for circumstances as defined in Article 363 of this Law.

The first-instance Court must provide the appellate Court with the case file, written appeal and documents, evidences and items (if any) in 07 days upon the expiration of the time limit for appeals or protests.

#### **Article 340. Admission of cases**

1. The appellate Court, upon receiving the file of the case appealed with evidences, documents and items (if any), shall enter details into the case admission journal.
2. In 03 days upon the admission of the case, the Court president of the appellate Court shall appoint a Judge to preside the court and meeting session.

#### **Article 341. Transfer of case files to the Procuracy**

1. The appellate Court, after admitting the case, must transfer the case file to the equivalent Procuracy. The case file must be returned to the Court, in 15 days' time for the provincial People's Procuracy or military procuracy of a military zone or 20 days' time for the Higher People's Procuracy or Central military procuracy upon such procuracies' receipt of the case file. In the case of extremely severe or complicated felonies, the said time limit may be extended for 25 more days for the provincial People's Procuracy or military procuracy of a military zone or 30 more days for the Higher People's Procuracy or Central military procuracy.
2. Additional evidences, documents and items given to the appellate Court prior to its process of adjudication must be forwarded to the equivalent Procuracy. The procuracy, in 03 days upon receiving such additional documents, evidences and items, must return them to the Court.

#### **Article 342. Amendment or withdrawal of appeals**

1. The appellant or Procuracy deciding to appeal shall be entitled to amend the appeal but not to aggravate the defendants' circumstances, in the appellate court or prior to the start of the trial. The right to withdraw parts or all of the appeal shall be granted to the appellant, the Procuracy deciding to appeal or the immediate superior Procuracy in the appellate court or prior to the start of the trial.
2. The amendment or withdrawal of an appeal prior to the start of the trial must be executed in writing and sent to the appellate Court. The appellate court must inform the Procuracy, defendants and concerned individuals of the amendment or withdrawal of the appeal. The amendment or withdrawal of an appeal in court shall be noted in the court record.
3. If the appellant or Procuracy withdraws a part of the appeal in court, which does not affect other parts, the appellate Trial panel shall consider the part withdrawn and decide to terminate its adjudication of such part of the appeal.

### **Article 343. Effect of a first-instance court's judgments and rulings not being appealed**

A first-instance court's judgments, rulings and parts of such not being appealed shall come into force upon the expiration of the time limit for appeals and protests.

## **Volume II. PROCEDURE IN APPELLATE COURTS**

### **Article 344. Appellate jurisdiction**

1. A provincial People's Court shall have appellate jurisdiction over a district People's Court's judgments and rulings being appealed.
2. The higher People's Court shall have appellate jurisdiction over a provincial's judgments and rulings being appealed. However, such appellate jurisdiction shall be subject to territorial jurisdiction.
3. A military court of a military zone shall have appellate jurisdiction over a local military court's judgments and rulings being appealed.
4. The Central military court shall have appellate jurisdiction over the judgments and rulings that were passed by a military court of a military zone and are being appealed.

### **Articles 345. Scope of appellate jurisdiction**

An appellate court shall review the content of sentences and rulings being appealed. It can review other parts of such sentences and rulings, which are not appealed, if necessary.

### **Article 346. Time limit for appellate trial preparation**

1. A provincial People's Court or military Court of a military zone must start the appellate trial in 60 days upon the receipt of the case file. The higher People's Court or Central military court must begin the appellate trial in 90 upon receiving the case file.
2. Upon the admission of a case, the provincial People's Court and military court of the military zone, in 45 days, or the Higher People's Court and Central military court, in 75 days, must issue one of the following decisions:
  - a) Terminate the appellate trial;
  - b) Hear the appellate case;
3. In 15 days upon deciding to hear the case, the Court must start the appellate trial.
4. The appellate court, in 10 days at most prior to the start of the trial, must send its decision to try the case to the equivalent Procuracy, defense counsels, crime victims, protectors of legitimate rights and benefits of crime victims and litigants, appellants and individuals having duties and interests related to the appeal.

### **Article 347. Implementation, alteration and termination of preventive and coercive measures**

1. The appellate court, upon accepting the case, shall be empowered to implement, alter or terminate preventive and coercive measures.

The implementation, alteration and termination of detention shall be subject to the decisions of the Court president and Vice court presidents. The implementation, alteration and termination of other preventive and coercive measures shall be subject to the decisions of the Presiding judge.

2. The time limit for detention prior to trial shall not exceed the time limit for appellate trial preparation as per Article 346 of this Law.

The appellate court shall base on the first-instance court's decision on detention to set the time limit for extending the active detention of a defendant, if deemed imperative. The appellate court shall base on the first-instance court's decision on detention to extend the active time limit for the continued detention of a defendant, if deemed imperative.

If a defendant is held and must be kept in detention for the completion of the trial, the Trial panel shall decide to hold him in detention until the end of the trial.

3. If a defendant in detention is sentenced to jail but his detention time expires, the Trial panel shall decide to hold him in detention for sentence enforcement, unless otherwise stated in Section 4 and Section 5, Article 328 of this Law.

If a defendant not in detention is sentenced to jail, the Trial panel can decide to put him in detention upon the pronouncement of sentences.

The time limit for detention is 45 days upon the pronouncement of sentences.

#### **Article 348. Termination of appellate trial**

1. The appellate court shall terminate the appellate trial when the appellant or Procuracy withdraws the entire appeals. The termination of the appellate trial shall be subject to the decisions of the Presiding judge, prior to the start of the trial, or the decisions of the Trial panel, in court. The first-instance court's sentences shall come into force upon the appellate Court's issuance of the decision to terminate the appellate trial.

2. If the appellant or Procuracy, prior to the start of the trial, withdraws parts of the appeal, which are deemed not to affect other parts, the Presiding judge shall decide to terminate the appellate trial against the parts withdrawn.

3. A decision to terminate appellate trial must specify reasons of termination and other details as defined in Section 2, Article 132 of this Law.

The appellate court, in 03 days upon issuing its decision to terminate the appellate trial, must send such decision to the equivalent Procuracy, the court that held the first-instance trial, defense counsels, crime victims, litigants, protectors of legitimate rights and benefits of crime victims and litigants, appellants and individuals having duties and interests related to the appeal.

#### **Article 349. Attendance of members of the appellate Trial panel and Court clerk**

1. The trial shall proceed only in the presence of full members of the Trial panel and the Court clerk. Members of the Trial panel must hear the case from start to finish.

2. If a Judge fails to continue hearing the case but a reserve Judge attends the trial from the start, the reserve one shall be the substitute member of the Trial panel. If the Presiding judge cannot continue hearing the case, a member Judge of the Trial panel shall preside the court and a reserve Judge shall become a substitute member of the Trial panel.

3. If a reserve Judge or a Judge to substitute the presiding judge, when required, is not available, the trial shall be halted.

4. If the Court clerk is replaced or cannot continue attending the court, the trial may progress in the presence of a reserve Court clerk. If a substitute clerk is not available, the trial shall be halted.

#### **Article 350. Attendance of Procurators**

1. Procurator(s) of the equivalent Procuracy must appear in the court to exercise prosecution rights and administer the trial. The trial shall be halted in the absence of procurator(s). Many procurators may attend a lawsuit composed of serious and complex factors. If procurator(s) cannot attend the trial, reserve procurator(s) attending the trial from the start shall become substitute(s) to exercise prosecution rights and administer the trial.

2. If reserve procurator(s) is not available to replace procurator(s) who must be changed or cannot continue exercising prosecution rights or administering the trial, the Trial panel shall halt the trial.

#### **Article 351. Attendance of defense counsels, protectors of legitimate rights and benefits of crime victims and litigants, appellants and individuals having duties and interests related to the appeal**

1. Defense counsels, protectors of legitimate rights and benefits of crime victims and litigants, appellants and individuals having duties and interests related to the appeal must appear in court as per subpoenas. If such person(s) is absent, the Trial panel shall implement the following measures:

If the defense counsel is absent for the first time due to force majeure or objective obstacles, the trial shall be halted unless the defendant agrees to be tried in the absence of the defense counsel. If the defense counsel is absent not due to force majeure or objective obstacles or fails to appear as per the valid second subpoena, the court shall hold the trial.

If a defense counsel appointed as per Section 1, Article 76 of this Law is absent, the trial shall be halted unless the defendant or his representative agrees to engage in the trial in the absence of the defense counsel.

b) If the appellant, crime victims, litigants and their representatives who have interests and duties related to the appeal, and protectors of legitimate rights and benefits of crime victims and litigants are absent not due to force majeure or objective obstacles, the Trial panel shall hold the trial. If such people are absent due to force majeure or objective obstacles, the Trial panel can hold the trial but cannot pass a judgment or ruling that is inimical to the crime victims or litigants;

c) If the defendant filing or facing an appeal is absent due to force majeure or objective obstacles, the Trial panel can hold the trial but cannot pass a judgment or ruling inimical to the defendant. If the defendant's absence out of force majeure or objective obstacles does not hinder the trial, the Trial panel shall hold the trial.

2. The appellate court shall decide to summon other individuals to the court, if necessary.

#### **Article 352. Halt of appellate trial**

1. The appellate court can halt the trial only in one of the following events:

a) There are justifications as defined in Article 52, 53, 349, 350 and 351 of this Law;

b) Evidences, documents or items must be verified or added outside the court;

If the trial is halted, the process of adjudication shall restart.

2. The duration of a halt to a trial of second instance shall be defined in Article 297 of this Law.

### **Article 353. Addition and examination of evidences, documents and items**

1. The procuracy, prior to or at the appellate trial, can gather new evidences on its own discretion or at the requests for the Court. Furthermore, the appellant and individuals having duties and interests related to the appeal, defense counsels, protectors of legitimate benefits and rights of crime victims and litigants shall be entitled to supplement evidences, documents and items.

2. Existing and new evidences and newly added documents and items must be examined in court. The appellate court's judgments must consider existing and newly added evidences.

### **Article 354. Procedure of appellate court**

1. The procedures to start the trial and conduct oral arguments in an appellate court and first-instance court are similar; however, a member of the Trial panel in the court of second instance shall summarize the case, the first-instance court's judgments and rulings and details of the appeal before the questioning session.

2. The presiding judge shall ask the appellant about his intention to amend or withdraw the appeal. If such intention exists, the presiding judge shall ask about the Procurator's opinions on such amendment or withdrawal of the appeal.

The presiding judge shall ask about the Procurator's intention to amend or withdraw the protest. If such intention exists, the presiding judge shall ask the defendants and individuals in connection with the protest to express their opinions on such amendment or withdrawal of the protest.

3. During the court's session of oral argument, the Procurator and individuals related to the appeal shall express their opinions on the details of the appeal. Moreover, the Procurator shall state the Procuracy's opinions on the settlement of the case.

### **Article 355. The appellate Trial panel's jurisdiction over the first-instance court's judgments**

1. The appellate trial panel shall have the rights to:

a) Reject appeals and sustain the first-instance court's judgments;

b) Alter the first-instance court's judgments;

c) Annul the first-instance court's judgment and send the case back for re-investigation or retrial;

d) Annul the first-instance court's judgments and dismiss the case;

dd) Terminate the appellate trial.

2. The appellate court's judgments shall come into force upon the pronouncement of such judgments.

### **Article 356. Rejection of appeals and sustainment of the first-instance court's judgments**

The appellate court, when considering the first-instance court's judgments justified and conformable to the laws, shall reject appeals and sustain the first-instance court's judgments.



### **Article 357. Alteration of the first-instance court's judgments**

1. In the presence of new facts or grounds showing the disparity in the first-instance court's judgments and the defendant's personal records or nature, degree and consequences of the crimes, the Trial panel of the appellate court shall be entitled to alter the first-instance court's judgments as follows:

- a) Exempt the defendant from criminal liabilities or penalties; enforce no additional penalty or judicial remedy;
- b) Implement articles and sections of the Criminal Code on lesser crimes;
- c) Mitigate the defendant's punishments;
- d) Lessen the compensation level and amend the rulings on the handling of evidences;
- dd) Commute a punishment to a less harsh one;
- e) Sustain or alleviate a jail sentence and grant a suspended sentence.

2. At the requests by the Procuracy or crime victims, the Trial panel of the appellate court can:

- a) Aggravate punishments and implement articles and sections of the Criminal Code on harsher crimes; pass additional punishments and implement judicial remedies;
- b) Increase the compensation level;
- c) Replace existing punishments with harsher ones;
- d) Nullify suspended sentence.

The trial panel, if acquiring sufficient justifications, can mitigate punishments and implement articles and sections of the Criminal Code on lesser crimes, commute existing punishments to less harsher ones, sustain and suspend jail sentence and reduce the compensation level.

3. The trial panel of the appellate court, if possessing satisfactory grounds, can alter the first-instance court's judgments, as per Section 1 of this Article, for the defendants filing or facing no appeal.

### **Article 358. Annulment of the first-instance court's judgments for re-investigation or retrial**

1. The trial panel of the appellate court shall annul the first-instance court's judgments in the following events:

- a) There are grounds demonstrating the first-instance court's omission of crimes or criminals or the demand for charges and investigation into crimes harsher than those defined in the first-instance court's judgments;
- b) The appellate court cannot fulfill the incomplete investigation activities at first instance;
- c) Legal proceedings during the stage of investigation or prosecution have constituted serious violations.

2. The trial panel of the appellate court shall annul the first-instance court's judgments to re-try the case at first instance with a new Trial panel in these events:

- a) The composition of the Trial panel of the first-instance court does not abide by this Law;

- c) Legal proceedings during the stage of adjudication at first instance have constituted serious violations;
  - c) The first-instance court issued a verdict of not guilty in favor of a person, who is found to commit crimes through substantial grounds;
  - d) Grant unjustified exemption of criminal liability, punishment or judicial remedy in favor of the defendant;
  - dd) Though the first-instance court committed serious errors in the implementation of laws for its passing of judgments, Article 357 of this Law is not applicable for the appellate Trial panel to alter the judgments.
3. The trial panel of the appellate court, when annulling the first-instance court's judgments for re-investigation or retrial, must specify reasons for such invalidation of judgments.
  4. The appellate trial panel, when annulling the first-instance court's judgments for retrial, shall not set, in advance, evidences for the first-instance court to approve or reject or applicable points, sections and articles of the Criminal Code or punishments against the defendants.
  5. When the first-instance court's judgments are annulled for re-investigation or retrial but the time limit for the detention of the defendant expires, the appellate Trial panel shall, if finding the need of keeping such defendant in detention, issue a decision to continue the temporary detainment of the defendant until the Procurator or the first-instance court re-handles the case.
- In 15 days upon the annulment of the first-instance court's judgments, the case shall be sent to the Procuracy or the first-instance court for general proceedings as per this Law.

#### **Article 359. Annulment of the first-instance court's judgment and dismissal of the case**

1. If one of the justifications as defined in Section 1 and Section 2, Article 157 of this Law exists, the appellate Trial panel shall nullify the first-instance court's judgments, declare the defendant not guilty and dismiss the case.
2. If one of the justifications as defined in Section 3, 4, 5, 6 and 7, Article 157 of this Law exists, the appellate Trial panel shall nullify the first-instance court's judgments and dismiss the case.

#### **Article 360. Re-investigation or retrial of criminal cases**

1. After the appellate Trial panel annuls the first-instance court's judgments for re-investigation, the Investigation authorities, Procuracy and first-instance Court shall be empowered to investigate, prosecute and adjudicate the case again according to this Law.
2. After the appellate Trial panel annuls the first-instance court's judgments for retrial, the first-instance Court shall be empowered to rehear the case according to this Law.

#### **Article 361. The appellate trial panel's jurisdiction over the first-instance court's rulings**

1. The appellate trial panel shall have the rights to:
  - a) Reject appeals and sustain the first-instance Court's rulings that are deemed justified and conformable to the laws;
  - b) Alter the first-instance Court's rulings;

c) Annul the first-instance Court's rulings and transfer the case to the first-instance court for further settlement of the case.

2. The appellate court's rulings shall come into force when pronounced.

### **Article 362. Appellate procedure against the first-instance court's rulings**

1. The appellate Trial panel, when reviewing the first-instance court's rulings being appealed, must summon to the meeting session the appellant, defense counsels, protectors of litigants' legitimate rights and benefits, and individuals having interests and duties related to the appeal. The appellate Trial panel, despite the absence of such people, shall hold the meeting session.

2. In 15 days upon the acceptance of the case, the Court must hold the meeting session to examine the first-instance court's rulings being appealed.

In 10 days upon the decision to hold the meeting session, the appellate Trial panel must start the meeting session. The court, in 02 days upon issuing the decision to hold the meeting session, must send the case file and such decision to the equivalent Procuracy. The procuracy, in 05 days upon receiving the case file, must send the file back to the Court.

3. In the meeting session, a member of the appellate Trial panel shall briefly present the first-instance court's rulings, the details of the appeal and accompanying evidences, documents and items (if any).

The procurator of the equivalent Procuracy must attend the meeting session and express the Procuracy's opinions on the settlement of the appeal prior to the appellate Trial panel's issuance of its rulings.

## **PART FIVE**

### **REGULATIONS ON THE ENFORCEMENT OF THE COURT'S SENTENCES AND RULINGS**

#### **Chapter XXIII**

#### **SENTENCES AND RULINGS THAT ARE IMMEDIATELY ENFORCED AND THE AUTHORITY TO DECIDE THE ENFORCEMENT OF SENTENCES**

#### **Article 363. The court's sentences and rulings that are immediately enforced**

The court's sentences or rulings, though appealable, shall be immediately enforced when the first-instance court decides to dismiss the case for a defendant in detention or declare that defendant guiltless or exempt from criminal liabilities or punishments. Moreover, alternatives to incarceration or suspended prison sentences or jail sentences, whose length of time is equal to or shorter than the detention time served, shall take immediate effect.

Warnings shall be delivered in court.

#### **Article 364. Authority and procedure to order the enforcement of sentences**

1. The president of the court that held the first-instance trial shall assume authority to order the enforcement of sentences or delegate the president of an equivalent court to order the execution of sentences.

2. The time limit for the issuance of an order for sentence enforcement shall be 07 days upon the effect of the first-instance court's sentences and rulings or upon the receipt of sentences and

rulings from the appellate court or decisions generated through cassation or reopening procedures.

The court president, when delegated by the president of the court that held the first-instance trial, shall in 07 days upon the receipt of the written delegation issue an order to enforce the sentences.

3. If a person on bail is sentenced to jail, the order on the enforcement of such prison sentence must state that the said person must in 07 days upon receiving the written order present himself to a criminal sentence enforcement unit of a district police office to serve time.

If a person on bail and sentenced to jail absconds, the President of the Court that has ordered the sentence enforcement shall request a wanted notice to be issued by the criminal sentence enforcement police unit of the provincial Police office at the location where the prison sentence was passed.

### **Article 365. Explication and revision of the Court's sentences and rulings**

1. Criminal and civil sentence enforcement authorities, procuracies, sentenced persons, crime victims and litigants in connection with the enforcement of sentences shall be entitled to petition the Court that passed such sentences and rulings for its explication and revision of obscure details of such judgments and decisions for the purpose of enforcement.

2. The presiding judge of the court that pronounced the sentences and rulings shall be held responsible for explicating and revising vague details of the Court's judgments and decisions. The president of the Court that passed the sentences and rulings, if the presiding judge cannot explicate or revise such, shall undertake the tasks.

### **Article 366. Settlement of motions against the Court's sentences and rulings**

If a criminal or civil sentence enforcement authority makes a motion for revision of the Court's sentences or rulings through the reopening or cassation procedures, the competent Court shall be responsible for responding to such motion in 90 days upon the receipt of the motion made in writing. The time limit for response, in complex cases, can be extended for 120 more days at most upon the receipt of the written motion.

## **Chapter XXIV**

### **PROCEDURES FOR THE EXECUTION OF DEATH PENALTY, PAROLE AND EXPUNGEMENT OF CRIMINAL RECORDS**

#### **Article 367. Procedures for the review of death penalty before execution**

1. The following procedures shall apply to the review of a death penalty before execution:

a) When a death penalty comes into force, the case file shall be promptly sent to the President of the Supreme People's Court and the sentences shall be immediately delivered to the Head of the Supreme People's Procuracy;

b) Supreme People's Court, after reviewing the case file to make decisions to or not to file an appeal through reopening or cassation procedures, shall have the case file sent to the Supreme People's Procuracy. Supreme People's Procuracy, in 01 month upon receiving the case file, shall return it to the Supreme People's Court;

c) The president of the Supreme People's Court or head of the Supreme People's Procuracy, in 02 months upon the receipt of the case file, must decide to or not to appeal through reopening or cassation procedures;

d) The sentenced person shall be allowed to, in 07 days upon the effect of the sentence, petition for the State president's commutation;

dd) A death penalty shall be executed if the President of the Supreme People's Court and the Head of the Supreme People's Procuracy do not appeal through reopening or cassation procedures and the sentenced person does not petition for the State president's amnesty.

If an appeal is filed against the death penalty through the reopening or cassation procedures but is rejected by the Reopening panel or Cassation panel of the Supreme People's Court for sustaining the death penalty, the Supreme People's Court shall promptly notice the sentenced person for the latter's petition for amnesty;

e) If the sentenced person petitions for remission, the death penalty shall be executed upon the State President's rejection of the petition.

2. The president of the Court that held the first-instance trial, in the presence of grounds as defined in Section 3, Article 40 of the Criminal Code, shall not order to enforce the death penalty and report to the President of the Supreme People's Court for the reduction of the death sentence to incarceration for life.

### **Article 368. Procedures for parole**

1. Prisons and detention centers of the Ministry of Public Security, detention centers of the Ministry of Defense, criminal sentence enforcement units of provincial Police offices and military zones shall be responsible for preparing and sending the application for parole to the provincial Procuracy or military Procuracy of the military zone, provincial People's Court, military Court of the military zone at the location where the convict serves time.

An application for parole comprises:

a) The convict's letter of application for parole, including his undertakings to obey the laws and perform mandatory duties of the parole;

b) A copy of the sentence in effect and sentence enforcement order;

c) A copy of the decision to mitigate the prison sentence's term of length for a person convicted of felonies or harsher crimes;

d) The documents showing the fulfillment of additional pecuniary fines, court fees and civil liabilities;

dd) The personal records of the convict and his family background;

e) The ranking result of the convict's serving of his time on quarterly, 6-month and annual basis; the decision to commend or the competent authority's written confirmation of the convict's merit, if existing;

g) The written request for parole from the authority that prepares the application.

2. The written request for parole from the authority that prepares the application shall contain these primary details:

- a) Number and date of the written request;
- b) Full name, position and signature of the individual authorized to make the request;
- c) Full name, gender, year of birth, residential place of the convict; and the location where the convict undergoes probation;
- d) Length of time served and remaining;
- dd) Remarks and requests by the authority that prepares the application.

3. The provincial People's Procuracy or military Procuracy of the military zone must, in 15 days upon receiving the application for parole, expresses its opinions in writing on such application.

If the Procuracy demands further documents, the authority making the application must, in 03 days upon receiving such demand, prepare and send additional papers to the Procuracy and Court.

4. The president of the provincial People's Court or military Court of the military zone, in 15 days upon obtaining the application, must hold a meeting to consider the parole and inform the equivalent Procuracy in writing to have procurator(s) assigned to such meeting. If the Court demands further documents, the authority making the application must, in 03 days upon receiving such demand, prepare and send additional papers to the Court and Procuracy.

5. The parole board is composed of the Court president, chairing the board, and 02 judges.

6. A member of the Board shall brief the application in the meeting. The procurator shall state the Procuracy's standpoints on the concerned authority's application for parole and the legal compliance of the ratification of parole. The representative of the authority making the application can present additional details to elucidate the application for parole.

7. The parole meeting shall be recorded in writing. The written record shall specify the date and location of the meeting, participants, contents and events in the meeting and the Board's decision to approve or reject the application for parole for each convict.

At the end of the meeting, the Procurator shall view the written record and request amendments (if any) to such record. The chairman of the Board must review the record and, together with the meeting clerk, sign the record.

8. In 03 days upon the issuance of the decision to grant parole, the Court must send such decision to the convict, equivalent Procuracy, immediate superior Procuracy, authority making the application, Court that ordered sentence enforcement, criminal sentence enforcement unit of district Police or military zone, local authorities at the commune, ward or town where the person on parole resides, military unit managing such person, and Department of Justice adjacent to the office of the Court issuing the decision.

9. The prison, upon receiving the decision to grant parole, shall announce such decision and handle formalities to execute the parole decision. If the person on parole does not violate Section 4, Article 66 of the Criminal Code during his probation, the criminal sentence enforcement unit of the district Police or military zone that managed such person, upon the expiration of the probation, shall certify his fulfillment of jail sentence in writing.

10. If the person on parole violates Section 4, Article 66 of the Criminal Code, the criminal sentence enforcement unit of the district Police office adjacent to the residential location of the

person on parole or the military unit managing such person must submit documents to the Procuracy and Court that decided the parole. The said Procuracy and Court shall consider such documents to annul the decision issued and compel that person to serve the jail time remaining.

The court, in 05 days upon receiving a request, must hold a meeting to review details and make decision.

The court, in 03 days upon annulling the parole decision, must send its new decision to the authorities and individuals as stated in Section 8 of this Article.

11. The procuracy and the convict are entitled to appeal or complain, respectively, against the decision to approve or reject the parole and the decision to annul the parole decision.

The order, procedures and authority to settle such appeals and complaints against the decisions as stipulated in this section shall abide by Chapter XXII and Chapter XXXIII of this Law.

### **Article 369. Procedures for expungement of criminal records**

1. The authority managing criminal record database, in 05 days upon receiving the request by the person whose criminal records are eligible for expungement, shall consider the conditions as stated in Article 70 of the Criminal Code and issue a certificate of no justice records.

2. The court shall decide the expungement in the events as defined in Article 71 and Article 72 of the Criminal Code. The sentenced person must send the Court, which held the first-instance trial, his petition bearing remarks of the local authority at the commune, ward or town where he resides or of his workplace or educational facility.

The court that held the first-instance trial, in 03 days upon receiving the sentenced person's petition, shall send the application for expungement to the equivalent Procuracy. The equivalent Procuracy, in 05 days upon obtaining the documents from the Court, shall respond in writing and return such papers to the Court.

The president of the Court that held the first-instance trial, in 05 days upon retrieving documents from the Procuracy, shall consider the eligibility and approve or reject the application for expungement.

The court, in 05 days upon issuing a decision to approve or reject the application for expungement, must have such decision sent to the sentenced person, equivalent Procuracy, local authorities at the commune, ward or town where the person resides or his workplace or educational facility.

## **PART SIX**

### **REVIEW OF SENTENCES AND RULINGS IN EFFECT**

#### **Chapter XXV**

### **CASSATION PROCEDURE**

#### **Article 370. Nature of cassation procedure**

The cassation procedure reviews a Court's effective sentences and rulings under protest upon the exposure of a serious breach of law in the settlement of the case.

#### **Article 371. Grounds for protest through the cassation procedure**

A court's sentences and rulings in effect shall be protested according to the cassation procedure in the presence of one of the following grounds:

1. The court's sentences and rulings do not correspond with objective facts of the case;
2. A serious breach of legal proceedings for investigation, prosecution and adjudication resulted in a serious error in the settlement of the case;
3. An error in the application of the law occurred.

#### **Article 372. Detection of effective sentences and rulings to be reviewed through the cassation procedure**

1. The sentenced person, authorities, organizations and every person shall be entitled to expose violations of the laws in a Court's sentences and rulings that have come into force, and inform individuals authorized to lodge protests.
2. The provincial People's Court shall examine the effective sentences and rulings passed by a district People's Court in order to detect violations of laws and propose the President of the Higher People's Court or the Supreme People's Court to lodge protests.

The military court of the military zone shall examine the effective sentences and rulings passed by a local military court to detect violations of laws and propose the President of the Central military court to lodge protests.

3. Individuals authorized to lodge protests shall be informed promptly in writing upon the Court's or Procuracy's detection of violations of laws in a Court's judgments and rulings through the cassation review or administration of the process of adjudication or through other sources of information.

#### **Article 373. Right to lodge protests through the cassation procedure**

1. The president of the Supreme People's Court and the head of the Supreme People's Procuracy shall have the right to lodge protests through the cassation procedure, when deemed necessary, against the effective sentences and rulings passed by a Higher People's Court or other Courts, except for the rulings pronounced by the Judicial panel of the Supreme People's Court.
2. The president of the Central military court and the head of the Central military procuracy shall have the right to lodge protests through the cassation procedure against the effective sentences and rulings passed by a military Court of a military zone or a local military Court.
3. The president of the Higher People's Court and the head of the Higher People's Procuracy shall have the right to lodge protests through the cassation procedure against the effective sentences and rulings passed by a provincial People's Court or a district People's Court in conformity to the territorial jurisdiction.

#### **Article 374. Procedures for notice of a Court's effective rulings and sentences to be reviewed through the cassation procedure**

1. The sentenced person, authorities and entities, when exposing violations of laws in the Court's effective sentences and rulings, shall submit a written notice or give a direct presentation and evidences, documents and items, if available, to the individuals authorized to lodge protests or to the nearest Court or Procuracy.
2. A written notice shall contain these primary details:



- a) Date;
- b) Name and address of the authority or entity issuing the notice;
- c) The court's effective sentences or rulings in violation of the laws;
- d) The details of violations exposed;
- dd) The petition for the competent individuals' protests.

3. Such notice must bear the signature or fingerprint of the informing person or the corporate seal and signature of the legal representative of the authority or organization issuing the notice.

#### **Article 375. Procedures for acquisition of notices of a Court's effective rulings and sentences to be reviewed through the cassation procedure**

1. The court or procuracy, when acquiring the written notice, shall input details into the notice receipt journal.
2. When the sentenced person, authorities or entities directly state the violations of laws in a Court's effective sentences and rulings, the Court or Procuracy must record details stated in writing. If the informing person provides evidences, documents and items, the Court and Procuracy must execute a written record of custody. Such written record shall be made according to Article 133 of this Law.
3. The court or procuracy that receives the written notice and execute written records must send such notice and records with evidences, documents and items, if available, to the individuals authorized to lodge protests. Moreover, the sentenced person, authorities and entities making requests shall be informed in writing.

#### **Article 376. Transfer of case files for contemplation of protests through the cassation procedure**

1. The court or procuracy, if in need of examining the case file to contemplate protests through the cassation procedure, shall be entitled to request in writing the Court managing such file to have it transferred.

The court managing the case file, in 07 days upon receiving the written request, must have it transferred to the Court or Procuracy making such request.

2. If the Court and Procuracy simultaneously issue their written requests, the Court managing the case file shall have it transferred on first-come basis and inform the later one.

#### **Article 377. Suspension of the enforcement of sentences and rulings protested through the cassation procedure**

The individual issuing the decision to protest sentences and rulings in effect through the cassation procedure shall be entitled to suspend the enforcement of such rulings and sentences.

The decision to suspend the enforcement of sentences and rulings protested through the cassation procedure must be sent to the Court and Procuracy, which held the trials at first and second instance, and competent sentence enforcement authorities.

#### **Article 378. Decision to lodge protests through the cassation procedure**

A decision to lodge protests through the cassation procedure shall contain these primary details:

1. The number and date of the decision;
2. The individual authorized to make the decision;
3. The number and date of the sentence or ruling protested;
4. Remarks and analysis of violations and errors in the sentence or ruling protested;
5. Legal grounds that lead to the decision to protest;
6. The decision to protest the whole or parts of the sentence or ruling;
7. The name of the Court empowered to perform the cassation review of the case;
8. The requests by the individual initiating protests.

#### **Article 379. Time limit for protests through the cassation procedure**

1. The time limit for protests against the sentenced person shall be 01 year upon the effect of the sentence or ruling.
2. Protests in favor of the sentenced person shall be initiated any time, even for the exoneration of the sentenced person who passed away.
3. Protests on litigants' civil matters in a criminal case shall abide by the Civil procedure code.
4. If there is no ground to lodge protests through the cassation procedure, the individual authorized to protest must inform the requesting authorities and entities in writing of his decision not to protest and reasons.

#### **Article 380. Delivery of decisions to protest through the cassation procedure**

1. The decision to protest through the cassation procedure must be promptly delivered to the Court that passed the effective sentence and ruling protested, the sentenced person, competent authorities enforcing criminal or civil sentences, and other people having interests and duties related to the protests.
2. If the President of the Supreme People's Court initiates protests, the decision to protest and case file must be promptly delivered to the Court empowered to conduct cassation procedure.

If the President of the Higher People's Court or Central military court initiates protests, the decision to protest and case file must be promptly delivered to the competent Procuracy.

The court empowered to conduct cassation procedure must deliver the decision to protest and case file to the equivalent Procuracy. The procuracy, in 30 days upon receiving the case file, must send back the file to the Court.

3. If the head of the Supreme People's Procuracy or Higher People's Procuracy or Central military procuracy initiates protests, the decision to protest and case file must be promptly delivered to the Court empowered to conduct the cassation procedure.

#### **Article 381. Amendment or revocation of protests**

1. Before trial or at the court of cassation, the protesting individual shall be entitled to supplement and amend protests if the time limit for protests is still effective. Amendments to the protests before trial must be executed through written decisions and delivered according to Section 1, Article 380 of this Law. Amendments to the protests in court shall be inputted into the court record.

2. Before trial or in the court of cassation, the protesting individual shall be entitled to withdraw parts or the whole of the protests. The withdrawal of protests before trial must be executed through written decisions. The withdrawal of protests in court shall be inputted into the court record.

3. If all protests are withdrawn before trial, the President of the Court empowered to conduct the cassation procedure shall decide to dismiss the trial of cassation. If all protests are withdrawn in court, the Trial panel shall decide to dismiss the trial of cassation.

The court, in 02 days upon issuing its decision to dismiss the trial of cassation, shall send such decision to the persons as stated in Section 1, Article 380 of this Law and to the equivalent Procuracy.

### **Article 382. Jurisdiction over cassation procedure**

1. Committee of Judges of the Higher People's Court conducts the cassation procedure through a Judicial panel of three judges to review effective sentences and rulings passed by provincial People's Courts or district People's Courts in conformity to the territorial jurisdiction.

2. Plenary assembly of the Committee of Judges of the Higher People's Court conducts the cassation review of effective rulings and sentences passed by a People's Court as per Section 1 of this Article, which comprise complex elements, or sentences and rulings reviewed by the 3-judge Judicial panel established the Committee of Judges of the Supreme People's Court through the cassation procedure without reaching an agreement on the settlement of the case through voting.

When the Plenary assembly of the Committee of Judges of the Higher People's Court holds the trial of cassation, two thirds of its members must be attend the trial, which is chaired by the President of the Supreme People's Court. Rulings of the Plenary assembly of the Committee of Judges must be approved by more than half of its members; otherwise, the trial shall be halted. Plenary assembly of the Committee of Judges, in 30 days upon halting the trial, must resume the trial.

3. Committee of Judges of the Central military court conducts the cassation review of effective sentences and rulings passed by a military court of a military zone or local military court. More than two thirds of members of the Committee of Judges of the Central military court must attend the trial of cassation, which is chaired by the President of the Central military court. Rulings of the Committee of Judges must be approved by more than half of its members; otherwise, the trial shall be halted. Committee of Judges, in 30 days upon halting the trial, must resume the trial.

4. Justices' Council of the Supreme People's Court assigns a Judicial panel of five Judges to conduct the cassation review of effective rulings and sentences passed the Higher People's Court or Central military court.

5. Plenary assembly of Judges of the Supreme People's Court conducts the cassation review of effective rulings and sentences as stated in Section 4 of this Article, which comprise complex elements, or effective rulings and sentences reviewed by the Judicial panel of five Judges of the Justices' Council of the Supreme People's Court through the cassation procedure without reaching an agreement on the settlement of the case by voting.

More than two thirds of members of the Plenary assembly of Judges of the Supreme People's Court must be present at the trial of cassation, which is chaired by the President of the Supreme

People's Court. Rulings of the Plenary assembly of Judges of the Supreme People's Court must be approved by more than half of its members; otherwise, the trial shall be halted. Plenary assembly of Judges, in 30 days upon halting the trial, must resume the trial.

6. Justices' Council of the Supreme People's Court shall conduct the cassation review of the entire lawsuit, whose effective sentences and rulings protested fall into different levels of jurisdiction over cassation procedure.

#### **Article 383. Participants in a trial of cassation**

1. The procurator assigned by the equivalent Procuracy must attend the trial of cassation.
2. The court, when perceiving the necessity or grounds to amend parts of an effective sentence or ruling, must summon the sentenced person, defense counsel and individuals having interests and duties related to the protests to the court of cassation. The trial of cassation shall occur despite the absence of the said people.

#### **Article 384. Preparation for a trial of cassation**

The court president shall assign a Judge from the Judicial panel of cassation to prepare an verbal report on the case. Such report shall summarize the details of the case, the Courts' sentences and ruling, and particulars of the protests.

The verbal report and relevant documents must be sent to the members of the Judicial panel of cassation not later than 07 days before trial.

#### **Article 385. Time limit for the start of a trial of cassation**

The court given authority to conduct the cassation procedure, in 04 months upon receiving the decision to protest and case file, must start the trial.

#### **Article 386. Procedures for a trial of cassation**

1. After the presiding judge commences the trial, a member of the Judicial panel of cassation shall present the verbal report on the case. Other members of the Judicial panel of cassation, before discussing and expressing their opinions on the settlement of the case, shall address questions about unclear details to the Judge delivering the verbal report. If the protests are lodged by the Procuracy, the Procurator shall present the details of such protests.
2. If the sentenced person, defense counsel or individuals having duties and interests related to the protests appear in court, they shall be permitted to state opinions at the requests for the Judicial panel of cassation.

The procurator shall present the Procuracy's opinions on the decision to protest and the settlement of the case/

The procurator and participants in the trial of cassation shall present their oral arguments on relevant issues in connection with the settlement of the case. The presiding judge must allow the Procurator and participants in legal proceedings to express all opinions in just and equal manners before the court.

3. Members of the Judicial panel of cassation shall present their opinions and converse. The judicial panel of cassation shall take vote and announce its rulings on the settlement of the case.

#### **Article 387. Scope of cassation procedure**

The judicial panel of cassation must review the entire case beyond the boundary of the protests.

**Article 388. Powers of the Judicial panel of cassation**

1. Reject the protests and sustain the effective sentences and rulings that have been protested.
2. Abrogate the sentences and rulings in effect and sustain lawful judgments and decisions of the Court of first instance or second instance, which were annulled or modified unlawfully.
3. Abrogate sentences and rulings in effect for re-investigation or retrial.
4. Abrogate sentences and rulings in effect and dismiss the case.
5. Redress sentences and rulings in effect.
6. Terminate the cassation procedure.

**Article 389. Rejection of protests and sustainment of effective sentences and rulings under protest**

The judicial panel of cassation shall reject the protests and sustain the effective sentences and rulings under protest if such rulings and sentences are deemed justified and statutory.

**Article 390. Abrogation of sentences and rulings in effect and sustainment of lawful judgments and decisions of a Court of first instance or second instance, which were annulled or modified unlawfully**

The judicial panel of cassation shall decide to abrogate the sentences and rulings in effect and sustain the lawful judgments and decisions of the Court of first instance or second instance, which were annulled or modified unlawfully.

**Article 391. Abrogation of sentences and rulings in effect for re-investigation or retrial**

The judicial panel of cassation shall abrogate the effective sentences and rulings, partly or wholly, for re-investigation or retrial in the presence of one of the grounds as defined in Article 371 of this Law. In the event of retrial, the Judicial panel of cassation shall, as the case may be, decide to have the case retried in the first or second instance.

If the continued detention of the defendant is deemed necessary, the Judicial panel of cassation shall order such detention until a Procuracy or Court handles the case again.

**Article 392. Abrogation of sentences and rulings in effect and dismissal of the case**

The judicial panel of cassation shall abrogate the sentences and rulings in effect and dismiss the case in the presence of one of the grounds as defined in Article 157 of this Law.

**Article 393. Rectification of sentences and rulings in effect**

The judicial panel of cassation shall redress the sentences and rulings in effect upon the fulfillment of all conditions below:

1. Documents and evidences in the case file are sufficient and explicit;
2. The rectification of the sentences and rulings does not alter the nature of the case or worsen the sentenced person's circumstances or put the crime victims and litigants at disadvantage.

**Article 394. Decision to institute the cassation procedure**

1. A judicial panel of cassation shall issue a decision to institute the cassation procedure in the name of the Socialist Republic of Vietnam.
2. The decision to institute the cassation procedure shall comprise:
  - a) The date and location of the trial;
  - b) The full name of members of the Judicial panel of cassation;
  - c) The full name of the Procurator exercising the prosecution rights and administering the trial;
  - d) The name of the case reviewed by the Judicial panel through the cassation procedure;
  - dd) The name, age and address of the sentenced person and individuals having interests and duties in connection with the decision to institute the cassation procedure;
  - e) Summarize the case and parts of the effective sentences and rulings under protest;
  - g) The decision to protest and justifications;
  - h) Remarks by the Judicial panel of cassation, including the analysis of the said justifications for the approval or rejection of the protests;
  - i) Points, sections and articles of the Criminal Procedure Law and Criminal Code, which are adduced by the Judicial panel of cassation in its decisions;
  - k) The decisions by the Judicial panel of cassation.

**Article 395. Effect of rulings from the cassation procedure and delivery of such rulings**

1. The rulings by the Judicial panel of cassation shall come into force as of the date of pronouncement.
2. The judicial panel of cassation, in 10 days upon pronouncing its rulings, must have them delivered to the sentenced person, individuals filing protests, equivalent Procuracy, Procuracy and Court that held the first-instance or appellate trial. Moreover, competent authorities enforcing criminal or civil sentences, individuals having interests and duties related to the protests or their representatives shall receive such rulings. Furthermore, a written notice shall be sent to the local authorities at the commune, ward and town where the sentenced person resides or his workplace of educational facility.

**Article 396. Time limit for transfer of case file for re-investigation or retrial**

If the Judicial panel of cassation decides to abrogate a sentence or ruling in effect for re-investigation, the case file, in 15 days upon the issuance of such decision, must be transferred to the equivalent Procuracy for re-investigation according to this Law.

If the Judicial panel of cassation decides to abrogate a sentence or ruling in effect for retrial in the first or second instance, the case file, in 15 days upon the issuance of such decision, must be transferred to a competent Court for retrial according to this Law.

**Chapter XXVI**

**REOPENING PROCEDURE**

**Article 397. Nature of reopening procedure**

The reopening procedure reviews a Court's effective sentences and rulings under protest upon the exposure of new facts that may alter the fundamentals of such sentences and rulings, given that the said Court had no knowledge of such facts when passing its judgments and decisions.

#### **Article 398. Grounds for protest through reopening procedure**

A court's sentences and rulings in effect shall be protested through the reopening procedure in the presence of one of the following grounds:

1. There are grounds to ascertain the falseness of vital details in witness testifiers' statements, findings of expert examinations and property valuation, interpreters' metaphrase, written translations;
2. Investigators, Procurators, Judges and Assessors had no knowledge of certain facts and, consequently, drew inaccurate conclusions that made the Court's effective sentences and rulings deviate from the objective truths of the case;
3. Evidences, records of investigation, prosecution or adjudication, records of other legal proceedings or other proofs, papers and items in the case were falsified or inaccurate.
4. Other facts that made the Court's effective rulings and sentences deviate from the objective truths of the case.

#### **Article 399. Announcement and verification of facts newly found**

1. The sentenced person, authorities, organizations and every person shall be entitled to find new facts of the case and send written notice and relevant documents to the Procuracy or Court. When the Court receives such notice or finds new facts itself, it must promptly send a written notice and relevant documents to the head of the Procuracy authorized to lodge protests through reopening procedure. The head of the Procuracy authorized to lodge protests through reopening procedure shall issue decisions to verify such facts.
2. The procuracy must verify new facts, when deemed necessary. The head of the Procuracy authorized to lodge protests through reopening procedure shall request the competent investigation authorities to verify new facts and convey findings to the Procuracy.
3. When verifying new facts, the Procuracy and investigation authorities shall be entitled to implement investigative and procedural methods according to this Law.

#### **Article 400. Individuals authorized to lodge protests through the reopening procedure**

1. The head of the Supreme People's Procuracy shall have the right to lodge protests through the reopening procedure against the effective sentences and rulings passed by a Court, save the decisions by the Justices' Council of the Supreme People's Court.
2. The head of the Central military procuracy shall have the right to lodge protests through the reopening procedure against the effective sentences and rulings passed by a military Court of a military zone or a local military Court.
3. The head of the Higher People's Procuracy shall have the right to lodge protests through the reopening procedure against the effective sentences and rulings passed by a provincial People's Court or a district People's Court in conformity to the territorial jurisdiction.

#### **Article 401. Time limit for protests through the reopening procedure**

1. The reopening procedure against the sentenced person shall only be permissible within the prescriptive period for criminal prosecution, as defined in Article 27 of the Criminal Code. The time limit for filing of protests shall not exceed 01 year upon the Procuracy's receipt of information on newly found facts.
2. The reopening procedure in favor of the sentenced person shall not be restricted in time and shall be permissible for the exoneration of the sentenced person who is deceased.
3. Protests regarding litigants' civil matters in a criminal case shall abide by the Civil procedure code.

#### **Article 402. Powers of the Judicial panel of reopening**

1. Reject the protests and sustain the effective sentences and rulings that have been protested.
2. Abrogate a Court's sentences and rulings in effect for re-investigation or retrial.
3. Abrogate sentences and rulings in effect and dismiss the case.
4. Dismiss the reopening trial.

#### **Article 403. Other proceedings of the reopening procedure**

Other proceedings of the reopening procedure shall follow the stipulations on the proceedings of the cassation procedure as per this Law.

### **Chapter XXVII**

#### **PROCEDURES FOR THE REVIEW OF RULINGS BY THE JUSTICES' COUNCIL OF THE SUPREME PEOPLE'S COURT**

#### **Article 404. Requests, requisitions and propositions for the review of rulings by the Justices' Council of the Supreme People's Court**

1. In the presence of grounds that indicate the serious breach of laws in the rulings by the Justices' Council of the Supreme People's Court, the Justices' Council of the Supreme People's Court must meet and review such rulings at the requests by the Standing Committee of the National Assembly or as per the requisitions by the Judiciary Committee of the National Assembly or the head of the Supreme People's Procuracy or according to the propositions by President of the Supreme People's Court. The same applies upon the revelation of new significant facts that were beyond the knowledge of the Justices' Council of the Supreme People's Court upon the passing of its rulings and may alter the fundamentals of such rulings.
2. The president of the Supreme People's Court, at the requests the Standing Committee of the National Assembly, shall be held responsible for reporting to the Justices' Council of the Supreme People's Court for the review of the rulings of the Justices' Council of the Supreme People's Court.
3. In response to the requisitions by the Judiciary Committee of the National Assembly and the head of the Supreme People's Procuracy, the Justices' Council of the Supreme People's Court shall conduct the meeting to review its rulings.

In response to the propositions by the President of the Supreme People's Court, the Justices' Council of the Supreme People's Court shall enter a meeting to review its rulings.



**Article 405. Participants in the meeting organized by the Justices' Council of the Supreme People's Court for examination of requisitions and propositions**

1. The head of the Supreme People's Procuracy must attend the meeting of the Justices' Council of the Supreme People's Court to examine the requisitions by the Judicial Committee of the National Assembly or by the head of the Supreme People's Procuracy or the propositions by the President of the Supreme People's Court.
2. The representative of the Judicial Committee of the National Assembly shall be invited to the meeting of the Justices' Council of the Supreme People's Court to examine the requisitions by the Judicial Committee of the National Assembly.
3. Relevant authorities and entities can be invited by the Supreme People's Court to the meeting, if deemed necessary.

**Article 406. Preparation of the meeting for examination of requisitions and propositions**

1. Upon the receipt of requisitions from the Judicial Committee of the National Assembly or the head of the Supreme People's Procuracy or written propositions from the President of the Supreme People's Court for the review of the rulings of the Justices' Council of the Supreme People's Court, the Supreme People's Court shall send copies of such requisitions or propositions and case files to the Supreme People's Procuracy for the latter's preparation of its presentation in the meeting for examination of such requisitions or propositions.

The president of the Supreme People's Court shall have documents examined and report to the Justices' Council of the Supreme People's Court for the latter to consider details and make decisions in the meeting.

2. In 30 days upon the receipt of requisitions from the Judicial Committee of the National Assembly or the head of the Supreme People's Procuracy or upon the proposition in writing by the President of the Supreme People's Court, the Justices' Council of the Supreme People's Court must carry out the meeting to examine such requisitions or propositions. Moreover, the head of the Supreme People's Procuracy shall be informed in writing of the time and location of such meeting.

**Article 407. Procedures for the organization of a meeting for examination of requisitions and propositions**

1. The president of the Supreme People's Court shall himself or assign a member of the Justices' Council of the Supreme People's Court to present the case and its settlement in brief.
2. The representative of the Judicial Committee of the National Assembly, the President of the Supreme People's Court, the head of the Supreme People's Procuracy, requisitioning for or proposing the review of the rulings of the Justices' Council of the Supreme People's Court, shall present the following particulars:
  - a) The content of the requisitions or propositions;
  - b) The grounds for such requisitions or propositions;
  - c) The analysis of evidences existing and arising (if any) to evince the serious breach of laws in the rulings of the Justices' Council of the Supreme People's Court, or new facts that may alter the fundamentals of such rulings.

3. For the examination of requisitions from the Judicial Committee of the national Assembly or propositions from the President of the Supreme People's Court, the head of the Supreme People's Procuracy shall state opinions on the grounds and validity of such requisitions or propositions and specify standpoints and reasons for his consent to or dissent against such propositions or requisitions.

4. Justices' Council of the Supreme People's Court discuss details and take vote under majority rule on its accord or discord with the requisitions or propositions for the review of the rulings of the Justices' Council of the Supreme People's Court.

5. Justices' Council of the Supreme People's Court, if concurring with requisitions from the Judicial Committee of the National Assembly or the head of the Supreme People's Procuracy or propositions from the President of the Supreme People's Court, shall decide to engage in a meeting to review its rulings.

6. Every event of the meeting for examination of requisitions or propositions and the decisions passed in such meeting shall be inputted into the meeting record and the archive of documents for examination of such requisitions or propositions.

#### **Article 408. Notice of results of the meeting for examination of requisitions or propositions**

At the end of the meeting, the Justices' Council of the Supreme People's Court shall inform the Judicial Committee of the National Assembly and the head of the Supreme People's Procuracy in writing of the results of the meeting and the accord or discord with the requisitions or propositions. The written notice must specify reasons for the consent to or dissent against requisitions or propositions.

If the result of the examination meeting of the Justices' Council of the Supreme People's Court is deemed not satisfactory, the Judicial Committee of the National Assembly, the head of the Supreme People's Procuracy and the President of the Supreme People's Court shall be entitled to report to the Standing Committee of the National Assembly for the latter's decisions.

#### **Article 409. Assessment of case files; verification and collection of evidences, documents and items**

1. At the requests by the Standing Committee of the National Assembly or as per the consent of the Justices' Council of the Supreme People's Court to the review of its rulings, the President of the Supreme People's Court shall organize the assessment of case files and the verification and collection of evidences, documents and items, if necessary.

2. The assessment of case files, verification and collection of evidences, documents and items must clarify the existence of serious violations of laws or new significant facts that may alter the fundamentals of the rulings of the Justices' Council of the Supreme People's Court.

#### **Article 410. Time limit for the start of the meeting to review rulings of Justices' Council of the Supreme People's Court**

1. In 04 months upon the receipt of requests from the Standing Committee of the National Assembly or upon the consent of the Justices' Council of the Supreme People's Court to the review of its rulings, the Justices' Council of the Supreme People's Court must open the meeting.

2. At the requests for the Standing Committee of the National Assembly, the Supreme People's Court shall inform the Supreme People's Procuracy in writing of the time and location of the meeting to review the former's rulings and provide case files.

#### **Article 411. Procedures and authority to review the rulings of the Justices' Council of the Supreme People's Court**

1. The head of the Supreme People's Procuracy must attend the meeting to review the rulings of the Justices' Council of the Supreme People's Court and express opinions on the existence of serious violations of laws or new significant facts that may alter the fundamentals of the rulings of Justices' Council of the Supreme People's Court. Moreover, he shall state standpoints on the settlement of the case.

2. After the report by the President of the Supreme People's Court and presentations by the head of the Supreme People's Procuracy and concerned authorities and entities (if any), the Justices' Council of the Supreme People's Court shall decide to:

a) Refuse the requests by the Standing Committee of the National Assembly, requisitions by the Judicial Committee of the National Assembly or the head of the Supreme People's Procuracy, and propositions by the President of the Supreme People's Court, and sustain the rulings of the Justices' Council of the Supreme People's Court;

b) Rescind the rulings of the Justices' Council of the Supreme People's Court, effective sentences and rulings in violation of the laws and decisions on the particulars of the case;

c) Rescind the rulings of the Justices' Council of the Supreme People's Court, effective sentences and rulings and determine liabilities for amends according to the laws;

d) Rescind the rulings of the Justices' Council of the Supreme People's Court, effective sentences and rulings in violation of the laws for re-investigation or retrial.

3. Rulings of the Justices' Council of the People's Supreme Court must be approved by more than three fourth of its members.

#### **Article 412. Delivery of decisions by the Justices' Council of the Supreme People's Court on the review of its rulings**

After the Justices' Council of the Supreme People's Court issues one of the decisions as defined in Article 411 of this Law, the Supreme People's Court shall deliver such decision to the Standing Committee and the Judicial Committee of the National Assembly, the Supreme People's Procuracy, investigation authorities, procuracies and courts that settled the case and concerned individuals.

### **PART SEVEN**

## **SPECIAL PROCEDURES**

### **Chapter XXVIII**

#### **LEGAL PROCEEDINGS FOR PERSONS LESS THAN 18 YEARS OF AGE**

#### **Article 413. Scope of regulation**

Legal proceedings for accused persons, individuals aggrieved and witness testifiers who are less than 18 years old shall be governed by this Chapter and other regulations of this Law not contrary to those in this Chapter.

#### **Article 414. Principles of legal proceedings**

1. Legal proceedings must be congenial and conformable to the mentality, age level, maturity level and awareness of persons less than 18 years of age. Legitimate rights and interests of persons aged under 18 must be assured. Persons under age of 18 must be guaranteed to gain the best benefits.
2. Personal information of individuals below 18 years of age must be kept confidential.
3. The right to participate legal proceedings must be guaranteed for the representatives of persons under 18, schools, Youth Union, individuals with experience and knowledge of psychology and social affairs, places where persons aged below 18 pursue education and do daily activities.
4. The rights of persons under age of 18 to attend and express opinions must be respected.
5. The rights of persons aged under 18 to defense and legal assistance must be guaranteed.
6. Principles of treatments as per the Criminal Code for persons less than 18 years of age must be assured.
7. The cases in connection with persons aged below 18 must be settled in swift and timely manners.

#### **Article 415. Presiding officers**

Presiding officers in the cases, in which persons aged under 18 are involved, have been trained or experienced in conducting activities of investigation, prosecution and adjudication related to persons less than 18 years of age. Presiding officers must have essential knowledge of psychology and educational science for persons under age of 18.

#### **Article 416. Elucidation of essential details in the process of legal proceedings against accused persons, whose age is under 18**

1. The age, physical and spiritual growth level, awareness level of crimes of persons aged under 18
2. The conditions of life and education.
3. The incitement by persons from 18 years of age.
4. The reasons, conditions and circumstances that lead to crimes.

#### **Article 417. Determination of age of accused persons or crime victims under the age of 18**

1. Competent procedural authorities shall determine the age of accused persons and crime victims under 18 years of age according to the laws.
2. The date of birth of such persons shall be determined in the following manner if legitimate approaches do not generate an accurate result:
  - a) If the month of birth is identified but the day is unknown, the last day of that month shall be the day of birth.
  - b) If the quarter when birth occurred is identified but the date is unknown, the last date of that quarter shall be the date of birth.

c) If the half of the year when birth occurred is identified but the date is unknown, the last day of the final month of that half of the year shall be the date of birth.

d) If the year of birth is identified but the date is unknown, the last day of the final month of that year shall be the date of birth.

3. If the year of birth is not identified, age shall be determined through expert examinations.

#### **Article 418. Supervision of accused persons aged below 18**

1. Investigation authorities and units assigned to investigate, procuracies and courts can decide to have accused persons aged under 18 supervised by their representatives to guarantee their attendance in response to competent procedural authorities' subpoenas.

2. Individuals assigned with supervisory duties shall be held responsible for supervising persons less than 18 years of age in strict manner, oversee their conduct and morality and educate them.

Individuals assigned with supervisory duties must report and cooperate with competent procedural authorities in prompt manner to implement timely preventive measures if the persons under the age of 18 are likely to abscond or commit the acts of bribing, coercing and fomenting other people to falsify statements or provide false documents; destroying or forging evidences, documents and items related to the case, or shifting property related to the case away; threatening, repressing or avenging witness testifiers, crime victims, denouncers and their kin, or continuing criminal acts.

#### **Article 419. Implementation of preventive and coercive measures**

1. Preventive measures and coercive delivery of persons aged below 18 shall be viable only in truly vital circumstances.

Temporary detainment or detention of accused persons less than 18 years of age shall be viable only on the grounds that supervisory approach and other preventive measures fail. The permissible duration of the detention of accused persons under 18 shall be two thirds of the time limit for the detention of individuals from the age of 18 as per this Law. Competent individuals must promptly terminate or change preventive measures when the grounds for temporary detainment or detention evanesce.

2. Persons from the age of 14 to below 16 may be held in emergency custody, apprehended, temporarily detained or held in detention for their crimes as defined in Section 2, Article 12 of the Criminal Code in the presence of grounds as stated in Article 110, 111 and 112, and Point a, b, c, d and dd, Section 2, Article 119 of this Law.

3. Persons from the age of 16 to below 18 may be held in emergency custody, apprehended, temporarily detained or held in detention for intentional felonies, horrific or extremely severe felonies in the presence of grounds as stated in Article 110, 111 and 112, and Point a, b, c, d and dd, Section 2, Article 119 of this Law.

4. Suspects or defendants from the age of 16 to below 18 may be apprehended, detained and held in detention if they continue criminal acts, abscond and are placed under arrest as per wanted notices after being charged, investigated, prosecuted and tried for unintentional felonies or misdemeanors punishable by a maximum term of imprisonment of 2 years according to the Criminal Code.

5. In 24 hours upon the emergency custody, apprehension, temporary detainment or detention, the individuals issuing custodial orders against persons aged under 18 must inform the representatives of such juveniles.

**Article 420. Representative, school and organization participating in legal proceedings**

1. Representatives of persons aged below 18, teachers and representatives of the school, Youth Union and other organizations, where persons aged under 18 pursue education and perform daily activities, shall have the right and duty to participate in legal proceedings as per the decisions of investigation authorities, procuracies and courts.

2. Representatives of persons less than 18 years of age can attend the session of deposition and interrogation of persons under 18. Such representatives can submit evidences, documents, items, requests, complaints and Charges. They can read, transcribe and photocopy documents related to charges against persons aged below 18 from the case file after investigative activities end.

3. Individuals as defined in Section 1 of this Article shall be entitled, in court, to present evidences, documents, items, requests, to requisition the replacement of presiding officers, to express opinions, arguments, and to file complaints against procedural acts of authorized procedural persons and the Court's decisions.

**Article 421. Deposition of persons held in emergency custody, apprehended or temporarily detained, crime victims, witness testifiers; interrogation of suspects; confrontation**

1. When a person under 18 gives depositions while held in emergency custody or apprehended or temporarily detained, or suffers harms of crimes, or testify, or is interrogated, the competent procedural authorities must inform the defense counsel, representative and protector of such person's legitimate rights and benefits of the time and location of the deposition or interrogation in advance.

2. The defense counsel or representative must be present during the taking of depositions from person held in emergency custody, apprehended or temporarily detained or during the interrogation of suspects.

The representative or protector of legitimate rights and benefits of crime victims or witness testifiers must attend the deposition of such persons.

3. The defense counsel and representative can pose questions, with the consent of the investigators or procurators, to the persons apprehended and detained or suspects under the age of 18. After competent individuals end each session of despotion or interrogation, the defense counsel and representative can raise questions to the suspects or persons held in emergency custody, apprehended or held in temporary custody.

4. There shall be at most, on daily basis, two sessions of deposition of persons under 18. Each session shall be less than 02 hours, unless the case comprises a variety of complex factors.

5. Only two sessions of interrogation of suspects under 18 shall be permissible per day. The duration of each session shall be limited to 02 hours, except for:

- a) Organized crimes;
- b) Seeking of fugitive criminals;
- c) Prevention of crimes;

d) Search of tools or instruments of crime or other exhibits related to the case;

dd) Cases with several complex facts.

6. Authorized procedural persons shall have suspects or defendants confronted with crime victims aged below 18 for the sole purpose of elucidating facts of the case if the case cannot be solved without confrontation.

#### **Article 422. Defense**

1. Accused persons under 18 years of age shall be entitled to defend themselves and be defended.

2. Representatives of accused persons aged under 18 shall be entitled to select a defense counsel or themselves defend such juveniles charged.

3. If accused persons under 18 do not have or their representatives do not select a defense counsel, investigation authorities, procuracies or courts shall appoint a defense counsel according to Article 76 of this Law.

#### **Article 423. Adjudication**

1. The trial panel of the first-instance court must consist of an Assessor who has been a teacher or Youth Union's official or possessed experience and psychological knowledge regarding persons less than 18 years of age.

2. If a defendant or crime victim below 18 years of age must be protected in special circumstances, the Court can decide to hold a secret trial.

3. The representatives of defendants aged under 18, representatives of the school or organization where such defendants pursue education and do daily activities must attend the trial against the juveniles, unless such representatives are absent not due to force majeure or objective obstacles.

4. The session of questioning or debate in court for defendants, crime victims and witness testifiers under 18 must correspond with their age and growth level. The courtroom must be congenial and conformable to persons less than 18 years of age.

5. If crime victims and witness testifiers are less than 18 years old, the Trial panel must limit the interaction between such juveniles and defendants when the said adolescent give testimonies in court. The presiding judge can request the representative, protector of legitimate rights and benefits to question the victims and witness testifiers.

6. The trial panel, when holding the trial, shall have defendants to undergo educational remedies in a reform school if considering penalties not necessary.

7. The president of the Supreme People's Court shall elaborate the juvenile and family Court's adjudication of cases involved in persons under 18.

#### **Article 424. Termination of educational remedies at the commune, ward or town, in the reform school, mitigation or exemption of penalties**

Sentenced persons aged below 18 may benefit from the termination of educational remedies at the commune, ward or town, or in the reform school, or from the mitigation or exemption of penalties upon the satisfaction of requirements in Article 95 or Article 96 or Article 105 of the Criminal Code.

#### **Article 425. Expungement of criminal records**

Criminal records of persons aged under 18 shall be expunged according to this Law upon the fulfillment of requirements in Article 107 of the Criminal Code.

**Article 426. Authority to implement supervisory and education remedies against criminals under 18 who are exempt from criminal liabilities**

Investigation authorities, procuracies and courts shall be empowered to decide the enforcement of one of following supervisory and educational remedies against criminals aged below 18 who are exempt from criminal liabilities:

1. Reprimand;
2. Community conciliation;
3. Edification at the commune, ward or town.

**Article 427. Order and procedures of the remedy of reprimand**

1. When a criminal under 18 is exempt from criminal liabilities but is eligible for reprimand according to the Criminal Code, the head or vice head of investigation authorities, procuracies or the Trial panel shall decide to implement the remedy of reprimand against the juvenile criminals in cases that they settle.

2. A decision to implement the remedy of reprimand shall have these primary details:

- a) Number, issue date and issuing place of the decision;
- b) Full name, position and signature of the individual authorized to make the decision and seal of the issuing authority;
- c) Reasons and grounds of the decision;
- d) Full name, date of birth and residential address of the suspect or defendant;
- dd) Offence title, applicable points, sections and articles from the Criminal Code;
- e) Length of time of duties of persons reprimanded.

3. Investigation authorities, procuracies and courts must promptly send their decisions to reprimand to the person reprimanded, his parents or representative.

**Article 428. Order and procedures of the remedy of community conciliation**

1. When requirements for community conciliation as per the Criminal Code are deemed satisfied, the head or vice head of investigation authorities, procuracies or the Trial panel shall decide to implement the remedy of community conciliation.

2. A decision to implement the remedy of community conciliation shall have these primary details:

- a) Number, issue date and issuing place of the decision;
- b) Full name, position and signature of the individual authorized to make the decision and seal of the issuing authority;
- c) Reasons and grounds of the decision;
- dd) Offence title, applicable points, sections and articles from the Criminal Code;



- dd) Full name of the investigator or procurator or judge assigned to organize a conciliation;
- d) Full name, date of birth and residential address of the suspect or defendant;
- g) Full name of the crime victim;
- h) Full name of other participants in the conciliation;
- i) Time and location of the conciliation.

3. The decision on community conciliation must be delivered, in no more than 03 days prior to the conciliation, to the criminals aged under 18, their parents, crime victims and their representatives and People's committee of the commune, ward or town where the conciliation happens.

4. When conducting the conciliation, the investigator, procurator or judge assigned to conciliate must cooperate with the People's committee of the commune, ward or town where the conciliation takes place. Moreover, the conciliation must be recorded in writing.

5. The written record of conciliation shall contain these primary details:

- a) Location, time and date of the conciliation, starting and ending time;
- b) Full name of the investigator, procurator or judge assigned to organize the conciliation;
- d) Full name, date of birth and residential address of the suspect or defendant;
- d) Full name, date of birth and residential address of the crime victim;
- dd) Full name, date of birth and residential address of other participants in the conciliation;
- e) Questions, answers and colloquy of participants in the conciliation;
- g) Results of the conciliation; persons under 18, their parents or representatives giving apologies and amends (if any); victims and their representatives voluntarily conciliating and petitioning for exemption of criminal liabilities (if any);
- h) Signature of the investigator, procurator or judge organizing the conciliation.

6. At the end of the conciliation, the investigator, procurator or judge organizing the conciliation shall re-read the written record to the participants in the conciliation. The investigator, procurator or judge making the written record must enter amendments requested into the record and have them confirmed by signature. If such requests are rejected, reasons for rejection must be specified in the record. The written record of conciliation shall be immediately given to the participants in the conciliation.

**Article 429. Order and procedures of the remedy of edification at the commune, ward or town**

1. When a criminal under 18 is exempt from criminal liabilities but is eligible for edification at the commune, ward or town according to the Criminal Code, the head or vice head of investigation authorities, procuracies or the Trial panel shall decide to implement such remedy against the juvenile criminals in cases that they settle.

2. A decision to implement the remedy of edification at the commune, ward or town shall have these primary details:

- a) Number, issue date and issuing place of the decision;

- b) Full name, position and signature of the individual authorized to make the decision and seal of the issuing authority;
- c) Reasons and grounds of the decision;
- d) Full name, date of birth and residential address of the suspect or defendant;
- dd) Offence title, applicable points, sections and articles from the Criminal Code;
- e) Length of time of the remedy;
- g) Responsibilities of local authorities at the commune, ward or town where the remedied person resides.

3. Investigation authorities, procuracies and courts must send their decisions, in 03 days upon issuing a decision to implement the remedy, to the remedied person, his parents or representative, and local authorities at the commune, ward or town they the concerned person reside.

### **Article 430. Order and procedures of the educational remedy in the reform school**

1. The trial panel, when considering penalties not necessary, shall sentence the criminal under 18 to educational remedy in a reform school.
2. A decision to implement the educational remedy in a reform school have these primary details:
  - a) Number, issue date and issuing place of the decision;
  - b) Full name and signatures of members of the Trial panel issuing the decision;
  - c) Reasons and grounds of the decision;
  - d) Full name, date of birth and residential address of the suspect or defendant;
  - dd) Offence title, applicable points, sections and articles from the Criminal Code;
  - e) Length of time of education remedy in the reform school;
  - g) Responsibilities of the reform school that educate the remedied person.
3. The decision to implement this remedy shall be immediately given to the criminals under 18, their parents or representatives and the reform school.

## **Chapter XXIX**

### **PROCEDURES FOR CRIMINAL PROSECUTION OF JURIDICAL PERSONS**

#### **Article 431. Scope of regulation**

Legal proceedings against juridical persons denounced or reported for crimes, or facing requisitions for charges, or investigated, prosecuted or tried, or enforcing sentences shall abide by this Chapter and other regulations in this Law, which are not contrary to this Chapter.

#### **Article 432. Filing of lawsuit and amendments to decisions to file criminal lawsuits**

1. Competent authorities, when finding signs of crimes committed by a juridical person, shall file criminal lawsuits according to Article 143, 153 and 154 of this Law.
2. The grounds, order and procedures for amendments to decisions to file criminal lawsuits shall conform to Article 156 of this Law.

### **Article 433. Filing of charges against suspected juridical persons and amendments to decisions to press such charges**

1. Competent authorities, when having sufficient grounds to define a juridical person's acts as crimes according to the Criminal Code, shall decide to press charges against the juridical person suspected.

2. A decision to charge a juridical person suspected shall specify time and location where the decision is issued; full name and position of the issuer; name and address of the juridical person as per the decision of establishment by a competent authority; offence title and applicable articles of the Criminal Code; time and location of crimes and other particulars of the crimes.

If a juridical person is charged against multiple crimes, the decision to charge the juridical person suspected must specify each offence title and applicable sections and articles of the Criminal Code.

3. The authority, order and procedures for filing of charges against suspects, and amendments to decisions to charge juridical persons suspected shall abide by Article 179 and 180 of this Law.

### **Article 434. Legal representatives of juridical persons in legal proceedings**

1. A juridical person facing criminal prosecution engages in every legal proceeding through its legal representative. The juridical person must assign and assure its legal representative to participate in all activities of charging, investigation, prosecution, adjudication and sentence enforcement at the requests for competent authorities and individuals.

If the legal representative of the juridical person is charged, investigated, prosecuted or tried or cannot engage in legal proceedings, the juridical person must appoint another person as its legal representative in legal proceedings. If the juridical person replaces its legal representative, competent procedural authorities must be promptly informed.

If the juridical person does not have a legal representative or has a variety of legal representatives at the time of charging, investigation, prosecution or adjudication, competent procedural authorities shall appoint a person representing that juridical person in legal proceedings.

2. The legal representative of the juridical person in legal proceedings must provide competent procedural authorities with the information of his full name, date birth, nationality, ethnicity, religion, gender, occupation and position. If such information changes, the legal representative shall promptly inform competent procedural authorities.

### **Article 435. Rights and duties of a legal representative of a juridical person**

1. A legal representative of a juridical person shall be entitled to:

- a) Be informed of the result of the processing of criminal information;
- b) Be informed of reasons for the filing of charges against the juridical person;
- c) Be informed and given explanations of the rights and duties as stated in this Article;
- d) Receive decisions to charge the juridical person suspected, to amend the decision to charge, to approve the decision to charge, to ratify the decision to amend the decision to charge, to implement, alter or terminate coercive measures, to suspend or terminate investigation, to

suspend or dismiss the case, to bring the case to trial and other procedural decisions; written conclusion of investigation, charging documents, Court's judgments and rulings as per this Law;

dd) Present statements and opinions, bear no obligation to testify against the juridical person he represents or to admit that the juridical person is guilty;

e) Present evidences, documents, items and requests;

g) Request the replacement of authorized procedural persons, expert witnesses, property valuers, interpreters or translators according to this Law;

h) Defend the juridical person or solicit a defense counsel;

i) Read, transcribe and photocopy papers or digital documents related to charges, vindication or other documents regarding the defense of the juridical person, if requested, at the end of the investigation;

k) Attend the trial, pose questions, with the presiding judge's consent, or ask the presiding judge to question courtroom participants, engage in oral argument session in court;

l) State the last opinion before deliberation;

m) Read the court record, and request amendments to the court record;

n) Appeal the Court's sentences and rulings;

o) Complain of procedural decisions and actions of competent procedural authorities and persons.

2. A legal representative of a juridical person shall bear duties to:

a) Appear as per authorized procedural persons' subpoenas. The person may be escorted by force if absent not due to force majeure or objective obstacles;

b) Conform to decisions and requests by competent procedural authorities and persons.

#### **Article 436. Coercive measures against juridical person**

1. Investigation authorities and units assigned to investigate, procuracies and courts can implement the following coercive measures against a juridical person charged, investigated, prosecuted or tried:

a) Distrainment of assets linked with the juridical person's criminal acts;

b) Freeze the juridical person's accounts in connection with its criminal acts;

c) Suspend the juridical person's operations associated with its criminal acts in limited time;

d) Impose a pecuniary guarantee of the enforcement of sentences.

2. The length of time of coercive measures as defined in Section 1 of this Article shall not exceed the time limit for investigation, prosecution and adjudication.

#### **Article 437. Distrainment of assets**

1. Distrainment of assets applies when amends for damage must be guaranteed or the juridical person is charged, investigated, prosecuted or tried for crimes punishable by mulct as per the Criminal Code.

2. Only parts of assets proportionate to probable degree of seizure, fine or compensation for damage shall be distrained. The head of the juridical person, if overlooking the consumption, use, transfer, swapping, concealing or destruction of distrained assets put under his maintenance, shall incur liabilities as per the laws.

3. The following individuals must be present when the juridical person's assets are distrained:

a) The legal representative of the juridical person;

b) The representative of local authorities at the commune, ward or town where the juridical person's assets are located and distrained;

c) Witnesses.

4. The authority, order and procedures for asset distraintment shall abide by Article 128 of this Law.

#### **Article 438. Freezing of accounts**

1. Freezing of a juridical person's accounts, evidently available at a credit institution or State Treasury, applies when amends for damage must be guaranteed or the juridical person is charged, investigated, prosecuted or tried for crimes punishable by mulct as per the Criminal Code.

2. Account freeze also applies to the accounts of other entities evidently found to hold amounts involved in the juridical person's criminal acts.

3. Only amounts proportionate to probable degree of fine or compensation for damage shall be frozen.

4. Authorities warranted to freeze accounts must give written decisions on account freeze to the representative of the credit institution or State Treasury managing the accounts of the juridical person or other entities in connection with the juridical person's criminal acts.

5. The authority, order and procedures for account freeze shall abide by Article 129 of this Law.

#### **Article 439. Suspension of a juridical person's operations associated with that juridical person's criminal acts in limited time; imposition of pecuniary guarantee of sentence enforcement**

1. Suspension of a juridical person's operations in limited time only applies when there are grounds showing that the juridical person's criminal acts undermine or are likely to maim the life and health of human beings, environment or social order and safety.

Competent individuals as defined in Section 1, Article 113 of this Law shall be authorized to issue decisions to suspend a juridical person's operations in limited time. A decision to suspend a juridical person's operations, which are issued by individuals as defined in Point a, Section 1, Article 113 of this Law, must be ratified by the equivalent Procuracy before implementation.

The length of time of the suspension of a juridical person's operations must not exceed the time limit for investigation, prosecution and adjudication according to this Law. The length of time of the suspension of a juridical person sentenced shall not exceed the time from the pronouncement of sentences to the juridical person's execution of such sentences.

2. Mandatory pecuniary guarantee of the enforcement of sentences applies to a juridical person charged, investigated, prosecuted or tried for crimes punishable by mulct as per the Criminal Code or assures the amends for damage.

Only an amount proportionate to probable degree of fine or amends shall be imposed to guarantee the enforcement of sentences.

Competent individuals as defined in Section 1, Article 113 of this Law, shall be authorized to issue decisions to compel the juridical person to submit a pecuniary guarantee of the enforcement of sentences. When individuals as defined in Point a, Section 1, Article 113 of this Law issue decisions to compel a juridical person to submit a pecuniary guarantee of the enforcement of sentences, such decisions must be ratified by the equivalent Procuracy before implementation.

The government shall regulate details of the order, procedures and level of the pecuniary guarantee of the enforcement of sentences, custody or return or confiscation of such amount to the state treasury.

#### **Article 440. Summoning of legal representative of juridical person**

1. Authorized procedural persons, when summoning the legal representative of a juridical person, must send subpoenas. The subpoena shall specify the full name, residential or work address of the legal representative of the juridical person; time, date and location for his appearance, contact person and liabilities for absence not due to force majeure or objective obstacles.

2. The subpoena shall be sent to the legal representative or to the juridical person. in which the summoned person is working, or local authorities at the commune, ward or town where he resides. Authorities and organizations receiving the subpoena shall be responsible for forwarding it to the legal representative of the juridical person in prompt manner.

The legal representative, upon receiving the subpoena, must affix his signature, date and time of receipt. The forwarder of the subpoena must deliver the subpoena's section bearing the legal representative's signature to the authority issuing the subpoena. If the legal representative does not affix signature, a written record of his non-compliance shall be made and sent to the summoning authority. If the subpoena cannot be delivered due to the legal representative's absence, it shall be given to his family member from 18 years of age, who affixes signature and forward the paper to the legal representative.

3. The legal representative of the juridical person must be present as per the subpoena. Absence not due to force majeure or objective obstacles shall result in authorized procedural persons' decision to escort by force.

#### **Article 441. Elucidation of essential details during legal proceedings against a juridical person charged**

1. The existence of criminal acts, time, location and other particulars of criminal acts that fall into the juridical person's criminal liabilities as per the Criminal Code.

2. Errors committed by the juridical person or personnel of the juridical person.

3. Nature and degree of damage caused by the juridical person's criminal acts.

4. Factors aggravating and mitigating criminal liabilities and other facts related to exemption of punishments.

5. Reasons and conditions that lead to crimes.

**Article 442. Deposition of legal representative of juridical person**

1. Investigators and investigation officers of units assigned to investigate shall carry out the deposition of the legal representative of a juridical person at the location of investigative activities, at the office of the investigation authority or unit assigned to investigate, or at the juridical person's office. Investigators and investigation officers, before taking statements, must inform the Procurator and defense counsel of the time and location of deposition. The procurator shall participate in the deposition, if necessary.

2. Investigators and investigation officers of units assigned to investigate, prior to the first deposition, must provide the legal representative of the juridical person with clear explanations of his rights and duties as defined in Article 435 of this Law. The event of explanation shall be recorded in writing. The legal representative may be permitted to write his statements.

3. The deposition of the legal representative of a juridical person shall not occur at night.

4. The procurator shall take statements from the legal representative if he does not admit the juridical person's criminal acts or complains of investigative activities. If investigative activities breach the laws or other essential events arise, the procurator shall also take statements.

The procurator's taking of statements from the legal representative shall abide by this Article.

5. The deposition of the legal representative at the office of the investigation authority or unit assigned to investigate must be recorded by sound or sound-and-visual means.

The deposition of the legal representative of a juridical person at other places shall be recorded by sound or sound-and-visual means at the requests for that person or competent procedural authorities and persons.

6. The written record of the deposition of the legal representative of a juridical person shall be made according to Article 178 of this Law

**Article 443. Suspension and termination of investigation, dismissal of cases, removal of suspects or defendants**

1. Investigation authorities and units assigned to investigate shall decide to suspend investigative activities when expert examination, property valuation or foreign judicial assistance, despite the expiration of the time limit for investigation, is requisitioned to no avail. In such event, expert examination, valuation process and judicial assistance shall continue until results are achieved.

2. Investigation authorities and units assigned to investigate shall decide to terminate investigation, or the Procuracy or Court shall decide to dismiss the case or remove the suspect or defendant, that is a juridical person, in one of the following events:

a) Criminal acts do not exist;

b) The juridical person's acts do not constitute crimes;

c) The juridical person's criminal acts have been sentenced or the case has been dismissed by effective rulings.

d) The time limit for investigation expires but the juridical person's commission of crimes has not been proved;

dd) The prescriptive period of criminal prosecution expires.

#### **Article 444. Jurisdiction and procedures for trial against juridical person**

1. A court, whose location is adjacent to the scene of the juridical person's crime, shall have jurisdiction over the criminal lawsuits against that crime. If crimes occur in various places or at an unknown site, the Court adjacent to the headquarter or branch of the juridical person shall retain jurisdiction.

2. The trial in the first and second instance, cassation and reopening procedures against a juridical person committing crimes shall abide by Part four and Part six of this Law. The legal representative of the juridical person, Procurator of the equivalent Procuracy, crime victims or their representatives must attend the trial against that juridical person.

#### **Article 445. Authority and procedures for enforcement of sentences against juridical person**

1. Heads of civil sentence enforcement authorities shall be authorized to make decisions on the enforcement of pecuniary penalties against a juridical person. The order and procedures for the enforcement of pecuniary penalties shall abide by the Law on civil sentence enforcement.

2. Competent governmental authorities shall be authorized to enforce other penalties and judicial remedies, as defined in the Criminal Code, against a juridical person as per the laws.

3. If the juridical person sentenced is splitted, divided, consolidated or merged, the successive entity inheriting rights and duties from the juridical person sentenced shall be held liable for executing the duties to enforce pecuniary penalties and amends for damage.

#### **Article 446. Expungement of criminal records for eligible juridical person**

In 05 days upon the receipt of the request from the juridical person eligible for expungement of criminal records and upon the satisfaction of requirements as defined in Article 89 of the Criminal Code, the President of the Court the held the first-instance trial shall issue a certificate of the expungement of the juridical person's criminal records.

### **Chapter XXX**

#### **PROCEDURES FOR THE ENFORCEMENT OF CIVIL COMMITMENT**

#### **Article 447. Circumstances and authority to enforce civil commitment**

1. Investigation authorities, procuracies and courts, as per the progress of legal proceedings, shall requisition forensic psychiatric assessment on the grounds that the perpetrators of acts dangerous to society do not have criminal capacity as per Article 21 of the Criminal Law.

2. The procuracy shall rely on the findings of the forensic psychiatric assessment to make decisions on the enforcement of civil commitment during the stage of investigation and prosecution. Similar decisions during the stage of adjudication and sentence enforcement shall fall into the authority of the Court.

#### **Article 448. Investigative activities against person with uncertain criminal capacity**

1. Investigation authorities must clarify these matters on the grounds that the person causing danger to society does not have criminal capacity:

a) The acts endangering society occurred;



- b) Mental conditions and illness of the person endangering society;
- c) Whether the person endangering society loses sense of awareness or ability to control his actions.

2. Investigation authorities, when conducting legal proceedings, must assure the presence of a defense counsel after the person endangering society is determined to succumb to mental illness or other diseases that deprive him of sense of awareness or ability to control actions. A representative of the mentally ill person can participate in legal proceedings when necessary.

#### **Article 449. Enforcement of civil commitment during the stage of investigation**

1. When the forensic psychiatric assessment, as requisitioned by investigation authorities, finds the suspect mentally ill or deprived of sense of awareness or ability to control actions due to other diseases, investigation authorities shall propose in writing civil commitment with findings of the assessment to the equivalent Procuracy for approval.

In 03 days upon the receipt of the written proposition from investigation authorities and findings of the assessment, the Procuracy shall decide to enforce medical treatments against the suspect or request the investigation authorities to requisition further or repeated assessments if considering existing grounds insufficient.

2. If the Procuracy decides to enforce civil commitment, the investigation authorities must decide to suspend or terminate investigative activities against the suspect.

#### **Article 450. Decisions by the Procuracy during the stage of prosecution**

1. After receiving the case file and investigative findings, the Procuracy, if finding grounds of the suspect's possession of no criminal capacity, shall requisition a forensic psychiatric assessment.

2. The procuracy shall consider the findings of the assessment to make one of these decisions:

- a) Suspend the case and enforce civil commitment;
- b) Dismiss the case and enforce civil commitment;
- c) Return the case file for further investigation;
- d) Prosecute the suspect before a Court.

3. Apart from civil commitment, the Procuracy can handle other issues of the case.

#### **Article 451. Decisions by the Court during the stage of adjudication**

1. The court, after accepting the case and grasping grounds that the suspect or defendant does not possess criminal capacity, shall requisition forensic psychiatric assessment.

2. The court shall consider the findings of the assessment and make one of these decisions:

- a) Suspend or dismiss the case and enforce civil commitment;
- b) Return case files for repeated or further investigation;
- c) Grant exemption of criminal liabilities or penalties, and enforce civil commitment;
- d) Try the case.

3. The court, apart from its decision to enforce civil commitment, can handle matters of compensation or other issues of the case.

### **Article 452. Enforcement of civil commitment against persons incarcerated**

1. The prison, detention center or criminal sentence enforcement unit of the provincial Police office shall propose the provincial People's Court or military Court of the military zone, at the place of a prisoner's imprisonment, to requisition forensic psychiatric assessment on the grounds that such prisoner allegedly succumbs to mental illness or other diseases bereaving him of abilities of perception or action control.

2. The president of the provincial People's Court or military Court of the military zone, at the place of the prisoner's imprisonment, shall consider the findings of the forensic psychiatric assessment and decide to suspend the execution of the jail sentence and enforce civil commitment.

The said person, when cured, shall continue serving time if it is unjustifiable to excuse the jail sentence.

### **Article 453. Complaints, appeals and protests**

1. The filing and handling of complaints against a Procuracy's decisions to enforce civil commitment shall abide by Chapter XXXIII of this Law.

2. The filing of appeals or protests to a Court's rulings on the enforcement of civil commitment shall follow the stipulations for appeals or protests to the rulings of a first-instance court in this Law.

3. A decision to enforce civil commitment shall maintain its effect until it is replaced by another decision or rendered void.

### **Article 454. Termination of civil commitment**

1. Civil commitment shall transpire at a mandatory mental treatment facility designated by the Procuracy or Court according to the laws.

2. When the head of the mandatory mental treatment facility announces the successful healing of a person forced to undergo medical treatments, the authority proposing such treatments or the Procuracy or Court enforcing the treatments shall requisition a forensic psychiatric assessment of the conditions of the said person.

The procuracy or court shall consider the assessment's findings on the treated person and decide to terminate civil commitment.

3. The authority proposing civil commitment or the Procuracy or Court must promptly send the decision to terminate treatments to the treatment facility and the representative of the person forced to receive treatments.

4. Legal proceedings and sentences suspended can only be resumed according to this Law.

## **Chapter XXXI**

### **SUMMARY PROCEDURE**

#### **Article 455. Scope of summary procedure**

Summary procedure for investigation, prosecution, trial in the first and second instance shall be governed by this Chapter and other stipulations of this Law, which are not contrary to this Chapter.

### **Article 456. Requirements for the application of summary procedure**

1. Summary procedure shall be applied during the stage of investigation, prosecution and trial in the first instance upon the satisfaction of these requirements:

- a) The perpetrator of criminal acts confesses or is caught in the act;
- b) The crime is plain and evidences are lucid;
- c) The crimes committed are misdemeanors;
- d) The perpetrator of crimes has manifest address of residence and personal record.

2. Summary procedure shall be applied for trial in the second instance upon the satisfaction of one of these requirements:

- a) Summary procedure was applied for the trial in the first instance. Furthermore, appeals or protests are lodged to commute or suspend sentences;
- b) Summary procedure was not applied for the trial in the first instance despite the satisfaction of all requirements in Section 1 of this Article. Moreover, appeals or protests are lodged to commute or suspend sentences.

### **Article 457. Decisions to apply summary procedure**

1. In 24 hours upon the satisfaction of requirements in Article 456 of this Law, investigation authorities, procuracies and courts shall decide to apply summary procedure.

Summary procedure shall commence upon the issuance of the decision and end upon the closure of the appellate trial, unless such procedure is terminated according to Article 458 of this Law.

2. The decision to apply summary procedure shall be given to the suspect, defendant or their representatives, and defense counsel in 24 hours upon its issuance.

Investigation authorities or Courts, in 24 hours upon the issuance of their decision to apply summary procedure, shall send such decision to the equivalent Procuracy.

3. The procuracy, when finding the invalidity of investigation authorities' decisions to apply summary procedure, shall decide to nullify such decisions in 24 hours upon the receipt of such, and inform the investigation authorities.

4. The procuracy, when finding the invalidity of the Court's decision to apply summary procedure, shall propose its findings to the President of that Court. The court president must consider details and respond in 24 hours upon the receipt of the Procuracy's propositions.

5. Complaints may be lodged against a decision to apply summary procedure. The suspect, defendant or their representatives shall be entitled to lodge complaints against a decisions to apply summary procedure. The time limit for such complaints shall be 05 days upon the receipt of the decision. Complaints shall be sent to the investigation authorities, procuracies or courts issuing the decision to apply summary procedure. Such complaints, after received, must be settled in 03 days.

### **Article 458. Nullification of decisions to apply summary procedure**

If one of the requirements in Point b, c and d, Section 1, Article 456 of this Law is not satisfied during the summary procedure, investigation authorities, procuracies and courts shall nullify the decisions to apply summary procedure and handle the case according to general regulations in

this Law. The same applies if the investigation or the case is suspended or documents are returned for further investigation according to this Law.

The time limit for legal proceedings of the lawsuit shall abide by general stipulations in this Law upon the nullification of the decision to apply summary procedure.

#### **Article 459. Temporary detainment and detention for investigation, prosecution and adjudication**

1. Grounds, authority and procedures for temporary detainment and detention shall abide by this Law.
2. The length of time of temporary detainment shall not exceed 03 days upon the investigation authorities' acquisition of an arrestee.
3. The time limit for temporary detention shall not exceed 20 days during investigation, 05 days during prosecution, 17 days during trial in the first instance, and 22 days during trial in the second instance.

#### **Article 460. Investigation**

1. The time limit for investigation under summary procedure shall be 20 days upon the issuance of a decision to file a lawsuit.

2. Investigation authorities, when closing investigation, shall issue decisions to prosecute.

A decision to prosecute shall summarize criminal acts, artifices, motives, purposes, nature and degree of damage caused by criminal acts; preventive and coercive measures implemented, altered or terminated; seizure and impoundment of documents, items, handling of evidences; personal traits of suspects, factors aggravating or mitigating criminal liabilities; reasons and grounds for prosecution; offence titles, applicable points, sections and articles of the Criminal Code; specific time and issuing place of the decision. Such decision must bear the full name and signature of the individual issuing the decision.

3. Investigation authorities, in 24 hours upon issuing a decision to prosecute, must send such decision to the suspect or his representative, defense counsel, crime victims, litigants or their representatives. Moreover, such decision and case files shall be delivered to the Procuracy.

#### **Article 461. Decision to prosecute**

1. The procuracy, in 05 days upon receiving a decision to prosecute and case files, shall make one of these decisions:

- a) Prosecute the suspect before a Court via the decision to prosecute;
- b) Decide not to prosecute the suspect and dismiss the case;
- c) Return documents for further investigation;
- d) Suspend the case;
- dd) Dismiss the case.

2. A decision to prosecute shall summarize criminal acts, artifices, motives, purposes, nature and degree of damage caused by criminal acts; preventive and coercive measures implemented,

altered or terminated; seizure and impoundment of documents, items, handling of evidences; personal traits of suspects, factors aggravating or mitigating criminal liabilities; reasons and grounds for prosecution; offence titles, applicable points, sections and articles of the Criminal Code; specific time and issuing place of the decision. Such decision must bear the full name and signature of the individual issuing the decision.

3. The procuracy, in 24 hours upon issuing a decision to prosecute, must send such decision to the suspect or his representative, defense counsel, crime victims, litigants or their representatives and investigation authorities. Moreover, such decision and case files shall be delivered to the Court.

#### **Article 462. Preparation for trial in the first instance**

1. The judge appointed to hold trial, in 10 days upon the admission of the case, shall make one of these decisions:

- a) Hear the case;
- b) Return documents for further investigation;
- c) Suspend the case;
- d) Dismiss the case.

2. The court, if deciding to hear the case, shall start the trial in 07 days upon the issuance of such decision.

3. The first-instance court, in 24 hours upon deciding to hear the case, must send such decision to the equivalent Procuracy, the defendant or his representative, defense counsel, crime victims, litigants or their representatives.

#### **Article 463. Trial in the first instance**

1. A trial under summary procedure in the first instance shall be held by one Judge.

2. The procurator, after the preliminary formalities of the trial, shall announce the decision to prosecute.

3. The order and procedures of this court of first instance shall abide by general stipulations in this Law, without a session of deliberation.

#### **Article 464. Preparation for trial in the second instance**

1. The appellate court shall receive and admit case files according to general stipulations in this Law.

The court, after admitting the case, shall send case files to the equivalent Procuracy/ In 05 days, the Procuracy must return case files to the Court.

2. The judge appointed to hold trial, in 15 days upon the admission of the case, shall make one of these decisions:

- b) Hear the case in the second instance;
- b) Dismiss the appellate lawsuit.

3. The court, if deciding to hear the case in the second instance, shall start the trial in 07 days upon the issuance of such decision.

4. The appellate court, in 24 hours upon deciding to hear the case, must send such decision to the equivalent Procuracy, the defendant or his representative, defense counsel, crime victims, litigants or their representatives.

#### **Article 465. Trial in the second instance**

1. An appellate trial under summary procedure shall be held by one Judge.
2. The order and procedures of this court of second instance shall abide by general stipulations in this Law, without a session of deliberation.

### **Chapter XXXII**

#### **RECTIFICATION OF IMPEDIMENTS TO LEGAL PROCEEDINGS**

#### **Article 466. Punitive actions against individuals hindering legal proceedings of authorities given authority to institute legal proceedings**

When sentenced persons and other participants in legal proceedings commit one of the following acts, competent procedural authorities shall consider the degree of their violations and decide to deliver or escort them by force, to inflict admonitory penalties or fines, to enforce administrative detention or impose obligations to make restitution for consequences caused, or to institute criminal prosecution according to the laws:

1. Falsify or destroy evidences to obstruct the settlement of affairs and cases;
2. Give false statements or documents;
3. Decline deposition or refuse to provide documents or items;
4. Expert witnesses or property valuers give false findings or refuse to conclude expert examinations or valuation tasks not due to force majeure or objective obstacles;
5. Delude, threaten, bribe or use force to make witness testifiers refrain from testifying or give false testimonies;
6. Delude, threaten, bribe or force witness testifiers to refrain from testifying or to give false testimonies;
7. Delude, threaten, bribe or force expert witnesses or property valuers to refrain from their duties or to give findings that deviate from objective truths;
8. Delude, threaten, bribe or force interpreters and translators to refrain from their duties or to provide false translation;
9. Delude, threaten, bribe or force representatives of authorities and organizations and other individuals to refrain from legal proceedings;
10. Defame the honor, dignity and reputation of authorized procedural persons; threaten or use force or commit other acts to obstruct legal proceedings of authorized procedural persons;
11. Have not appeared despite a subpoena not due to force majeure or objective obstacles; therefore, hinder legal proceedings;
12. Prevent the delivery or announcement of procedural documents by competent procedural authorities.

#### **Article 467. Punitive actions against contempt of court**

1. Persons in contempt of court shall incur administrative penalties, subject to the nature and degree of their violations, as per the Presiding judge's orders according to the laws.
2. The presiding judge shall be entitled to expel violators from the courtroom or have them held in administrative detention. Police officers or personnel maintaining court order shall execute the Presiding judge's orders on expelling or administrative detention of persons disturbing the order of the court.
3. If the violators' disobedience of court rules results in criminal prosecution, the Trial panel shall be entitled to file a criminal lawsuit.
4. The stipulations in this Article shall apply to persons committing violations in a Court's meeting.

#### **Article 468. Form, authority, order and procedures of punitive actions**

Form, authority, order and procedures of punitive actions against the impediments to criminal proceedings shall be governed by the Law on punitive actions against administrative violations and relevant laws.

### **Chapter XXXIII**

#### **COMPLAINT AND DENOUNCEMENT IN CRIMINAL PROCEDURE**

#### **Article 469. Right to complain**

1. Authorities and entities shall be entitled to lodge complaints against decisions and legal proceedings of competent procedural authorities and persons on the grounds that such decisions and proceedings breach the laws or violate their legitimate rights and benefits.
2. Chapter XXI, XXII, XXIV, XXV, XXVI and XXXI of this Law shall govern complaints, appeals or protests to a first-instance sentences and rulings not in effect, a Court's sentences and rulings in force or decisions to prosecute or to apply summary procedure, rulings of a Trial panel in the first or second instance, Judicial panel of cassation or reopening, or Panel ratifying reduction of time, exemption of punishments or parole.

#### **Article 470. Decisions and legal proceedings that prone to complaints**

1. Procedural decisions, which prone to complaints, are issued by heads and vice heads of investigation authorities, investigators, heads and vice heads of procuracies, procurators, presidents and vice presidents of courts, judges and individuals authorized to investigate according to this Law.
2. Legal proceedings, which prone to complaints, are procedural actions of heads and vice heads of investigation authorities, investigators, investigation officers, heads and vice heads of procuracies, procurators, checkers, presidents and vice presidents of courts, judges, verifiers and individuals assigned to investigate according to this Law.

#### **Article 471. Prescriptive period for complaints**

1. The prescriptive period for complaints shall be 15 days after the person filing complaints receives or perceives procedural decisions and proceedings that he deems unlawful.
2. If a person fails to exercise his right to complain by the prescriptive period due to force majeure or objective obstacles, the length of time of such force majeure or objective obstacles shall not be counted into the prescriptive period for complaints.

### **Article 472. Rights and duties of persons filing complaints**

1. Persons filing complaints shall be entitled to:

- a) Lodge complaints by themselves or through a defense counsel, protector of litigants' legitimate rights and benefits or representative;
- b) Lodge complaints anytime during the settlement of a criminal case;
- c) Withdraw complaints anytime during the processing of complaints;
- d) Obtain the decision to process complaints;
- dd) Reclaim legitimate rights and benefits violated and receive amends for damage as per the laws.

2. Persons filing complaints shall bear the duties to:

- a) Present matters, information and documents to the individuals processing complaints in honest manner; and assume liabilities for their presentations and provision of documents and information;
- b) Obey effective decisions on complaints.

### **Article 473. Rights and duties of persons facing complaints**

1. Persons facing complaints shall be entitled to:

- a) Be informed of the details of the complaints;
- b) Present evidences on the validity of decisions and proceedings under complaint;
- c) Obtain the decision to process complaints against their decisions and proceedings.

2. Persons facing complaints shall bear the duties to:

- a) Explain the decisions and proceedings under complaint; provide relevant information and documents at the requests for competent authorities and entities;
- b) Obey effective decisions on complaints.
- c) Make restitution, reimbursement and remedies against consequences caused by their unlawful decisions and proceedings as per the laws.

### **Article 474. Authority and time limit for settlement of complaints against procedural decisions and actions regarding emergency custody, arrest, temporary detainment and detention**

1. Complaints against emergency custody orders, arrest warrants, decisions on temporary detainment or detention, detention orders, decisions to approve arrest, decisions to extend temporary detainment or detention, and actions to execute such orders and decisions must be settled in 24 hours upon the receipt of such complaints. The time limit may be extended for 03 mores days upon the receipt of the complaints if the settle of verification takes time.

2. Heads of Procuracies shall be held responsible for settling complaints against procedural decisions and actions regarding emergency custody, arrest, temporary detainment and detention during the stage of investigation and prosecution. In 24 hours upon the receipt of complaints, authorities and individuals having rights to emergency custody, arrest, temporary detainment and



detention must promptly transfer the case and matters under complaint related to the persons arrested or held in custody or detention to the Procuracy exercising prosecution rights and administering investigation.

Heads of procuracies shall settle complaints against procedural decisions and actions, regarding emergency custody, arrest, temporary detainment and detention, of heads and vice heads of investigation authorities, investigators, investigation officers, procurators, checkers and individuals assigned to investigate.

Heads of procuracies shall settle complaints against procedural decisions and actions, regarding arrest, temporary detainment and detention, of vice heads of procuracies.

If the decisions by the head of the Procuracy on the complaints are not satisfactory, the person lodging complaints can file complaints to the head of the immediate superior Procuracy in 03 days upon that person's receipt of such decisions. If a head of a provincial People's Procuracy settles such complaints initially, further complaints shall be delivered to the head of the Supreme People's Procuracy. In 07 days upon the receipt of complaints, the head of the immediate superior Procuracy or Supreme People's Procuracy must consider and settle such complaints. Decisions by the head of the immediate superior Procuracy or Supreme People's Procuracy shall come into force.

Complaints against procedural decisions and actions, regarding arrest, temporary detainment and detention, of a head of a Procuracy shall be settled by the head of the immediate superior Procuracy. If complaints are lodged against procedural decisions and actions of a head of a provincial People's Procuracy, they shall be settled by the head of the Supreme People's Procuracy. In 07 days upon the receipt of complaints, the head of the immediate superior Procuracy or Supreme People's Procuracy must consider and settle such complaints. Decisions by the head of the immediate superior Procuracy or Supreme People's Procuracy shall come into force.

3. The court is responsible for settling complaints against decisions on arrest or detention during the stage of adjudication.

Heads of procuracies shall process complaints against procedural decisions and actions, regarding arrest, temporary detainment and detention, of vice heads of procuracies.

If the Court president's decisions on the complaints are not satisfactory, the person filing complaints can lodge further complaints to the President of the immediate higher Court in 03 days upon the receipt of such decisions.

In 07 days upon the receipt of complaints, the President of the immediate higher Court must consider and settle such complaints. Decisions by the President of the immediate higher Court shall come into force.

The president of the immediate higher Court shall settle complaints against procedural decisions and actions, regarding arrest and detention, of the President of the lower Court. In 07 days upon the receipt of complaints, the President of the immediate higher Court must consider and settle such complaints. Decisions by the President of the immediate higher Court shall come into force.

**Article 475. Authority and time limit for settlement of complaints against investigators, investigation officers, vice heads and heads of investigation authorities and individuals assigned to investigate**

1. Heads of investigation authorities shall settle complaints against procedural decisions and actions of investigators, investigation officers and vice heads of investigation authorities in 07 days upon the receipt of such complaints, except for those related to emergency custody, arrest, temporary detainment and detention. If the decisions by the head of the investigation authority are not satisfactory, the person filing complaints can lodge further complaints to the head of the equivalent Procuracy in 03 days upon the receipt of such decisions. In 07 days upon the receipt of complaints, the head of the equivalent Procuracy shall consider and settle such complaints. Decisions by the head of the equivalent Procuracy shall come into force.

The head of the equivalent Procuracy shall settle complaints against procedural decisions and actions of heads of investigation authorities and procedural decisions of investigation authorities, which have been approved by the Procuracy, in 07 days upon the receipt of such complaints.

If the decisions by the head of the equivalent Procuracy on the complaints are not satisfactory, the person lodging complaints can file complaints to the head of the immediate superior Procuracy in 03 days upon that person's receipt of such decisions. If a head of a provincial People's Procuracy settles such complaints initially, further complaints shall be delivered to the head of the Supreme People's Procuracy.

In 15 days upon the receipt of complaints, the head of the immediate superior Procuracy or Supreme People's Procuracy must consider and settle such complaints. Decisions by the head of the immediate superior Procuracy or Supreme People's Procuracy shall come into force.

2. Heads of units assigned to investigate shall settle complaints against procedural decisions and actions of investigation officers and vice heads of such units in 07 days upon the receipt of such complaints, except for those related to emergency custody, arrest and temporary detainment. If the decisions by the heads of the said units are not satisfactory, the person filing complaints can lodge further complaints to the head of the Procuracy exercising prosecution rights and administering investigation in 03 days upon the receipt of such decisions. In 07 days upon the receipt of complaints, the head of the Procuracy shall consider and settle such complaints. Decisions by the head of the Procuracy shall come into force.

Heads of procuracies exercising prosecution rights and administering investigation shall settle complaints against procedural decisions and actions of heads of units assigned to investigate. In 07 days upon the receipt of complaints, the head of the Procuracy shall consider and settle such complaints. Decisions by the head of the Procuracy shall come into force.

**Article 476. Authority and time limit for settlement of complaints against procurators, checkers, vice heads and heads of procuracies**

1. Heads of procuracies shall settle complaints against procedural decisions and actions of procurators, checkers and vice heads of procuracies in 07 days upon the receipt of such complaints. If the decisions by a head of a procuracy are not satisfactory, the person filing complaints can lodge further complaints to the head of the immediate superior Procuracy in 03 days upon the receipt of such decisions. In 15 days upon the receipt of complaints, the head of the immediate superior Procuracy shall consider and settle such complaints. Decisions by the head of the immediate superior Procuracy shall come into force.

2. The immediate superior Procuracy shall settle complaints against procedural decisions and actions of a head of a procuracy in 15 days upon the receipt of such complaints. Decisions by the head of the immediate superior Procuracy shall come into force.

3. Complaints against procedural decisions and actions of a head of a provincial People's Procuracy, in the events as defined in Section 1 and Section 2 of this Article, shall be settled in the following manner:

a) Supreme People's Procuracy shall settle complaints against procedural decisions and actions, regarding the exercising of prosecution rights and administration of investigation and prosecution of a head of a provincial People's Procuracy in 15 days upon the receipt of such complaints. Decisions by the head of the Supreme People's Procuracy shall come into force.

b) Higher People's Procuracy shall settle complaints against procedural decisions and actions, regarding the exercising of prosecution rights and administration of adjudication, of a head of a provincial People's Procuracy in 15 days upon the receipt of such complaints. Decisions by the head of the higher People's Procuracy shall come into force.

4. The head of the Supreme People's Procuracy or the Central military procuracy shall settle complaints against procedural decisions and actions of vice heads, procurators and checkers of the Supreme People's Procuracy, or vice heads, procurators and checkers of the Central military procuracy, respectively, in 15 days upon the receipt of such complaints. Decisions by the head of the Supreme People's Procuracy or the Central military procuracy shall come into force.

**Article 477. Authority and time limit for settlement of complaints against judges, verifiers, court presidents and vice court presidents**

1. The president of a district People's Court or a local military Court shall settle complaints against procedural decisions and actions, before trial, of judges, verifiers and vice presidents of the district People's Court or local military court, respectively, in 07 days upon the receipt of such complaints.

If the decisions by the President of the district People's Court or local military Court are not satisfactory, the person filing complaints can lodge further complaints to the President of the provincial People's Court or military Court of a relevant military zone in 03 days upon the receipt of such decisions. In 15 days upon the receipt of complaints, the President of the provincial People's Court or military Court of the military zone must consider and settle such complaints. Decisions by the President of the provincial People's Court or military Court of the military zone shall come into force.

The president of a provincial People's Court or a military Court of a military zone shall settle complaints against procedural decisions and actions, before trial, of the presidents of the relevant district People's Courts or local military courts, respectively, in 15 days upon the receipt of such complaints. Decisions by the President of the provincial People's Court or military Court of the military zone shall come into force.

2. The president of a provincial People's Court or a military Court of a military zone shall settle complaints against procedural decisions and actions, before trial, of judges, verifiers and vice presidents of the provincial People's Court or the military Court of the military zone, respectively, in 07 days upon the receipt of such complaints. If the decisions by the President of the district People's Court or local military Court are not satisfactory, the person filing complaints can lodge further complaints to the President of the higher People's Court or central military Court in 03 days upon the receipt of such decisions. In 15 days upon the receipt of complaints, the President of the higher People's Court or central military Court shall settle such

complaints. Decisions by the President of the higher People's Court or central military Court shall come into force.

The president of a higher People's Court shall settle complaints against procedural decisions and actions, before trial, of judges, verifiers and vice presidents of the higher People's Court, in 07 days upon the receipt of such complaints. If the decisions by the President of the higher People's Court are not satisfactory, the person filing complaints can lodge further complaints to the President of the Supreme People's Court in 03 days upon the receipt of such decisions. In 15 days upon the receipt of complaints, the President of the Supreme People's Court shall settle such complaints. Decisions by the president of the Supreme People's Court shall come into force.

The president of the higher People's Court or central military Court shall settle complaints against procedural decisions and actions of presidents of provincial People's Courts or military courts of military zones, respectively, in 15 days upon the receipt of such complaints. Decisions by the President of the higher People's Court or central military Court shall come into force.

3. The president of the Supreme People's Court or central military Court shall settle complaints against procedural decisions and actions of presidents of higher People's Courts, vice presidents, judges and verifiers of the Supreme People's Court, vice presidents, judges and verifiers of the central military Court, respectively, in 15 days upon the receipt of such complaints. Decisions by the President of the Supreme People's Court or central military Court shall come into force.

#### **Article 478. Right to denounce**

Individuals shall have the right to present denunciations to competent authorities and persons against the breach of laws by an authorized procedural person, which cause damage or menace the interests of the Government and legitimate rights and benefits of authorities and entities.

#### **Article 479. Rights and duties of persons filing complaints**

1. A person filing complaints shall be entitled to:

- a) Lodge petitions or directly state denunciations to competent authorities and individuals;
- b) Request to have his full name, address and handwriting maintained confidential;
- c) Receive decisions on denunciations;
- d) Request competent procedural authorities' protection from menaces, repression, vengeance.

2. A person filing complaints shall bear duties to:

- a) Present details of the denunciations in honest manner, and provide information and documents in connection with such denunciations;
- b) Identify his full name and address;
- c) Be held liable for intentional false denunciations.

#### **Article 480. Rights and duties of persons facing complaints**

1. A person facing complaints shall be entitled to:

- a) Be informed of the particulars of the complaints;
- b) Present evidences of the inaccuracy of the denunciations;
- c) Receive decisions on the denunciations;

d) Reclaim legitimate rights and benefits violated, restore honor and receive amends for damage caused by inaccurate denunciations;

dd) Request competent authorities and entities to castigate persons giving false denunciations.

2. A person facing complaints shall bear duties to:

a) Elucidate the actions complained; provide relevant information and documents at the requests for competent authorities and individuals;

b) Conform to the decisions on denunciations;

c) Make restitution, reimbursement and remedies against consequences caused by their unlawful procedural actions as per the laws.

#### **Article 481. Authority and time limit for settlement of denunciations**

1. The head of a competent procedural authority shall be given authority to settle denunciations against unlawful actions of competent personnel of that authority.

The head of an investigation authority or Procuracy shall be given authority to settle denunciations against the head of the immediate lower investigation authority or Procuracy.

The president of a provincial People's Court or a military Court of a military zone shall be given authority to settle denunciations against the president of a district People's Court or local Court.

The president of the higher People's Court or central military Court shall be given authority to settle denunciations against the president of a provincial People's Court or military Court of a military zone.

The president of the Supreme People's Court shall be given authority to settle denunciations against the president of the higher People's Court or central military Court.

The procuracy exercising prosecution rights and administering investigation shall be given authority to settle denunciations against procedural actions of persons assigned to investigate.

2. The settlement of denunciations against unlawful procedural actions denoting crimes shall abide by Article 145 of this Law.

3. The time limit for settlement of denunciations shall not exceed 30 days upon the receipt of such denunciations. The time limit for complex cases may be extended for 60 more days at most.

4. The head of an equivalent Procuracy or competent Procuracy shall settle denunciations against emergency custody, temporary detainment and detention during the stage of investigation and prosecution, in 24 hours upon the receipt of such denunciations. If information must be further verified, the time limit shall be 03 more days at most upon the receipt of denunciations.

#### **Article 482. Responsibilities of authorities and persons authorized to settle complaints and denunciations**

1. Authorities and persons authorized to settle complaints and denunciations, within their powers and objectives, shall be held responsible for admitting and settling complaints and denunciations in prompt and legal manner and for sending results of the settlement of such complaints and denunciations in writing to the person lodging such complaints and denunciations. Moreover, they shall castigate violators of laws in stringent manner, implement protective measures for

denouncers upon requests and prevent possible damage. Furthermore, they shall assure the strict settlement of complaints and denunciations and assume liabilities for their relevant actions.

2. If a person, though authorized to settle denunciations and complaints, does not perform or neglect his given tasks, he shall face disciplinary penalties or criminal prosecution or make restitution to damage caused according to the nature and degree of his violations as per the laws. Moreover, his illicit actions to settle complaints or denunciations shall give rise to the same consequences.

3. Investigation authorities, units assigned to investigate and courts shall be responsible for sending written notices of their admission and settlement of complaints and denunciations to the equivalent Procuracy or competent Procuracy.

### **Article 483. Duties and authority of procuracies administering the settlement of complaints and denunciations**

1. A procuracy shall administer the settlement of complaints and denunciations by investigation authorities and units assigned to investigate, equivalent or lower courts.

2. The procuracy, when administering the settlement of denunciations and complaints, shall bear the following duties and authority:

a) Request investigation authorities, courts, units assigned to investigate to settle complaints and denunciations according to this Chapter;

b) Request investigation authorities, courts and units assigned to investigate to, by themselves, inspect the settlement of complaints and denunciations by their personnel and inferior ones; and inform the Procuracy of the findings of such inspection;

c) Request investigation authorities, courts and units assigned to investigate to provide the Procuracy with documents related to the settlement of denunciations and complaints;

d) Directly administer the settlement of denunciations and complaints by investigation authorities, units assigned to investigate, equivalent and lower courts;

dd) Conclude the tasks of administration in writing; exercise the rights to lodge appeals or protests, request investigation authorities, courts and units assigned to investigate to rectify violations in the settlement of denunciations and complaints.

3. A procuracy shall be responsible for inspecting the lower procuracy's settlement of denunciations and complaints. Supreme People's Procuracy shall inspect procuracies' settlement of denunciations and complaints.

## **Chapter XXXIV**

### **PROTECTION OF DENOUNCERS, WITNESS TESTIFIERS, CRIME VICTIMS AND PARTICIPANTS IN LEGAL PROCEEDINGS**

#### **Article 484. Persons under protection**

1. The following persons shall be protected:

a) Denouncers;

b) Witness testifiers;

c) Crime victims;

d) Kindred of denouncers, witness testifiers, crime victims.

2. Protected persons shall have rights to:

a) Petition for protection;

b) Receive information and explanations of their duties and rights;

c) Be informed of the implementation of protective measures; petition for the alteration, addition or termination of protective measures;

d) Receive amends for damage, have honor restored and have legitimate rights and benefits guaranteed during their protection.

3. Protected persons shall bear duties to:

a) Conform to the protection authorities' requests regarding the protection;

b) Maintain confidentiality of information protected;

c) Inform the protection authorities of doubts in prompt manner during the protection.

#### **Article 485. Authorities and individuals authorized to decide the implementation of protective measures**

1. The following authorities shall be given authority to implement protective measures:

a) Investigation units of the People's police force;

b) Investigation units of the People's army.

2. The following individuals shall be given authority to make decisions on protective measures:

a) Heads and vice heads of investigation units of the People's police force shall be given authority to decide to implement protective measures for criminal issues and cases that they have admitted, handled or investigated or at the requests for the equivalent People's Procuracy or People's Court or Supreme People's Procuracy;

b) Heads and vice heads of investigation units of the People's army shall be given authority to decide to implement protective measures regarding criminal issues and cases that they have admitted, handled or investigated or at the requests for the equivalent military Procuracy or military Court or Central military procuracy;

3. People's procuracies and People's courts shall propose investigation authorities that directly handle the criminal case to implement protective measures, if deemed necessary. Such requests shall be executed in writing.

Investigation units of the Supreme People's Procuracy or Central military procuracy, if finding the necessity of protective measures regarding criminal issues and cases that they have admitted, handled or investigated, shall report to the head of the Supreme People's Procuracy or Central military procuracy, who shall propose investigation police units, security investigation department of the Ministry of Public Security, criminal investigation department and security investigation department of the Ministry of Defense to issue a decision to implement protective measures.

#### **Article 486. Protective measures**

1. Authorities and persons authorized to institute legal proceedings shall decide to implement the following protective measures on the grounds that the life, health, property, honor or dignity of the protected persons are harmed or menaced due to such persons' provision of evidences, documents and information related to crimes:

- a) Deploy personnel, implement professional measures, utilize weapons, support equipment and other means for guard and protection;
- b) Constrain the protected persons' travel and interaction for their safety;
- c) Maintain and request other people to maintain the confidentiality of information related to the protected persons;
- d) Displace protected persons, encase information of their residential place, workplace or educational facility; change their whereabouts, personal records and identities, with their consent;
- dd) Deter, warn or attenuate intrusive actions against the protected persons; hinder and resolve intrusive actions in timely manner according to the laws;
- e) Other protective measures as per the laws.

2. The implementation and alteration of protective measures as defined in Section 1 of this Article must not impinge on legitimate rights and benefits of the protected persons.

#### **Article 487. Petition for and request for protective measures**

1. Protected persons are entitled to petition or request in writing competent authorities to implement protective measures. A written petition or request must contain these primary details:

- a) Date;
- b) Name and address of the petitioner;
- c) Reasons and particulars of the petition for protective measures;
- d) The signature or fingerprint of the petitioner. The legal representative of the authority or organization petitioning for protection shall affix the corporate seal or his signature.

2. In emergency events, the protected persons can state their requests for protective measures to competent authorities and individuals in direct manner or through means of communication; however, such requests must later be submitted in writing. Competent authorities and individuals, when receiving the petitions and requests, must execute written records for the archive of protection-related files.

3. Units assigned to investigate, procuracies and courts, upon the receipt of a petition or request for protective measures during their procedural actions towards a lawsuit, shall be responsible for considering details and requisitioning the equivalent investigation authority to ratify particulars and decide to implement protective measures. If the higher People's Procuracy or higher People's Court receives a petition or request for protection, investigation units of the Ministry of Public Security shall consider details and decide to implement protective measures.

4. Investigation authorities must inspect grounds and authenticity of the petition or request for protection. If protective measures are deemed not necessary, relevant reasons must be clearly explained to the petitioner or requester.



### **Article 488. Decisions to implement protective measures**

1. A decision to implement protective measures shall comprise these main details:

- a) Number, issue date and issuing place of the decision;
- b) Position of the individual making the decision;
- c) Grounds of the decision;
- d) Full name, date of birth and residential address of the protected person;
- d) Protective measures and starting time of such measures.

2. The decision to implement protective measures shall be delivered to the person requesting protection, the protected person, the Procuracy or Court that has proposed protective measures and protection-related authorities and organizations.

3. Upon the issuance of the decision to implement protective measures, competent investigation authorities must enforce such measures. Agencies and units of the People's Police force and People's Army, in essential circumstances, shall cooperate with relevant authorities to provide protection.

4. Investigation authorities issuing the decision can alter or add protective measures, if deemed necessary, during the protection.

5. The time of protection shall start upon the implementation of such measures and end upon the decision to terminate protective measures.

### **Article 489. Termination of protection**

1. The head of the investigation authority, which issued the decision to implement protective measures, shall decide to terminate such measures when detriments or menaces against the life, health, property, honor and dignity of the protected person are deemed to vanish.

2. The decision to terminate protective measures must be sent to the protected person, the authority that proposed such measures and protection-related authorities and organizations.

### **Article 490. Protection-related documents**

1. Investigation authorities that decided to implement protective measures must establish protection-related documents.

2. Protection-related documents shall comprise:

- a) The petition or written request for protective measures; written records of such petition or request;
- b) Results of the verification of detriments or menaces against the life, health, property, honor and dignity of the protected person;
- c) Documents on consequential damage that occurred (if any) and competent authorities' solutions;
- d) The petition or written request for alteration, addition or termination of protective measures;
- dd) The decisions to implement, alter, add or terminate protective measures;
- e) Documents on the progress of protective measures implemented;

- g) The written proposition or request for the cooperation from authorities and entities in protection-related tasks;
- h) Reports on the implementation of protective measures;
- i) The decision to terminate protective measures;
- k) Other protection-related documents.

## **PART EIGHT**

### **INTERNATIONAL COOPERATION**

#### **Chapter XXXV**

##### **GENERAL**

#### **Article 491. Scope of international cooperation in criminal procedure**

1. International cooperation in criminal procedure means that competent authorities of the Socialist Republic of Vietnam and competent foreign authorities collaborate and support each other to carry out activities of investigation, prosecution, adjudication and enforcement of criminal sentences.
2. International cooperation in criminal procedure includes judicial assistance in criminal matters, extradition, acquisition and transfer of persons serving time and other international cooperation activities as defined in this Law, the laws on judicial assistance and international agreements that the Socialist Republic of Vietnam has signed.
3. International cooperation in criminal procedure in the territories of the Socialist Republic of Vietnam shall be governed by international agreements that the Socialist Republic of Vietnam has signed or by the principle of reciprocity, in adherence to this Law, the laws on judicial assistance and other relevant laws of Vietnam.

#### **Article 492. Principles of international cooperation in criminal procedure**

1. International cooperation in criminal procedure shall be carried out in deference to national independence, sovereignty, territorial integrity, non-intervention, equality and reciprocity in conformity to the Constitution and laws of Vietnam and international agreements that the Socialist Republic of Vietnam has signed.
2. If Vietnam does not sign or accede to a relevant international agreement, international cooperation in criminal procedure shall adhere to the principle of reciprocity and the laws of Vietnam, international laws and practices.

#### **Article 493. Central governmental authorities' engagement in international cooperation in criminal procedure**

1. Ministry of Public Security shall be the central governmental authority of the Socialist Republic of Vietnam, which extradites and transfers persons serving time.
2. Supreme People's Procuracy shall be the central governmental authority of the Socialist Republic of Vietnam, which is responsible for judicial assistance in criminal matters and other international cooperation activities as per the laws.

#### **Article 494. Validity of documents and items acquired via international cooperation in criminal procedure**

Documents and items, which are collected by foreign competent authorities as per the judicial delegation by competent Vietnamese authorities, or documents and items, which foreign competent authorities send to Vietnam for the delegation of criminal prosecution, shall be regarded as evidences. Documents and items with attributes as defined in Article 89 of this Law shall be regarded as evidences.

**Article 495. Legal proceedings taken by competent Vietnamese individuals in foreign countries and by foreign competent nationals in Vietnam**

Legal proceedings taken by competent Vietnamese individuals in foreign countries and by foreign competent nationals in Vietnam shall abide by international agreements that the Socialist Republic of Vietnam has signed or by the principle of reciprocity.

**Article 496. Overseas presence of witness testifiers, expert witnesses and persons serving time in Vietnam and vice versa**

1. Competent Vietnamese authorities can propose foreign competent authorities to permit witness testifiers, expert witnesses and persons serving time abroad to be present in Vietnam for the settlement of a criminal case.
2. Competent Vietnamese authorities may permit witness testifiers, expert witnesses and persons serving time in Vietnam to be present in a foreign country, according to propositions by that country's competent authorities, for the settlement of a criminal case.

**Chapter XXXVI**

**INTERNATIONAL COOPERATION ACTIVITIES**

**Article 497. Acquisition and transfer of documents and items in connection with a legal case**

The acquisition and transfer of items and documents related to a legal case shall conform to international agreements that the Socialist Republic of Vietnam has signed, regulations of this Law, laws on judicial assistance and other relevant laws of Vietnam.

**Article 498. Rejection of extradition of Vietnamese citizens**

Competent Vietnamese authorities shall be held responsible for considering requests by foreign competent authorities to initiate criminal prosecution or enforce a foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition is rejected.

**Article 499. Sequence and procedure for the consideration and settlement of requisitions for criminal prosecution against Vietnamese citizens whose extradition is rejected**

1. In 10 days upon the rejection of foreign competent authorities' request for extradition of a Vietnamese citizen, the Court that decided to reject extradition shall transfer documents from abroad to the Supreme People's Procuracy for the latter's consideration of criminal prosecution.
2. Supreme People's Procuracy shall consider and settle foreign entities' requisitions for criminal prosecution against Vietnamese citizens, whose extradition is rejected, according to the laws/
3. Charging, investigation, prosecution and adjudication of persons against whom criminal prosecution is requested shall be governed by this Law.

4. Competent Vietnamese authorities can request foreign competent authorities to provide and supplement evidences, documents and items to assure the justification and legitimacy of activities of investigation, prosecution and adjudication.

**Article 500. Requirements for the enforcement of a foreign Court's criminal sentences and rulings against a Vietnamese citizen whose extradition is requested**

A foreign Court's criminal sentences and rulings against a Vietnamese citizen whose extradition is rejected can be enforced in Vietnam upon the satisfaction of these requirements:

1. A foreign competent authority issues a written request for the enforcement of a foreign Court's criminal sentences and rulings against the Vietnamese citizen whose extradition is rejected.
2. Criminal acts committed by Vietnamese citizens sentenced overseas constitute crimes according to the Criminal Code of the Socialist Republic of Vietnam;
3. The foreign Court's criminal sentences and rulings against the Vietnamese citizen, who faces no other legal proceedings, have come into force.

**Article 501. Sequence and procedure for the consideration of requisitions for the enforcement of a foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition is rejected**

1. In 30 days upon the receipt of competent foreign authorities' requisitions for the enforcement of a foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition has been rejected, the provincial People's Court that rejected extradition shall consider such requisitions from abroad.
2. A competent Court shall summon a meeting via a Panel of three Judges to consider the requisitions for the enforcement of the foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition has been rejected. The procurator of the equivalent Procuracy, the person against whom the enforcement of the foreign Court's criminal sentences and rulings are requested, his lawyer or representative (if any) must attend the meeting.
3. Upon the commencement of the meeting, a member of the Panel shall express matters related to the requisitions for the enforcement of the foreign Court's criminal sentences and rulings against Vietnamese citizens and present legal grounds for the enforcement of such in Vietnam.

The procurator states the Procuracy's opinions on the enforcement of the foreign Court's criminal rulings and sentences against Vietnamese citizens in Vietnam.

The person against whom the enforcement of foreign criminal sentences and rulings are requested, his lawyer or representative shall state their opinions (if any).

The panel shall discuss and decide to approve or reject the enforcement of foreign criminal sentences and rulings under majority rule.

4. The approval of the enforcement of the foreign Court's criminal sentences and rulings against a Vietnamese citizen in Vietnam must specify the length of time of that citizen's prison sentence in Vietnam on the grounds that:

a) If the length of time of the foreign penalty corresponds with the laws of Vietnam, the time served in Vietnam shall be equal to that length of time;

b) If the nature or length of time of the foreign Court's penalty does not correspond with the laws of Vietnam, such penalty shall be converted according to the laws of Vietnam but shall not exceed the length of the foreign sentence passed.

5. In no later than 10 days upon the issuance of the decision to approve or reject the enforcement of the foreign Court's criminal sentences and rulings, the provincial People's Court shall send such decision to the person bound by such foreign judgments, the equivalent People's Procuracy and Ministry of Public Security for execution of the decision.

The person bound to serve foreign criminal sentences and rulings or the equivalent People's Procuracy shall be entitled to lodge an appeal or protest, respectively, in 15 days upon the provincial People's Court's decision. However, the higher People's Procuracy shall be entitled to lodge its protest in 30 days .

The provincial People's Court must send the documents and appeal or protest to the higher People's Court in 07 days upon the expiration of the time limit for appeal or protest.

6. In 20 days upon the receipt of documents for the contemplation of requisitions for the enforcement of foreign criminal sentences and rulings under appeal or protest, the higher People's Court shall hold a meeting to contemplate the provincial People's Court's decisions under appeal or protest.

Procedures for the contemplation of a provincial Court's decisions under appeal or protest shall be governed by this Article.

7. A decision to implement a foreign Court's criminal sentences and rulings against a Vietnamese citizen shall comprise:

- a) The provincial People's Court's decisions under appeal or protest;
- b) The decisions by the higher People's Court.

8. The sequence and procedure for the enforcement of a foreign Court's criminal sentences and rulings against a Vietnamese citizen in Vietnam shall be governed by this Law and the Law on criminal sentence enforcement.

9. Upon the announcement of a reprieve, general amnesty, commutation or exemption of foreign sentences being served in Vietnam by a Vietnamese citizen whose extradition was rejected by Vietnamese authorities despite his commission of crimes on foreign soil, the Ministry of Public Security shall promptly inform the competent Court and Procuracy to consider details and make decisions.

#### **Article 502. Preventive measures, grounds and authority to implement preventive measures**

1. Preventive measures that enable the consideration of requisitions for extradition or execution of extradition shall include arrest, temporary detainment, residential confinement, surety or exit restriction.

2. Preventive measures shall only apply to persons whose extradition is requested or executed upon the satisfaction of these requirements:

- a) The court has decided to consider the request for extradition or its decision to execute extradition has taken effect;

b) The person whose extradition is requested is suspected of absconding or obstructing the consideration of the request for extradition or the execution of extradition.

3. The president and vice presidents of a provincial People's Court or higher People's Court shall make decisions on implementing preventive measures as defined in Section 1 of this Article. The presiding judge of the meeting for consideration of requests for extradition shall be entitled to make decisions on ordering residential confinement or surety to assure the attendance of the persons, whose extradition is requested, in the meeting.

#### **Article 503. Detention of persons whose extradition is requested**

1. The capture of persons, whose extradition is requested, for detention or execution of extradition shall conform to Article 133 of this Law.

2. The duration of detention for consideration of requests for extradition shall not exceed the length of time of the arrest warrant by competent authorities of the nation requesting extradition. Moreover, the duration of detention shall not exceed the full or remaining length of time of the criminal sentences and rulings by the Court of the countries requesting extradition.

In essential circumstances, the provincial People's Court or higher People's Court can request in writing, via the Ministry of Public Security, the competent authorities of the nation requesting extradition to issue orders or decisions to hold persons whose extradition is requested in detention or extended detention to enable the consideration of requests for extradition.

#### **Article 504. Residential confinement, exit restriction**

1. Residential confinement is a preventive measure applicable to persons, whose extradition is requested, with definite place of residence to guarantee their presence as per a Court's subpoenas.

The execution of residential confinement shall be governed by Article 123 of this Law.

The time limit for residential confinement shall not exceed the time limit for the consideration of the request for extradition and time limit for appeals or protests against a decision to approve or reject extradition according to the laws on judicial assistance.

2. Exit restriction is a preventive measure applicable to persons whose extradition is requested to guarantee their presence as per a Court's subpoenas.

The execution of exit restriction shall be governed by the Article 124 of this Law.

The time limit for exit restriction shall not exceed the time limit for the consideration of the request for extradition and time limit for appeals or protests against a decision to approve or reject extradition according to the laws on judicial assistance.

#### **Article 505. Surety**

1. Surety is a preventive measure applicable to persons whose extradition is requested and subject to conditions of their assets in order to guarantee their presence as per a Court's subpoenas.

2. The execution of surety shall be governed by Article 122 of this Law.

3. The time limit for surety shall not exceed the time limit for the consideration of the request for extradition and time limit for appeals or protests against a decision to approve or reject extradition according to the laws on judicial assistance.

### **Article 506. Termination or alteration of preventive measures**

1. When a competent Court decides to reject extradition or the nation requesting extradition does not take in an extradited person in 15 days upon the execution of extradition, all preventive measures implemented shall be terminated.
2. Individuals authorized to implement preventive measures as defined in Article 502 of this Law must promptly terminate or alter preventive measures, if deemed unlawful or unnecessary, at their discretion.

### **Article 507. Handling of assets gained through crimes**

1. Competent Vietnamese authorities shall cooperate with foreign competent authorities to seek, impound, distrain, freeze, seize and appropriate assets gained through crimes for activities of investigation, prosecution, adjudication and criminal sentence enforcement.
2. The pursuit, impoundment, distraintment, freezing and seizure of assets gained through crimes in Vietnam shall abide by this Law and other relevant laws of Vietnam.
3. Assets gained through crimes in Vietnam shall be handled according to international agreements that the Socialist Republic of Vietnam has signed or on a case-by-case basis between relevant competent Vietnamese authorities and foreign competent authorities.

### **Article 508. Cooperation in investigation and special investigation methods and proceedings**

1. Competent Vietnamese authorities can cooperate with foreign competent authorities to jointly carry out investigation or implement special investigation methods and proceedings. The cooperation in investigation or special investigation methods and proceedings shall adhere to international agreements that the Socialist Republic of Vietnam has signed or on a case-by-case basis between relevant competent Vietnamese authorities and foreign competent authorities.
2. Investigation cooperation activities in the territories of the Socialist Republic of Vietnam shall be governed by this Law and other relevant laws of Vietnam.

## **PART NINE**

### **ENFORCEMENT**

#### **Article 509. Force**

1. This Law shall come into force as of the 01<sup>st</sup> of July 2016.
2. The Criminal procedure code n° 19/2003/QH11 shall lose effect upon this Law's entry into force.
3. The regulation on the issuance of the defense counsel certificate according to Section 3 and Section 4, Article 27, Law on lawyers n° 65/2006/QH11 as amended and supplemented by the Law n° 20/2012/QH13, shall be rendered void.

#### **Article 510. Elaboration**

The Government, Supreme People's Procuracy and Supreme People's Court shall stipulate particulars of the articles and sections in this Law.

*This Law was passed by the 13<sup>th</sup> National Assembly of the Socialist Republic of Vietnam in the 10<sup>th</sup> meeting session on the 27<sup>th</sup> of November 2015.*

**CHAIRMAN OF THE NATIONAL  
ASSEMBLY**

**Nguyen Sinh Hung**