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**CRIMINAL PROCEDURE CODE
OF THE REPUBLIC OF ARMENIA**

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**CRIMINAL PROCEDURE CODE
OF THE REPUBLIC OF ARMENIA**

GENERAL PART

Section One : GENERAL PROVISIONS

CHAPTER 1. LEGISLATION ON CRIMINAL PROCEDURE

Article 1. Legislation Governing Criminal Proceedings

1. In the territory of the Republic of Armenia, criminal proceedings shall be governed by the Constitution of the Republic of Armenia, this Code and other laws.

2. Regulations established by the criminal-procedure legislation to govern the conduct of criminal proceedings are mandatory in any court of law, any agency of inquest or preliminary investigation, in any office of prosecution, and the participants of the proceedings.

Article 2. Objectives of the Criminal-Procedure Legislation

1. Criminal proceedings are conducted to provide for the following:

1) protection of individuals, the society, and the state from crime;
2) protection of individuals and the society from any abuse of governmental authority and arbitrary actions, in connection with actual or alleged criminal offenses.

2. Bodies administering criminal proceedings shall make every effort to ensure that, as a result of their activities:

1) every person, who has committed an act prohibited by the criminal code, is revealed;
2) no innocent person is suspected in commitment of crime, or charged with or convicted of a crime;
3) no person has been unlawfully or without reasonable cause subjected to procedural measures of compulsion, punishment, or any other limitation of one's rights and freedoms.

Article 3. Territory of Effect of the Criminal-procedure Law

1. In the territory of the Republic of Armenia, proceedings in criminal cases shall be conducted in accordance with the provisions of this Code, irrespective of the place where the crime was committed, unless otherwise prescribed by the international treaties of the Republic of Armenia.

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2. Beyond the territory of the Republic of Armenia, criminal proceedings, emerging from commission of crimes on board of any sea or river ship, or aircraft, registered in the airport or sea port of the Republic of Armenia, lawfully sailing under the flag of the Republic of Armenia or bearing the markings of the Republic of Armenia, shall be governed by the provisions of this Code.

3. Upon the motion of foreign courts or investigation agencies, criminal-procedure legislation of the given foreign country may apply to certain investigative or court actions, if so provided by international treaties of the Republic of Armenia.

Article 4. Effect of the Criminal-Procedure Law in the Course of Time

1. Proceedings in a criminal case shall be governed by the criminal-procedure law applicable at the time of inquest, preliminary investigation, or trial, respectively.

2. Any criminal-procedure law, which eliminates or limits the rights conferred upon the participants of proceedings or disparages their situation, shall not have retrospective effect, i.e., it shall not apply to any proceedings initiated before the effective date of such a law.

3. Admissibility of evidence shall be determined in accordance with the law applicable at the time the given evidence was obtained.

Article 5. Peculiarities in the Effect of the Criminal-Procedure Law

1. Criminal proceedings in cases, where foreign citizens or stateless persons are either suspected to be involved in or charged with crimes, shall be governed by the provisions of this Code.

2. Peculiarities of criminal proceedings against or involving persons, who are entitled to diplomatic or other immunity and privileges shall be determined in accordance with the provisions of the international treaties of the Republic of Armenia, this Code and other laws.

Article 6. Definitions of the Basic Notions Used in the Criminal-procedure Code

The notions used in the criminal procedure Code have the following meaning:

1. "incident" means an event containing elements of crime, with regard to which criminal proceedings are conducted;

2. "criminal case" means a separate proceeding, conducted by a criminal prosecution agency and a court of law, with respect to one or several allegedly committed actions prohibited by criminal law;

3. "materials" means documents and other items which make a constituent part of a case or which are submitted to be filed in the case docket; reports as well as documents and other items that might be significant for the purpose of revealing any circumstances worthy of being considered during the proceedings;

4. "case proceedings" refers to the juridical criminal procedure conducted to determine whether or not criminal proceedings should be initiated in a given case, and includes procedural decisions and actions implemented and adopted in a given case;

5. "pre-trial criminal proceedings" refers to the proceedings in a criminal case from the moment of institution of criminal proceedings to the moment when the case is brought before a court of law for trial;

6. "procedural actions" means actions taken in the course of criminal proceedings envisaged in this Code;

7. "procedural decisions" means decisions passed by authorized bodies or officials during criminal procedure, as prescribed by this Code: verdicts; resolutions; rulings;

8. "verdict" means a decision handed down by a first-instance court and court of appeals at its session to adjudge the defendant guilty or innocent, impose punishment or reject it, and determine other issues;

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9. "resolution" means any decision of the court, except for verdicts; any decision of the agency for inquest, or the investigator, or the prosecutor, made in the course of pre-trial criminal proceedings;
10. "final decision" means any decision of the body conducting criminal proceedings, which decision rules out the institution or continuation of criminal proceedings, or renders a core solution to the case;
11. "court" means a legitimately formed tribunal, which hears cases either by a panel of judges or by an individual judge: court of first instance, appellate court, and court of cassation;
12. "court of first instance" means a court authorized to pass the verdict or final decision, which can be appealed to appellate court or court of cassation;
13. "appellate court" means a court, which reviews cases upon the appeal;
14. "court of cassation" means a court authorized to review any case brought before it upon the cassation appeal, in cases envisaged by law;
15. "judge", means "court chairperson", court chamber chairperson", "chamber judge", "other court judges";
16. "party" means bodies and persons carrying out the prosecution or defense in a criminal procedure, in accordance with the principles of adversary system;
17. "criminal prosecution" means all procedural activities conducted by the prosecuting bodies, and in cases envisaged in this Code, the injured party, with the purpose of revealing the action prohibited by criminal law, identifying the personality of its actor, determining whether he is guilty of a crime, and ensuring that the criminal is punished or subjected to other compulsory measures;
18. "initiation of criminal prosecution" means a decision made by the prosecution party to implead a person as an accused, to arrest the person or to take measures to secure his appearance in court;
19. "termination of criminal prosecution" means a decision made by the body conducting the criminal proceedings to reject the charge or to eliminate the charge;
20. "charge" means a statement made in the manner prescribed by this Code and claiming that a named person has committed a definite action prohibited by criminal law;
21. "prosecuting party" means criminal prosecution bodies, the injured party, civil claimant and their representatives and legal representatives;
22. "criminal prosecution bodies" means the prosecuting attorney (prosecutor), the investigator and the agency of inquest;
23. "prosecuting attorney" means the Chief Prosecutor of the Republic of Armenia and other prosecutors subordinate to him, as well as their deputies and assistants;
24. "prosecutor" means a prosecuting attorney who maintains the charge before the court;
25. "investigator" means an official serving at the prosecutor's office, or in the internal affairs or national security bodies who conducts preliminary investigation of the criminal case with his jurisdiction;
26. "chief of investigation department" means investigation directorate of the internal affairs or national security bodies, chief of department, section and his deputies, who function within their jurisdiction;
27. "agency for inquest" means chief of a an appropriate division in the state agency authorized to carry out inquest, in accordance with this Code, (referred to below as the "chief of the body of inquest") and his officers;
28. "defense" means procedural activities conducted by the defense party with the purpose of defeating or reducing the charge, defending the rights and interests of the persons incriminated in the commission of acts prohibited by criminal law, as well as vindicating persons unlawfully subjected to criminal prosecution;
29. "defending party" means the suspect, the accused, their legal representatives, the defense attorney, as well as the civil defendant and his representative;

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30. "body conducting criminal proceedings" means the court, and during the pre-trial proceedings, the agencies for inquest, the investigator and the prosecutor;
31. "participants in proceedings" means the prosecutor (prosecuting attorney), the investigator, the agency for inquest, as well as the injured party, the civil claimant, the legal representatives thereof; the suspect, the accused, the legitimate representatives thereof, the defense attorney, the civil defendant and his representative;
32. "persons participating in criminal proceedings" refers to the: participants in proceedings; witness to a search; trial clerk; interpreter; specialist; expert; and witness;
33. "applicant" means any person, who turns to a court of law, to the criminal prosecution agencies or to a lawyer who possesses special license and registered in the court of cassation, for protection, through criminal proceedings, of his actually or allegedly violated rights;
34. "motion" means a request of a party or applicant, addressed to the body conducting the criminal proceedings;
35. "explanation" means oral or written argumentation, brought by the participants in a given proceeding or by the applicants to substantiate their own claims or the claims of persons represented by them, as well as oral or written statements given by other persons prior to the institution of the criminal case;
36. "seizure" means an act, which gives a start to the actual deprivation of liberty in case of detention, imposition of a precautionary measure in the form of arrest, and execution of an imprisonment sentence;
37. "arrest" means taking custody of a person, as a precautionary measure;
38. "keeping in custody" means forcible deprivation of liberty, irrespective of the reasons for such deprivation;
39. "relatives" means: persons connected by blood or affinity: persons having common ancestors up to the grand grandfather and grand grandmother;
40. "close relatives" refers to the parents, children, adopters, adopted children, bilateral brothers and sisters, as well as brothers and sisters with a common father or mother, the grandfather, the grandmother, grandchildren, the spouse and the parents of the spouse;
41. "client" refers to the suspect or the accused as viewed by the defense attorney;
42. "the acquitted" refers to the person who was acquitted by court verdict or the criminal proceedings have been terminated due to his innocence;
43. "authorizer" means the injured party, the civil claimant, the civil defendant as viewed by their representatives;
44. "Association of Lawyers of the Republic of Armenia", an organization which carries out lawyering activities;
45. "damage" means moral, physical, or property damage which lends itself to pecuniary assessment;
46. "residence" means a building or structure, temporarily or permanently used for inhabitation of a definite person or several persons, including: private or rented apartment, garden house, hotel room, cabin, and train compartment, as well as any verandah, terrace, gallery, stair case, balcony, and other immediate attachments thereto, along with other spaces of common use and other constituent parts of the above residences, used for rest, storage of property, or other needs of a definite person or several persons; the basement and the attic of a residential building. The notion of "residence" shall also mean: private vehicle, river or sea vessel, as well as personal office and service car, or studio;
47. "other territory" means area which is beyond the jurisdiction and location of the relevant court, body of inquest, preliminary investigation and the prosecution or beyond the area of residence of the person participating in the criminal proceedings;
48. "night time" means the period between 10 p.m. and 7 a.m. of local time.

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CHAPTER 2. PRINCIPLES OF CRIMINAL PROCEEDINGS

Article 7. Legitimacy

1. The agency for inquest, the investigator, the prosecutor, the court, the judge, and any other person participating in criminal proceedings shall be obligated to observe the Constitution, this Code, and other laws.
2. In connection with a criminal case, no person may be detained, arrested, searched, taken into custody, or subjected to any other measure of procedural compulsion or conviction or other restriction of his rights and freedoms otherwise than on the grounds and by procedure prescribed by law.
3. The agency for inquest, the investigator, the prosecutor, the court, and the judge shall apply the law in accordance with their own legal knowledge.

Article 8. Equality of All Before the Law

All people are equal before the law and shall enjoy equal protection of the law, without any discrimination.

Article 9. Respect for the Rights, Freedoms and Dignity of an Individual

1. Respect for the rights, freedoms, and dignity of a person is mandatory for all bodies and persons participating in criminal proceedings.
2. The court can warrant temporary limitation of the rights and freedoms of individuals as well as imposition of measures of procedural compulsion only in cases, where the necessity of such warrant is supported with appropriate legal grounds.
3. In the course of criminal proceedings, no one shall be kept in conditions humiliating human dignity.
4. No one may be forced to participate in procedural actions humiliating his dignity.
5. Everyone has the right to defend his rights and freedoms by any means not prohibited by law.

Article 10. Ensuring the Right to Legal Assistance

1. Everyone has the right to receive legal assistance, in accordance with the provisions of this Code.
2. The body conducting criminal proceedings, shall be obligated to ensure that the suspect or the accused receive legal assistance.
3. During criminal proceedings, the civil claimant or his legal representative, the legal representative of the suspect or the accused, as well as the civil defendant shall have the right to enjoy the legal assistance of lawyers invited by them.
4. During interrogation of the injured party, the body of criminal prosecution shall have no right to prohibit the attendance of the attorney invited by the injured party as legal representative.
5. The body conducting the criminal proceedings is entitled to provide the suspect or the accused with free legal counselling based on the financial situation of the latter.

Article 11. Immunity of Person

1. Everyone has the right to liberty and immunity.
2. No one may be taken into custody and deprived of his liberty except on the grounds and by procedure stipulated in this Code.
3. Arrest, keeping in custody, or forcible placement of a person with a medical or correction institution shall be allowed only by warrant of the court. A person may not be subjected to detention for more than 96 hours unless a relevant warrant is issued by the court.

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4. Everyone who is detained or arrested shall be informed promptly of the reasons for his detention or arrest, as well as the factual circumstances and legal description of the offense, the commission of which is incriminated to him, or suspected in.
5. The court, as well as the agency for inquest, the investigator, and the prosecutor shall be obligated to promptly order the release of any detained person, if the detention is not lawful. The head of administration of a detention facility shall have no right to place, without a warrant of the court or any other grounds prescribed by this Code, any person into custody, and shall be obligated to release any person, whose detention period has expired.
6. Search or physical examination of a person, as well as other procedural actions interfering with the immunity of a person, can be conducted in cases and by procedure prescribed by this Code.
7. In the course of criminal proceedings, no one shall be subjected to torture, unlawful physical or mental violence, including the use of drugs, hunger, exhaustion, hypnosis, deprivation of medical aid, and any other cruel treatment. It shall be prohibited to use force, threats, fraud, violation of rights, and other unlawful methods while trying to obtain testimony from the suspect, the accused, the defendant, the injured party, the witness, and other persons participating in criminal proceedings.
8. It shall be prohibited to get a person involved in long investigative experiments or other procedural actions or the same causing physical sufferings or endangering his life or the life of other persons around, as well as to subject a person to any other tests of similar character.
9. In the course of criminal proceedings, it shall be prohibited to use methods that may endanger the life and health of people or the environment.

Article 12. Immunity of Residence

1. Everyone has the right to security of one's residence. It shall be prohibited to enter a person's residence against his will, except in cases prescribed by this Code.
2. A residence may be searched only upon a court decision and in a manner stipulated by this Code. In the course of criminal proceedings, examination of a residence, conduct of other procedural actions therein, and entrance into the residence using technical means against the will of the persons occupying it can be done by the bodies of inquest, the investigator by decision of the prosecutor.

Article 13. Security of Property

1. Imposition of an arrest on bank deposits and other property of a person may be ordered in the course of criminal proceedings and upon a decision of the court, the agency for inquest, the investigator, or the prosecutor.
2. Any property seized during a procedural action should be mentioned and described in detail in the record of the respective procedural action, and the owner of the property shall receive a copy of the record.
3. In the course of criminal proceedings, imposition of fines as well as forced alienation of property may be ordered only upon a decision of the court.

Article 14. Confidentiality of Correspondence, Telephone Conversations, Mail, Telegraph and Other Communications

1. Everyone has the right to confidentiality of correspondence, telephone conversations, mail, telegraph and other communications. No one can be unlawfully deprived of the said right or limited in that right in the course of criminal proceedings.
2. Imposition of arrest on postal and telegraph correspondence, its examination, wire-tapping and interception of conversations over the telephone or other means of

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communication, may be ordered in the course of criminal proceedings only upon a decision of the court and in the manner prescribed by law.

Article 15. Language of Criminal Proceedings

1. Criminal proceedings shall be conducted in the Armenian language. Everyone has the right to use, in the course of criminal proceedings, the language he masters, except the body conducting the criminal proceedings.
2. By decision of the body conducting the criminal proceeding, the persons participating in criminal proceedings, who lack sufficient command of the language of criminal proceedings, shall be provided, free of charge, with the possibility to exercise, with the help of an interpreter, all rights belonging to them under the provisions of this Code.
3. Certain persons, who lack sufficient command of the language of criminal proceedings, shall receive a verified copy of those documents, which, in accordance with law, should be delivered to them in their native language.
4. Documents in other languages are attached to the case with the translation into the Armenian language.

Article 16. Public Trial

1. Trial shall be public.
2. Trial in camera is held, in cases and in the manner prescribed by law, shall be held only upon a court decision, for the purpose of protection of public morals, public order, state security, and the private life of the parties, as well as the interests of justice. The court verdicts and final decisions in all cases are announced publicly.

Article 17. Fair Trial

1. Everyone has the right to a fair trial with observance of all requirements of fairness, by an independent and impartial court, of any criminal case affecting one's interests.
2. The judge, the prosecutor, the investigator, the officers of the agency for inquest can not participate in the proceedings of a criminal case, if they are directly or indirectly interested in its outcome.
3. The body of criminal prosecution is obligated to undertake all measures prescribed by this Code for a comprehensive, full and objective investigation of the case circumstances, to reveal all the circumstances both convicting and absolving the suspect or accused, and also the circumstances reducing and aggravating his responsibility.
4. All statements of the suspect, the accused, and their defense attorney about their innocence, on the availability of evidence absolving the suspect or the accused or reducing their responsibility, all appeals on violation of the law in the course of criminal proceedings shall be thoroughly examined by the body conducting the criminal proceedings.

Article 18. Presumption of Innocence

1. Every person suspected in or charged with a criminal offense shall be presumed innocent unless proved guilty in the manner prescribed by this Code and unless the verdict comes into legal force.
2. The suspect or the accused is not obligated to prove his innocence. The obligation to prove the innocence of the suspect or the accused can not be imposed on the defense party. The obligation to prove the charges and to disprove the arguments brought in favor of the suspect and the accused lies upon the prosecution.
3. No conclusion that a person is guilty of a crime can be based on suppositions, and such conclusion has to be supported by sufficient combination of reliable and compatible evidence [cumulative evidence], which is relevant to the case.

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4. All doubts concerning the charge to be proved, which cannot be eliminated through a due process of law in accordance with the provisions of this Code, are interpreted in favor of the accused and the suspect.

Article 19. The Right to Defense of the Suspect and the Accused and Guarantees for this Right

1. Every suspect and the accused has the right to defense.
2. The body conducting the criminal proceedings, is obligated to explain to the suspect and the accused their rights and provide them with actual possibility to defend themselves against the charges by all means not prohibited by law.
3. The body conducting the criminal proceedings, is obligated to ensure that the legal representative of the suspect or the accused takes part in the case.
4. The suspect and the accused are entitled to defend themselves against the charges either in person or through the legal assistance of a defense attorney and legal representative. Participation of the defense attorney and the legal representative in the criminal proceedings shall not restrict the rights of the suspect and the accused.
5. The suspect and the accused cannot be forced to testify, submit any materials to the bodies of criminal prosecution, or provide any assistance to them.

Article 20. Privilege Against Self-Incrimination

1. No one shall be obligated to furnish evidence against himself, his/her spouse, and close relatives.
2. Any person, who is suggested by the body of criminal prosecution to furnish data or materials incriminating himself, his/her spouse or close relatives, has the right to refuse from doing so.
3. This Code can stipulate also other cases of privilege against testifying or furnishing evidence.

Article 21. Inadmissibility of Repeated Conviction and Criminal Prosecution for the Same Crime

1. No one can be convicted twice for the same offense.
2. After the judgment of the court enters into legal force, the person involved shall be guaranteed, with respect to the same event, against any resumption of criminal prosecution or any replacement of the charge or the penalty with a more severe one.
3. Acquittal or termination of the case or suspension of the criminal prosecution, cassation appeal against the court decision, can be brought within six months after the came into legal force.
4. The decision to suspend the case, or terminate the criminal prosecution can be eliminated only by the attorney general, within six months after such decision has been made.
5. The deadlines mentioned in this Article are not valid in the case of newly discovered circumstances.

Article 22. Rehabilitation of the Rights of the Persons who suffered from Judicial Mistakes

1. An acquitted person is entitled to rehabilitation of his rights, including the compensation financial damages caused to him in the course of criminal proceedings conducted by the bodies in charge of criminal proceedings. Rehabilitation measures shall be implemented by the bodies conducting the criminal proceedings, in the manner prescribed by this Code.
2. Also, entitled to compensation of inflicted financial damage, is any person who was illegally subjected to forced measures by the body in charge of criminal proceedings.
3. The bodies conducting the criminal proceedings must implement all measures envisaged in this Code for the rehabilitation of the rights of the acquitted person.

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Article 23. Adversarial System of Criminal Proceedings

1. Criminal proceedings shall be conducted on the basis of the principle of adversarial process.
2. Criminal prosecution, defense, and final resolution of a case shall be separated from each other and shall be conducted by different bodies and persons.
3. The court is not a body supporting either the prosecution, or defense party, while maintaining and expressing only the interests of the law and justice.
4. The court trying a criminal case, shall uphold the principles of objectivity and impartiality and shall create necessary conditions for both parties to comprehensively and fully examine all the circumstances of the case. The court is not bound by the opinions of the parties and is entitled to undertake, upon its own initiative, all the necessary measures to reveal the truth in the criminal case.
5. The parties to a criminal proceeding are empowered by the criminal-procedural legislation with equal rights and chances to defend and support their own positions. The verdict of the court may be based on such evidence only, examination of which has been made equally accessible for both parties.
6. In the choice of their standpoints and methods and measures to be used to maintain those standpoints in the course of criminal proceedings, the parties shall be independent of the court or any other bodies and persons. Upon the motion of a party, the court shall assist such party in receiving necessary materials, in the manner prescribed by this Code.
7. The court shall ensure the right of the parties to participate in the trial of the case by the court of first instance and the appellate court. The person who brought the appeal is entitled to be present in the cassation court.
8. Participation of the parties in the examination of a criminal case at the court is obligatory. In every criminal case, prosecution shall be represented at the trial by a prosecutor.

Article 24. Administration of Justice Exclusively by the Court

1. In the Republic of Armenia, justice shall be administered exclusively by the court. Establishment of extraordinary courts is not permitted.
2. No one can be adjudicated guilty in commission of a crime or undergo criminal punishment otherwise than upon the judgment of the court and in accordance with law.
3. Misappropriation of judicial authority shall be punishable under the criminal law.
4. Jurisdiction of the court and procedures for administration of criminal justice may not be arbitrarily changed with respect to particular cases, persons, or situations, or for a particular period of time.
5. No one can be deprived of the right to have his case tried by that particular court or that particular judge, to the jurisdiction of which or whom it is assigned by the law.
6. The judgment or any other decision rendered by the court with regard to criminal cases may be reviewed only by the relevant superior court, in the manner prescribed by this Code.

Article 25. Independent Assessment of Evidence

1. The judge, as well as the agency for inquest, the investigator, or the prosecutor shall assess the evidence independently, relying on their own belief.
2. No evidence shall have a pre-determined force in criminal proceedings. The judge, as well as the agency for inquest, the investigator, or the prosecutor shall not deal with the evidence in a biased way or give more or less significance to ones in comparison with the others, before the examination of all the available evidence in accordance with a due process of law.

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CHAPTER 3. CONDUCT OF CRIMINAL CASE

Article 26. Conduct of Criminal Case

Conduct of criminal case is the preparation of the criminal case, institution of the criminal case, the criminal prosecution and all procedural actions related to the instituted case and adoption of decision, carried out by authorized agencies established in this Code and officials within their jurisdiction.

Article 27. The Obligation to institute a criminal case and resolution of the crime

The body of inquest, the investigator and the prosecutor are obligated within their jurisdiction to institute the criminal case in each case of discovering the elements of crime, to take all measures envisaged by law to reveal the crime and to discover the criminals.

Article 28. Merger and Separation of Criminal Cases

1. The cases, incriminating several people in the commission of several offences, or incriminating a single person in commission of several offenses, may be merged in a single proceeding by the investigator, the prosecutor or the court.

1. Separation of a criminal case against persons involved in one or several crimes is done by decision of the investigator, the prosecutor or the court, when this is necessary based on the facts of the case and can not affect the completeness and objectivity of the case.

Article 29. Mandatory Requirement for Keeping Records of Criminal Proceedings

1. The course and the results of procedural actions should be reflected in protocols and other written documents, as well as in photographic negatives and pictures, slides and audio records, videotapes, films, plans, sketches, drawings, and electronic documents attached to them as their constituent parts.

2. Making of records of the course and results of procedural actions shall be provided by the body conducting the criminal proceedings, except for cases prescribed by this Code.

3. It is permitted to produce a protocol in hand writing or use mechanical or electronic devices to type it.

4. Records of the course and results of legal proceedings should be composed and formatted in a way, which would ensure normal perception of their content.

Article 30. Materials of Criminal Case

1. Materials of criminal case shall be filed in the file of the case.

2. Every page of each document available in the file shall be numbered immediately upon its filing. The bodies conducting criminal proceedings shall maintain consecutive pagination of the said documents in chronological order of their filing.

3. Each procedural decision or protocol of a court session should be produced on a numbered letterhead bearing the state insignia, which letterhead shall be a document of strict accounts.

4. The documents of a criminal case should be stitched in one or several files with respective inscriptions on the cover of each and the list of the materials contained therein.

5. Other items and documents, which can not be kept in the file of the criminal case due to their big size or their nature, shall be kept separately from the file, but shall constitute an inalienable part thereof. The list of such items and documents kept separately from the file shall be included in the file of the case.

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6. Copies of the documents relating to a criminal case can be made on paper or any electronic carrier by the body conducting the criminal proceedings, which body shall verify such copies.

Article 31. Grounds for Suspension of Criminal Proceedings

1. Criminal proceedings may be suspended, completely or partly, upon the resolution of the prosecutor, the investigator, the agency for inquest, or the court, if:

- 1) the person, who must be presented as the accused, is not identified;
- 2) the accused has escaped from investigation or trial, or his whereabouts still remain unknown because of other reasons;
- 3) the accused, or the person, with regard to whom sufficient evidence is available to charge with an offense, is immune from criminal prosecution;
- 4) the accused suffers from severe illness or is out of the Republic of Armenia and thus is unable to participate in the criminal proceedings, if further continuation of such proceedings without his participation appear to be impossible;
- 5) insurmountable circumstances [force majeure] arise to temporarily block any further proceedings.

2. Criminal proceedings, by the initiative of the court or at the request of the participants of the proceedings, can be suspended by decision of the court, if the court finds that the applicable law or other legal act contradicts the Constitution of the Republic of Armenia. In this case the court is entitled to suspend the criminal proceedings and apply to the Council of Court Chairmen, to initiate proceedings "On the set-up of the court", as established in the law of the Republic of Armenia.

3. The court decrees to approve or to reject the appeal of the participants on the above mentioned grounds which can be appealed to the higher court within ten days.

4. The criminal proceedings can be suspended after the implementation of all necessary possible procedural actions.

5. The criminal proceedings can be suspended until the elimination of the circumstances which were the grounds for its suspension. After their elimination, the proceedings are resumed by decision of the prosecutor, the investigator or the court.

6. The case suspended on the grounds envisaged in paragraph 2 of this article, if:

- 1) the Council of Court Chairmen rejects the request to apply to the President of the Republic for a motion;
- 2) after the receipt of the motion of the Council of Court Chairmen, within a year, the President of the Republic does not apply to the Constitutional Court;
- 3) the Constitutional Court made a decision, based on the application of the President of the Republic.

Article 32. Completion of Criminal Proceedings

Criminal proceedings shall be deemed completed:

- 1) upon coming into force of the decision to terminate the proceedings;
- 2) upon coming into force of the judgment or any other final decision regarding the case, if no special measures are required for the implementation thereof;
- 3) upon confirmation of execution of the judgment or any other final decision regarding the case, if special measures are required for the execution thereof.

CHAPTER 4. CRIMINAL PROSECUTION AND ITS TYPES

Article 33. Criminal prosecution in cases of public and private charges

1. Depending on the severity and nature of the committed crime, the criminal prosecution in the criminal proceedings is implemented by public and private procedure.

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2. The crimes envisaged in article 183 of this Code are considered private prosecution cases.
3. All other cases are considered public prosecution cases.
4. Criminal prosecution can be implemented only in an instituted criminal case.

Article 34. Grounds for Criminal Prosecution

1. In criminal cases where enough evidence is collected against the offender, such offender, whoever he is, shall be officially accused by The investigator, the agency for inquest and the court can arrest the person suspected in the commission of crime, interrogate and involve as the accused and charge, based on the this Code.
2. The prosecutor is obligated to support the prosecution in court as long as no circumstances have been revealed to rule out the criminal prosecution or the criminal case.

Article 35. Circumstances Excluding Criminal Prosecution

1. Criminal case can not be instituted and criminal prosecution may not be started and the instituted criminal case is subject to suspension, if:

- 1) in the absence of any criminal act punishable under the Criminal Code;
- 2) if the alleged act contains no corpus delicti;
- 3) if the alleged act, which has resulted in damages, is legitimate under criminal law;
- 4) in the event of absence of a complaint of the injured, in cases prescribed by this Code;
- 5) in the event of reconciliation of the injured party and the suspect or the accused, in cases prescribed by this Code;
- 6) the prescription has expired;
- 7) against the person and upon a cause, with respect to whom and upon which cause the court has already passed a judgment and such judgment has entered into legal force, or any other enforceable judicial decision is available to exclude criminal prosecution.
- 8) against the person and upon the same charge, with respect to whom and upon which charge the agency for inquest, the investigator, or the prosecutor has already made a decision denying criminal prosecution, and such decision is still in force.
- 9) At the moment of commitment of the crime the person had not reached the age punishable by law, as established by law.
- 10) The person died, except the cases when the proceedings are necessary to rehabilitate the rights of the deceased or to resume the case on occasion of new circumstances with regard to other persons.
- 11) The person refused to complete the crime of one's own accord, if the action already committed has no other formal elements of crime.
- 12) The person is liable to exemption from criminal liability as stipulated in the General Part of the Criminal Code of the Republic of Armenia.
- 13) Amnesty act has been adopted.

2. Criminal prosecution is liable to termination and the case proceedings are liable to suspension, if the involvement of the accused in the committed crime has not been proved, if all possibilities to obtain new evidences have been expired.

3. At any stage of pre-trial proceedings, the prosecutor, the investigator, and the agency for inquest, upon revelation of circumstances excluding the criminal prosecution, are making a decision on refusal from criminal prosecution. The prosecutor is entitled to make such a decision also after taking the case to the court, but before the beginning of the examination of the case in the court session.

4. If the prosecutor reveals at the court circumstances which exclude the criminal prosecution, he shall be obligated to announce his refusal from criminal prosecution of the accused. The announcement of the prosecutor on refusal from criminal prosecution of the

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accused shall serve as a ground for the court to dismiss the case and terminate criminal prosecution.

5. The court, revealing circumstances excluding criminal prosecution, resolves the issue of cessation of the criminal prosecution of the accused.

6. Based on paragraphs 6 and 13 of this article, suspension of the case and termination of criminal prosecution is not allowed if the accused objects to that. In these cases the proceedings continue as usual.

Article 36. Refusal from Criminal Prosecution in Case of Reconciliation Between the Injured and the Suspect or Accused

Criminal proceedings in cases mentioned in part 2 of article 33 of this Code are ceased and a statement of refusal from criminal prosecution shall be made in case of reconciliation between the injured and the suspect or accused.

Article 37. Circumstances Giving Discretion to Refuse from Criminal Prosecution and from Criminal Case

1. Criminal prosecution may be surrendered upon the relevant decision of the prosecutor and a criminal case may be not instituted, if grounds for excuse of a person from criminal liability as prescribed by the Criminal Code of the Republic of Armenia are available in connection with:

1) sincere repentance;

2) change of the situation.

3) Based on the consent of a person who suffered from a minor crime, a decision is made by the prosecutor that the accused or the suspect is capable of correction without imposing a punishment.

2. Upon the prosecutor's decision, criminal prosecution may surrendered, if in the opinion of the prosecutor it is not expedient to prosecute the person, because:

1) the damages caused as a result of the offense are not substantial;

2) the punitive measures, limitations in rights, and other restraints already served by the offender seem to be sufficient in terms of having the guilt redeemed; or

3) because of an incurable severe disease of the accused person.

3. The prosecutor, who reveals at the court any circumstances enabling to surrender the criminal prosecution, is entitled to declare about his refusal from criminal prosecution of the accused.

Section Two: THE COURT

CHAPTER 5. COMPOSITION AND POWERS OF THE COURT

Article 38. Courts Administering Criminal Justice

In the Republic of Armenia, criminal justice is administered only by the courts of first instance, appellate courts, and the court of cassation.

Article 39. Composition of the Court

1. Criminal cases shall be considered by either a panel of judges, or by a single judge.

2. In the court of first instance, all criminal cases shall be tried by a single judge.

3. Appeals on criminal cases shall be reviewed by the appellate court in complement of three judges.

4. In the court of cassation, cases shall be considered by the chairman of the cassation chamber and a panel of judges, by majority of votes.

Article 40. Independence of Judges

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1. During administration of justice, the courts are independent and shall mind nothing else but the law.
2. Judges resolve the criminal cases and evaluate the materials, relying on their own belief based on the proper investigation of the evidence available. The judges are not bound by the conclusions of pre-trial proceedings.
3. Justice should be administered in conditions excluding any external influence on the judges.
4. The persons, who are guilty of unlawful influence on judges or any other interference with the administration of justice by the court, shall bear responsibility prescribed by law.

Article 41. Powers of the Court

1. The court is authorized to consider in its sessions and to resolve the cases and materials brought before it. No refusal from administration of justice may be admissible.
2. The following are related, in particular, to the powers of the court:
 - 1) the passing of judicial decisions connected with arrest, apartment search warrants, imposition of restrictions on the confidentiality of communications, telephone conversations, postal, telegraph and other communications;
 - 2) the passing of decisions connected with the preparation of the case for trial;
 - 3) the consideration of criminal cases in the order of appeal, cassation, or in the first instance;
 - 4) addressing a motion to the prosecutor on institution of criminal prosecution in cases prescribed by this Code;
 - 5) sending the verdict to be executed;
 - 6) resolution of the issues arising in connection with the execution of the verdict;
 - 7) resolution of the issues connected with the expungement of criminal records;
 - 8) in cases prescribed by law, resolution of other issues.

Article 42. The Judge and his/her Powers

1. The judge shall be empowered within the authorities of court, when considering the case within the limits of his/her individual competence, implementing administrative actions for preparation of the court session or for the securing of the execution of its verdict or any other decision.
2. Judges included in a panel shall exercise equal powers toward the solution of the issues connected with the case under consideration.

Article 43. Presiding Judge and his/her Powers

1. During the consideration of a criminal case or any material by a panel of judges, the session of the court shall be presided over by the chairman of the court, or the chairman of the court chamber, or one of the judges authorized for that in the manner prescribed by law.
2. The presiding judge prepares and manages the court session, undertakes measures for the fair consideration of the criminal case and for the observation of other requirements of this Code, and also for the proper behavior of the persons present at the court session.
3. The judge presiding over a session held by a panel of judges sets forth all questions, connected with the consideration and resolution of the case, to be resolved by all judges in the panel. The decision, supported by the majority of the judges, is considered as passed; and if the votes are divided half by half, the decision more favorable for the accused is considered as passed.

CHAPTER 6. JURISDICTION OVER CRIMINAL CASES

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Article 44. Criminal Cases Subject to the Jurisdiction of the Court of First Instance
The court of first instance considers cases on all crimes.

Article 45. Criminal Cases Subject to the Jurisdiction of Appellate Courts
Decisions made on all criminal and military cases by the first instance court which have been appealed against and did not come into effect, are under the jurisdiction of the court of appeals.

Article 46. Criminal Cases Subject to the Jurisdiction of the Court of Cassation

Under the jurisdiction of the cassation court chamber of criminal and military cases are: all criminal cases on which a cassation appeal has been submitted, i.e. decisions made by the first instance court and the court of appeals which came into effect, and decisions on criminal and military cases made by the court of appeals but not yet in effect, and other final decisions.

Article 47. Territorial Jurisdiction over Criminal Cases

1. A court of first instance shall have jurisdiction over cases involving offenses committed in the territory of the judicial district of the respective court of first instance.
2. It shall be presumed, that a lasting crime is committed in the territory, where it was finished. It shall be presumed, that a continuous crime was committed in that territory, where the last criminal action was committed.
3. The case involving a crime committed abroad, is subject to the jurisdiction of the court, in the judicial district of which the accused had his last residence, and if it is impossible to determine the last place of residence, then the case shall be subject to the jurisdiction of that court, in the judicial district of which the pre-trial proceedings of the case were accomplished.

Article 48. Determination of Jurisdiction upon Merger of Criminal Cases

If the case of two or more crimes are subject to different courts of first instance, in the case of merger of these cases, the case is considered by that court, in the area of activity of which the pre-trial proceedings of the case were accomplished.

Article 49. Forwarding of a Criminal Case by the Court Which Has Accepted it to the Court of Appropriate Jurisdiction

1. If the court determines, that the case received is not under its jurisdiction, then the court forwards it to the court of appropriate jurisdiction.
2. Should any violation of the rules for territorial jurisdiction as prescribed by Article 47 of this Code be revealed during the court proceedings, the court shall have discretion to keep the case under its jurisdiction, provided the consent of the parties. In case of any objection of either party, the proceedings conducted shall be declared void and the case shall be forwarded to the court of appropriate jurisdiction.

Article 50. Alteration of the Jurisdiction over Criminal Cases

1. The territorial jurisdiction over a criminal case can be altered upon the consent of all the accused persons, if most of the persons participating in the criminal proceedings on that case reside outside the borders of the district of that court of first instance.
2. The decision on the alteration of the jurisdiction is passed in respective cases by the court which considers the case.

Article 51. Resolution of the Disputes on Jurisdiction

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The disputes on jurisdiction between the courts of first instance are resolved by the Court of Cassation of the Republic of Armenia.

Section Three: PARTIES AND OTHER PERSONS PARTICIPATING IN CRIMINAL PROCEEDINGS

CHAPTER 7. PARTY OF PROSECUTION

Article 52. The Prosecutor

1. The prosecutor is a state official, who conducts, within the limits of his/her competence, at all stages of the criminal procedure, the criminal prosecution, supervises the legitimacy of the preliminary investigation and inquest, supports the prosecution in court, appeals against the court verdicts and other decisions. The prosecuting attorney supporting the prosecution in court is called the prosecutor.
2. The prosecutor is entitled to lodge to the accused or to a person, who bears proprietary responsibility for the actions of the latter, a claim [suit] in protection of the interests of the state.
3. During the exercise of his/her powers at the proceedings of criminal case the prosecutor is independent and submits only to law. He/she shall execute the legitimate instructions of the superior prosecutor. If the subordinate prosecutor considers the instruction illegitimate, he/she appeals it to a superior prosecutor without executing it.

Article 53. The Powers of the Prosecutor at the Pre-trial Proceedings of the Criminal Case

1. The prosecutor is authorized to conduct the following during the pre-trial proceedings:
 - 1) to institute and carry out criminal prosecution and to start proceedings of cases instituted by the body of inquiry, the investigator, to cancel the decision of the body of inquiry and the investigator on suspension of a case, to institute a criminal case based on court motion, to cancel the decision of the body of inquiry and the investigator rejecting the institution of a criminal case and to institute a criminal case.
 - 2) to investigate personally the criminal case in its full volume, passing necessary decisions during the preliminary investigation and implementing investigatory and other procedural actions in accordance with provisions of this Code;
 - 3) in case of a crime, instructs the body of inquiry and the investigator to prepare the materials for the institution of a criminal case.
 - 4) To instruct the body of inquiry and the investigator to conduct urgent investigatory measures or conduct them personally;
 - 5) To participate in the inquest;
 - 6) To carry out prosecutorial management of the inquest and the preliminary investigation.
2. During the implementation of the procedure of prosecutorial management of the inquest and the preliminary investigation, the prosecutor is exclusively entitled to the following:
 - 1) to check the implementation by the body of inquiry the requirements of law on receiving, registration of and follow up on the reports on committed or prepared crimes, on other accidents;
 - 2) to request from the investigator and the body of inquiry for examination of criminal cases, materials and documents and to get acquainted with the data on the course of investigation at the place of their location;
 - 3) to withdraw from the inquirer and to transfer to the investigator or subordinate prosecutor any criminal case, to transfer the criminal case from the investigator to the subordinate prosecutor or vice versa, to transfer the criminal case from one body of inquest to another, or from one investigator and subordinate prosecutor to another, or to

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accept the criminal case for his/her proceedings: in order to ensure the comprehensive, full and objective investigation;

- 4) to instruct an investigating team to undertake a criminal case, to establish the composition of the team, to appoint the team leader or to lead the team personally;
- 5) to resolve issues regarding challenges (rejections) declared to subordinate prosecutor, investigator, or the officer of the body of inquiry, and also their self-rejections;
- 6) to give written instructions to subordinate prosecutor, investigator, and the body of inquiry on the decisions passed and on implementation of investigatory and other procedure actions;
- 7) to resolve objections, prescribed by this Code, brought by the body of inquiry and its employee, the investigator, who disagree with the instructions of inferior prosecutor, conducting the procedure management of the investigation;
- 8) to cancel illegitimate and ungrounded resolutions of the inferior prosecutor, the investigator, the body of inquiry, and its officer and also the instructions of the inferior prosecutor;
- 9) to resolve the appeals against the decisions and actions of the subordinate prosecutor, investigator and the body of inquiry, with the exception of appeals the consideration of which is in the competence of the court;
- 10) to dismiss inferior prosecutor, the investigator, and the officer of the body of inquiry from further participation in the implementation of criminal proceedings on that case, if they have violated the law during the investigation of the case;
- 11) to apply to the appropriate bodies for deprivation from immunity for criminal prosecution of persons, possessing that immunity, if these persons are subject to involvement in the criminal case as accused;
- 12) to return criminal cases to the investigator and the body of inquiry with his/her obligatory instruction on implementation of additional investigation;
- 13) to cancel the decision of the body of inquest or the investigator to suspend the case, and other decisions, in cases envisaged in this Code;
- 14) to approve the criminal information, and for the criminal cases with respect to the persons, committed crimes in the state of insanity or became insane, the final decision [act].
- 15) To forward the case to the court.

3. The prosecutor, during administration of the procedural management, is also entitled to:

- 1) pass separate necessary decisions personally and to conduct separate investigatory and other procedure decisions, and also the consideration of the cases in their full volume;
- 2) to receive from the body of inquiry data on the conduct of operative-investigatory activity and the undertaken measures on the disclosure of crimes, on revealing of disappeared persons and lost property;
- 3) to demand documents and materials, which might contain data on accidents and the persons involved in it;
- 4) to give to the body of inquiry written instructions, obligatory for them, on the implementation of operative-investigatory measures in connection with the criminal case proceedings;
- 5) to apply to the court in order to select arrest as a measure securing the appearance and to extend arrest, to impose arrest upon the arrest of communications, telephone conversations, postal, telegraph and other messages, and for warrants for wire-tapping the telephone conversations, searching apartments;
- 6) to refuse from the criminal prosecution of the accused, to suspend the criminal proceedings or to terminate the criminal prosecution;
- 7) to assign the body of inquiry the execution of the resolutions on detention, bringing to court, arrest, the implementation of other procedure actions, and also to receive

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immediate assistance upon from the body of inquiry, for implementation of investigatory and other procedural actions;

8) to undertake measures for the protection of the injured, the witness, and other persons participating in the criminal proceedings;

9) to address the court with motions, prescribed by this Code;

10) to release the persons, imprisoned without legitimate bases or without necessity;

11) to cancel the arrest of communications, telephone conversations, postal, telegraph and other messages when the necessity for such arrest terminates.

4. The prosecutor, during the pre-trial proceeding of the criminal case, exercises also other powers, prescribed by this Code.

Article 54. Powers of the Prosecutor During Consideration of the Criminal Case or Materials in the Court

1. During consideration of the criminal case by the court, the prosecutor:

1) declares challenges;

2) brings motions;

3) expresses opinion regarding the motions of other participants of the trial;

4) ensures the presentation to the court of the evidences; gives to the body of inquiry mandatory assignments for the submission of the evidence to court;

5) participates in the examination of case materials;

6) objects against unlawful actions of other party;

7) objects against unlawful, groundless actions of the presiding person;

8) requests the inclusion into the protocol of court session of records regarding circumstances mentioned by him;

9) exercises the right to dismiss criminal prosecution against the accused;

10) announces the indictment in the court, makes the opening and closing speeches and a remarks in the court of first instance and the appellate court, and be present at the session of the cassation court;

11) appeals the verdict and other court decisions in cases prescribed by this Code;

12) exercises other powers, prescribed by this Code.

2. The prosecutor, participating in the court session is obligated to:

1) To obey to the order in the court session and observe the legitimate instructions of the presiding person;

2) exercise other powers, prescribed by this Code.

3. Participation of the prosecutor in court is mandatory during consideration of criminal cases.

Article 55. The Investigator

1. Investigator is a state official, who is authorized to conduct preliminary investigation of the criminal case within the limits of his/her competence.

2. The investigator is authorized to prepare materials on the event of the crime and in accordance with the rules of subordination established by this Code, the investigator accepts the case for his/her proceedings or forwards it to other investigator or the body of inquiry; the investigator can institute a criminal case during his rproceedings, if an event of a new crime by another person has been discovered. The investigator is also entitled, in accordance with the provisions of this Code, to reject the institution of the proceedings of the criminal case.

3. After accepting the criminal case for his/her proceeding, the investigator, for the purpose of comprehensive, full and objective investigation shall independently lead the course of investigation, make necessary decisions, conduct investigatory and other procedural actions in accordance with the provisions of this Code with the exception of cases, when criminal procedure law stipulates to receive warrants from the prosecutor.

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The investigator bears responsibility for the lawful and timely implementation of investigatory and other procedural actions.

4. The investigator, in particular, is authorized to conduct the following:

- 1) Prior to the institution of the criminal case, to conduct the examination of the site and to appoint expert inquiry;
- 2) To interrogate the suspect, the accused, the injured, the witness, appoint expert examination, conduct observations, searches, seizures, and other investigatory actions;
- 3) undertake measures for the compensation of the damage caused to the injured ;
- 4) request documents and materials of the case, which may contain data on accidents and the persons involved in it;
- 5) request the conduct of revision, inventory, institutional expert examination, other check up actions;
- 6) receive from the body of inquiry, in connection with the prepared materials and the case under investigation, data on the implementation of operative-investigatory actions and the measures undertaken for disclosure of the crime, finding disappeared persons and lost property;
- 7) give to the body inquiry mandatory written assignments on implementation of operative-investigatory measures in connection with prepared materials and proceedings of the criminal case;
- 8) p assign to the body of inquiry the fulfillment of resolutions on detention, bringing to court, arrest, conducting of other procedural actions, and also receive without delay from the body of inquiry facilitation at the execution of investigatory and other procedure actions;
- 9) when receiving a report from the body of inquest about a committed crime, to go to the site of the crime and to get involved in the investigation of the case by means of institution of a criminal case or undertaking the instituted case in one's proceedings.
- 10) assign the body of inquiry the execution of separate investigatory actions;
- 11) summons persons as witnesses;
- 12) draw in for the participation [in the actions] the witnesses to the search, interpreters, translators, specialists and experts;
- 13) detain the person suspected in crime commitment;
- 14) pass resolution on impleading the person to the case as the accused, put forward charges and to inform the prosecutor within 24 hours;
- 15) recognize respective persons as the injured, civil plaintiff, civil defendant;
- 16) ensure the appointment of lawyers in the capacity of defense attorneys and to permit the persons to participate in the capacity of defense attorneys and the representatives;
- 17) dismiss defense attorneys and representatives from the participation in proceedings of the criminal case, if circumstances are revealed which exclude their participation in the criminal proceedings, as mentioned in article 93 this Code;
- 18) exempt respective persons from the payment for the legal counsel;
- 19) resolve challenges declared to the witness to the search, the translator and the interpreter, the specialist, the expert;
- 20) resolve motions of persons participating in criminal proceedings, and also applications and requests submitted by other persons;
- 21) resolve the complaints of the persons participating in criminal proceedings, within the limits of his/her competence;
- 22) pass resolutions on the selection, alteration, cancellation of the precautionary measures and on implementation of other measures of procedural compulsion, with the exception of arrest; release upon his/her resolution the suspect and the accused kept in detention after expiration of the prescribed period;
- 23) pass resolution on the suspension of criminal proceedings;

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- 24) appeal to the court with motions: on selection of arrest with respect to the accused as a precaution measure and on prolongation of the period of his/her detention; on imposing arrest on telephone conversations, postal, telegraph and other communications wire-tapping, with motion on the permission for search of the apartment;
 - 25) to cancel the arrest on telephone conversations, postal, telegraph and other communications and wire-tapping, in case the necessity for such action ceases to exist;
 - 26) appeal any illegitimate instruction of the prosecutor, without suspending its execution;
 - 27) appeal instructions of the prosecutor to a superior prosecutor without executing it in case of disagreement with the instructions on calling the person as accused, on qualifying the action and on the volume of indictment, on sending the case for taking the accused to court or on abating the case;
 - 28) ; pass resolution on abatement of the criminal proceedings and on termination of criminal prosecution;
 - 29) prepare and present for the approval of the prosecutor the indictment, and as for criminal cases with respect to persons, committed actions forbidden by criminal law in the state of insanity or who has fallen into such state after the accomplishment of the action, the final act.
5. The investigator is obligated the legitimate instructions of the prosecutor.
 6. The investigator also carries out other authorities envisaged in this Code.

Article 56. Bodies of Inquiry

The following are the bodies of inquiry:

- 1) the police;
- 2) the commanders of military units, the heads of military institutions, regarding the cases of military crimes, and also regarding the cases of the deeds, committed on the territory of military units or incriminated to the conscripts;
- 3) the bodies of state fire control: regarding the cases on fires;
- 4) the state tax bodies: regarding the tax crimes ;
- 5) the custom's bodies: regarding the cases on smuggling;
- 6) national security bodies: regarding the cases within their competence.

Article 57. Powers of the Body of Inquiry

1. The head of the body of inquiry personally, and also with the assistance of the officer of the body of inquiry ensures the exercise of the powers of the body of inquiry.
2. The body of inquiry executes the following:
 - 1) undertakes the necessary operative-investigatory and criminal procedure measures for detection of the crime and the persons, who conducted it, for prevention and the suppression of the crime;
 - 2) prior to institution of the criminal case, implements examination of the crime site based on prepared materials, and appoints expert inquiry.
 - 3) Institutes a criminal case, undertakes the proceeding of the case or sends it by subordination, or rejects the institution of the criminal case, as envisaged in this Code, the copy of the decision to institute or reject the case is forwarded to the prosecutor within 24 hours.
 - 4) Immediately informs the prosecutor or the investigator about the revealed crime and the initiated inquest;
 - 5) After having instituted the criminal case, to discover the criminal, the traces of the crime, implements urgent actions, examination, searches, monitoring of correspondence, mail, telegrams, etc., wire-tapping, seizures, investigation, arrest of the suspect and interrogation, and questioning of the injured and the witness, cross-examination, appoints expert inquiry;

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- 6) Within 10 days after the institution of the criminal case, and in the case of the discovery of the criminal and impleading, the case is forwarded to the investigator;
 - 7) The instructions of the prosecutor are carried out based on the cases under consideration of the investigator;
 - 8) Registers statements made about committed crimes;
 - 9) Brings to the investigation the persons suspected in the crime, examines and searches them, and sets free the persons detained without sufficient grounds;
 - 10) Allows the prosecutor to inspect the activities of inquest body;
 - 11) Provides the prosecutor and the investigator within their authority, necessary information demanded by them;
 - 12) Takes measures to compensate the damages inflicted by the crime;
 - 13) Interviews the witnesses of the case, familiarizes himself with the circumstances of the case, and the documents and cases which can contain information on the incident and persons related to it;
 - 14) Demands contain information on the incident and persons related to it.
 - 15) Demands to conduct checks, inventarizations, etc.
 - 16) Suspends the proceedings of the criminal case, and the copy of the decision forwards to the prosecution within 24 hours.
 - 17) Organizes the implementation of the legitimate instructions of the court.
 - 18) Carries out other actions to which he is authorized by this Code.
3. Only the head of the body of inquiry can use the authorities of the body of inquest, institute the criminal case, reject institution of criminal case, suspend the criminal case proceedings, arrest the suspect, or apply means of securing the presence of the suspect, to eliminate or change these means, to apply to the court with a motion to implement operative-investigatory measures.
4. The head of the body of inquest is entitled to instruct the officer of the inquest body to conduct inquest of the case, to give him mandatory written instruction for implementation of certain investigatory actions, to transfer the case from one officer to another, to instruct several officers to investigate the case, to participate in the inquest, and to conduct inquest personally.
5. The instructions of the prosecutor on the criminal cases, given pursuant to the rules, established by this Code are obligatory for the head of the body of inquiry.
6. The body of inquest implements other authorities envisaged in this law.

Article 58. The Injured

1. The person is recognized as the injured, in respect to whom bases are available to suppose, that a moral, physical or proprietary damage has been caused to him/her directly by a deed forbidden by Criminal Code. A person also is recognized as aggrieved, to whom moral or physical damage might be directly caused, if the deed, forbidden by the Criminal Code would have been finished.
2. The decision on recognition as an injured is passed by the body of inquiry, the investigator, the prosecutor or by the court.

Article 59. The Rights and Obligations of the Injured

1. The injured has the right, in the manner prescribed by this Code:
 - 1) to know the essence of the indictment;
 - 2) to give evidences;
 - 3) to give explanations;
 - 4) to present materials for the inclusion into the criminal case and examination;
 - 5) to declare challenges;
 - 6) to declare motions;

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- 7) to object against the actions of the bodies of criminal prosecution and to demand on inclusion of his/her objections into the protocol of the investigatory or other procedure action;
 - 8) to get acquainted with the protocols of the investigatory and other procedure actions, in which he/she participated, and to submit remarks on the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory or other procedure action, the inclusion into the protocol of the mentioned action or the court session the records on the circumstances, which, upon his/her opinion, have to be mentioned; to get acquainted with the protocol of the court session and to bring remarks on it;
 - 9) to get acquainted with all materials of the case, from the moment of accomplishment of the preliminary investigation, make copies from them and to write out from the case any data in any volume;
 - 10) to participate in the sessions of the court of first instance and review court;
 - 11) to receive upon his/her request, free of charge copies of the decisions on the abatement of criminal proceedings, on inclusion into case as an accused, the copy of the indictment or final act, and also the copy of verdict or other final decision of the court;
 - 12) appeals the actions and decisions of the body of inquiry, the investigator, prosecutor, the court, including the appeal of the verdict and other final court decision, as established in this Code;
 - 13) reconciles with the suspect and the accused in cases, prescribed by this Code;
 - 14) objects to the appeals of other participants of the trial regarding the verdict or other final court decision;
 - 15) receives the compensation, stipulated by law, of the damage caused by unlawful actions;
 - 16) receives the compensation of expenses incurred during the criminal proceedings back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the documents, belonging to him/her; receives back the property belonging to him/her seized from the person, conducted a deed forbidden by the criminal law;
 - 17) get back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the documents, belonging to him/her;
 - 18) to have a representative and to terminate the powers of representative.
2. The injured has the following obligations:
- 1) arrives upon the call of the body, conducting criminal proceedings;
 - 2) gives evidences upon the demand of the body, conducting criminal proceedings;
 - 3) presents the items, documents and also samples under his/her discretion for the comparative study upon the demand of the body, conducting criminal proceedings;
 - 4) to be subjected to examination upon demand of the body, conducting criminal proceedings on the crime supposedly committed with respect to him/her;
 - 5) to be subjected, upon the demand of the body conducting criminal proceedings, to the medical investigation in order to check the ability to perceive and to reproduce correctly the circumstances, subject to discovery in criminal case, if forcible arguments are available to suspect the lack of such abilities;
 - 6) obeys the legitimate instructions of the prosecutor, the investigator, the body of inquiry, obeys the legitimate instructions of the presiding person;
 - 7) observes the order at the court session.
3. The injured has also other rights and bears other obligations, prescribed by this Code.
4. The aggrieved enjoys the rights belonging to him/her and executes the obligations imposed on him/her personally or, if it is corresponding to the nature of respective rights and obligations, through a representative. The rights of the juvenile or incapable aggrieved

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are exercised instead of them, by their legitimate representative, in the manner, prescribed by this Code.

5. A legal entity, to which moral or material damage was caused by the crime, can be recognized as the injured party. In this case the rights and obligations of the of the aggrieved party are exercised by the representative of the legal entity.

Article 60. Civil Plaintiff

1. A physical or legal entity, which prosecutes a claim during the proceedings of the criminal case, with respect to which sufficient bases are available to assume, that a material damage, subject to compensation in the manner of criminal proceedings, was caused to the latter upon a deed forbidden by Criminal Code, is recognized as civil plaintiff.

2. The decision on recognizing as civil plaintiff, is passed by the body of inquiry, the investigator, the prosecutor or the court.

Article 61. The Rights and Obligations of Civil Plaintiff

1. The civil plaintiff, with a purpose of the support of the claim prosecuted by him/her, has the following rights in the manner prescribed by this Code:

- 1) to know the essence of the indictment;
- 2) to give explanations on the claim submitted by him/her;
- 3) to present materials for the inclusion in the criminal case and examination;
- 4) declare challenges;
- 5) declare motions;
- 6) to object against the actions of the bodies of criminal prosecution and to demand on inclusion of his/her objections into the protocol of the investigatory or other procedure action;
- 7) to get acquainted with the protocols of the investigatory and other procedure actions, in which he/she participated, and to submits remarks on the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory or other procedure action, the inclusion into the protocol of the mentioned action or the court session the records on the circumstances, which, upon his/her opinion, have to be mentioned; to get acquainted with the protocol of the court session and to bring remarks on it;
- 8) to get acquainted with all materials of the case, from the moment of accomplishment of the preliminary investigation, make copies from them and to write out from the case any data in any volume;
- 9) to participate in the sessions of the court of first instance and appellate court;
- 10) to address the court with a speech and a remark;
- 11) to receive upon his/her request, free of charge copies of the indictment or final act, and also the copy of verdict or other final decision of the court;
- 12) to appeal the actions and decisions of the body of inquiry, the investigator, prosecutor, the court, including the appeal of the verdict and other final court decision;
- 13) to recall any objection given by him/her or his/her representative;
- 14) to issue objections, in the part regarding the claim submitted by him/her, on the appeals of other participants of the trial on verdict or other final decision of the court;
- 15) to express at the court session opinions regarding the motions and proposals of other participants of the trial;
- 16) to protest against illegitimate actions of other parties;
- 17) to object against the actions of the presiding person;
- 18) to have a representative and terminate the powers of representative.

2. The civil plaintiff has also a right in the manner, prescribed by this Code:

- 1) to refuse from the claim at any moment of the conduct of criminal proceedings;

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- 2) to receive the compensation of the expenses, incurred during the proceedings of the criminal case;
- 3) to receive back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the official documents, belonging to him/her.
3. The civil plaintiff has the following obligations:
 - 1) to arrive upon the call of the body, conducting criminal proceedings;
 - 2) to ensure the presentation to the court of copies of the claim equal to the number of civil defendants;
 - 3) to present the items, documents and also samples under his/her discretion for the comparative study upon the demand of the body, conducting criminal proceedings;
 - 4) to obey the legitimate instructions of the prosecutor, the investigator, the body of inquiry, to obey the legitimate instructions of the presiding person;
 - 5) to observe the order at the court session.
4. The civil plaintiff can be summoned on as a witness.
5. The civil plaintiff has also other rights and bears other obligations, prescribed by this Code.
6. The civil plaintiff enjoys the rights belonging to him/her and executes the obligations imposed on him/her personally or, if it is corresponding to the nature of respective rights and obligations, through a representative. The rights of the juvenile or incapable aggrieved are exercised instead of them, by their legitimate representative, in the manner, prescribed by this Code.

CHAPTER 8. DEFENDANT PARTY

Article 62. The Suspect

1. The suspect is the person:
 - 1) detained upon the suspicion in committing a crime;
 - 2) with regard to whom a resolution on the selection of precautionary measure is adopted.
2. The body of criminal prosecution is not entitled to keep the person in detention as a suspect over 96 hours, and as for implementation of precautionary measures over 7 days from the moment of declaration to the suspect the resolution on the selection of precautionary measures.
3. Prior to the expiration of the time limits, set by Part 2 of this Article, the body of criminal prosecution is obligated to release the suspect from imprisonment and to cancel the precautionary measure selected in respect to him/her or to issue resolution on bringing him/her to trial as the accused.
4. Finding the suspicion not sufficiently substantiated, the body of criminal prosecution and the court are obligated to release the suspect from imprisonment and to denounce the precautionary measure, selected with respect to him/her prior to the expiration of the deadlines, set by Part 2 of this Article.
5. The person ceases to be a suspect from the moment of his/her release from imprisonment or from the moment of issuing by the body of criminal prosecution the resolution on bringing him/her to trial as the accused.

Article 63. The Rights and Obligations of the Suspect

1. The suspect has a right to defense. The body, conducting the criminal proceedings, provides the suspect with the possibility to implement the right to defense, he/she is entitled to, by all means and remedies, not prohibited by law.
2. The suspect has the right, in the manner, prescribed by this Code, on the following:
 - 1) to know, what he/she is suspected in, to know the content of suspicion, the factual side and legal qualification of the deed incriminated to him/her;

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- 2) to receive immediately upon detention from the body of inquiry, the investigator or the prosecutor a written notification of one's rights and explanation;
 - 3) to receive immediately upon detention or upon declaration of the resolution on the selection of precautionary measure from the body of criminal prosecution, the free copy of the resolution of the body of criminal prosecution or the copy of the resolution on the selection of precautionary measure; to receive immediately upon the completion of the protocol of detention its copy;
 - 4) to have a defense attorney from the moment of presentation to him/her the resolution of the body of criminal prosecution, on detention, the protocol of detention or the resolution on selection of the precautionary measure; to refuse from defense attorney and to conduct the defense himself/herself;
 - 5) to communicate without hindrance, with his/her defense attorney *tete-a-tete* and confidentially without limitation of the number and the length of the conversations;
 - 6) to be interrogated with participation of the defense attorney;
 - 7) to give testimonies and to refuse from giving testimonies;
 - 8) to give explanations and to refuse from giving explanations;
 - 9) within 12 hours after detention, to notify through the body conducting the criminal trial the close relatives on the place of his/her imprisonment, in the case of foreign citizens, to notify the embassy or the consulate;
 - 10) to present materials for the inclusion into the criminal case;
 - 11) to declare challenges;
 - 12) to declare motions;
 - 13) to object against the actions of the bodies of criminal prosecution and to demand the inclusion of his/her objections into the protocol of investigatory or other procedure actions;
 - 14) to participate in the investigatory and other procedure actions or refuse from participation, if not otherwise prescribed by this Code, upon his/her motion and upon the permission of the body of inquiry, the investigator or the prosecutor personally or through the defense attorney;
 - 15) to get acquainted with the protocols of investigatory and other procedure actions, in which he/she participated, and to issue remarks with respect to the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory and other procedure actions, the inclusion into the protocol of the mentioned actions, the records on the circumstances, which, to his/her opinion had to be mentioned;
 - 16) to be notified by the body, conducting the criminal trial on the adoption of the decisions, connected with the expert assessment and special checking, and upon his/her request to receive also free copies of these decisions;
 - 17) to appeal the actions and the decisions of the bodies of inquiry, the investigator, the prosecutor and, the court;
 - 18) to revoke the appeal filed by him or his lawyer;
 - 19) to receive compensation for the damage, caused unlawfully by the actions of the body, conducting the criminal trial.
3. In case, the suspicion is not confirmed, the suspect has the right to rehabilitation.
 4. The implementation by the suspect the rights, belonging to him/her or the refusal from their implementation shall not be interpreted against him/her or cause any unfavorable consequences for him/her. The suspect cannot bear any responsibility for the testimonies and explanations given by him/her, with the exception of the cases, when he/she declared on committing the crime by the person who is not involved in it.
 5. The suspect has the following obligations:
 - 1) to appear upon the summon of the body conducting the criminal trial;
 - 2) to be subject to examination, and also to personal search, while detained, upon the demand of the bodies, conducting the criminal trial;

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- 3) to be subjected to medical examination, to dactyloscopy, photography and give possibility for taking a blood sample, body excretions upon the demand of the body, conducting the criminal trial;
- 4) to be subjected to expert examination upon the demand of the body, conducting the criminal trial;
- 5) to obey the lawful instructions of the prosecutor, the investigator, the body of inquiry and the judge.
6. The suspect has also other rights and bears other obligations, prescribed by this Code.
7. The rights of the juvenile or incapable suspect are exercised by a legitimate representative thereof, in the manner, prescribed by this Code.

Article 64. The Accused

1. The accused is the person, with respect to whom a resolution has been passed on bringing him/her to trial as the accused.
2. The accused, taken to court is named the defendant. The accused, with respect to whom the legal court verdict comes into force is named:
 - 1) the convict, if the verdict is totally or partially a verdict of conviction;
 - 2) the acquitted, if the verdict is totally a verdict of acquittal.

Article 65. The Rights and Obligations of the Accused

1. The accused has the right to defense. The body conducting the criminal proceedings, provides the accused with the possibility to implement the right to defense belonging to him/her by all means and ways, not forbidden by law.
2. The accused have the right, in the manner, prescribed by this Code:
 - 1) to know, what is he/she accused of, for the purpose of which at the prosecuting of indictment, and also immediately upon imprisonment or the declaration of selection of the precautionary measure, to receive from the body of criminal prosecution, a free copy of the resolution on the impleading as an accused;
 - 2) after detention, the accused is entitled to to receive from the body of criminal prosecution, the explanations on all rights, belonging to him/her/from, as prescribed by Part 2 of this Article,
 - 3) to have a defense attorney from the moment of indictment, to refuse from the defense attorney and to defend himself/herself;
 - 4) to communicate unhampered with his/her defense attorney tete-a-tete and confidentially without limitation of the number and the length of the conversations;
 - 5) to be interrogated with participation of the defense attorney;
 - 6) to give testimonies and to refuse from giving testimonies, to be cross-examined with people who testified against him;
 - 7) to give explanations and to refuse from giving explanations;
 - 8) to participate in the investigatory and other procedure actions or refuse from participation, if not otherwise prescribed by this Code, upon his/her motion and upon the permission of the body of inquiry, the investigator or the prosecutor, personally or through the defense attorney;
 - 9) within 12 hours after detention, to notify through the body conducting the criminal trial the close relatives on the place of his/her imprisonment, in the case of foreign citizens, to notify the embassy or the consulate;
 - 10) to obtain the materials on the criminal case and to present them for the inclusion into the criminal case and examination;
 - 11) to declare challenges;
 - 12) to declare motions;
 - 13) to declare one's guilt or innocence;

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- 14) to object against the actions of the bodies of criminal prosecution and to demand the inclusion of his/her objections into the protocol of investigatory or other procedure actions;
 - 15) to familiarize himself/herself with the protocols of investigatory and other procedure actions, in which he/she participated or was present, and to issue remarks with respect to the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory and other procedure actions, the inclusion into the protocol of the mentioned actions the records on the circumstances, which, to his/her opinion had to be mentioned; to acquaint himself/herself with the protocol of court session and to bring remarks on it;
 - 16) to acquaint himself/herself, from the moment of completion of preliminary investigation, with the materials of the case, make copies and to write out any data from the case in any volume;
 - 17) to participate in the court session of the court of first instance and the appellate court, to participate in the examination of the materials of the case, and to address the court with speeches and a remarks;
 - 18) to pronounce the last statement in the course of court proceedings;
 - 19) to be notified by the body conducting the criminal proceedings on the adoption of the decisions, connected with the expert assessment and special checking, on prosecution upon him/her the precautionary measures and other measures of procedure compulsion and upon his/her request to receive also the copies of these decisions, to receive free of charge the copy of indictment or final act, the claim, and also the copy of the verdict or other final decisions of the court;
 - 20) to appeal the actions and the decisions of the bodies of inquiry, the investigator, the prosecutor, the court, including the appeal of verdict and other final decisions of the court;
 - 21) to recall any appeal submitted by him/her or his/her defense attorney;
 - 22) to submit objections to the appeals of other participants of the trial, communicated to him/her by the body, during the trial, or known to him/her following other circumstances;
 - 23) to express at the court session his opinion regarding the motions and proposals of other participants of the trial;
 - 24) to protest against unlawful actions of other party;
 - 25) to object to the actions of the presiding person;
 - 26) to receive compensation for the damage, caused unlawfully by the actions of the body conducting the criminal trial.
3. The implementation by the accused of the rights he is entitled to, or the refusal from their implementation shall not be interpreted against him/her or cause any unfavorable consequences for him/her. The accused cannot bear any responsibility for the evidences and explanations given by him/her, with the exception of the cases, when he/she declared on committing the crime by the person obviously not involved in it.
4. The accused has the following obligations:
- 1) to appear upon the call of the body, conducting the criminal trial;
 - 2) to be subjected to a personal search, while imprisoned, upon the demand of the bodies, conducting the criminal trial;
 - 3) to be subjected to medical examination, to dactyloscopy, photography and give possibility for taking the blood samples, body excretions upon the demand of the body, conducting the criminal trial;
 - 4) to be subjected to expertise and examination upon the demand of the body, conducting the criminal trial;
 - 5) to obey the lawful instructions of the prosecutor, the investigator, the body of inquiry, the judge;
 - 6) not to leave the room of the court session before the declaration of break without permission of the presiding person;
 - 7) to observe order at the court session.

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5. The suspect has also other rights and bears other obligations, prescribed by this Code.
6. The rights of the juvenile or incapable suspect are exercised by a legitimate representative thereof, in the manner, prescribed by this Code.

Article 66. The Acquitted

1. The acquitted is the person whose criminal prosecution is terminated or the criminal proceedings are suspended, based on Points 1-3 of Article 35 of this Code and Part 2, or acquittal verdict has been adopted.
2. The acquitted is entitled to appeal against the grounds for the suspension of criminal proceedings or the acquittal verdict.
3. The acquitted is also entitled to demand full compensation of the real lost opportunities as a result of arrest, impleading as the accused, and conviction.
4. The acquitted as compensation is entitled to receive:
 - 1) the salary, the pension, allowances, other incomes he was deprived of;
 - 2) the inflicted damage as a result of seizure of property, confiscation by inquest bodies, arrest of property.
 - 3) The paid court fees;
 - 4) The fees paid to the lawyer;
 - 5) The fines paid when the verdict was executed;
5. The amount spent to keep the person in custody, court expenses, and the salary of the detained person for mandatory labor, can not be deducted from the amount which is subject to payment as compensation for the damages caused by the mistakes of the body in charge criminal proceedings.
6. In the case when the criminal proceedings were suspended and criminal prosecution was terminated or acquittal was adopted for lack of formal elements of crime, the compensation of damages envisioned in this Code is done only in the form of civil proceedings, after the resolution of a civil claim.
7. In the case when acquittal or the decisions to terminate the criminal proceedings and criminal prosecution based on which damage was compensated, were canceled, and a guilty verdict was made against the same person in the same case, the amount paid as compensation of damage can be confiscated by the court by reversal of the decision.
8. The acquitted is also entitled:
 - 1) to be rehabilitated at the former work place (former position), and if it is impossible, to get an equivalent job (position) or a financial compensation for the loss of the former job (position).
 - 2) To take into account the time spent in custody or in the disciplinary battalion as work experience.
 - 3) To get back the formerly occupied residence and if this is impossible, to obtain residence with equal floor area and location.
 - 4) Rehabilitation of military ranks, taking into account long-term service.
9. At the request of the acquitted,
 - 1) the court and investigation bodies must within 2 weeks notify about that the former and present place of residence, work and study.
 - 2) The body of mass media which published information detrimental to the accused or the suspect, must within one month announce about the final decision in the case.
10. The body of criminal prosecution must present written apologies to the acquitted.
11. In the even of the death of the acquitted or his inability to work, the right to require is transferred to his closest heirs based on parts 4, 5, 9 of this article.

Article 67. Explanation of the Right to Compensation for Damages to the Acquitted

1. The court, the prosecutor, the investigator, the agency for inquest are obliged to explain to the acquitted the right to compensation of damages.

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2. The copy of the court acquittal or the appropriate decision, and the notification explaining the procedure to compensate the damages, after the verdict or decision, within three days are handed to sent to the acquitted. The notification indicates what damage can be compensated by law, within what time and what body must be appealed to for compensation of damage.
3. The compensation of the damage to the acquitted is done through civil proceedings.
4. The explanation to the person of the right to compensation of damages caused as a result of mistake or malfeasance by the body conducting the criminal proceedings, should be reflected either in the record of a certain procedural action taken or in a separate record.

Article 68. Defense Attorney

1. Defense attorney is the lawyer, representing the legitimate interests of the suspect or the accused at the proceedings of the criminal case, and offering him/her legal assistance by all means and manners, not prohibited by law.
2. A person obtains the status of the defence attorney from the moment he undertakes the functions of representing the accused or the suspected with their consent. After undertaking the defence, the defence attorney must immediately inform the body in charge of criminal proceedings.
3. The defense attorney ceases to participate in the proceedings of the criminal case in that capacity, in the following cases:
 - 1) the suspect or the accused canceled the agreement with the latter;
 - 2) he/she is not authorized to participate in the proceedings of the respective case;
 - 3) the body, conducting the criminal trial, dismissed the defense attorney from the participation in the criminal proceedings, in the view of revealed circumstances, excluding his/her participation in the criminal proceedings;
 - 4) the body conducting the criminal trial, accepts the suspect's or the accused person's refusal from the defense attorney in cases, prescribed by this Code.

Article 69. Obligatory Participation of Defense Attorney

1. The participation of the defense attorney in the proceedings of the criminal case is obligatory in the following cases:
 - 1) the suspect or the accused expressed such a wish;
 - 2) it is difficult for suspect or accused to exercise the right to defense, belonging to them themselves because of being deaf-mute, blind, deaf, other essential violations of the functions of speech, hearing, sight, because of lengthy severe illness, and also idiocy, obvious mental underdevelopment, other physical or mental defects;
 - 3) an aggravated mental disorder or temporary mental disorder of the suspect or the accused is revealed at the moment of the conduct of the criminal case;
 - 4) the suspect and the accused have no command or sufficient knowledge of the language of the criminal proceedings;
 - 5) the suspect or accused had been under age at the moment of the incident, the involvement in which is incriminated to them;
 - 6) the accused is a person drafted for military service;
 - 7) there are discrepancies in the interests of the suspects or the accused, meanwhile one of them has a defense attorney;
 - 8) the criminal prosecution is conducted with respect to a person, to whom is incriminated the commitment of a deed, forbidden by criminal laws, in the state of insanity;
 - 9) the suspect or the accused are under disability.

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2. The participation of the defense attorney in the proceedings of the criminal case is obligatory from the moment of:

- 1) the expression of the will by the suspect or the accused to have a defense attorney: in cases prescribed by Point 1, Part 1 of this Article.
- 2) the announcement to the suspect on the resolution of the body of criminal prosecution on the detention, the presentation of the protocol of detention or the decision on the selection of the precautionary measure, or upon indictment: in cases, prescribed by Points 2,4,5, Part 1 of this Article;
- 3) the disease was revealed : in cases, prescribed by Point 3, Part 1 of this Article;
- 4) the indictment: in cases, prescribed by Points 6 and 8, Part 1 of this Article;
- 5) such circumstances were revealed: in cases, prescribed by Point 7, Part 1 of this Article;
- 6) the adoption of the decision on bringing to court in the capacity of the accused: in the case, prescribed by Point 9, Part 1 of this Article;
- 7) the suspect or accused were recognized as incompetent in the manner of civil proceedings, in case, prescribed by Point 9, Part 1 of this Article.

3. The expression of the wish by the suspect or the accused to have a defense attorney is not a circumstance, pre-determining the obligatory manner of the participation of the defense attorney in the criminal case proceedings, if they had had a defense attorney, appointed for them, but had declared a rejection from defense attorney, accepted by the body conducting the criminal trial.

4. The obligatory participation of defense attorney in the proceedings of the criminal case is ensured by the body, conducting the criminal trial.

Article 70. Invitation, Appointment, Substitution of Defense Attorney and other Grounds of his/her Participation in the Criminal Trial

1. The participation in the proceedings of the criminal case in the capacity of defense attorneys is implemented in the following manner:

- 1) upon the invitation by the suspect, the accused, the legitimate representative thereof, the relative, and also upon the invitation of other persons upon request or consent of the suspect or accused;
- 2) by appointment of the Union of Lawyers of the Republic of Armenia at the request of the body, conducting the criminal trial.

2. The body, conducting the criminal trial, is not entitled to recommend whoever for the invitation of specific defense attorney.

3. The body, conducting the criminal trial, demands from the Union of Lawyers of the Republic of Armenia to appoint a lawyer as a defense attorney in the following cases:

- 1) upon the motion of the suspect or the accused;
- 2) in the case, when the participation of the defense attorney in the criminal case proceedings is obligatory, but the suspect or the accused have no defense attorney.

4. In cases, prescribed by Point 2, Part 3 of this Article, the body, conducting the criminal trial, is entitled to offer the suspect or the accused to invite another defense attorney themselves.

5. The body of inquiry, the investigator, the prosecutor, the court have the right to offer the suspect and the accused to invite another defense attorney themselves, or to appoint the defense attorney through the Union of Lawyers of the Republic of Armenia in the following cases:

- 1) upon impossibility of the defense attorney to arrive for the participation in the first interrogation of the suspect or the accused, taken to imprisonment, within 24 hours from the moment of acquiring the status of the defense attorney or in the case of not arrival within the same time frame;

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2) upon impossibility of the participation of the defense attorney in the criminal case proceeding for more than 3 days.

6. The suspect and the defendant may have several defense attorneys. The court proceeding, where the participation of the defense attorney is necessary, cannot be recognized as illegitimate, because of the participation not all of defense attorneys of the suspect or the accused.

Article 71. Confirmation by Defense Attorney of his legal Status

1. Defense attorney presents to the body, conducting the criminal trial, the following documents, in confirmation of his/her status a document proving his identity proof document and a document, confirming his/her membership in the bar.

Article 72. Refusal from Defense Attorney

1. The refusal from defense attorney means, that the suspect or accused have an intention to conduct their defense, without any legal assistance from the defense attorney. The declaration of the suspect or accused from the defense attorney is reflected in the protocol.

2. The refusal from defense attorney is accepted by the body, conducting the criminal trial, only, if the the suspect or the accused declared that of their own accord, voluntarily or in the presence of a defense attorney, who might be appointed as a defense attorney has already been appointed. The refusal from defense attorney is not accepted, caused by the absence of the means for the payment for legal assistance. The body, conducting the criminal trial, is entitled not to accept the refusal from the defense attorney, and to appoint a defense attorney or to keep the appointed one, in the cases, prescribed by Points 2-5 and 8 Part 1 of the article 69 of this Code.

3. The suspect and the accused are considered as representing themselves, from the moment of the refusal from defense attorney, which does to deprive from his/her rights the defense attorney, appointed later or not dismissed from the participation in the proceedings of the criminal case by the body, conducting the criminal trial.

4. The suspect and the accused, refusing from the defense attorney, are entitled to change their position on this issue after the acceptance of such refusal at any moment of the proceedings of the criminal case. In this case the participation of a new defense attorney is not a basis for the resumption of the criminal case.

Article 73. The Rights and Obligations of Defense Attorney

1. The defense attorney, with a purpose of revealing the circumstances, refuting the indictment, excluding the liability of the suspect or the accused, or mitigating the gravity of the punishment and the measures of procedure compulsion, for the protection of their legitimate interests and for offering to suspect and accused legal assistance has the right to the following in the manner prescribed by this Code:

- 1) to know the essence of suspicion or indictment, to participate in the interrogation;
- 2) to communicate unhampered with his/her defense attorney *tete-a-tete*[in private] and confidentially without limitation of the number and the length of the conversations;
- 3) to participate in the investigatory and other procedure actions conducted by the body of criminal prosecution upon the suggestion of the named body; to participate in all investigatory and other procedure actions of criminal prosecution body conducted upon his/her motion; to participate in any investigatory or other procedure action, conducted with the participation of the client, if that is demanded by the suspect or the accused or if is requested by the defense attorney, who arrived prior to the beginning of these actions;
- 4) to remind to the suspect and the accused of their rights and to put the attention of the person, conducting the investigatory or other procedure action, on violation of law by the him/her;

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- 5) to obtain the materials of the criminal case and to present them for the inclusion into the criminal case and for examination;
 - 6) to interview private individuals, demand data from different organizations, references and other documents, if they do not contain state or official secrets; the latter must provide these documents or their copies;
 - 7) with consent of the defendant, ask the opinion of specialists to find out the issues concerned with legal assistance which need special knowledge;
 - 8) to declare challenges;
 - 9) to declare motions;
 - 10) to object against the actions of the bodies of criminal prosecution and to demand on inclusion of his/her objections into the protocol of investigatory or other procedure actions; to acquaint himself/herself with the materials, presented by the body of criminal prosecution to court in confirmation of the lawfulness and substantiation of the imprisonment of his/her client {a version: to exclude this point};
 - 11) to acquaint himself/herself with the protocols of investigatory and other procedure actions, in which he/she or his/her client participated; to issue remarks with respect to the correctness and fullness of the records in the protocol of the investigatory action or other procedure actions; to demand, during the participation in investigatory and other procedure actions, and also in the court session the inclusion into the protocol of the mentioned actions or the court session the records on the circumstances, which, to his/her opinion had to be mentioned; to acquaint himself/herself with the protocol of court session and to bring remarks on it;
 - 12) to acquaint himself/herself, from the moment of completion of preliminary investigation, with the materials of the case, make copies and to take notes on any data from the case in any volume;
 - 13) to participate in the court session of the court of first instance and the review court, to participate in the investigation[study] of the materials of the case taking place on the court session, and to address court with opening and final speeches and a remark;
 - 14) to receive, upon his/her request the copies of the decisions, which his/her client has right to receive according to this Code;
 - 15) to submit appeals on the actions and decisions of the body of inquiry, the investigator, the prosecutor, the court including the appeal of the court verdict and other final decision of the court;
 - 16) to recall any appeal submitted by him/her with the exception of the appeal submitted on the court verdict of conviction;
 - 17) to speak on behalf of the client, upon the commission of client, at the reconciliation of the suspect and the accused with the injured party;
 - 18) to make objections to the appeals of other participants of the trial, communicated to him/her by the body, conducting the criminal trial or known to him/her following other circumstances;
 - 19) to express at the court session opinion regarding the motions and proposals of other participants of the trial;
 - 20) to protest against unlawful actions of other party;
 - 21) to object the actions of the presiding person;
 - 22) to receive compensation at the client's expense, and in case of free-of-charge legal assistance to the suspect and the accused, at the expense of the state budget.
2. The defense attorney is not entitled to execute any actions against the interests of the client. The defense attorney may not recognize the client's involvement in the incident or the guilt in the committing of the crime, against the will of the client. The defense attorney is not entitled to publicize the information, which became known to him/her in connection with the request for legal assistance and upon implementation of the latter, if that can be used against the interests of the client.

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3. The defense attorney is not entitled to terminate his/her powers in the capacity of defense attorney himself/herself, to hamper the invitation of other defense attorney or his/her participation in the proceedings of the criminal case. The defense attorney is not entitled to transfer the powers of attorney for the participation in criminal proceedings to another person.

4. Defense attorney is not entitled to conduct the following without the commission of the client:

- 1) to declare on his/her guilt in committing the crime;
- 2) to declare on reconciliation of the client with the injured party;
- 3) to recognize the civil claim;
- 4) to recall the appeal submitted by the client.

5. Defense attorney has the following obligations:

- 1) to arrive, upon the invitation of the body, conducting the criminal proceedings, to render legal assistance to the suspect and accused;
- 2) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry, to obey the lawful instructions of the presiding person;
- 3) not to leave the room of court session before the declaration of the break without permission of the presiding person;
- 4) to keep order at the court session.

6. Defense attorney has also other rights and bears other obligations, prescribed by this Code.

Article 74. Civil Defendant

1. A physical person or legal entity, on which the proprietary responsibility may be put * in the force of law or in connection with the claim, submitted during the proceedings of the criminal case, for the actions of the accused, caused proprietary damage as a result of committing a deed, forbidden by criminal law, is recognized as civil defendant.

2. The decision on recognition as civil defendant is adopted by the body of inquiry, the investigator, the prosecutor or the court.

Article 75. The Rights and Obligations of Civil Defendant

1. The civil defendant has the following rights in the manner, prescribed by this Code:

- 1) to know the essence of charges;
- 2) to give explanations regarding the claim against him/her;
- 3) to present materials for the inclusion into the criminal case and for examination;
- 4) declare challenges;
- 5) declare motions;
- 6) to deposit financial means at the court in provision of the claim posed;
- 7) to object against the actions of the bodies of criminal prosecution and to demand the inclusion of his/her objections into the protocol of investigatory or other procedure action;
- 8) to acquaint himself/herself with the protocols of investigatory and other procedure actions, in which he/she participated; to issue remarks with respect to the correctness and fullness of the records in the protocol of the investigatory action or other procedure actions; to demand, during the participation in investigatory and other procedure actions, and also in the court session the inclusion into the protocol of the mentioned actions or the court session the records on the circumstances, which, to his/her opinion had to be mentioned; to acquaint himself/herself with the protocol of court session and to bring remarks on it;
- 9) to acquaint himself/herself, from the moment of completion of preliminary investigation, with the materials of the case, make copies and to take notes on any data from the case in any volume;
- 10) to participate in the court session of the court of first instance and the appellate court;

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- 11) to address the court with a speech and a remark;
 - 12) to receive, upon his/her request free copies of the indictment or final act and also the copy of the verdict or other final decision of the court;
 - 13) to submit appeals on the actions and decisions of the body of inquiry, the investigator, the prosecutor, the court including the appeal in the part, related to the claim brought to him/her;
 - 14) to recall any appeal submitted by him/her or the representative thereof;
 - 15) to make objections, in the part related to the claim brought to him/her to the appeals of other participants of the trial, communicated to him/her by the body, conducting the criminal trial or known to him/her following other circumstances;
 - 16) to express opinion at the court session regarding the motions on proposals of other participants of the trial;
 - 17) to protest against unlawful actions of another party;
 - 18) to object to the actions of the presiding person;
 - 19) to have a representative and to terminate the powers of the representative;
2. Civil defendant has also a right to the following, prescribed by this Code:
- 1) to recognize the claim at any time during the proceedings of the criminal case;
 - 2) to receive compensation of expenses incurred during the proceedings of the criminal case;
 - 3) to receive back the property, seized by the body, conducting the criminal trial, as material evidence or on other grounds, and also the originals of the official documents belonging to him/her.
3. Civil defendant is obliged:
- 1) to appear upon the invitation of the body, conducting the criminal trial;
 - 2) to submit the items, documents and also the samples under his/her discretion for the comparative examination upon the demand of the body, conducting the criminal trial;
 - 3) to obey the lawful instructions of the prosecutor, the investigator, the body of inquiry and the presiding person;
 - 4) to observe order at the court session.
4. The civil defendant may be summoned in the capacity of a witness.
5. Civil defendant has also other rights and duties envisaged in this Code.
6. Civil defendant enjoys the rights belonging to him/her and executes the obligations imposed upon him/her in person, or through a representative, if this corresponds to the nature of respective rights and obligations.

CHAPTER 9. REPRESENTATIVES AND SUCCESSORS

Article 76. Legitimate Representatives of the Injured Party, the Civil Plaintiff, the Suspect, the Accused

1. The legitimate representatives of the injured party, civil plaintiff, the suspect, the accused are his/her parents, adopters, trustees or guardians representing the interests of respective juvenile or incompetent participants of the trial during the proceedings of the criminal case. In the absence of the legitimate representative of the injured party, the suspect or the accused, the body, conducting the criminal trial, appoints as his/her legitimate representative the body of trust and guardianship.
2. The body of inquiry, the investigator, the prosecutor or the court permit, upon their resolution, the participation in the proceedings of the criminal case in the capacity of legitimate representatives of respectively the injured, the civil plaintiff, the suspect, the accused of the parents, adopters, trustees or guardians of each of them. One of the parents, adopters, trustees or guardians shall be permitted to participate in the capacity of the legitimate representative, the whose candidacy, with his/her consent, is supported by all other legitimate representatives of, respectively, the injured party, the civil plaintiff, the

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suspect the accused. In the opposite case, the selection of the person, permitted for the participation in the proceedings of the criminal case in the capacity of legitimate representative, is implemented by the prosecutor or by the court.

Article 77. The Rights and Obligations of Legitimate Representative of the Injured Party, Civil Plaintiff, Suspect, Accused

1. The legitimate representative of the injured party, civil plaintiff, suspect, accused has the following rights, in the manner prescribed by this Code:

- 1) to know the essence of charges, and the legitimate representative of the suspect, also to know the essence of the suspicion;
- 2) to know about the summons of the participant of the trial, whom he/she is representing, to the body, conducting the criminal trial and to accompany him/her there;
- 3) to communicate unhampered with the participant of the trial, whom he/she is representing privately and confidentially without the limitation of the number and duration of the conversations;
- 4) to participate in the investigatory and other procedure actions conducted by the body of criminal prosecution upon the suggestion of the named body;
- 5) to give explanations;
- 6) to present materials for the inclusion into the criminal case and for examination;
- 7) declare challenges;
- 8) declare motions;
- 9) to object against the actions of the bodies of criminal prosecution and to demand the inclusion of his/her objections into the protocol of investigatory or other procedure actions;
- 10) to acquaint himself/herself with the protocols of investigatory and other procedure actions, in which he/she or the trial participant, whom he/she is representing, participated or was present; to issue remarks with respect to the correctness and fullness of the records in the protocol of the investigatory action or other procedure actions; to demand, during the participation in investigatory and other procedure actions, and also in the court session the inclusion into the protocol of the mentioned actions or the court session the records on the circumstances, which, to his/her opinion had to be mentioned; to acquaint himself/herself with the protocol of court session and to bring remarks on it;
- 11) to acquaint himself/herself with all materials of the case after the end of the preliminary investigation, make copies and write out any amount of information;
- 12) to receive the copy of the indictment;
- 13) to participate in the court session of the court of first instance and the appellate court, to participate in the examination of the materials of the case taking place on the court session, and to address the court with a speech and a remark in the absence of the representative or the defense attorney of the civil plaintiff and the accused, represented by him/her, respectively;
- 14) to receive free of charge, upon his/her request, the copies of the decisions, which the represented person has a right to receive according to this Code;
- 15) to submit appeals on the actions and decisions of the body of inquiry, the investigator, the prosecutor, the court including the appeal of the court verdict and other final decision of the court;
- 16) to recall any appeal submitted by him/her;
- 17) to make objections on the appeals of other participants of the trial, in the part, related to the interests of the participant of the trial, represented by him/her, communicated to him/her by the body, conducting the criminal trial or known to him/her following other circumstances;
- 18) to express at the court session opinion regarding the motions and proposals of other participants of the trial;
- 19) to protest against unlawful actions of other party;

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- 20) to object against the actions of the presiding person;
- 21) to invite for the person represented by him/her a defense attorney and a representative, respectively, and to terminate the powers of the defense attorney and the representative invited by him/her.
- 22) Get back the property taken by the body of criminal proceedings as material evidence or the property taken on other grounds, and the originals of official documents which belong to him.
2. The legitimate representative of the incompetent injured, civil plaintiff, suspect, accused exercises, during the proceedings of the criminal case, their rights, with the exception of the rights, inseparable from their person.
3. The legitimate representative of the partially competent injured, civil plaintiff, suspect, accused has the following rights:
 - 1) to terminate the powers of the defense attorney, upon the consent of the partially competent participant of the trial, represented by him/her;
 - 2) to know the intention of the partially competent participant of the trial, represented by him/her on recalling the appeal on the deed, forbidden by the criminal law, committed against him/her; to get reconciliation with the injured, suspect, accused; to refuse the civil claim imposed to him/her or to recognize the civil claim imposed to him/her; to recall the appeal submitted in protection of his/her interests;
 - 3) to agree or to disagree with the decisions of the person, represented by him/her listed in the Point 2, Part 3 of this Article;
4. The legitimate representative of the incompetent injured, civil defendant, suspect, accused is not entitled, on behalf of the participant of the trial, represented by him/her to conduct the following:
 - 1) to recall the appeal on the deed, forbidden by criminal law, committed with respect to the injured;
 - 2) to declare the guiltiness of the accused, represented by him/her, in committing the crime;
 - 3) to reconcile with the injured, suspect, accused;
 - 4) to recognize the claim imposed to the accused and to refuse from the claim, imposed by civil plaintiff;
 - 5) to recall the appeal submitted by the participant of the trial, presented by him/her;
- 5 The legitimate representative of the injured, civil plaintiff, suspect, accused is not entitled to conduct any actions against the interests of the participant of the trial, represented by him/her, in particular, to refuse, on behalf of the accused, from the defense attorney.
6. The legitimate representative of the injured, civil plaintiff, suspect, accused has the following obligations:
 - 1) to present to the body conducting the criminal trial, documents, confirming his/her powers of legitimate representative;
 - 2) to arrive upon the call of the body, conducting the criminal trial, for the protection of the interests of the person, represented by him/her;
 - 3) to submit the items and documents, possessed by him upon the demand of the body, conducting the criminal trial;
 - 4) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry, and of the presiding person;
 - 5) to keep order at the court session.
- 7 The legitimate representative of the injured, civil plaintiff, suspect, accused may be summoned in the capacity of the witness.
8. The legitimate representative of the injured, civil plaintiff, suspect, accused has also other rights and bears other responsibilities, prescribed by this Code.
9. The legitimate representative enjoys the rights, belonging to him/her and executes the obligations, imposed on him/her personally.

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Article 78. Representatives of the Injured, Civil Plaintiff, Civil Defendant

1. Representatives of the injured, civil plaintiff, civil defendant are the persons, authorized by the mentioned participants of the trial to represent their interests at the proceedings of the criminal case.

2. The lawyers and other persons, who have authorization issued by the respective participant of the trial may participate in the criminal proceedings in the capacity of the representatives of the injured, civil plaintiff, civil defendant. The head of the respective legal entity, upon the submission of the certificate, may be admitted in the capacity of the representative of legal entity, participating in the criminal proceedings in the capacity of civil plaintiff or civil defendant.

3. In the case, when after the recognition of the person as a representative of the injured, civil plaintiff, civil defendant, it will be revealed the absence of the grounds for the person to be in the capacity of the representative, the body, conducting the criminal trial, terminates, upon its substantiated decision, the participation of the person in the trial in the capacity of representative. The participation of the representative in the proceedings of the criminal case is terminated also in the cases, if their powers are terminated by the injured, civil plaintiff, civil defendant respectively, or the representative, not being an lawyer, appointed in that capacity refused from the further participation in the proceedings of the criminal case.

4. The injured, civil plaintiff, civil defendant may have several representatives, however, the body, conducting the criminal trial, is entitled to limit the number of the representatives, participating in the implementation of the investigatory or other procedure action, and also at the court session, only to one person at a time.

Article 79. The Rights and Obligations of the Representatives of the Injured, Civil Plaintiff, Civil Defendant

1. The representative of the injured, civil plaintiff, civil defendant executes the powers thereof, during the proceedings of the criminal case, with the exception of the rights, inseparable from their person. The representative of the civil plaintiff, civil defendant has the following rights for the protection of the interests of the principal in the manner, prescribed by this Code:

- 1) to know the essence of the charges;
- 2) to participate in the investigatory and other procedure actions conducted by the body of criminal prosecution upon the suggestion of the named body; to participate in investigatory and other procedure actions, conducted with the participation of the principal;
- 3) to give explanations;
- 4) to present materials for the inclusion in the criminal case and examination;
- 5) declare challenges;
- 6) declare motions;
- 7) to object against the actions of the bodies of criminal prosecution and to demand on inclusion of his/her objections into the protocol of investigatory or other procedure actions;
- 8) to acquaint himself/herself with the protocols of investigatory and other procedure actions, in which he/she or the trial participant, whom he/she is representing, was present or participated; to issue remarks with respect to the correctness and fullness of the records in the protocol of the investigatory action or other procedure actions; to demand, during the participation in investigatory and other procedure actions, and also in the court session the inclusion into the protocol of the mentioned actions or the court session the records on the circumstances, which, to his/her opinion had to be mentioned; to acquaint himself/herself with the protocol of court session and to bring remarks on it;
- 9) to receive the copy of the indictment;

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- 10) to acquaint himself/herself, from the moment of completion of preliminary investigation, with the materials of the case, make copies and to take notes on any data from the case in any volume;
- 11) to participate in the court session of the court of first instance and the appellate court; to make a speech and a remark;
- 12) to submit appeals on the actions and decisions of the body of inquiry, the investigator, the prosecutor, the court, including the appeal of the court verdict and other final decision of the court;
- 13) to recall any appeal submitted by him/her upon consent of the principal;
- 14) to make objections to the appeals of other participants of the trial, in the part, related to the interests of the principal, communicated to him/her by the body, conducting the criminal trial or known to him/her following other circumstances;
- 15) to express at the court session opinion regarding the motions and proposals of other participants of the trial, and also on other issues, resolved by court;
- 16) to protest against unlawful actions of other party;
- 17) to object against the actions of the presiding person;
- 18) to invite another representative for principal, upon his/her consent, and to transfer the powers of representation.

2. The representative of the injured party, the civil plaintiff, the civil defendant, in the cases, if that is specially indicated in the authority, issued to him/her, and also the head of the respective legal entity, representing the interests of the civil plaintiff or civil defendant upon position, acting within the limits of his/her competence, has a right to the following, on behalf of his/her principal, in the manner, prescribed by this Code:

- 1) to recall the appeal on the deed, forbidden by the criminal law, committed with respect of his/her principal;
- 2) to get reconciliation with the suspect, accused;
- 3) to refuse from the civil claim, instituted by his/her principal;
- 4) to recognize the civil claim imposed [prosecuted] to his/her principal;
- 5) to receive the property, adjudicated to his/her representative.

3. The representative of the injured, the civil plaintiff, the civil defendant has also a right in the manner, prescribed by this Code to receive free of charge, upon his/her request, the copies of the decisions, which the person represented by him/her has the right to receive pursuant to this Code.

4. The representative of the injured, civil plaintiff, civil defendant is not entitled to conduct any actions against the interests of the principal.

5. The representative of the injured, civil plaintiff, civil defendant has the following obligations:

- 1) to follow the instructions of his/her principal;
- 2) to present to the body, conducting the criminal trial, documents, confirming his/her powers of a representative;
- 3) to arrive upon the summon of the body, conducting the criminal trial, for the protection of the interests of the person, represented by him/her;
- 4) to submit the items and documents, under his/her discretion upon the demand of the body, conducting the criminal trial;
- 5) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry; to obey the lawful instructions of the presiding person;
- 6) to keep order at the court session.

6. The representative of the injured, the civil plaintiff, the civil defendant has also other rights and bears other responsibilities, prescribed by this Code.

Article 80. The Successor of the Injured

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1. As the successor of the injured, can be recognized one of his/her close relatives, who expressed a wish to exercise during the proceedings of the criminal case, the rights and obligations of the injured, deceased or the one who lost the ability to express consciously his/her will.
2. The decision to recognize the close relative of the injured as his/her successor is made by the body of inquiry, the investigator, the prosecutor or the court at the request of that relative. The selection of the successor of the injured among several close relatives, who submitted a respective request, is conducted by the prosecutor or by the court.
3. The close relative of the injured, recognized as a successor, is entitled to terminate his/her powers at any time during the proceedings of the criminal case.
4. The successor of the injured participates in the proceedings of the criminal case instead of the injured and enjoys the rights and bears obligations of the injured, with the exception of the right to give evidences and other rights, inseparable from the person of the injured, and also the obligations. The successor of the injured is not entitled to reconcile with the suspect and the accused and to recall the appeal instituted by the injured.
5. The successor of the injured may be called on in the capacity of the witness.
6. The successor of the injured has also other rights and bears other obligations, prescribed by this Code.

CHAPTER 10. OTHER PERSONS PARTICIPATING IN THE CRIMINAL PROCEEDINGS

Article 81. Witness to a Search

1. Witness to a search is any adult citizen of the Republic of Armenia, disinterested personally in the criminal case, invited by the body of criminal prosecution for the participation in the implementation of investigatory action for the verification of the fact of its implementation, the substance, the course and the results.
2. The witness to a search shall be able to perceive fully and correctly the actions taking place in his/her presence.
3. The witness to the search has the following obligations:
 - 1) to arrive upon the call of the body of criminal prosecution, conducting the investigatory actions;
 - 2) to submit, upon the demand of the body, conducting the criminal trial, and the person, performing the investigatory action, information on his relations with the persons, participating in the proceedings of the respective criminal case;
 - 3) to obey the lawful instructions of the person, performing the investigatory actions;
 - 4) not to leave the location of the performance of the respective investigatory action without the permission of the person, performing it;
 - 5) to sign the protocol of the respective investigatory action, with remarks or without remarks;
 - 6) not to divulge without the permission of the body, conducting the criminal trial, the information, which became known to him/her in connection with the participation in the investigatory action.
4. The failure to perform his/her obligations as a witness to a search, is liable to responsibility, prescribed by the law.
5. Witness to a search has the following rights:
 - 1) to participate in the implementation of respective investigatory action from the moment of beginning until its end;
 - 2) to acquaint himself/herself with the protocol of respective investigatory action;

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3) to make remarks as during the implementation of respective investigatory action as well as during the process of familiarization with the protocol, subject to the inclusion in the protocol of the respective investigatory action;

4) to receive the compensation of the expenses incurred at the proceedings of the criminal case.

6. The witness to a search has also other rights and bears other responsibilities, prescribed by this Code.

Article 82. Secretary of the Court Session

1. The secretary of the court is an officer of the court, disinterested personally in the criminal case, who conducts the protocol of the court session.

2. The secretary of the court session has the following obligations :

1) to communicate upon the court's demand or the party information on relations with the persons, participating in the proceedings of the respective criminal case;

2) to set forth in the protocol fully and correctly the actions and the decisions of the court, motions, objections, testimonies, explanations of all persons, participating in the court session, and also other circumstances, subject to the reflection in the protocol of court session;

3) to produce the protocol of the court session within the time limit, set by this Code;

4) to obey the lawful instructions of the presiding person;

5) not to divulge the data of the closed-door court session.

3. Secretary of the court session bears personal responsibility for the fullness and correctness of the protocol of the court session. During the composition of the protocol the secretary is independent from the instructions of whoever regarding the substance of the records entered into the protocol.

4. Failure to perform his/her obligations by the secretary of the court session produces responsibility, prescribed by the law.

5. Secretary of court session has also other rights and bears other responsibilities, prescribed by law.

Article 83. Interpreter

1. Interpreter is a person, disinterested personally in the criminal case, invited by a body conducting criminal trial, for interpretation.

2. The interpreter shall have a free command of the language of criminal proceedings, as well as the language, from which the translation is conducted. The judge and as well as the prosecutor, the officer of the body of inquiry, the defense attorney, the representative and other participants of the trial, the witness to a search, the expert, the witness are not entitled to be interpreters.

3. An interpreter, pursuant to this Code, is considered also a person, who understands the signs of the deaf-mutes people and is capable to communicate with the deaf though signs.

4. The interpreter has the following obligations:

1) to arrive upon the call of the body, conducting the criminal trial, for conduct of translation;

2) to present to the body, conducting the criminal trial, documents, verifying his/her qualification as an interpreter;

3) to communicate, upon the demand of the body, conducting the criminal trial and also the parties, information on his/her professional experience and on relations with the people participating in the proceedings of respective criminal case;

4) to be at the location of the implementation of investigatory or other procedure action, in the room of court session during all the time, until it is necessary for him/her to provide interpretation, and not to leave the location of the implementation of the named action

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without the permission of the person, conducting it, and from the room of court session, without the permission of the presiding person;

5) to conduct interpretation fully, correctly and timely;

6) to obey the lawful instructions of the prosecutor, the investigator, the body of inquiry, of the presiding person;

7) to observe order at the court session;

8) to verify with his/her signature the fullness and the correctness of the translation in the protocol of investigatory or other procedure action, in the proceedings of which he/she participated, and also the correctness of the translation in the documents, issued in translation to the persons, participating in the proceedings of the criminal case;

9) to not divulge, without the permission of the body, conducting the criminal trial, the information, became known to him/her in connection with the participation in the investigatory action or during the closed-door session of the court.

5. Failure to perform one's obligations by the interpreter produces responsibility, prescribed by the law.

6. The interpreter has the right:

1) to ask questions to the persons, present during the interpretation, to make the translation more accurate;

2) to acquaint himself/herself with the protocols of investigatory or other procedure action, in which he/she participated, and also, in the respective part, with the protocol of the court session and to make remarks, subject to inclusion to the protocol, on the fullness and correctness of the record of translation;

3) to receive compensation of the expenses, incurred during the proceedings of the criminal case.

7. The interpreter has also other rights and bears other responsibilities, prescribed by this Code.

Article 84. Specialist

1. Specialist is a person, personally disinterested in the criminal case, appointed by a body, conducting the criminal trial, for the facilitation in the proceedings of investigatory or other procedure actions with the utilization of special skills and knowledge of sciences, technology, arts, crafts. The specialist may be appointed from among the persons, offered by the participant of the trial.

2. The expert shall possess sufficient professional knowledge and skills.

3. A person specialized in legal issues is not involved in the criminal proceedings. The opinion expressed by the specialist can not replace the conclusion of the expert.

4. The expert has the following obligations:

1) to arrive by the summon of the body, conducting the criminal trial to show necessary assistance;

2) to submit documents certifying one's qualifications to the body conducting the criminal proceedings, investigative and other proceedings;

3) to communicate, upon the demand of the body, conducting the criminal trial, and also the parties, information of his/her professional experience and the relations with the persons, participating in the proceedings of the respective criminal case;

4) to be present all throughout the duration of investigative and procedure actions, in the court room, and not to leave it without permission of the person in charge or the presiding judge;

5) to use one's professional skills and knowledge in the discovery and securing of items and documents, in the use of equipment, asking questions to the expert, assisting the investigation and the parties to the court session with one's explanation of issues within one's professional competence, and to explain one's actions;

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- 6) to obey the lawful instructions of the prosecutor, the investigator, body of inquiry and the presiding person;
- 7) to keep order at the court sessions;
- 8) to certify with one's signature the correctness and completeness of records in protocols related to the content and results of his professional actions during the investigatory and procedure actions.
- 9) ; not to divulge, without the permission of the body, conducting the criminal trial, information, became known to him/her in connection with the participation in the investigatory action or during the closed session of the court

5. Failure to perform by the expert of his/her obligations produces responsibility, prescribed by the law.

6. The specialist has the right:

- 1) By permission of the investigative or procedural body, to familiarize oneself with the materials of the case and ask questions to the present persons;
- 2) to turn the attention of the present persons on the circumstances related to the discovery, securing and collection of items and documents, use of equipment, asking questions to the expert, and related to one's own professional competence.
- 3) to make comments on the discovery, securing and collection of items and documents, use of equipment, asking questions to the expert, and related to one's own professional competence, which are recorded in the protocol;
- 4) to acquaint himself/herself with the protocols of investigatory or other procedure action, in which he/she participated, and also, in the respective part, with the protocol of the court session and to make remarks, subject to entry in the protocol of court session, regarding the fullness and correctness of the record of his/her actions and oral conclusion;
- 5) to receive compensation of the expenses, incurred during the proceedings of the criminal case.

7. The specialist has also other rights and bears other obligations, prescribed by this Code.

Article 85. Expert

1. Expert is a person, personally disinterested in the criminal case, appointed, upon his/her consent, by a body, conducting the criminal trial, or upon its demand, by the head of expertise institution or invited by a party for the conduct of research of the materials of the case with the utilization of special knowledge in sciences, technology, arts, crafts and for drawing a conclusion on that basis. The expert may be appointed from among the persons, offered by the participant of the trial.
2. The expert shall possess sufficient special skills and knowledge of science, technology, arts or crafts.
3. A expert specialized in legal issues is not involved in the criminal proceedings.
4. The expert has the following obligations:
 - 1) To submit to the body of investigation, documents certifying one's special qualifications;
 - 2) To give grounded and objective answers to the suggested questions;
 - 3) to refuse from expert assessment, if the suggested questions are beyond the scope of his knowledge, or if the submitted materials are not sufficient to answer to these questions, and to file a conclusion to that effect;
 - 4) to give conclusion not only on the questions suggested, but also on circumstances within his competence which emerged during the expert assessment;
 - 5) At the request of the investigative body, to submit the costs of the expert assessment and a report on expenses;

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- 6) To appear at the summon of the investigative body, to answer the questions of the trial participants and explain the expert conclusion.
- 7) At the request of the criminal proceeding bodies and parties, to provide information about one's professional experience and relations with persons participating in the proceedings;
- 8) When participating in investigative actions or proceeding, not to leave the venue of these actions without the permission of the person in charge, or the presiding judge;
- 9) to obey the lawful instructions of the prosecutor, the investigator, body of inquiry and the presiding person;
- 10) to observe order at the court session;;.
- 11) not to divulge, without the permission of the body, conducting the criminal trial, information, became known to him/her in connection with the participation in the investigatory action or during the closed-door session of the court.

5. Failure to perform the obligations by the specialist produces responsibility, prescribed by the law.

6. The specialist has a right:

- 1) To require from the body in charge the criminal proceedings, the necessary objects, samples and other materials for expert assessment;
 - 2) By permission of the body in charge of the criminal proceedings, to to familiarize oneself with the case and write out, for the purposes of the expert assessment, necessary data, ask questions in order to perform one's duties properly, to the accused, the suspect, the injured, the witnesses, familiarize with materials related to the case and make notes;
 - 3) To participate in investigatory and other proceedings as much as they relate to the subject of assessment and are necessary for the expert conclusion;
 - 4) to turn the attention of the court and participants of trial to to those circumstances which are related to subject of the expert assessment and the formulation of questions suggested to the expert;
 - 5) to acquaint himself/herself with the protocols of investigatory or other procedure action, in which he/she participated, and also, in the respective part, with the protocol of the court session and to make remarks, subject to entry in the protocol of court session, regarding the fullness and correctness of the record of the course, substance and the results of the actions, conducted with his/her participation;
 - 6) to receive compensation of the expenses, incurred during the proceedings of the criminal case.
7. The specialist has also other rights and bears other obligations, prescribed by this Code.

Article 86. Witness

1. Witness is a person, summoned for giving evidences by the body, conducting the criminal trial, as a party, to which any circumstances might be known, subject to revealing upon the given case.
2. The following persons can not be summoned and interrogated in the capacity of the witnesses:
 - 1) the persons, who in the force of physical or mental defects are not able to perceive correctly and reproduce the circumstances, subject to establishment upon the criminal case;
 - 2) the lawyers, to ascertain any information, which might be known to them in connection with a request for legal assistance or by rendering it;
 - 3) the persons, to whom the information, relevant to the given criminal case, became known in connection with the participation in the proceedings of the criminal case in the

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capacity of defense attorney, the representative of the injured, civil plaintiff, civil defendant;

4) the judge, the prosecutor, the investigator, the officer of the body of inquiry, and the secretary of the court session, in connection with the criminal case, in which they have exercised their procedure powers, with the exception of the cases of the investigation of the mistakes or abuses at the proceedings of that case, resumption of the proceedings of the case upon the newly revealed circumstances or the restoration of the lost proceedings;

5) the clergyman, on the information, which became known to him from the confession.

3. The witness has the following obligations:

1) to arrive upon the summons of the body, conducting the criminal trial, for giving evidences, participation in the investigatory and other procedure actions;

2) to give truthful evidences: to communicate everything known to him/her on the case and to answer to the issued questions; to verify upon his/her signature in the protocol of investigatory or other procedure action the correctness of the record of his/her evidences;

3) to present the items, documents, and also the samples for comparative examination upon the demand of the body, conducting the criminal trial;

4) to be subjected to examination upon the demand of the body, conducting the criminal trial;

5) to be subjected, upon the demand of the body, conducting criminal trial, to the medical expertise for the verification of the ability to perceive correctly and to reproduce the circumstances, subject to revealing in the criminal case, if substantial grounds are available to be suspicious in the availability of his/her such abilities.

6) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry and the presiding person;

7) not to travel to another locality without the permission of the court or preliminary notification the body of criminal prosecution on new residence;

8) not to leave the room of court session and the court building without permission of the presiding person;

9) to observe order at the court session.

4. Failure to perform, by the witness, of his/her obligations produces responsibility, prescribed by the law.

5. The witness has the following rights:

1) to know, for which criminal case he was summoned;

2) 2)to refuse from giving evidences, convicting him/her, his/her spouse or his/her close relatives in committing a crime; to declare challenge to the interpreter, participating in his/her interrogation;

3) to refuse from submitting materials and information, if they may serve in the criminal case as evidences against that person, his/her spouse, or his/her close relatives; to declare requests[motions?];

4) to use, during giving the evidences, upon the permission of the body, conducting criminal trial, documents and his/her written notes;

5) to draw sketches, plans and charts when testifying;

6) to set forth his/her evidences, given in the course of pre-trial proceedings of the criminal case by his/her own hand;

7) to acquaint himself/herself with the protocols of investigatory or other procedure action in which he/she participated and also, in the respective part, with the protocol of the court session and make remarks, subject to entry to protocol regarding the fullness and the correctness of the record of his/her evidences; to accompany the evidences, given by him/her with drawing plans, schemes and pictures;

8) to receive compensation of the expenses, incurred during the proceedings of the criminal case;

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9) to receive back the property, seized from him/her by the body, conducting the criminal trial, in the capacity of material evidences or on different grounds, the originals of the official documents belonging to him/her;

Article 87. The Participation of the Legitimate Representative of the Witness in the Investigatory and Other Procedure Actions

1. The legitimate representative of a witness, who is under age of 14, and, upon the permission of the body conducting the criminal trial, also the legitimate representative of the juvenile witness of higher age, is entitled to know about the summons of the represented person to the body, conducting criminal trial, and participate in the investigatory and other procedure actions, accompanying the represented person.

2. The legitimate representative of the witness, participating in the implementation of investigatory or other procedure action, is entitled to conduct the following:

- 1) declare motions;
- 2) object against the actions of the bodies of criminal prosecution and to demand on the entry of his/her objections in the protocol of investigatory or other procedure action;
- 3) object against the actions of the presiding person;
- 4) to acquaint himself/herself with the protocols of investigatory or other procedure action in which he/she participated jointly with the represented person, during the pre-trial proceedings of the criminal case and to make remarks regarding the fullness and the correctness of the records in the protocol; to demand, at the participation in investigatory and other procedure action and also at the court session, on the entry in the protocol of the mentioned action or court session of the circumstances, which, upon his/her opinion, had to be mentioned.

3. The legitimate representative of the witness is obliged, participating in the implementation of investigatory or other procedure action to conduct the following:

- 1) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry;
- 2) to observe order at the court session.

**CHAPTER 11. CHALLENGES OF PERSONS AND
RELEASE FROM THE PARTICIPATION IN
CRIMINAL PROCEEDINGS**

Article 88. Challenges, Rejections of Nominations and Motions on Alienation from the Proceedings of the Case

1. Challenges, rejections of nominations and motions on the alienation from the proceedings of the criminal case are made on the basis of the circumstances, excluding the participation of the respective persons in criminal proceedings.

2. The judge, the juror; the prosecutor, the investigator, the officer of the body of inquiry; the defense attorney; the representative of the injured, the civil plaintiff, the civil defendant, the witness; the witness to a search; the secretary of the court session, the interpreter, the specialist, the expert, to whom the circumstances are known, which exclude their participation in the criminal proceedings, are obliged to declare on this to the interested participants of the trial, to the body, conducting the criminal trial, and in the cases, when they suspect the possibility of normal consideration of the case with their participation; to declare the rejection of their nomination make a motion on their alienation from the proceedings of the case.

3. The participant of the trial is entitled to declare challenge to the prosecutor, investigator, the officer of the body of inquiry at any moment of the proceedings of the criminal case. Challenge to the judge and the juror may be declared only prior to the beginning of the court session, and after its beginning in that case only, if the

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circumstance, excluding the participation of the respective person of the trial, became known to him/her immediately after the beginning of the proceedings.

4. The body, conducting criminal trial, is entitled, within its competence to permit the declared challenges, rejections of nomination and motions on excluding from the proceedings of the criminal case, or upon revealing of the circumstances, excluding the participation of the respective person in criminal proceedings, exclude him/her from the participation in the proceedings of the case upon its own initiative. Challenge, declared to a person, authorized to permit challenges, declared with other persons, shall be resolved in the priority manner.

5. In the case, when the simultaneous participation of several persons in the criminal proceedings is excluded because of their relations as relatives or other relations of personal dependence, then the persons, who acquired the capacity of the judge or the participant of the trial later, than others, then they shall be excluded from the participation in criminal proceedings. If the persons, connected with the relations of relatives or other relations of personal dependence, finds themselves in the complement of the court, then the person, subject to exclusion from the participation in criminal proceedings is selected upon the choice of the presiding person; in this case the person subject to dismissal shall be excluded before the judge.

Article 89. Release From the Participation in Criminal Proceedings

The secretary of the court session, the interpreter, the specialist, the expert, whose participation in the criminal proceedings is not excluded by any circumstances, may be released by a body, conducting the criminal proceedings, from such a participation at their request in the following cases:

- 1) if proper causes are available, preventing them from the execution of their duties;
- 2) in other cases, prescribed by this Code.

Article 90. Challenge of the Judge

1. The judge is subject to challenge upon availability of any of the following circumstances:

- 1) if, according to law, he/she is not a proper judge for the consideration of the respective case;
- 2) if he/she is a party, a legitimate representative or representative thereof; is a relative of a party, a legitimate representative or a representative thereof or a person who is in other relations of personal dependence;
- 3) if he/she participated in the proceedings of the respective criminal case in the capacity of a witness to a search; the secretary of the court session, the interpreter, the specialist; the expert; if he/she was summoned or might be summoned in the capacity of the witness;
- 4) if other circumstances are available, giving grounds to believe, that he/she is interested directly or indirectly in this case.

2. The judge participated in the pre-trial session of the consideration of the case at the court of first instance or appellate court can not participate in further consideration of the case. The participation of the judge in the preparation of the case for criminal proceedings as a member of the first instance court is no circumstance, excluding his participation in the further consideration of the respective criminal case. The participation of the judge in the consideration of the case in the cassation court and the military chamber, his participation in the consideration of the same case in the court of cassation is no circumstance excluding his further participation.

3. The persons, connected with the relations of relatives or other relations of dependence can not be members of the court.

4. The issue of the challenge of the judge is resolved by the court by the following persons:

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- 1) the judge considering the case, at the consideration of the criminal case solely;
- 2) the panel of the judges, without participation of the challenged judge: at the consideration of the criminal case in the complement of the panel of the judges.
5. A challenge to a judge, who has to preside at the consideration of the case by the court of first instance solely, can be resolved, prior to the beginning of court session, by the chairman of the respective court.
6. In cases when the judge reveals a ground for self-challenge during the preparation of the trial, he makes decision on the self-challenge.

Article 91. Challenge of the Prosecutor

1. The prosecutor can not participate in the proceedings of the criminal case in the following cases:
 - 1) at the availability of any of the circumstances, prescribed by Article 90 of this Code;
 - 2) if he is in relations of kinship or other relations of personal dependence with the judge considering the respective criminal case;
2. The participation of the prosecutor in the investigation of the criminal case, as well as the support by him/her at the court session of the prosecution are not circumstances, excluding his/her further participation in the proceedings of the respective criminal case in the capacity of the prosecutor.
3. The challenge of the prosecutor is resolved by the superior prosecutor, and at his/her participation in the court session by respective court.

Article 92. Challenge of the Investigator and the Inquiry Body Officer

1. The investigator and the inquiry body officer can not participate in the proceedings of the criminal case if any of the circumstances, prescribed by Article 90 are available.
2. The participation of the investigator and the inquiry body officer in this capacity, as well as in the capacity of the prosecutor in the investigation, which was conducted earlier on the given criminal case, is not a circumstance, excluding their further participation in the proceedings of this criminal case, with the exception of the cases, where substantial violations of the law by them were revealed.
3. The challenge of the investigator or the inquiry body officer is resolved by the prosecutor, conducting the procedure administration of the investigation, or by the superior prosecutor.

Article 93. Exclusion of the Defense Attorney and the Representative from the Proceedings of the Case

1. The defense attorney, the representative of the injured, the civil plaintiff, and civil defendant can not participate in the proceedings of the criminal case if:
 - 1) he/she is in relation of kinship or other relations of personal dependence with an official, who participates or participated in the investigation or consideration of the criminal case by the court;
 - 2) if he/she participated in the case in the capacity of a judge, prosecutor, inquiry body officer; interpreter, specialist; expert or witness;
 - 3) if he/she is not entitled to be a lawyer or a representative by decision of the court.
2. The defense attorney and the representative of the injured, the civil plaintiff and civil defendant cannot participate in the proceedings of the criminal case on behalf of the client or the principal, if he/she has offered or is offering legal assistance to a person, who has opposite interests with the ones of the client or principal, and equally is in relation of kinship or other relations of personal dependence.
3. Based on Part 2 of this article, exclusion of the defence attorney is allowed only with the consent of the defendant.

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4. The issue of exclusion of the defense attorney and the representative from the proceedings of the case is resolved by the body, conducting criminal trial.

Article 94. Challenge of the Witness to a Search

1. The witness to a search can not participate in the proceedings of the criminal case if any of the circumstances, prescribed by Article 90 of this Code are available, and also if he/she is not entitled to be a witness to a search in the force of law.
2. The witness to a search can not participate in the proceedings of the criminal case, if he/she is dependent personally or officially from the body, conducting the criminal trial.
3. The previous participation of the witness to a search in the implementation of investigatory actions is not a circumstance, excluding his/her participation in other procedure action of the same criminal case, with the exception of the cases, when the participation anybody of the witnesses to a search has acquired systematic character.
4. The challenge of the witness to a search is resolved by a person, conducting the investigatory action.

Article 95. Challenge of the Secretary of Court Session

1. The secretary of the court session can not participate in the proceedings of the criminal case in the following cases:
 - 1) if any of the circumstances, prescribed by Article 90 of this Code are available;
 - 2) if he/she is not entitled to be a secretary of court by the force of law or the court verdict;
 - 3) if he/she is in relations of kinship with the judge;
 - 4) if his/her incompetence was revealed.
2. The previous participation of the person in the court session in the capacity of the secretary of the court is not a circumstance, excluding his/her further participation in the respective capacity in the court sessions.
3. The challenge of the secretary of court session is resolved by the court.

Article 96. Challenge of the Interpreter or the Specialist

1. The interpreter and the specialist cannot participate in the proceedings of the criminal case in the following cases:
 - 1) if any of the circumstances, prescribed by Article 90 of this Code are available;
 - 2) if he/she is not entitled to be an interpreter or specialist by the force of law or the court verdict;
 - 3) if they are in relations of kinship or other relations of personal dependence with the judge;
 - 4) if they have official dependence from a party, the legitimate representative or representative thereof;
 - 5) if their incompetence was revealed.
2. The previous participation of the persons in the capacity of interpreter or specialist is not a circumstance, excluding their further participation in the respective capacity in the proceedings of criminal case.
3. The challenge of the interpreter and the specialist is resolved by the body, conducting the criminal trial.

Article 97. Challenge of Expert

1. The expert cannot participate in the proceedings of the criminal case in the following cases:
 - 1) if any of the circumstances, prescribed by Article 90 of this Code are available;
 - 2) if he/she is not entitled to be an expert by the force of law or the court verdict;
 - 3) if he/she is in relations of kinship or other relations of personal, official or other dependence with the judge;

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- 4) if he/she has official dependence from a party, the legitimate representative or representative thereof;
 - 5) if he/she has conducted revisions and other checking actions, the result of which served as a basis for the institution of the criminal case;
 - 6) if his/her incompetence was revealed.
2. The previous participation of the person in the capacity of expert is not a circumstance, excluding their further participation in the respective capacity in the proceedings of criminal case, with the exception of cases, when the expert examination was conducted repeatedly due to doubts which arose regarding the correctness of its conclusion .
3. The challenge of the expert is resolved by the body, conducting the criminal trial.

CHAPTER 12. PROTECTION OF THE PERSONS PARTICIPATING IN CRIMINAL PROCEEDINGS

Article 98. Obligation to protect the Injured, Defense Attorneys, Witnesses, Accused and Other Persons Participating in the Criminal Proceedings

1. Upon discovery of the need to protect the injured, defense attorneys, witnesses, the accused and other persons participating in the criminal proceedings from criminally punishable encroachments, the body of criminal proceedings, at the request of these persons or by its own initiative, takes measures of necessary protective measures. Protective measures are mandatory to be applied, if the persons participating in the criminal proceedings or their close relatives were physically threatened, in connection with the participation of the latter in the proceedings.
2. The request of the participant of the proceedings for protective measures is considered immediately, but not later than within 24 hours from its receipt. The decision that has been made is advised to the applicant and the copy of the decision is sent to him.
3. The applicant is entitled to file an appeal against a decision rejecting protective measures, within 5 days, in the court or, if the copy of the decision has not been received within 7 days, to apply to the court with a demand to introduce protective measures.
4. The refusal to apply protective measures does not prevent the participant of the proceedings from to repeatedly apply with a demand to introduce such measures, if he was threatened again or assaulted, or other circumstances not reflected previously emerged.

Article 99. Measures of Protection of Injured, Defense Attorneys, Witnesses, Accused and Other Persons Participating in the Criminal Proceedings

1. The following is implemented in the capacity of the measures of protection of injured, witnesses and other persons, participating in the criminal proceedings:
 - 1) the adoption by the court or the prosecutor an official warning to a person, from whom the threat of violence or other deed forbidden by the criminal law originates, on possible imposition of criminal responsibility on him/her;
 - 2) the limitation of the access to the information on the person under protection;
 - 3) provision of the security of the person under protection.
2. Upon passing the official warning the person, in respect of which it is passed, is summoned to the prosecutor, the investigator, inquiry body official, which declare to him/her an official warning;
3. The limitation of the access to the information on the person under protection consists in the seizure from the materials of the criminal case of all information on the respective person, and in their storage separately from the main proceedings. In this case the materials, separated from the main proceedings are accessible for acquainting of the court only, and also to the bodies of criminal prosecution, and other participants of the trial may

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acquaint themselves only upon the permission of the body, conducting the criminal trial, if it could be proved, that the disclosure of the respective materials is necessary for the implementation of the protection of the suspect and accused or for revealing any circumstances, substantial for the consideration of the criminal case.

4. The ensuring of the security of the protected person consists in application of the one or several of the following measures:

- 1) personal escort of the protected person or his/her relative;
- 2) the guarding of the residence or the property, belonging to the guarded person or in his/her use;
- 3) temporary transportation of the guarded person to a place, where his/her security can be provided;
- 4) the transportation of the detained person into a facility, where his/her security can be provided.

5. The measures of guarding are terminated by a substantiated resolution of a body, conducting criminal trial, if the necessity of in the application of the measures passes. The guarded persons shall be informed immediately by the body, conducting the criminal trial, on the termination of the measures for his/her protection or the disclosure of information to whoever from the persons, participating in the proceedings of the criminal case, with the exception of the officials of the criminal prosecution bodies.

CHAPTER 13. CONCLUDING PROVISIONS ON THE PERSONS PARTICIPATING IN CRIMINAL PROCEEDINGS

Article 100. The Right to Demand the Recognition as Participant of Trial

1. Everybody, who are not the participants of the trial by that time, when sufficient grounds for that, prescribed by this Code are available, are entitled to demand to be recognized as injured, civil plaintiffs, civil defendants, the legitimate representatives and representatives thereof .

2. The demands of the persons, to recognized them as injured, civil plaintiffs, civil defendants, the legitimate representatives and representatives thereof, shall be immediately considered, by the bodies, conducting criminal trial, within 3 days from the moment of receipt of the demand. The applicant is immediately notified on the decision passed, and the body conducting the criminal trial delivers to him the copy of the respective resolution.

3. The applicant is entitled to appeal at the court the refusal to satisfy his/her demand within 5 days from the receipt of the copy of the resolution on refusal to recognize him as a member of the trial or on delay of the resolution of that issue or, if the copy of the respective resolution of the body, conducting the criminal trial is not received within one month from the moment of submission of the application, to address the court with a demand to recognize him/her as a participant of the trial.

4. The close relative of a person deceased or lost the ability to express his/her will, may demand the recognition of the mentioned person as the injured, if the applicant has a wish to become his/her successor. The mentioned demand is considered by a body, conducting criminal trial, in the manner, prescribed by Parts 2 and 3 of this Article.

Article 101. Explanation of the Rights and Obligations of the Participants, the Provision of the Possibility of their Implementation

1. Any person, participating in the criminal proceedings, is entitled to know his/her rights and obligations, the legal consequences of the position, selected by him/her and also to understand the meaning of the procedure actions, taking place with his/her participation.

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2. The body, conducting the criminal trial, shall explain any to person, participating in the proceedings of the criminal case, the rights, belonging to him/her and the obligations, imposed on him/her, to ensure in the manner, prescribed by this Code the possibility of their implementation.
3. The body, conducting the criminal trial, is obliged to communicate to the participants of the trial the surnames of the persons, who might be challenged and also other necessary information on them.
4. The rights and obligations are to be explained to a person, who acquired the status of a participant of the trial, prior to the beginning of the investigatory or other procedure action with his/her participation and prior to the expression by him/her of any position in the capacity of the participant of the trial. The court is obliged to explain to the participant of the trial, arrived at the court session the rights, belonging to him/her and the obligations imposed on him, irrespectively from the fact that they had been explained in the course of the pre-trial proceedings of the criminal case.
5. The body, conducting the criminal trial, and the person, conducting investigatory or other procedure action are obliged to explain the obligations and rights to the witness to a search, the interpreter, the expert prior to the beginning of investigatory or other procedure action. The rights and obligations of the expert may be explained to him/her by the head of the expert institution, appointed him/her in the respective capacity upon the demand of body, conducting criminal trial. The obligations and the rights of the witness may be explained to him/her once prior to his/her first interrogation by a body, conducting the criminal trial and repeatedly at the court session.

Article 102. Obligatory Consideration of Motions and Demands

1. The motions of the parties, and also the demands of the persons, participating in the criminal proceedings, shall be entered into the protocol of court session or other procedure action, and the written motions and demands shall be included into the materials of the criminal case.
2. The motions and demands shall be considered and resolved immediately upon their declaration, if no other manner is prescribed upon the provisions of this Code. The resolution of the motion may be postponed by the body, conducting the criminal trial, until the revealing of the circumstances, essential for the adoption of decision on motion. In cases, prescribed by this Code, untimely declaration of the motion results in the leaving of the motion without consideration.
3. The decisions on motions and demands shall be substantiated. The body, conducting the criminal trial, notifies immediately the applicant on the decision passed on the motion or demand.
4. The rejection of the motion or the request is not hampering their repeated declaration on the further stages of the criminal proceedings or to other body, conducting criminal proceedings. The repeated declaration of the motion and demand in other cases is possible, if for the substantiation of which new arguments are presented, or the necessity of their satisfaction was confirmed in the course of criminal proceedings.

Article 103. Freedom for Appealing the Procedure Actions and Decisions

1. The actions and decisions of the body, conducting criminal trial, may be appealed by the participants of the trial, in the manner, prescribed by this Code. The actions and decisions of the inquiry body officer and the investigator may be appealed to a respective prosecutor, the actions and decisions of the prosecutor to a superior prosecutor, the court, to a superior court. In cases, prescribed by this Code, the appeal on the actions and decisions of the body of criminal prosecution may be appealed at a court.
2. The appeals can be in writing, and in the cases, when the written form is not specifically prescribed by this Code also in an oral form. The body, conducting the

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criminal trial, makes an entry of oral appeal into the protocol of the procedure action under implementation or into a separate protocol.

3. The appeals are submitted by the persons, participating in the criminal proceedings, directly or through a body, conducting the criminal trial, the actions and decisions of which are appealed. The court, and also the inquiry body, the investigator, the prosecutor, which accepted the appeal on their actions or decisions or on the actions and decisions of other persons, are obliged to deliver the appeal upon destination immediately, not later, than before the expiry of 24 hours, if this Code does not prescribe other period of time.

4. In the cases, prescribed by this Code, the submission of the appeal suspends the execution of the appealed decision.

5. The appeal of the participant of the trial shall be considered immediately, but not later than within 3 days from the day of its receiving by a body, conducting the criminal trial. Other periods of time for the consideration of the appeal may also be prescribed by this Code.

6. The appeal may be left without consideration and returned to the participant of the trial, other person or body, if it is not signed by them and the representatives thereof or contains no indication of the appealed action or decision.

7. Every convict is entitled to the review of the court verdict by a superior court as established in this Code.

8. Every convict is entitled in accordance with international agreements of the Republic of Armenia, to appeal to interstate bodies for protection of human rights and freedoms, all other procedure means envisaged in law have been exhausted.

9. The person who filed an appeal is entitled to revoke it. The suspect and the accused are entitled to revoke the appeals of their lawyer; the civil claimant, the injured or the civil plaintiff are entitled to revoke the appeal of their representative, except the appeals of legal representatives. The appeal filed for the protection of the suspect or the accused can be revoked only by their instruction. Taking back the appeal does not prevent from a repeated appeal within the terms of expiry, except cases envisaged in this Code.

10. The body in charge of the criminal proceedings makes a grounded decision on the appeal, about which the applicant is informed.

Section IV. EVIDENCE

CHAPTER 14. CONCEPT, PURPOSE AND USE OF EVIDENCE

Article 104. Concept of evidence

1. In criminal cases any facts are evidences, based on which, and as provided by law, the inquiry body, the investigator, the prosecutor and the court can determine whether or not crime has been committed, whether or not the crime has been committed by the accused, or whether or not the accused is guilty or innocent as well as other circumstances relevant to the case.

2. The following can be considered as evidence in criminal proceedings:

1. testimony of the suspect
2. testimony of the accused
3. testimony of the injured
4. testimony of witness
5. the convict's testimony
6. expert's report
7. material/demonstrative evidence
8. records of court and investigative proceedings
9. other documents

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3. Only facts and evidentiary materials obtained according to the requirements and in the manner prescribed by this Code are to be heard at criminal proceedings.

Article 105. Facts inadmissible as evidence

1. In criminal procedure it is illegal to use as evidence or as basis for an accusation facts obtained:

- * by force, threat, fraud, violation of dignity, as well with the use of other illegal actions;
- * by violation of the rights of the suspect and accused to defense and that of the additional guaranties prescribed by this Code to persons unable to use the language of the court proceeding;
- * by person not entitled to conduct a given criminal case or carry out an investigation or any other legal actions;
- * from a person who is subject to exclusion from the criminal proceeding when he was or had to be aware of the existence of the circumstances for such an exclusion;
- * by violation of the investigatory or other essential court proceedings;
- * from any person who is unable to recognize a document or object, confirm its truth, and provide information about the circumstances of its origin and source;
- * seizure or from any source unannounced at the court hearing;
- * as a result of applying methods unacceptable for the principles of modern science.

2. Any violation of the constitutional rights, freedom of a person and citizen, or of any requirements of this Code in the form of a restriction or elimination of the rights guaranteed by law to the persons involved in the case, that influenced or could have influenced the reliability of the facts, shall be considered an essential violation in the process of obtaining evidence.

3. If the evidentiary importance of any material is lost due to the violation of the requirements of the Criminal Code by the prosecution, it shall be considered evidence if the defense so petitions. This evidence is to be considered relevant exclusively to the case of a given suspect or accused.

Article 106. Establishment of the evidence inadmissibility

1. The inadmissibility of facts as evidence as well as their restricted use in the proceeding shall be established by either the body which conducts the proceeding or one of the sides.

2. The acceptability of the evidence shall be substantiated by the side which obtained the evidence. If the evidence was obtained in accordance with the requirements/regulations of the present Code, the grounds for the inadmissibility of the evidence are to be presented by the side which argues its acceptability.

Article 107. Circumstances which are subject to Proof

The following shall be determined during the proceeding solely on the basis of the evidence:

- 1) The facts and circumstances of the incident (the time when committed, the venue, method, etc.);
- 2) Involvement of the suspect and accused in the incident;
- 3) Features of crime provided by the Criminal law;
- 4) The guilt of a person alleged to have committed an action forbidden by Criminal law;
- 5) Mitigating or aggravating circumstances provided by the Criminal law;
- 6) Circumstances on the basis of which a person involved in a case or any other person involved in a criminal proceeding lays his claims if not provided otherwise by law

Article 108. Circumstances determined in case of availability of certain evidence

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In criminal procedure, the following circumstances are to be determined only upon availability and preliminary examination of the following evidence:

- 1) Cause of death and nature of health damage - report of the expert in forensic medicine is to be presented;
- 2) Incapability of the accused to control and realize the nature and importance of his actions (inaction), their being dangerous at the time of the incident as a result of mental disease, temporary mental depression, other mental incompetence or mental alienation - report of the experts in forensic psychiatry and psychology is to be presented;
- 3) Incapability of the witness or injured to perceive and reconstruct the circumstances to be determined at the criminal proceeding as a result of mental disease, temporary mental depression, other mental incompetence or mental alienation - report of the experts in forensic psychiatry is to be presented;
- 4) Information on the injured, suspect, accused of reaching a certain age if it is relevant to the case, the document asserting the age is to be presented, if it is not available, a report of the experts in forensic medicine and psychology is to be presented;
- 5) Availability of the previous conviction(s) and sentence(s) of the suspect and the accused - corresponding document and if possible a copy of the court decision must be submitted.

CHAPTER 15. TYPES OF EVIDENCE

Article 109. Testimony of the Suspect

1. Testimony given by the suspect in written or oral form at the pre-trial proceeding conducted in the manner prescribed by this Code is the information provided by him.
2. The suspect is entitled to testify about suspicions against him as well as about circumstances and evidence known to him, relevant to the case.

Article 110. Testimony of the Accused

1. Testimony given by the accused in written or oral form at the pre-trial proceeding as well as in court conducted in the manner prescribed by this Code is the information of the accused.
2. The accused is entitled to testify about the accusation brought against him as well as about circumstances and evidence known to him, relevant to the case.

Article 111. Testimony of the Injured

1. Information given by the injured in written or oral form at the pre-trial proceeding as well as in court conducted in the manner prescribed by this Code is the testimony of the injured.
2. The injured may be interrogated about any circumstances which need to be proved for the case as well as about his relations to the suspect and the accused. If the injured is unable to indicate the source of his information, such information shall not be considered.

Article 112. Testimony of the Witness

1. Information given by the witness in written or oral form at the pre-trial proceeding as well as in court conducted in the manner prescribed by this Code is called testimony of the witness.
2. The witness may be interrogated about any circumstances relevant to the case including his relations with the accused, the injured and other witnesses. If the witness is unable to indicate the source of his information, such can not serve as a source.

Article 113. Convict's testimony

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1. The convict's testimony in the pre-trial proceedings as well as in court, as established in this Code, during the interrogation in the written or oral form are the information provided by the latter.
2. The convict is entitled to testify about those circumstances of the case which are proved through his passed court verdict which came into force.

Article 114. Expert's Report

1. The expert's report shall consist of grounded conclusions about issues through the examination of the materials of the case, and shall be written form, based on the knowledge of the expert in the sphere of science, technology, crafts or art, in his competence.
2. The expert can be interrogated for the purpose of explanation of his conclusions.
3. The protocol of the expert's interrogation can not replace the expert's conclusions.

Article 115. Material Evidence

1. Objects which served as the crime instruments or have preserved traces of the crime or were objects of criminal actions as well as money, valuables and other objects and documents which can serve as means to discover a crime, determine factual circumstances, expose the guilty person, prove a person's innocence or mitigate responsibility are acknowledged to be material evidence.
2. An object shall be acknowledged as material evidence upon the decision of the body which carries out the criminal proceeding.
3. The court shall acknowledge an object as evidentiary material only if the possibility of its substitution or any change of the indications and qualities of the traces found on it, are eliminated upon receiving, fully describing, sealing and carrying out similar procedure, or in case the object is identified by the suspect, accused, injured or witness before being examined in the court.

Article 116. Safe-keeping of material evidence and other objects

1. Material evidence shall be kept with the criminal case, except for evidence which is unusually large in size which may be forwarded to enterprises, organizations or individuals to be maintained under their direct responsibility.
2. Precious stones and metals, foreign currency, money, checks, and securities confiscated while carrying out a criminal proceeding which may be considered material evidence for the corresponding criminal case may be, immediately upon being examined, are sent to enterprises of the State bank for maintenance as long as their individual characteristics have no evidentiary value.
3. Material evidence and other confiscated items, except perishable objects, are to be kept by the body which carries out the criminal case until the final verdict about its ultimate disposition rendered by the court or the body which carries out the criminal proceeding comes into legal force or the case is dismissed. In cases provided by this Code the decision about the material evidence may be carried out before the end of the criminal case.
4. If the argument about the rights for an object attached as a material evidence is a subject to civil litigation, such an object shall be kept until the decision of the civil proceeding is final.

Article 117. Ensuring safety of objects during the criminal proceedings

1. While keeping or removing objects every measure shall be taken to prevent them from being lost, damaged, destroyed, touched or mixed with other objects.
2. While forwarding the case all the objects submitted for the case and those forwarded with the case as well as the disposition of material evidence not attached to the case shall

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be inventoried in the supplementary letter and in the document attached to the indictment. Material evidence is sent to the court in packaged and sealed form.

3. The received objects shall be compared with the information provided in the supplementary letter or the document attached to the indictment. Should a discrepancy be found, a protocol is to be created to that effect. Packaged and sealed materials are opened and examined only during criminal trial.

Article 118. Decisions about material evidence made before the end of the criminal proceeding

1. Before the end of the criminal proceeding the body which carries out the criminal proceeding shall return the following to the owner or legal possessor:

- 1) Perishable objects;
- 2) Objects needed in everyday life/daily use, on which confiscation is not extended by law;
- 3) Cattle and poultry; automobile or other means of transportation, if they are not subject to arrest on civil process or possible property recovery/confiscation, and court fees.

2. In cases when the owner or legal possessor of the objects enumerated in the first part of the present article is unknown or the return of the objects is impossible due to other reasons, the objects shall be submitted to corresponding organizations for realization, maintenance or care.

Article 119. Decisions about material evidence made after the end of the criminal proceeding

1. In the sentence of the court or the decision of the body which carries out the criminal proceeding about the dismissal of the case, the issue of material evidence shall be solved in accordance with the following rules:

- 1) Crime instruments which belong to the accused as well as objects which are subject to withdrawal from circulation shall be confiscated and forwarded to the corresponding institutions. Those which have no value shall be destroyed.
- 2) Items which have no value shall be destroyed, as established by law and if the interested parties petition to have the items returned to them.
- 3) Money and other valuables which cannot be legally possessed due to committing a crime or any other action prohibited by law shall be returned to the owners, possessors or their successors.
- 4) Money, items and other valuables obtained in an illegal way shall be used to cover the court expenses and damages of the crime, and if the person who suffered the damages is unknown, the money shall be forwarded to the state budget.
- 5) Documents which are considered material evidence shall be kept with the case or forwarded to the interested organization and citizens.

Article 120. Consequences of the damage, destruction or loss of items

1. The cost of an object damaged, destroyed or lost while conducting examination or other legal actions is included into court expenses.

2. Upon a verdict of acquittal or dismissal of the case, according to article 35, part 1, paragraphs 1-3, and part 2, the cost of the objects damaged or lost while conducting examination or other legal actions shall be reimbursed from the state budget.

Article 121. Records of investigations and court proceedings

1. Documents which contain information about circumstances relevant to the case made by the body which carries out the criminal proceeding in written form and in the manner provided by this Code are called records of proceedings.

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2. The records of the following investigative and court proceedings conducted by the body of the criminal persecution, in accordance with the requirements of the present Code may be used as evidence:

- 1) Examination
- 2) Investigation
- 3) Identification
- 4) Exhuming
- 5) Confiscation
- 6) Search
- 7) Seizure of property
- 8) Interception of written, telephone, mail, telegraphic and other communication
- 9) Wire-tapping
- 10) Obtaining samples
- 11) Expert Investigation of samples

3. Records made while accepting a verbal statement about a crime, surrender, a confession of guilt, or while detaining or explaining to persons their rights and responsibilities may also be used as evidence.

4. If the record of the investigation is not complete, it cannot be completed by the testimony of the officer of the inquiry body, investigator, or prosecutor, witness to the search, to serve as basis for accusation.

Article 122. Other documents

1. Any record registered on a paper, electronic or other media made in verbal, digital, graphic or other sign/symbol form which can provide information relevant to the criminal case is a document.
2. Documents which possess qualities mentioned in the first part of Article 115 of the present Code may also serve as material evidence.
3. Other documents are considered documents by decision of the body in charge of proceedings.

Article 123. Attachment, maintenance and return of the documents

1. The documents shall be attached to the materials of the criminal case by the body which carries out the criminal proceeding and kept with the case throughout the proceedings.
2. If the legal owner needs the documents confiscated or attached to the case for accounting, registration or other legal purposes, he shall be given the opportunity to use them temporarily or to make copies of them.
3. Six months after either the sentence of the court has come into legal force or the dismissal of the case by the body which carries out the criminal proceeding, the originals of the documents attached to the case shall be returned to their legal owners upon their request. However, a copy of the document the authenticity of which is certified by the investigator, prosecutor.

CHAPTER 16. PROOF

Article 124. Proof

1. Proof includes collection, examination, evaluation of the evidence with the purpose of determining the circumstances necessary for a legal, grounded and fair resolution of the case.

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2. The bodies of the criminal persecution shall be responsible for proving the existence of evidence aggravating the criminal responsibility and guilt of the accused.

Article 125. Collection of evidence

1. Evidence shall be collected in the process of inquiry, preliminary investigation and court proceeding by carrying out investigatory and trial proceedings provided by this Code.

Article 126. Verification of evidence

1. Evidence collected for the case shall be subject to a thorough and objective examination. Examination consists of analyzing the obtained evidence, comparing it with other evidence, collecting new evidence, checking the sources of the obtained evidence.

Article 127. Evaluation of evidence

1. All evidences are subject to scrutiny concerning its admissibility, and the totality of the evidence obtained is a subject to scrutiny concerning its sufficiency for the determination of the case.

2. The officer of the inquiry body, investigator, prosecutor or judge, governed by law, shall carry out a detailed, thorough and impartial evaluation of the totality of the evidence, based on their internal conviction.

Section V. COERCIVE MEASURES

CHAPTER 17. DETAINMENT

Article 128. Concept of Detainment

1. Detainment is arrest, his delivery to the inquiry body or body which carries out the criminal proceeding, compiling an appropriate protocol and informing the detainee about this, the places and conditions provided by law for short-term detention.

2. Only the following persons shall be detained:

1) a person suspected in the crime for commitment of which he may be arrested, put into a disciplinary battalion, imprisoned for life or for a certain period of time;

2) an accused who violates the terms of the securing measures taken against him,

3. Detainment is carried out on the basis of:

1) suspicions in immediate commitment of crime,

2) an order of the body of the criminal persecution.

Article 129. Detainment of a person suspected in immediate commitment of crime

1. A person suspected in committing a crime can be detained by the officer of inquiry body, investigator or prosecutor if any of the following grounds is present:

1) when he is caught while or immediately after committing an action forbidden by criminal law;

2) when the eyewitness of the incident identifies a person as being the one who committed an action forbidden by criminal law;

3) when obvious traces of committing an action forbidden by law is found on the person himself, his clothes, items used and possessed by him, in his apartment or his means of transportation

4) when there are other grounds to suspect in committing a crime a person who tried to escape from the crime scene or from the body which carries out the criminal proceeding, or who does not have a permanent place of residence or who resides in another area and whose identity is not established.

2. Detainment based on the grounds provided by the first part of the present article may not last more than 96 hours after the moment of detention. Charges must be presented to

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the person detained on the bases mentioned in Part 1 of this Article within 96 hours. Within the mentioned deadline, charges may be not presented to the suspect, if after the moment of detention within 96 hours, he is released from detention, because a securing measure was not selected or the securing measure is not related to detention.

Article 130. Detainment based on the order of the criminal persecution body

1. If the evidence collected for the case indicates that a person has committed an action forbidden by Criminal law and if he is elsewhere or the whereabouts of this person is unknown, the body of the criminal persecution has the right to issue an order for his detainment.
2. The body of the criminal persecution which has issued an order for detainment shall be immediately informed by the inquiry body, investigator or prosecutor about the execution of the order.
3. Detainment based on the grounds provided by the first part of the present article shall last no longer than 96 hours after a person's detainment. A person detained on the grounds provided by the first part of the present article shall be informed of the charges pressed against him within 96 hours after his detainment. Within the mentioned deadline, charges may be not presented to the suspect, if after the moment of detention, within 96 hours, he is released from detention, because a securing measure was not selected or the securing measure is not related to detention.

Article 131. Detainment of the accused before his arrest based on the order of the criminal persecution body

1. If the accused violates the terms of appearance measures taken against him, the criminal proceedings body is entitled to issue an order about the detainment of such a person and, at the same time, to present to the court papers proving the necessity of his arrest.
2. Detainment of a person in the order provided by the present article shall be lawful only in case the arrest of such a person is admissible according to the provisions of the present Code.
3. Detainment based on the grounds provided by the first part of the present article shall last no longer than 96 hours after a person's detainment.

Article 132. Release of the detained

1. The detained shall be released on the basis of the decision of the body which carries out criminal proceeding if:
 - 1) the suspicion about his committing an action forbidden by criminal law has not been proven correct;
 - 2) there is no need for his further detainment;
 - 3) the maximum duration of the detainment provided by the present Code has expired and the court has not made the decision about the arrest of the accused.
2. In case provided by paragraph 1 of the first part of the present article, the detained may also be released by the chief of the inquiry body. In cases provided by paragraph 3 of the first part of the present article the detained shall be released by the administrator of the detention center.
3. A person released shall not be detained again on the basis of the same suspicion.

Article 133. Procedure of the Detainment

Arrested persons shall be detained in the places allotted to their detainment. The procedure and conditions of detainment shall be prescribed by the legislation of the Republic of Armenia.

CHAPTER 18. PREVENTIVE MEASURES TO SECURE THE APPEARANCE

Article 134. Concept and kinds of preventive measures

1. Preventive measures are measures of coercion taken towards the suspect or the accused to prevent their inappropriate behavior during the criminal proceeding and to ensure the execution of the sentence.
2. The following are the kinds of preventive measure:
 - 1) Arrest;
 - 2) bail;
 - 3) a written obligation not to leave a place;
 - 4) a personal guarantee;
 - 5) an organization guarantee;
 - 6) taking under supervision;
 - 7) taking under supervision of commander.
3. Arrest and bail shall be executed in respect to the accused only. Supervision shall be executed in respect to an under-age person only. Supervision of commander shall be executed in respect to a serviceman or a conscript at the time of drafting.
4. The types of preventive measures prescribed by paragraph 2 of the present Article shall not be executed in combination with each other. Bail shall be considered a measure alternative to arrest and shall be granted only upon decision of the court about the arrest of the accused.

Article 135. Basis for Execution of Preventive measures

1. Preventive measure shall be executed by the court, prosecutor, investigator and inquiry body only when the material obtained for the criminal case provides sufficient reason to assume that the suspect or the accused may:
 - 1) hide from the body which carries out the criminal proceeding;
 - 2) inhibit the pre-trial process of investigation or court proceeding in any way, particularly by means of illegal influence of the persons involved in the proceeding, concealment and falsification of the materials relevant to the case, negligence of the subpoena without any reasonable explanation;
 - 3) commit an action forbidden by Criminal law;
 - 4) avoid the responsibility and the imposed punishment;
 - 5) oppose the execution of the verdict.
2. Arrest and the alternative preventive measure shall be executed in respect to the accused only for his commitment of a crime for which he may be imprisoned for more than a year; or there are sufficient grounds to suppose that the suspect or the accused can commit actions mentioned in the first part of the present Article.
3. While considering the issue of necessity and kind of the preventive measure the following shall be taken into account:
 - 1) the nature and the degree of danger of the incriminated action;
 - 2) the personality of the suspect or the accused;
 - 3) the age and the health condition of the suspect or the accused;
 - 4) sex;
 - 5) the occupation of the suspect or the accused;
 - 6) their marital status and availability of dependents;
 - 7) their property situation;
 - 8) availability of a permanent residence;
 - 9) other relevant circumstances

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Article 136. The Procedure of the Execution of the Preventive measure

1. The preventive measure shall be executed upon the order of the prosecutor, investigator, inquiry body or the court. The decision of the body which carries out the criminal proceeding shall be substantiated; it shall indicate the crime in which the suspect or the accused is suspected and prove the necessity of execution of one of the preventive measure measures.
2. Arrest or bail may be executed only upon decision of the court by appeal of the investigator or the prosecutor or on its own initiative while considering the criminal case. Bail may be executed by the court instead of the arrest upon petition being presented by the defense team.
3. The body which carries out the criminal proceeding shall announce its decision about the execution of the preventive measure to the suspect or the accused and hand him over the copy of the decision immediately upon announcing the decision.

Article 137. Arrest

1. To arrest a person means to detain a person under arrest in the places and under conditions prescribed by law.
2. The arrested shall not be detained in places allotted for detainment for more than 3 days except for the cases when his delivery to the investigatory isolation ward or other place prescribed by law for detainment of the arrested is impossible due to the lack of transportation means.
3. The inquiry body, investigator, prosecutor and the court have the right to instruct the administration of the investigatory isolation ward to detain the accused persons of the same criminal case or of several criminal cases related to each other in separate wards, to prevent the communication of the accused with other arrested persons as well as to give other instructions which do not contradict the procedure prescribed by law about the detainment of the arrested. The given instructions are mandatory for the administration of the investigatory isolation ward.
4. Upon delivering an order for arrest the court shall also decide on the admissibility of the release of the accused on bail; if the court determines pre-trial release is permissible, it shall determine the amount of the bail. Later, upon a petition being presented by the defense, the court may reconsider its decision concerning the inadmissibility and the amount of bail.
5. The order of the court about the execution of the arrest as a preventive measure may be appealed against to the court of a higher instance.

Article 138. Detainment Deadlines

1. The terms of the detainment shall be counted from the moment of the actual detainment of the person; if the person has not been detained, the term of the detainment shall start from the moment of the execution of the court decision about applying this preventive measure.
2. The time spent by the suspect or the accused in the following places shall be included into his detainment time-period
 - 1) in detainment while being detained or arrested
 - 2) in a medical institution, upon decision of the body which carries out the criminal proceeding, under a hospital examination as well as under treatment from a temporary mental disorder discovered during the criminal proceeding, including the cases when mental disorder is obtained by the suspect or the accused during execution of a preventive measure of medical character.
3. Detainment carried out at the time of a pre-trial criminal proceeding shall not last longer than 2 months except for the cases prescribed by the present Code. The time spent by the accused in a detainment and in a medical institution shall be included in the calculation of

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the term of his detention. The term of the detention executed at the time of the pre-trial criminal case shall be terminated on the day when the prosecutor forwards the case to the court or when the accused and his attorney get familiarized with the materials of the case, or when the decision about the execution of the arrest becomes annulled.

4. The term of the detention of the accused at the time of a pre-trial criminal case may be extended up to 1 year, in exclusive cases due to the complexity of the case.

5. The term of the detention of the accused executed at the time of a pre-trial criminal case and the hearing of the case shall not last longer than:

1) one year;

2) the maximum time period of the imprisonment term prescribed by Criminal law for commitment of a crime of which the accused is suspected in case if the maximum term is less than one year.

6. The maximum period of arrest during the criminal proceeding of the case in court is not limited.

Article 139. Extension of the Detainment Term

1. If the investigator and the inquiry body find it necessary to extend the term of the detainment of the accused, they shall submit a reasonable, substantiated explanation for such a decision to the prosecutor no later than 10 days before the expiration of the detainment period. If the court agrees with this decision to extend the detainment period, an appropriate decision is made no later than 5 days before the expiration of the detainment period prescribed by the court.

2. Upon the settlement of the issue of the extension of the detainment period the court shall have the right to allow the release of the accused on bail and determine the amount of the bail.

3. While delivering a judgment about the extension of the detainment period the court shall determine the terms of the further detainment in the time limits prescribed by the present Code; the duration of each extension period shall not last longer than 2 month.

Article 140. Right to Trusteeship of Property of the Detained

1. Under-aged persons, as well as disabled persons left without care and means of subsistence as a result of their parents or a bread winner being detained or as a result of other actions taken by the body which carries out the criminal proceeding are entitled to support which shall be provided from the state budget by the body which carries out the criminal proceeding. Orders of the body which carries out the criminal proceeding about provision of support, care and a temporary residence are mandatory to the body of the guardianship and to the director of the corresponding organization and institutions. The body which carries out the criminal proceeding may also place under-aged or disabled persons under the guardianship of their relatives with the consent of the latter.

2. A person whose property is left without care as a result of his being detained or as a result of other actions taken by the body which carries out the criminal proceeding, is entitled to have his property taken care of, including the feeding of domestic animals, which the body carrying out the criminal proceeding shall provide at the request and at the expense of the detained person. The order of the body which carries out the criminal proceeding to trusteeship the property and to feed the domestic animals is mandatory to the corresponding state authorities, local self-governing bodies, state institutions, enterprises and organizations.

3. The body which carries out the criminal proceeding shall immediately inform the detained or other interested persons about measures taken in accordance with the present Article.

Article 141. The Responsibilities of the Detainment Unit Administration

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The detention unit administration shall:

- 1) provide the security of the detained persons as well as protection and help necessary to them;
- 2) pass on to the detained persons copies of the proceeding/case documents addressed to them, immediately upon receiving them; in case of them being received at nighttime the detention unit administration shall pass them on to the detained before 12.00;
- 3) register complaints and other statements of the detained persons;
- 4) forward complaints and other statements of the detained persons to the court, prosecutor, investigator or inquiry body, immediately and no later than 12 hours after receiving these complaints, without subjecting them to examination or censorship;
- 5) without any problems allow the defense attorney or his legal representative to visit the detained, provide them with the opportunity to meet confidentially with no limits as to the duration and number of conversations;
- 6) provide timely delivery of the detained to the body which carries out the criminal proceeding;
- 7) provide upon the requirement of the body of the criminal persecution or the court the opportunity to have an investigation or other court proceeding with the participation of the detained in it, in the place of his detention;
- 8) to move the detained persons, on the basis of the order of the body which carries out the criminal proceeding to another investigatory ward, to fulfill other instructions of the body which carries out the criminal proceeding which do not contradict the prescribed law concerning the procedure of the detention of the arrested persons;
- 9) to inform the corresponding criminal prosecuting body about the expiration of a person's detention period 7 days in advance of the expiration date;
- 10) to release immediately those persons being detained without a court decision as well as upon the expiration of the detention period prescribed by the court;
- 11) ensure that the persons who intend to post the bail for the release of the suspect or the defendant, get familiarized with the court's decision about granting of the arrest or bail;
- 12) to release immediately persons for who the bail has been posted in whole.

Article 142. Release of the Detained

1. The accused shall be released on the basis of a decision of the corresponding body which carries out the criminal proceeding when:

- 1) the criminal proceedings have been suspended, or criminal prosecution is terminated;
- 2) the court has granted the accused a punishment other than imprisonment, detention in a disciplinary battalion or arrest;
- 3) the body which carries out the criminal proceeding does not find it necessary to further detain a person;
- 4) the deadline for the arrest has expired and has not been extended;
- 5) the maximum term of the detention prescribed by the present Code has expired;
- 6) the bail for the release of the accused has been posted.

.2. In cases prescribed by paragraphs 4-6 of the first part of the present Article the decision about the release of a person may be made by the administrator of a detention unit.

3. In cases prescribed by paragraphs 1-2 of the first part of the present Article, the person found not guilty or the convict, respectively, shall be released immediately in the courtroom. In cases prescribed by paragraphs 4-6 of the first part of the present Article as well as upon receiving the copies of the decision of the body which carries out a criminal proceeding about the annulment or substitution of the arrest by other preventive measure, the accused shall be released immediately by the administrator of the detention unit.

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4. A person released shall not be detained on the basis of the same accusation unless new evidence has been found which was unknown to the body which carried out the criminal proceeding at the time of the release of the accused.

Article 143. Bail

1. Bail may consist of money, securities and other valuables posted by one or several persons to the deposit of the court for the release from detention of someone accused of committing a crime classified as minor and medium gravity. Upon permission of the court, real estate may be posted as an alternative measure to bail.

2. When finding sufficient cause, the court may deny the release of the accused in those exceptional cases where the identity of the accused is not established, when the accused does not have a permanent place of residence, and where the suspect has attempted to conceal himself from the body which carries out the criminal proceeding.

3. The value of the bail shall be proved by the person who posts the bail.

4. The amount of the bail designated by the court shall not be less than:

1). the minimum amount of 200 salaries - when the accusation is one of committing a crime classified as minor.

2). the minimum amount of 500 salaries when a crime is classified as medium.

5. Immediately upon receiving the notice that bail has been posted, the body which carries out the criminal proceeding shall issue an order for the release of the accused.

6. In case the accused has escaped from the body which carries out the criminal proceeding or has moved to another place without permission of the persecution body, the prosecutor shall address the court with a suggestion to forfeit the amount of the bail to the state budget. The person who has posted the bail may appeal against the decision of the court concerning the forfeit of the bail to the court of a higher instance.

7. The bail shall be returned to the person who has posted the bail in all cases when the violations prescribed by part 6 of the present Article have not been proven or when the bail is annulled or substituted as a preventive measure. The decision to return the bail shall be made by the body which carries out the criminal proceeding at the time of issuing the order about the annulment or the substitution of this preventive measure.

8. Upon infringement of the responsibilities and restrictions prescribed to the accused by law, the bail may be rescinded and the person taken into custody.

Article 144. Undertaking not to Leave a Place

1. An undertaking not to leave a place shall contain a written promise of the suspect or the accused not to move to a new place without permission, or change place of residence, but to appear in court upon receiving a subpoena from the inquiry body, investigator, prosecutor and the court, and to inform them of a change of his place of residence.

2. The undertaking not to leave shall be taken from the accused by the body which carries out the criminal proceeding.

Article 145. A Personal Guarantee

1. A personal guarantee shall be given in the form of a written undertaking by trustworthy persons who upon their word and bail posted by them can guarantee an appropriate behavior of the suspect or the accused, his appearance in court upon receiving a subpoena of the body which carries out the criminal proceeding as well as his fulfillment of other court proceeding responsibilities.

2. Anyone who has reached his 18 years of age may act as a surety. The amount of bail posted by a surety shall equal the amount of minimum 500 salaries of the surety.

3. The number of sureties shall not be less than 2 people. In exclusive cases a personal guarantee shall be executed as a preventive measure upon availability of one highly trustworthy surety.

Article 146. An Organization Guarantee

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1. An organization guarantee shall be given in the form of written undertaking by a trustworthy legal entity who upon his reputation and bail posted by him can guarantee an appropriate behavior of the suspect or the accused, his appearance in the court upon receiving a subpoena of the body which carries out the criminal proceeding as well as his fulfillment of other court proceeding responsibilities.

2. The amount of bail posted by a legal person shall equal the amount of minimum 1000 salaries.

Article 147. The Procedure of Giving a Guarantee

1. Upon ensuring the trustworthiness of the surety and the admissibility of a personal or organizational guarantee as a preventive measure against the suspect or the accused, the body which carries out the criminal proceeding shall explain to the surety or his legal representative the nature of the suspicion and charges brought against the accused, shall advise him of his rights, obligations and responsibilities. After being advised on all the above mentioned issues the surety can either affirm or withdraw his request.

2. The fulfillment of the court proceedings prescribed by the first part of the present Article shall be registered in a record. In case of the execution of a personal or organization guarantee as a preventive measure, the corresponding surety shall be mentioned in the decision of the body which carries out the criminal proceeding. Upon such a decision being made, its copies shall be immediately given to the surety.

3. The bail shall be subject of state budget circulation upon the decision of the body which carries out the criminal proceeding if the surety:

1) has not fulfilled his responsibilities concerning the appropriate behavior of the suspect of the accused;

2) has voluntarily refused from his guarantee.

4. In all cases except for those prescribed by part 3 of the present Article the bail shall be returned to the surety.

5. The order for bail to be forfeited to the state budget may be appealed to court.

Article 148. Supervision

1. Supervision of an under-aged suspect or accused shall be carried out by parents, guardians, trustees or the administration of the institution for children where the minor is kept. The above mentioned persons shall be responsible for the appropriate behavior of the minor suspect or the accused, his appearance in court upon receiving a subpoena of the body which carries out the criminal proceeding as well as his fulfillment of other court proceeding responsibilities.

2. When the supervision is being executed as a preventive measure the body which carries out the criminal proceeding shall familiarize the parents, guardians, trustees and the representative of the institution for children with the charges or suspicions, with the order to place an under-aged person under supervision, shall give them a copy of the decision, advise them of their rights, obligations and responsibilities.

3. Parents, guardians or trustees shall have the right to refuse to supervise an under-aged suspect or accused.

4. Persons responsible for supervision of an under-aged accused or suspect shall be charged by law for not carrying out their responsibility of supervision.

Article 149. Placing under Supervision of Command

1. The responsibility of command supervision for appropriate behavior and appearance in court upon receiving of a subpoena of the body which carries out the criminal proceeding as well as of other court proceeding responsibilities shall be borne by the commanding officer of the military unit or formation, or by the officer of a military establishment where the suspect or the accused serves or is being drafted.

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2. When the command supervision is being executed as a preventive measure the body which carries out the criminal proceeding shall familiarize the representative of the command with the order to place a serviceman under command supervision, shall give him the copy of the decision, advise him of his rights, the essence of charges, obligations and responsibilities in a record.

3. The supervision of a person under command shall be carried out in accordance with field manuals common to all armed services.

4. While executing the mentioned preventive measure the suspect or the accused shall not be assigned to be on guard or on military duty, shall be deprived of his right to carry a weapon in peace-time, and a serviceman who is not an officer or a warrant officer shall not be granted a leave of absence from the military unit.

5. Persons responsible for command supervision shall be charged by law for not carrying out their responsibility of command supervision.

Article 150. Appeal against Preventive measure

1. The order of the body of criminal persecution about the substitution of a preventive measure may be appealed to the prosecutor by the suspect, accused, his defense counselor, his legal representative or other interested persons involved in the case.

2. The decision of the court about the execution of the preventive measure may be appealed to the court of appeals.

Article 151. Substitution or the Annulment of the Preventive measure

1. Upon necessity the preventive measure can be substituted by the body which carries out the criminal proceeding.

2. The preventive measure shall be annulled when there is no necessity for its execution.

3. Arrest and bail granted by the court may be changed or annulled by the court, and may be changed or annulled by court as well as by the body of criminal persecution during the pre-trial proceeding.

4. The body which annuls or substitutes detention as a preventive measure shall inform the administration of a detention unit of such a decision and forward to them a copy of this decision.

CHAPTER 19. OTHER COERCIVE MEASURES

Article 152. Temporary Suspension from Work

1. The prosecutor as well as the inquiry body and the investigator with the consent of the prosecutor may suspend the accused who is a state employee from his work, if there is enough reason to assume that he may hinder the process of the case investigation, of the compensation of damages caused by the crime or may continue to be involved in criminal activities while holding his post.

2. The order about suspension from work shall be forwarded to the administrator of the office who, within 3 days after receiving the order, shall execute it and inform the person or the body which made the decision about suspension of its execution.

3. Suspension from work shall be canceled upon the decision of the court, judge or prosecutor as well as of the investigator or inquiry body, when there is no necessity to execute this preventive measure.

Article 153. Forcible Appearance in Court

1. In case of failure to appear in court, the suspect, the accused as well as the witness and the injured, upon availability of a substantiated order of the inquiry body, investigator, prosecutor, judge or the court, shall be forcibly brought to court. The suspect, accused as well as the witness and the injured shall inform the body which has sent them a subpoena about substantiated reasons not to appear in court in the designated time period.

2. The decision on forcible appearance in court is executed by the body of inquest.

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Section VI. PROPERTY ISSUES IN CRIMINAL PROCEEDING

CHAPTER 20. CIVIL SUIT IN CRIMINAL PROCEEDING

Article 154. Legislation applied during civil suit

1. Civil suit in a criminal proceeding shall be commenced, proven and resolved in accordance with the regulations prescribed by the provisions of the present Code.
2. The application of norms of civil proceeding is permissible if it does not contradict the criminal proceeding Code and there is need in norms not contained in the criminal proceeding Code.
3. Decisions about civil suit shall be made in accordance with the norms of civil and other branches of legislation.
4. The terms of expiration for a suit period prescribed by civil and other branches of legislation shall not be applied in the same manner as the terms of a civil suit in criminal proceeding.

Article 155. Meaning of a Decision or Court Decision on Civil Suit

1. The availability of a functioning court decision on the same civil case, court order about the withdrawal of the claim by a civil plaintiff, court decision about case settlement as well as the availability of an acting court decision which disallows the claim or satisfies the plaintiff partially or in whole, shall exclude further commencement of a civil claim.
2. In case a person has not brought a civil suit during a criminal proceeding, he shall have the right to do so during a civil proceeding.
3. A civil suit commenced during the criminal proceeding and left without consideration of the court may later be brought to a civil proceeding.

Article 156. Commencement and Conduct of a Civil Suit by the Prosecutor

The prosecutor shall commence and conduct the commenced civil suit if the property interests of the state have been violated.

Article 157. Exemption of Civil Plaintiff from State Duties

A civil suit commenced during a criminal proceeding shall be exempt from state duties.

Article 158. Bringing of a Civil Suit

1. A civil suit in a criminal proceeding may be commenced at any time beginning from the initiation of the case until the retreat of the court for the delivery of the verdict.
2. A civil suit may be brought against the suspect, the accused or a person who can bear property responsibility for the actions of the accused.
3. The claim statement should indicate what criminal crime, who, to whom, on what ground and in what amount the suit is being brought. It should also contain a request about the exact amount of the recovery of damages.

Article 159. Rejection to Accept a Suit Statement

The body which carries out the criminal proceeding may refuse to accept a suit statement if it does not correspond to the requirements of the present Code.

Article 160. Provision of the Compensation on a Civil Suit

The inquiry body, investigator, prosecutor or the court shall take measures to provide a civil suit upon submission of a petition by a civil plaintiff or his representative as well as by their own initiative.

Article 161. Refusal from a Civil Suit

1. A person who brought a civil suit shall have the right to withdraw his claim at any time of the criminal proceeding if it does not infringe on the rights and lawful interests of other persons. The same rights shall be enjoyed by the person for the protection of whose interests the prosecutor has commenced the civil suit.

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2. The acceptance of withdrawal of a civil suit shall cause the termination of the civil suit in criminal proceeding and shall deprive the corresponding person of the right to bring the same civil suit in criminal proceeding for the second time.

Article 162. Jurisdiction of a Civil Suit

A civil suit shall be heard together with the criminal case under the jurisdiction of the criminal proceeding.

Article 163. Resolution of a Civil Suit

Decisions about a civil suit in criminal case shall be made only court in verdict.

Article 164. Compensation of the Property Damages on the Initiative of the Court

In exclusive cases when a citizen is deprived of an opportunity to represent his property interests in person, the court has the right, on its own initiative, to make a decision about the compensation of damages caused to the injured by an action forbidden by Criminal law.

CHAPTER 21. PAYMENT AND COMPENSATION OF EXPENSES

Article 165. Payment of the defense attorney

1. The legal assistance offered by the defense attorney to the suspect or the accused shall be paid by the client and the principal on the conditions the defense attorney and his client has agreed upon, or upon the consent of the attorney to offer free legal assistance.

2. The legal assistance offered by the assigned defense attorney to the suspect or the accused shall be paid at the expense of the state budget, if the client has not concluded an agreement with his attorney and the attorney has not made a statement that he will work for free. The amount to be paid to the assigned defense attorney shall be determined by the body which carries the criminal proceeding upon a bill being presented by the defense attorney, per hour of the prosecutor's work. The court may make the accused responsible for the compensation of state expenses for the legal assistance offered to him except for the cases when according to the provisions of the present Code the suspect or the accused are entitled to receive free legal assistance.

3. The body which carries the criminal proceeding shall deliver a substantiated order about the suspect or the accused being partially or wholly exempt from the payment of the legal assistance.

4. Legal assistance of the defense attorney assigned to the criminal case shall be offered free of charge to the suspect or the accused who has refused the attorney's assistance, if the refusal has not been accepted by the body which carries out the criminal proceeding.

5. The payment of the legal assistance offered free of charge to the suspect or the accused shall be carried out in the manner prescribed by part 2 of the present Article.

Article 166. The payment of a translator, specialist and an expert

1. A translator, specialist and an expert involved in a criminal case shall receive:

1) A salary at the work place if they have performed all their assigned duties in the manner of proposal for services.

2) Awards are given at the expense the state budget in the amount agreed-upon together with the body which carries out the criminal proceeding, if they have fulfilled tasks assigned to them by the body which carries out the criminal proceeding

3) Awards in the amount agreed-upon with the corresponding party, if they have fulfilled tasks by agreement with that party.

2. In case prescribed by paragraph 2 of the 1st part of the present Article the award shall be given to a translator, specialist or an expert by the body which carries out the criminal proceeding upon a bill being presented by the translator, specialist or expert.

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Article 167. Compensation of expenses to the persons involved in the criminal proceeding

1. The following expenses shall be compensated at the state's budget expense in the manner prescribed by criminal proceeding to the injured, civil plaintiff, civil defendant, legal representative of the injured, civil plaintiff, the suspect, the accused, the defense attorney who offers free legal assistance to the defendant, witness to the search, translator, specialist, expert and witness:

- 1) Expenses of appearing in the court upon receiving a subpoena of the body which carries out the criminal proceeding cost of the fair for using railroad, boat, automobile (except a taxi) and other means of transportation; and the cost of the plane ticket-upon consent of the body which carries out the criminal proceeding;
- 2) cost of the apartment rent in accordance with established norms of payment for business trips under condition that those expenses are not compensated in any other form.
- 3) Per diem expenses on staying, upon the request of the body which carries out the criminal proceedings, outside the permanent residence under condition that those expenses are not compensated in any other form.
- 4) Average salary which he spent upon the order of the body which carries out the criminal proceeding during the participation in the criminal proceeding, except the cases when they are reimbursed by their work places, i.e., manufactures, institutions, organizations or employers.
- 5) Expenses on renovating, cleaning, reconstructing and purchasing of the property damaged, spoiled or lost as a result of person's involvement in the investigation or other court proceeding actions upon the order of the body which carries out the criminal proceeding.

2. The state authorities and institutions shall pay the average salary of the injured, the accused, the suspect, their legal representatives, the translator, the specialist, the expert, the witness for the search, the witness for the time spent in the criminal proceeding upon the order of the body which carries out the criminal proceeding.

3. The specialist and the expert shall be reimbursed the cost of the materials used by them during the assigned work, as well as for the use of equipment and payments for the use of utilities.

4. Expenses of the criminal proceeding shall be compensated upon a petition submitted by the persons mentioned in the first part of the present Article on the basis of the court decision and in the amount prescribed by the legislation. Expenses prescribed by paragraphs 1, 2 and 4 of the first part of the present Article may be compensated in accordance with the legislation or on the initiative of the body, which carries out the criminal proceeding.

CHAPTER 22. COURT COSTS

Article 168. Court Costs

1. Court costs include the amounts of money:

- 1) Paid to the injured as a compensation of damages caused to him by an action forbidden by Criminal Law;
- 2) Paid to the injured, the specialist, the expert, the witness as a compensation of per diem and for appearing in court;
- 3) Given to a specialist, translator or expert as an award;
- 4) Paid to the assigned defense attorney;
- 5) Spent on preservation, forwarding and examination of the material evidence;
- 6) Spent on detection and investigation by criminal prosecution bodies;
- 7) Spent on compensation of the cost of items which have been spoiled or destroyed during the examination, investigation or other similar expenses;

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8) Spent on other actions necessary for carrying out the proceeding of the corresponding criminal case or materials.

2. Court costs shall be paid at the state's budget expense, if not prescribed otherwise by the present Code.

Article 169. Recovery of the Court Costs

1. Court costs mentioned in paragraph 1-6 of the first part of Article 168 of the present Code may be imposed on the accused upon the order of the court.

2. Court shall have the right to partially or in whole exempt the accused from paying court costs, if the accused is insolvent or if the recovery of court costs may have a crucial influence on a future financial situation of the dependents of the accused.

3. If several persons found guilty on the same criminal case the court costs shall be covered by each of them in the amount determined by the court which shall take into consideration the severity of the crime, terms of the verdict and financial situation of each.

4. In case of the accused being a under-aged the court costs (expenses) may be paid by his legal representatives.

5. If the accused dies before the verdict comes into its legal force, the heirs of the accused shall not be responsible for the compensation of court costs.

Section VII. CONFIDENTIALITY AND ITS TERMS

CHAPTER 23. MAINTENANCE OF CONFIDENTIALITY

Article 170. Immunity of Personal and Family Life

1. Everyone is entitled to the immunity of his personal and family life from encroachments on one's dignity and reputation.

2. No information about personal or family life as well as about other personal shall be gathered, preserved, used or disseminated while carrying out the court actions. Upon the order of the court as well as of the inquiry body, investigator, prosecutor, the participants of the investigation and other court proceedings shall not disclose any of the mentioned information for which they undersign.

3. Evidence disclosing intimate aspects of personal and family life shall be investigated at the request of the persons involved in the criminal proceeding at a closed-door session of the court.

4. Anyone who infringes on the inviolability of personal and family life shall be charged by law. Any harm caused to a person as a result of the disclosure of a personal or family secret shall be subjected to compensate the damages in the manner prescribed by law.

Article 171. Confidentiality of a State Secret

1. In criminal proceeding every measure prescribed by law shall be taken to preserve the confidentiality of any material which constitutes a state secret.

2. Persons who are asked by the body which carries out the criminal proceeding in accordance with provisions of the present Code not to disclose information about state secret shall not have the right to refuse to fulfill that requirement but shall have the right to demand from the inquiry body or other corresponding body a proof of the necessity of such a disclosure.

3. A state employee who had disclosed information about a state secret shall in written form inform the head of the corresponding state body about that if not forbidden to do so by the body which carries out the criminal proceeding.

4. Proceeding of criminal cases pertaining to the information about state secret shall be carried out by judges as well as by the prosecution, investigation, inquiry body who have signed a document about not disclosing such information.

5. Defense attorneys and other representatives as well as other persons who shall be exposed to the information which constitutes a state secret shall sign a document verifying

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the confidentiality of such information. In case of a refusal to undersign to preserve the confidentiality of such an information, the defense attorney or other representative, except for the legal representative, shall be deprived of the right to participate in the criminal proceeding. As for the other persons, they shall not receive any information which constitutes a state secret. The given obligation not to divulge any information pertaining to the state secret shall not prevent the participant of the proceeding from investigating the information which constitutes a state secret in a closed-door proceeding.

Article 172. Maintenance of an Official and Commercial Secrets

1. During a criminal proceeding measures prescribed by law shall be taken to secure the confidentiality of the information which constitutes an official, commercial or any other secret protected by law.
2. While carrying out court proceedings, no information which constitutes an official, commercial or any other secret protected by law shall be gathered, preserved, used or disseminated without necessity. Upon the order of the court as well as of the inquiry body, investigator, prosecutor, the participants of the investigation and other court proceedings shall not disclose any of the mentioned information, for which they sign a document.
3. Persons who are asked by the body which carries out the criminal proceeding in accordance with provisions of the present Code not to disclose information about a secret protected by law shall not have the right to refuse to fulfill that requirement but shall have the right to demand from the inquiry body or other corresponding body a proof of the necessity of such a disclosure.
4. A state employee, a representative of an organization, institution or a manufacture who had disclosed information about an official, commercial secret or any other secret protected by law shall inform the head of the corresponding state body about that if not forbidden to do so by the body which carries out the criminal proceeding.
5. Evidence which may disclose information which constitutes an official, commercial or any other secret protected by law may be investigated, at the request of the persons involved in the criminal proceeding, at a closed-door session of the court.

CHAPTER 24. TERMS OF THE PROCEEDINGS

Article 173. Calculation of the term

1. The term prescribed by the present Code shall be calculated in hours, days, months and years.
2. The hour and the day of the beginning of the term shall not be included into the actual term of the proceeding.
3. If the term is calculated in days, the term shall begin after 12 am of the first day and expire at 12 am of the last day of the term. If the term is calculated in months or years, it shall terminate on the corresponding day of the last day of that month, and if there is no assigned corresponding day, the term shall terminate on the last day of that month. If the term expiration day is a non-working day, then the first following working day shall be considered the term expiration day. The term of detention begins at the moment of writing the protocol.
4. The term shall not be considered expired if the complain or other document was submitted via post office before the term expiration date and for persons under arrest or medical institutions, if the complaint or other document is submitted to the administration of detention unit or medical establishment before the expire date. For persons detained or placed in a medical institution the time of the submission of the complain or other document through post office shall be determined with the help of a postal seal, and its submission by the administration of a detention unit or medical establishment shall be

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determined by the registration notes made by the office employees of those establishments.

5. Observance of the designated term by officials shall be supported by a corresponding instruction in a court proceeding document. Receipt of the documents that are subject to being handed out to the persons involved in the criminal proceeding shall be supported by a receipt attached to the case.

Article 174. Consequences of the Term Expiration and the Procedure of its Renewal

1. Court proceedings carried out after the expiration of the term shall be considered invalid, if the term is not renewed.

2. A person interested in the renewal of an expired term shall submit a petition or a request to the body which carries out the criminal proceeding. Upon submission of a petition or request on behalf of the mentioned person, the execution of the decision appealed against later than within the designated time-period, may be suspended until the settlement of the issue of the term renewal.

3. The term which has expired due to good reasons shall be renewed by the body which carries out the criminal proceeding upon receipt of a petition of an interested person. This term shall be renewed for the person who has missed, and not for other persons, if not provided otherwise by the decision of the body which carries out the criminal proceeding.

4. The rejection of the body of criminal persecution to renew the expired term may be appealed to the prosecutor's office. The rejection of the court to renew the expired term shall not be subject to appeal to the court of a higher instance, however, the court of a higher instance can renew the expired term if the case should be settled under its jurisdiction.

SPECIAL PART

SECTION 8. PRETRIAL PROCEEDINGS OF CRIMINAL CASES

CHAPTER 25. INITIATION OF CRIMINAL PROSECUTION

Article 175. The duty for initiation of criminal prosecution

The prosecutor, the investigator, the investigation body must institute criminal prosecution, within their authority, provided there are reasons and grounds for the initiation of criminal prosecution envisaged in this Code.

Article 176. The reasons for initiation of criminal prosecution

1. The reasons for initiation of criminal prosecution are:

- 1) statements about crimes sent to the investigation body, investigator, prosecutor by physical persons and legal entities;
- 2) mass media reports about crimes;
- 3) the discovery of information about crime, material traces of crime and consequences of crime by the investigation body, the investigator, the prosecutor, the court and the judge in their line of duty.

Article 177. The statements of physical persons about crimes

The statements of physical persons about crimes can be written or oral.

The oral statement made about a crime during investigation or court trial is registered in the protocol of the investigation or the court session, respectively. In other cases separate protocols are written. The protocol must indicate the surname and the first name of the applicant, date of birth, home and work address, the relation to the crime and the source

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of information, as well as data about personal documents submitted by him. If the applicant has not submitted personal documents, other measures must be taken to check the information about the identity of the person.

If the applicant is 16 years old, he is warned about the responsibility for fraudulent representation which is confirmed by the signature of the latter.

The statement in the protocol is narrated in the first person.

The protocol is signed by the applicant and the recipient official.

Rules specified in paragraphs 1, 2, 4 and 5 of this Article are also extended to the statement made by the applicant about crime committed, in case of surrender.

A letter, a statement or other anonymous message about crime, unsigned or with false signature or written on behalf of fictitious person, can not be a reason for initiation of criminal prosecution.

Article 178. Statements by legal entities

A statement by a legal entity must be in the form of an official letter, or confirmed telegram, telephone or radio message, e-mail, or other accepted form of communication. Enclosed to the message can be documents confirming the crime.

Article 179. Mass media reports

Reports on committed or prepared crimes, in press, on the radio, on TV, in documentary films, as well as reports forwarded to mass media and unpublicized, are considered mass media reports.

Mass media which publicized reports about crimes or sent to the media, as well as the authors of these reports must, at the request of the head of the investigating body, investigator, prosecutor, submit the materials in their possession confirming the report about the crime.

Article 180. The examination procedure of reports about crimes

Reports about crimes must be considered and resolved without delay, and when necessary to check the legitimacy of the reason for the initiation of prosecution and the sufficiency of the grounds, no less than in 10 days after their receipt.

Within this period additional documents can be requested, explanations and other materials, as well as the examination of the locus criminis and expert examination.

Article 181. Decisions made as a result of examination of statements about crimes

In each case of the receipt of information about a crime, one of the following decisions is made:

on initiation of criminal prosecution;

on the dismissal of initiation of criminal prosecution;

on the transfer of the statement by subordination.

Article 182. Procedure of initiation of criminal prosecution

In case of availability of reasons and grounds for initiation of criminal prosecution, the prosecutor, the investigator, and the investigating body make a decision on initiation of criminal prosecution.

The decision must indicate: the reason and grounds for prosecution, the article of the penal code by the elements of which the prosecution is initiated, and the further progress of the case after initiation.

If at that moment the person injured by the crime is known, simultaneously with the initiation of the criminal prosecution this person is recognized as the injured party, and if a civil claim has been submitted at the same time with the statement about crime, that person is recognized as civil claimant, by the same decision.

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The prosecutor sends a copy of the decision to initiate criminal prosecution to the physical person or the legal entity which reported about the crime.

At the same time, with the initiation of criminal prosecution, measures must be taken to prevent the crime, as well as to keep and preserve the traces of the crime, objects and documents, which can be significant for the case.

Article 183. Initiation of a criminal case based on the complaint of the injured person
Based on circumstances envisaged in article 109, part 2; article 110, part 1; article 131, part 1; article 132, part 1, 2 of the Criminal Code of the Republic of Armenia, the case is initiated only based on the complaints of the injured, and in case of his reconciliation with the suspect or the accused, the case is subject to termination. Reconciliation is allowed until the court's retreat to the conference room to adopt a verdict.

Article 184. Initiation of new prosecution based on the materials of a criminal case under examination of the investigator or the court

The investigation body, the investigator, the prosecutor make a decision to initiate a new prosecution based on the materials of a criminal case under his examination and to separate it in separate proceedings, and the court appeals for such a decision to the prosecutor, provided another crime, not related to the crimes incriminated to the defendant has been revealed which was committed not by the defendant but by some other person, without the participation of the defendant.

The decision must indicate: the grounds for initiation of prosecution and separation, episodes and persons against whom the new prosecution was initiated and separated, the article in the penal code by which the prosecution was initiated and separated in separate proceedings, the decision to send the separated case for further pretrial examination or to undertake the case in one's own proceedings.

The list of separated materials, in the originals or copies, is included or attached to the decision: decisions, protocols, documents, real evidence.

The first copy of the decision and the attached list of the separated materials are included in the initial case and the second copy in the separated case.

The defendant, his legal representative and lawyer, as well as the injured party, civil claimant, civil defendant and their representatives who participated in the initial proceedings, are informed about the separation of the new case and its further progress.

Article 185. Dismissal of initiation of criminal prosecution

In case if illegitimacy of the reason or lack of grounds for initiation of criminal prosecution, the prosecutor, the investigator, the investigation body make a decision to dismiss the initiation of criminal prosecution.

The copy of the decision is sent to the physical person or legal entity which reported about the crime.

The decision dismissing the initiation of criminal prosecution can be appealed to higher prosecutor or in the court of appeal.

Based on the complaint concerning the dismissal of initiation of criminal prosecution, the higher prosecutor eliminates the decision appealed against, initiates criminal prosecution and sends it for preliminary examination to the investigator or takes the case under his own consideration or confirms the legitimacy of dismissal of the initiation of the criminal prosecution.

Based on the complaint concerning the dismissal of initiation of criminal prosecution, the court of appeal eliminates the decision appealed against, or confirms its adequacy. The elimination of the decision appealed against makes the initiation of the case by the prosecutor mandatory.

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Article 186. Transfer of statements about crime by subordination

The official authorized to initiate a criminal case is entitled to transfer the statement about crime, without initiation of prosecution, by subordination only in case when the crime was committed outside the given district, when inspection activities are necessary in the locus criminis to make a decision on the initiation of criminal prosecution.

Article 187. The progress of the criminal case after initiation of the criminal case.

After initiation of the criminal case:

The prosecutor sends the case for investigation to the investigator or takes it under his own consideration.

The investigator performs preliminary investigation, immediately advising the prosecutor. The head of the investigation body instructs the officer of the investigation body to perform immediate investigation activities or performs them personally, the decision on initiation of criminal case is immediately sent to the prosecutor for confirmation.

CHAPTER 26. GENERAL CONDITIONS FOR PRELIMINARY INVESTIGATION

Article 188. Mandatory nature of preliminary investigation

Preliminary investigation in the form of preliminary inquiry is mandatory for all cases. Investigation can be considered the initial phase of inquiry within 10 days after initiation of the criminal case.

Article 189. Preliminary investigation bodies

Procuracy investigators, the investigators of the internal affairs and national security bodies conduct preliminary investigation of criminal cases.

Article 190. Investigative subordination

Procuracy investigators conduct preliminary investigation concerning the crimes specified in articles 66, 69, 72, 721, 75-77, part 3 of article 94, 971, 972, 99-104, 112, 1121, 113-115, 117, 118, 120-123, 126, 128-130, 1301, parts 2, 3 of article 131, 133, 1331, 1332, 134, 1341, 135-142, 151, 153, 165, 166, 1801, 182-185, 1851, 186-191, 1911, 1912, 1913, 1914, 192-195, 2034, 2062, 2063, 207, 2071, 208, 2081, 209, 2091, 2161, 2201, 221, part 2 of article 229, 231, 2311, 235, 236, 2376, 2377, 2378, 23710, 23711, 23712, 23713, part 2 of article 238, 239, 240, 2401, 2402, 241, 2411, 244 of the Penal Code of the Republic of Armenia.

The investigators of the internal affairs and national security bodies conduct preliminary investigation of criminal cases specified in other articles of the Penal Code of the Republic of Armenia.

The procuracy investigators conduct the preliminary investigation of crimes committed by parliamentarians, judges, prosecutors, investigators, officers of the internal affairs and national security bodies and lawyers.

In the case of the joinder of cases accusing one or several persons in one proceeding under preliminary investigation of various bodies, the jurisdiction is defined by the prosecutor.

Article 191. The place of preliminary investigation

The preliminary investigation is conducted at the place where the crime was committed.

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For reasons of fast and complete preliminary investigation, it can be conducted at the place where the crime was discovered, as well as at the place where most of the suspects, accused or witnesses are located.

When necessary to conduct investigation at another place, the investigator is entitled to conduct this activity personally or to delegate it to the investigator of the given locale or to the inquest body.

Article 192. Beginning the preliminary investigation

Preliminary investigation is conducted only when the decision to initiate criminal prosecution has been made.

After the initiation of criminal case the investigator and the officer of the preliminary investigation body immediately start the investigation of the case.

If the investigator or preliminary investigation body initiated the criminal case, and the case was taken over by them, a joint decision is made on the initiation of criminal case. These proceedings document is immediately, but not 24 hours later, forwarded to the prosecutor.

Article 193. The authority of the chief of investigation department

1. The chief of investigation department:

- 1) instructs the investigator to conduct preliminary investigation, transfers the case from one investigator to another;
- 2) supervises the timeliness of actions of investigators concerning criminal cases they are in charge, the observance of preliminary investigation deadlines and detention periods, the execution of the prosecutor's instructions, as well as the instructions of other investigators.
- 3) instructs on the implementation of individual investigative activities;
- 4) delegates preliminary investigation to several investigators;

2. The chief of investigation department is entitled to participate in the preliminary investigation of cases taken over by an investigator, using the authorities of the investigator in this case.

3. The instructions given by the chief of investigation department on the criminal case can not restrict the initiative of the investigator and the rights specified in this Code. The instructions to the investigator are given in the written form and are mandatory for execution, however, they can be appealed to the prosecutor, except cases envisaged in part 4 of article 55, paragraph 27.

4. The instructions of the prosecutor are mandatory for the chief of investigation department.

Article 194. The preliminary investigation conducted by investigation group

In case of complexity or large size of the case, the preliminary investigation can be delegated to several investigators, which is indicated in the decision to initiate criminal prosecution or a separate decision is made. The prosecutor or chief of investigation department is entitled to make such decision. The decision must indicate all investigators who have been instructed to conduct the preliminary investigation, including the head investigator of the group who takes over the case and supervises the activities of other investigators. The suspect, the accused, the injured person, the civil claimant and their representatives must be familiarized with the decision on conducting the investigation by a group of investigators and they are advised that they are entitled to challenge any investigator in the group.

Article 195. The authority of the head of the investigation group

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The head of the investigation group takes over the case, organizes the work of the investigation group, supervises the activities of other investigators.

Decisions concerning the joinder or disjoinder of criminal cases, the termination, suspension or resumption of proceedings, as well as the extension of preliminary investigation period, choosing arrest as measure to secure appearance of the defendant and the extension of its term are taken only by the head of the investigation group.

The decision to transfer a case to the court to discuss the indictment or enforcement of medical measures is made by the head of investigation group.

The head of investigation group is entitled to participate in the investigation activities conducted by other investigators, to conduct investigative activities in the case and to make decisions.

Article 196. The end of preliminary investigation

The preliminary investigation is concluded with a decision to transfer the case to the court for indictment, enforcement of medical measures or termination of the criminal case.

After the inquest, the chief of the inquest body forwards the case to the investigator, about which an appropriate decision is made. Inquest is over when:

- 1) the inquest deadline is over;
- 2) the person who committed the crime appears before the expiration of the inquest deadline;
- 3) the prosecutor transfers the case under consideration of the investigating body to conduct preliminary investigation, or the investigator is involved into the investigation.

Article 197. Preliminary investigation deadlines

Inquest is over within 10 days after initiation of the criminal case.

Preliminary investigation of a criminal case must be over no later than in two months. This deadline is calculated from the day of initiation of the criminal case and is over when decision is made on forwarding the case to the court or dismissal of the case.

The time of familiarization with the materials by the defendant or his lawyer is not included into the case investigation deadline. If the defendant and his lawyer delay the familiarization with the criminal case on purpose and without good motives, the investigator can limit the familiarization deadline by his own decision.

The time when the preliminary investigation was suspended on the grounds specified in this Code, is not calculated in the preliminary investigation period.

The preliminary investigation period specified in this Code can be extended by the prosecutor, based on the argued decision of the investigator.

The investigator must submit the argued decision on extension of the investigation period to the prosecutor, at least 3 days before the expiration of the investigation deadline.

Article 198. Mandatory elucidation and ensuring of rights for participants of the proceedings

The prosecutor, the investigator, investigation body officer is obliged to elucidate the rights and duties to the suspect, the accused, the injured person, civil defendant, civil plaintiff and their representatives and other persons participating in the investigation activities, as well as the consequences for failure to carry out their duties.

Article 199. Consideration and resolutions of petitions

The prosecutor, the investigator, the investigating body is obliged to consider all petitions initiated by the participants of the preliminary investigation.

Written and oral petitions must be considered and resolved within five days. The investigator or investigating body officer must make an argued decision on the complete or partial dismissal of the petition.

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Article 200. The obligation to reveal and eliminate the circumstances conducive to committed crime

The prosecutor, the investigator, the investigating body, during the preliminary investigation are obliged to reveal the circumstances conducive to the committed crime and, when necessary, to submit a legal appeal to the appropriate legal entity or official on the elimination of these circumstances.

The appeals are liable to mandatory consideration, and within a month the body which forwarded these appeals must be informed about the results.

Article 201. Prohibition to publicize the preliminary investigation data

The preliminary investigation data is liable to publication only by permission of the body in charge of case proceedings.

When necessary, the investigator, the investigating body warns in written form the witness, the injured person, the civil plaintiff and civil defendant, their representatives, specialists, experts, translators, witnesses to the search, lawyers and other persons related to the case about their responsibility not to publicize preliminary investigation data without the permission.

CHAPTER 27. IMPEADING AS THE ACCUSED

Article 202. The grounds and procedure of impleading as the accused

The grounds to implead a person as the accused are the combination of sufficient proofs attesting to the commitment of crime by the latter.

In case of availability of proofs envisaged in part 1 of this Article, the investigator, the prosecutor makes an argued decision on impleading the person as the accused.

The descriptive and elucidating part of the decision indicates the name and surname of the accused, other personal data, the definition of the accusation, mentioning the locus criminis, the time, the method and other considerations, as much as they have been clarified by the materials of the case. The closing part indicates the decision to implead the person as the accused, the article of the Penal Code, part of the article or its paragraph envisaging punishment for this crime.

If the accused is impleaded by several articles of the Penal Code, by different parts of the article or paragraphs for several crimes, the descriptive and elucidating part of the decision indicates exactly what crimes were committed, and the closing part indicates the articles stating responsibility for these crimes, the parts of the article or paragraphs.

The copy of the decision is forwarded within 24 hours to the prosecutor.

Article 203. The procedure of bringing an accusation

The accusation must be brought against the given person no later than in 48 hours after the moment the investigator's decision was made to implead the person as the accused, however, not later than the day of presenting the charges or the day of compulsory appearance. The deadline of presenting the charges is disrupted if the accused hides from the investigation.

When the investigator ascertains the identity of the accused, the latter is advised about the decision to implead as the accused and the essence of the charges brought against him are elucidated. The implementation of these actions is certified with the signature of the accused and the investigator and enclosed to the decision, indicating the hour of bringing the accusation and the date.

After bringing the charges, the investigator must explain to the accused his rights and duties specified in Article 65 of this Code. The copy of the decision impleading the

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accused with the list of his rights and duties is handed over to the accused. The investigator writes a protocol indicating the bringing of charges, elucidation of the rights and duties to the accused and handing over the copy of the decision, which is signed by the investigator, the accused and other persons present during the execution of these activities.

In case the accused or other person refuses to sign the decision or the protocol, the investigator makes a note on them about the refusal to sign and within 24 hours advises the prosecutor about that.

Article 204. Changes in and additions to the accusation

If during preliminary investigation the necessity arises to change or add to the brought accusation, the investigator must bring an accusation anew following the requirements of Articles 202 and 203 of this Code.

If in the course of preliminary investigation, part of the brought accusation is not confirmed, the investigator by his own decision terminates that part of the case and notifies the accused.

CHAPTER 28. INTERROGATION AND CONFRONTATION

Article 205. The procedure of summoning to interrogation

The witness, the injured person, the suspect, the accused are summoned to the investigator by a notice which is handed over to them with their signature, and in case of their absence, to one of their legal-age family members, neighbors, the apartment maintenance office or through the administration of their working or studying place. They can be also summoned by telegram, telephoned message or fax.

The notice indicates who is summoned, to whom, in what procedural capacity, where and when (the day and hour of appearance) the summoned person shall come. The notice indicates that in case of not coming, the summoned person can be subject to compulsory appearance, according to Article 153 of this Code.

As a rule, persons under age are summoned through their legal representatives.

The suspect under arrest and the accused are summoned through the administration of the arrest institution.

Article 206. Interrogation of the witness

The witness can be interrogated about any aspect significant for the case, including, about the personality of the suspect, the accused, the injured person, and other witnesses.

The witness is interrogated at the place the preliminary investigation is conducted, and when necessary, at the place where the latter finds himself.

The witness is interrogated apart from other witnesses. The investigator takes measures to prevent communication between witnesses summoned for the same case before the end of interrogation.

Prior to the interrogation the investigator ascertains himself in the identity of the witness, informs the latter for which case he has been summoned and warns about the duty to relate everything known about the case, as well as gives instructions against refusal or avoidance to testify, about the established criminal responsibility for perjury. The witness is advised that he is not bound to give incriminating testimony against himself, his spouse or close relatives. After that, the investigator clarifies the relations between the witness and the suspect, the accused, the injured person and starts the interrogation.

The interrogation begins with a proposal to the witness to relate everything known to the witness about the case, after that questions can be asked.

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Article 207. Interrogation of a witness under age

A witness under age, regardless of age, can be interrogated provided he can relate information significant for the case.

Until 14 years, and by discretion of the investigator, until 16 year-old witness, is interrogated in the presence of the legal representative.

Prior to the interrogation, the legal representative is briefed about one's right to be present at the interrogation, commenting by permission of the investigator and asking questions, as well as about their duties. The investigator is entitled to dismiss the questions asked, however they must be recorded in the protocol.

It is explained to a witness under 16 years that it is his duty to tell everything relevant to the case in truth, but he is not warned about the responsibility for refusal or avoidance to testify and perjury.

Article 208. Interrogation of deaf, mute, blind or other severely ill person as a witness

The interrogation of a deaf or mute witness is conducted with participation of a translator understanding his signs or the sign language. The participation of the latter is recorded in the protocol.

In case of mental disease of the witness or other severe illness, the interrogation is conducted by permission of a doctor and in his presence.

Article 209. The protocol of witness interrogation

A protocol of the interrogation of the witness is compiled. The protocol indicates the position and the surname of the person conducting the interrogation, the name, surname, age, citizenship, education of the witness, the working place, occupation or position, place of actual residence and registration, as well as information about his relations with the suspect, the accused, the injured person. The protocol indicates the fact that the rights and duties have been explained to the witness.

The testimony of the witness and the answers to the questions are recorded in the first person and literally, as much as possible.

The witness testifies in Armenian or in other language mastered by the latter. If the witness does not master the state language or other language in which the investigation is conducted, the investigation is conducted with participation of a translator.

By the wish of the witness, he is given an opportunity to write down the testimonies with his own hand, which is indicated in the protocol.

After the end of the interrogation, the investigator familiarizes the witness with the protocol. The witness is entitled to appeal for making changes and additions to the protocol.

The witness and the investigator sign at the end of the protocol, and the witness and the translator also sign on each page of the protocol.

In case of witness's refusal to sign the protocol, the investigator clarifies the reasons for refusal and confirms the protocol with his own signature. If the witness is deprived of the capability to sign the protocol due to physical handicap or illiteracy, the investigator makes a note in the protocol and confirms it with his own signature.

Article 210. Interrogation of the injured person.

The interrogation of the injured person is conducted in conformity with rules established for the interrogation of the witness in this Code.

Article 211. Interrogation of the suspect

The interrogation of the suspect is conducted immediately after detention or announcement about the decree to use measures to secure the appearance.

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The detained suspect is entitled to testify in the presence of a lawyer. If it is impossible to provide immediate participation of the lawyer, the investigator must provide the participation within 24 hours after detention or arrest.

Prior to the beginning of the interrogation, the investigator advises the suspect about the essence of suspicion, as well as explains his rights, including the right of refusal to testify. The interrogation begins with a proposal to the suspect to testify about the suspicion and all other aspects, which in his opinion can be significant for the case.

In other issues, when interrogating the suspect, one should be governed by rules established for the interrogation of an accused in this Code.

Article 212. Interrogation of the accused

The investigator must interrogate the accused within 24 hours from bringing accusation to him, and in case of avoidance by the accused and searching for the accused, within 48 hours after he was detained.

The interrogation of the accused, except urgent cases, is conducted in the daytime.

The accused is interrogated at the place of preliminary investigation, and when necessary, at the place where he finds himself.

The accused is interrogated apart from other persons involved in the case. The investigator takes measures to prevent the accused from communication with other persons involved in the case.

The accused is entitled to be interrogated in the presence of a lawyer. The participation of the lawyer is mandatory in cases envisioned in this Code.

The interrogation of the deaf, mute or blind accused is conducted with participation of a person who understands the signs of the latter or can communicate in sign language.

The accused is interrogated in relation to the essence of the accusation, and issues relevant to the case.

Prior to the interrogation, the investigator explains to the accused his right to refuse from testimony.

At the beginning of the interrogation, the investigator must find out whether the accused pleads guilty of accusations brought against him.

After that, the investigator proposes to the accused to testify on the accusation and all other issues which in his opinion can be relevant to the given case.

Article 213. The protocol of interrogation of the suspect and the accused

The investigator shall put together a protocol for each interrogation of the suspect and the accused, which indicates the place, the time, his position and surname, the name and surname of the suspect or the accused, year, day and month of birth, place of birth, citizenship, education, family status, place of work, occupation or position, registration and actual place of residence, information of criminal record, national decorations, describing both the suspect and the accused, and other issues relevant to the case.

The testimonies of the suspect and the accused and the answers given to the questions are recorded in the first person and literally, if possible.

After the end of the interrogation the investigator familiarizes the suspect, the accused with the protocol. The interrogated persons are entitled to demand changes and additions to be made in the protocol. It is mandatory that their additions and changes are incorporated into the protocol.

The protocol is signed by the suspect or the accused, and the investigator. If the protocol is written on several pages, the suspect or the accused signs each page.

If the accused or the suspect refuse to sign the protocol, the investigator finds out the reasons and verifies the protocol with his own signature. If the suspect or the accused is deprived of the capacity to sign the protocol due to physical handicap or illiteracy, the investigator makes a note about that and verifies it with his signature.

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Article 214. Record of testimonies of the suspect or the accused by their own hand

The suspect and the accused are given the opportunity to write the testimonies by their own hand, which the investigator notes in the protocol. After familiarization with the written testimonies of the suspect or the accused, the investigator can ask additional questions. The questions and answers to them are incorporated into the protocol.

Article 215. Interrogation of Convict

The convict is interrogated about the circumstances related to and established in the verdict which is in legal force.

The interrogation of the convict is done in accordance with rules established in this Code.

Article 216. Confrontation

The investigator is entitled to conduct the confrontation of those previously interrogated two persons whose testimonies contain essential contradictions. The investigator must conduct confrontation if there are essential discrepancies in the testimonies of the accused and other person.

At the beginning of the confrontation it is clarified whether the confronted persons are familiar with each other and what relations they have. The witness is warned about the responsibility for refusal or avoidance of testimony and perjury, as well as about the right not to testify against his spouse or close relative.

The persons invited to confrontation are asked to testify one after another about issues for the clarification of which the confrontation was organized. After that the investigator asks questions. With permission of the investigator, the persons called for confrontation can ask questions to each other.

The publicizing of testimonies given at previous interrogations by the persons involved in the confrontation is allowed only after testimonies are made at the confrontation and recorded in the protocol.

In cases envisaged in this Code, a lawyer, a translator and the legal representative of the interrogated person can participate in the confrontation who also sign the protocol.

The investigator familiarizes the participants of the confrontation with the content of the protocol. The interrogated persons are entitled to demand changes and additions to be made in the protocol. The confrontation protocol is signed by the investigator and the interrogated persons. Each interrogated person signs his testimonies and each page of the protocol.

In case of refusal by the interrogated persons to sign the protocol, the investigator find out the reasons and sign the protocol with his signature. If the suspect or the accused is deprived of the capacity to sign the protocol due to physical handicap or illiteracy, the investigator makes a note about that and verifies it with his signature.

CHAPTER 29. EXAMINATION, EXHUMATION, OBSERVATION

Article 217. Examination

The investigator conducts examination of the locale, premises, material objects, animals, human or animal corpses in order to discover the traces of a crime, other material objects which can be a source of proof, the circumstances of the crime significant for the case and other considerations.

Article 218. Procedure of examination

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As a rule the examination is conducted in the daytime in the presence of witnesses of the examination.

The investigator examines visible objects and when necessary, makes the examination of the objects accessible, if this does not breach the rights of citizens. When necessary, the investigator conducts measurement of the examined place and separate objects, puts together plans, drawings and schemes, and when necessary, takes photographs, videofilming, filming which is mentioned in the protocol to which the mentioned documents are attached.

During examination the investigator, himself or with assistance of an expert, takes traces, objects, documents, as well as other items which can be of probative value for the case later.

The investigator is entitled to involve into the examination the accused, the suspect, the lawyer, the injured and the witness.

When the examination is over, a protocol is written which indicates everything that was discovered and in the sequence in which the investigative actions were conducted when the discovered objects were observed.

The protocol is signed by the investigator and all participants of investigative actions who are entitled to incorporate their comments into the protocol.

Article 219. Exhumation

When necessary to exhume a corpse, the investigator takes a decision to that effect.

Exhumation is done with the participation of the investigator and forensic medicine specialist, and when necessary, other specialists. The presence of witnesses to the exhumation is mandatory.

After exhumation the corpse can be brought to the appropriate medical institution for other examinations.

The investigator writes a protocol on the results of the exhumation. The protocol is signed by all participants of this investigatory action, who are entitled to demand to include their comments into the protocol.

Article 220. Observation

The investigator is entitled to conduct observation of the body of the suspect, the accused, the witness or the injured person, in order to discover the traces of the crime or special marks, unless a forensic medical examination is necessary for that.

The investigator makes a decision about observation which is mandatory for the person for whom it was made.

When necessary, the observation is conducted in the presence of a forensic medicine specialist or a doctor. The observation which involves undressing of the observed person is conducted in the presence of persons of the same sex.

The investigator has no right to be present at the observation of an opposite-sex person if it involves undressing. In such cases, by instruction of the investigator, the observation is done by the forensic medicine specialist or the doctor.

After the observation the investigator writes a protocol presenting the results. The protocol is signed by all participants of investigatory actions, who are entitled to demand to make their comments.

CHAPTER 30. IDENTIFICATION

Article 221. Identification of a person

When necessary to present the suspect, the injured persons for identification to the witness for identification, the investigator interrogates the latter beforehand about the

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outward appearance and marks of the person, and other aspects, in what circumstances the identifier saw that person, about which an appropriate protocol is written.

If the identifier is a witness or the injured person, he is warned beforehand about the responsibility for avoidance or refusal from testimony, perjury as well as the right not to testify against his spouse or close relative.

The person subject to identification is presented to the identifier together with at least three other persons of the same sex and as similar looking and dressed as possible.

Before the beginning of the identification the investigator suggests to the identified person to take any place amongst other persons.

At the discretion of the investigator, the identification of the person can be conducted from a spot beyond the field of vision of the identified person.

The identification is not carried out and the conducted identification can not be considered grounded, if the identifier mentioned such features which for reasons of their uncertainty can not be sufficient for the identification of the identified person.

When necessary, the identification can be conducted by photographs of people with similar the outward appearance and clothes.

The presentation of persons for identification is done in the presence of witnesses of the identification.

Article 222. Identification of objects

When necessary to present some object for identification, the investigator interrogates the identifier beforehand about the features of this object, in what circumstances he saw the object.

If the identifier is a witness or the injured person, he is warned beforehand about the responsibility for avoidance or refusal from testimony, perjury as well as the right not to testify against his spouse or close relative.

The identified object is presented to the identifier amongst other similar objects. The identifier is told to point at the object which he can recognize and explain by what features he recognized the object. When identifying an object it is allowed to clean it from dirt, rust, etc.

Object identification is done in the presence of witnesses to identification.

Article 223. Identification of a corpse

The identification of a corpse, parts of it and those objects for the identification of which it is difficult to acquire similar objects is conducted by presenting one sample.

If a human corpse is identified whom the identifier had seen alive it is allowed to perform make up.

Corpse identification is done in the presence of witnesses to identification.

Article 224. The identification protocol

After presentation of a person or object for identification, a protocol is written which indicates the data of the identifier and the legal status, as well as the fact of being warned about the responsibility for perjury, evasion or refusal from testimony. The protocol indicates the data of persons presented for identification and the description of objects, telling in detail about those features by which their identification was done.

The protocol indicates the place of identification as well as the name and surname of the person who conducted.

The protocol is signed by all participants of investigatory actions. If photographs were taken or videofilming or filming or recording was done, the photographs and tapes are attached to the protocol. Photographs, films and other materials are attached to the protocol.

CHAPTER 31. SEARCH AND SEIZURE

Article 225. Grounds for conducting search

The investigator, having sufficient ground to suspect that in some premises or in some other place or in possession of some person, there are instruments of crime, articles and valuables acquired by criminal way, as well as other items or documents, which can be significant for the case, conducts a search in order to find and take the latter. The search can also be conducted to find searched-for persons and corpses. The search is conducted only by a court decree.

Article 226. Grounds for seizure

When necessary to take articles and documents significant for the case, and provided it is known for sure where they find themselves and in whose possession, the investigator conducts seizure.

The seizure of documents which contain state secrets is conducted only by permission of the prosecutor and in agreement with the administration of the given institution. No enterprise, institution or organization, no official or citizen has the right to refuse to give the investigator the articles, documents or their copies which he would demand.

Article 227. Persons present at search and seizure

Search and seizure is done in the presence of attesting witnesses.

When necessary, an interpreter and an expert take part in the search and seizure.

When performing search and seizure, one must provide the presence of the person or the full-age members of his family where the search or seizure is conducted. If their presence is impossible, the representative of the apartment maintenance office or local administration is invited.

Search and seizure at the premises owned by enterprises, institution, organizations and military units is done in the presence of their representative.

The persons whose premises are searched and whose items are seized, as well as the attesting witnesses, experts, interpreters, representatives, lawyers are entitled to be present during all actions of the investigator, make statements which must be recorded in the protocol.

Article 228. Procedure of search and seizure

Based on search or seizure warrant, the investigator is entitled to enter apartments or other buildings.

Prior to the search or seizure the investigator must familiarize the searched person or the one from whom seizure is done, with the warrant about which a signature is taken from the latter.

When conducting a search the investigator or the expert can use technical devices about which a record is made in the search protocol.

The investigator is obliged to take measures not to publicize the fact of the search and seizure, as well as their results and the facts of the private life of the searched person.

The investigator is entitled to prohibit the persons present at the search or seizure site to leave the site, as well as prohibit communication between each other until the investigatory actions are over.

When conducting a seizure, after presenting and announcing the warrant, the investigator proposes to hand over the articles and documents subject to seizure of one's own accord, in case of refusal, compulsory seizure is done. If the searched-for articles are not

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discovered at the place indicated in the warrant, by discretion of the investigator and by court decree, a search can be conducted.

When conducting a search, after presenting and announcing the decree, the investigator proposes to hand over the articles and documents or the hiding person subject to seizure. If the latter are handed over of one's own accord, this is recorded in the protocol. If the searched for items and documents are not handed over or are handed over partially, or the hidden person does not surrender, a search is conducted.

All taken items and documents are presented to the participants of investigatory actions, are described in detail in the protocol and when necessary, are sealed with the investigator's seal.

When conducting a search and seizure the investigator is entitled to open closed premises and warehouses, if their owner refuses to open the latter of his own accord. One must avoid from damaging locks, doors and other objects without necessity.

Article 229. Personal search

When conducting searches in the premises, in case of sufficient grounds, the investigator is entitled to conduct personal search and take items and documents possessed by the person at whose premises the investigatory actions are conducted, found in his personal effects, clothes or on the body which can have probatory value.

Personal search can be conducted without warrant in the following cases:

- 1) when arresting the suspect, and bringing him to the police or other law enforcement institution;
- 2) when using arrest as a measure to secure the appearance of the suspect or the accused;
- 3) when there are sufficient grounds to suspect that the person in the given premises where the search is made, may conceal documents or other items which have probatory value for the case.

3. Personal search can be conducted by the investigator, with the expert and attesting witness, provided they are of the same sex as the searched person.

Article 230. Search and seizure protocol

When the search and seizure are over, the investigator writes an appropriate protocol which must indicate the place where investigatory actions were conducted, the time, the considerations, whether the searched for items and persons were surrendered of one's own accord, the name, surname, position of the person who conducted the search, the names, surnames and addresses of attesting witnesses, as well as the surnames, position and the legal status of other participants of the search.

All the seized articles must be indicated in the protocol of investigatory activities, mentioning their quantity, size, weight, individual features and other peculiarities.

If attempts were made to eliminate or hide the revealed articles or documents during investigatory actions, this fact is indicated in the protocol.

The investigator is obliged to familiarize all participants of investigatory actions with the protocol and they are entitled to demand for their comments to be incorporated in the protocol.

Article 231. The mandatory presentation of the copy of the search and seizure protocol

The copy of the search and seizure protocol with a signature is presented to the person in whose premises the investigatory actions had been conducted or to the full-age members of his family, and in case of their absence, to the representative of the apartment maintenance office in whose area the investigatory actions were conducted.

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If the search or seizure were done in the territory of an enterprise, institution, organization or military unit, the copy of the protocol is presented to their representatives.

CHAPTER 32. ARREST OF PROPERTY

Article 232. Arrest of property

Arrest of property is practiced as a remedy to secure property in civil claim and to prevent possible seizure and for coverage of court expenses.

Arrest of property is imposed on the property of the suspect and the accused as well as those persons whose actions can cause financial responsibility, regardless who possesses what property.

The arrest of property commonly shared by spouses or the family is imposed on the part owned by the accused. In case of sufficient evidence that the commonly shared property increased or was acquired in a criminal way, the arrest can be imposed on the whole property of the spouses or the family or on a larger part of it.

Seizure can not be imposed on the property which according to law can not be seized.

Article 233. Grounds for arrest of property

Arrest of property can be applied by the bodies conducting criminal proceedings only in the case when the materials collected for the case provide sufficient ground to suspect that the suspect, the accused or other person who has the property, can hide, spoil or consume the property, which is liable to seizure.

Arrest of property is carried out based on the decree of the investigating body, the investigator or the prosecutor.

The decision on the seizure of property must indicate the property subject to seizure, the value of the property based on which it is sufficient to impose arrest to secure the civil claim and court expenses.

When necessary, if there is a grounded suspicion, that the property will not be surrendered for seizure of one's own accord, the prosecutor appeals to the court for a search permission, as established in this Code.

Article 234. Valuation of the property to be arrested

The value of property to be arrested is determined at market prices.

The value of the property which is arrested as provision for civil claim or court expenses initiated by the prosecutor or civil plaintiff, must be adequate to the amount of the claim.

When determining the portion of property to be arrested from a number of accused or persons responsible for the actions of the latter, the degree of participation in the crime is taken into account, however, to provide a civil claim, the property of one of the relevant persons can be seized in full amount.

Article 235. Procedure of implementation of the decree for property arrest

The investigation body, the investigator or the prosecutor hand over the property arrest decree to the property owner or the manager and demands the submission of property.

When the demand is rejected, an enforced seizure is done.

After the end preliminary investigation, by court ruling, the marshal of the court implements the arrest of property.

When imposing property arrest, when possible, an expert in commodity is involved who determines its approximate value.

The owner or the manager of the property is entitled to decide which articles or valuable items should be seized first to provide for the amount indicated in the property arrest decree.

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The investigating body, the investigator or the prosecutor write a protocol on property arrest and the court marshal compiles other documents envisaged in law. The protocol (document) enumerates the whole seized property, accurately indicating the name, quantity, means, weight, degree of wear and tear, other individual features and when possible its value; it indicates what property was seized and what property was left for keeping, the seized property is described, the statements of present persons about the ownership of other people.

The copy of the appropriate protocol (document) with a signature is handed over to the owner or manager of the seized property, and in case of their absence, to the full-age members of their family, to the apartment maintenance office or local self-government representative. When seizing the property of an enterprise, institution or organization, the copy of the appropriate protocol (document) with signature is given to the administration representative.

Article 236. The preservation of seized property

Except real estate and large-sized items, other seized property as a rule is taken away. Precious metals and stones, diamonds, foreign currency, cheques, securities and lottery tickets are handed for safe keeping to the Treasury of the Republic of Armenia, cash is paid to the deposit account of the court which has jurisdiction over this case, other taken items are sealed and kept at the body which made a decision to seize the property or is given for safe keeping to the apartment maintenance office or local self-government representative.

The arrested property that has not been taken away is sealed and kept with the owner or manager of the property or his full-age members of his family who are advised as to their legal responsibility for spoiling or alienation of this property, for which they undersign.

Article 237. Appeals against arrest of property

The property seizure decree can be appealed against to the prosecutor, however, the submitted complaint does not prevent the execution of the decision.

Article 238. Release of property from seizure by criminal proceedings

The property is released from seizure by criminal proceedings ruling if as a result of recalling of the civil action, the qualification of the criminal act incriminated to the suspect or the accused has changed, and the necessity to seize property disappeared.

By petition of the civil plaintiff or other interested party, who are inclined to claim the property through civil proceedings, the court is entitled to preserve the imposed property seizure also after the end of criminal proceedings, within a month.

CHAPTER 33. MONITORING OF CORRESPONDENCE, MAIL, TELEGRAMS AND OTHER COMMUNICATIONS

Article 239. Monitoring of correspondence, mail, telegrams and other communications

When there are sufficient grounds to believe that there is probatory value data in the mail or other correspondence, mail, telegrams and other communications (referred to below as correspondence) sent by the suspect or the accused or to them by other persons, the investigator can make a grounded decision to impose monitoring on the correspondence of these people.

The decision must indicate the name of the post office which is responsible for withholding of the correspondence, the name(s), surname(s) of the person(s) whose correspondence

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will be withheld, the accurate address of these persons, type of correspondence which is monitored and the period of monitoring.

The correspondence which can be arrested, in particular, concerns the following items: letters, telegrams, radiograms, parcels (printed matter), cases, post containers, transmissions, fax and e-mail messages.

Decision on the monitoring of correspondence is sent to the appropriate post office director for whom it is mandatory.

The director of the post office withholds the correspondence indicated in the decision of the investigator and advises the latter about that.

The monitoring of correspondence is lifted by the investigator, prosecutor or court which took the decision.

Article 240. Examination and seizure of correspondence

The investigator familiarizes the director of the post office, and when necessary, other employees of the given office, with the seizure decree, with subscription, and with participation of selected attested witnesses from the employees of the office, opens up and examines the correspondence.

When revealing documents and items which can be significant for the case, the investigator seizes the appropriate articles or confines himself to copying them. In case of absence of data which can be significant for the case, the investigator instructs to hand the examined correspondence to the addressee or to withhold it within the established period.

A protocol is written about each case of examination or withholding which indicates: by whom, where, when and exactly what correspondence was withheld or examined, why it was withheld, what should be handed over to the addressee or temporarily withheld, what correspondence it was copied from, what technical means were used and what was revealed in the given case. All persons who participated in the investigatory actions must be familiarized with the protocol which they confirm with their signatures and when necessary, are entitled to incorporate their comments into the protocol.

Article 241. Supervision over conversation

If there are sufficient grounds to suspect that the telephone conversations of the suspect or the accused or the conversations conducted by other means of communication can contain significant information for the case, the court makes a decision to permit the supervision and recording of these conversations.

The investigator makes a grounded decision on initiating an application to the court, which indicates the criminal case and grounds on which the appropriate investigatory actions must be taken, the surnames and names of the persons whose conversations are subject to supervision, the supervision period, institution which is instructed to conduct the technical implementation of supervision and recording. The decree is forwarded to the court.

In case of approval by the judge, the conversation supervision and recording decision is forwarded by the investigator to the appropriate institution for implementation.

Conversation supervision and recording can be limited by no longer than six months. They are lifted when the necessity for them is over, but in any case, no later than the end of the preliminary investigation.

The investigator is entitled to demand the record at any time for examination and listening within the established period. The record is handed to the investigator in the sealed form with an accompanying letter which must indicate the time of beginning and end of the record of conversations, and necessary technical description of used devices.

Examination and listening of records by the investigator is done in the presence of attesting witnesses, and when necessary, experts, about which a protocol is written, which

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must literally reproduce the part of the conversation concerning the case. The record is attached to the protocol, and the irrelevant part of it is eliminated after the court verdict becomes *res judicata* or suspension of the case.

CHAPTER 34. INVESTIGATORY EXPERIMENTATION

Article 242. Investigatory experimentation

In order to check and clarify the information relevant for the case that can be checked by experiments and other investigatory tests, the investigator is entitled to conduct investigatory experimentation.

When performing investigatory experimentation, attesting witnesses must be present.

When necessary, the investigator can make the suspect, the accused, the witness, expert, the physician and other persons participants of the investigatory experimentation. The investigator is entitled to use technical means.

Investigatory experimentation is allowed if in the given case it is not dangerous for human life and health, human self-esteem does not suffer, no financial losses are caused.

A protocol about the investigatory experimentation is written which describes in detail the reasons for and results of the experimentation. The protocol indicates the use of technical means. All participants of investigatory actions familiarize themselves with the protocol, they confirm it with their signatures and are entitled to incorporate their comments into it. Plans, schemes, drawings as well as the results of the use of technical means are attached to the protocol.

CHAPTER 35. IMPLEMENTATION OF EXPERT EXAMINATION

Article 243. Grounds for appointing and implementation of expert examination

Expert examination is implemented based on the decree of the body conducting the investigation, the investigator, the prosecutor, when to reveal circumstances relevant to the criminal case, the knowledge of science, technology, arts or crafts, including the knowledge of specialized expert examination methods, is necessary. The possession of special knowledge by the investigator, the prosecutor, the specialists, the attesting witnesses is not an exemption from the necessity to appoint examination in appropriate cases.

Article 244. Decree on expert examination

The investigating body decrees the conducting of expert examination; the decree must indicate: the grounds for the examination, the exhibits sent for expert examination, and other articles, indicating when, where and in what circumstances they were discovered or acquired, and when conducting an expert examination for the criminal case, indicating information on which the conclusions of the expert can be based, questions asked to the expert, the name of the expert institution or the person's surname who was instructed to conduct the expert examination.

Article 245. Single-person and committee expert examinations

Complicated or repeated expert examinations can be conducted by a single person or by committee of experts. At the request of the parties, experts invited by them must be included into the committee. In case of achieving unified opinion, the experts sign the conclusion. In case of differences, each expert writes a separate conclusion on all differences or those, which caused disagreement.

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The decree on conducting an commission expert examination is mandatory for the administration of the expert institution. If the expert examination is delegated to an expert institution without the requirement to conduct a commission examination, its director is entitled to conduct a committee expert examination.

Article 246. Integrated expert examination

If the clarification of some issue in the criminal case is possible only through a various examinations based on methods and disciplines of different sciences or different fields of one science, an integrated examination must be appointed.

Based on the totality of facts clarified through the integrated expert examination, the experts within their scientific authority make conclusions on the issues which were supposed to be clarified during this examination.

The expert has no right to sign the part of the integrated expert examination which does not belong to his scientific authority.

If the examination is delegated to an expert institution without the requirement of integrated examination, the head of the institution is entitled to organize integrated examinations.

Article 247. The rights of the injured, the suspect and the accused during appointment and implementation of expert examination

When expert examination is appointed, the injured, the suspect and the accused are entitled:

- 1) prior to examination, to familiarize themselves with the investigator's decree on examination, and get an explanation of their rights, about which a protocol is compiled;
- 2) to challenge the competence of the expert;
- 3) to appeal for appointment of the expert from the list proposed by him;
- 4) in case of disagreement with the expert's conclusion, to appeal for an additional or repeated examination;
- 5) to suggest additional questions to the expert;
- 6) by permission of the investigator, to be present at the implementation of the examination;
- 7) to give explanations to the expert;
- 8) no later than 10 days after the receipt of the expert conclusion by the investigator, to familiarize oneself with the expert conclusion;
- 9) to participate in the expert investigation initiated by his own appeal.

The above mentioned rights also extend to the person who is liable to enforced medical measures, if the mental condition of the latter allows.

Article 248. Expert examination conducted in an expert institution

The investigator forwards his decree on examination, the examined object and when necessary, the criminal case to the head of the expert institution. The examination is conducted by the expert indicated in the decree. If no expert is specifically mentioned in the decree, the head of the expert institution must decide which expert from the given institution will conduct the examination, informs the appointed person about that.

The head of the expert institution familiarizes the expert with Article 85 of this Code about his rights and duties, warns him about the responsibility for refusal or evasion from expert conclusion, or for giving obviously false conclusion, organizes the implementation of the examination, provides the safe-keeping of examined objects, determines the deadline for the examination. The head of the expert institution has no right to give instructions to the expert which would pre-determine the course and essence of the examination.

Article 249. Implementation of expert examination outside expert institution

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If the examination is conducted outside expert institution, the investigator after making a decision on expert examination summons the person who was instructed to conduct the investigation, ascertains the identity and accessibility of the latter, clarifies the relations of the expert with the suspect, the accused, the injured person and other participants of the proceedings and checks whether there are grounds for challenging the qualification of the expert.

The expert is handed the examination decree by the person who appointed the examination, the latter familiarizes the expert with Article 85 of this Code about his rights and duties, warns him about the responsibility for refusal or evasion from expert conclusion, or for giving obviously false conclusion. The investigator writes a protocol about the implementation of these actions, which is signed by the expert and confirmed by the investigator. The protocol also indicates the statements made by the expert and his petitions. In case of rejection of the expert's request, the person who appointed the examination makes a grounded decision.

The person who appointed the examination is obliged to provide the presentation of the expert to the accused, the suspect, the injured party and witness when necessity arises to examine their body or mental condition, if their participation in the examination is necessary.

Article 250. The expert's conclusion

When necessary examinations are over, the expert compiles a written conclusion, confirms it with his signature and forwards it to the person who appointed the examination. The expert's conclusion must indicate: when, where, by whom (name, surname, patronymic, education, profession, professional experience, degree and title, position) and on what basis the examination was conducted, that the expert is aware of the criminal responsibility for refusal or evasion from expert conclusion, or for giving obviously false conclusion, who participated, what materials of the criminal case were used by the expert, what exhibits, samples and other objects were examined, what kind of examinations were conducted, what methods were used, grounded answers to the given questions, the issues relevant for the case which were revealed by initiative of the expert.

The examined exhibits, samples and other materials must be attached to the expert's conclusion, as well as the photographs and schemes supporting the conclusions of the expert.

The expert's conclusion must contain a grounding about the impossibility of answering to all or some suggested questions, if the presented materials or the special knowledge of the expert proved insufficient during the examination.

Article 251. Additional and repeated examination

If the person in charge of the investigation, the investigator, the prosecutor disagree with the expert's conclusion, for reasons of insufficient clarity or incompleteness, an additional examination can be appointed, delegating it to the same or some other expert.

Repeated examination is done when the expert's conclusion is ungrounded or raises suspicion, or the evidences on which it was based were recognized invalid, or the procedural rules of examination were breached. Repeated examination is delegated to another expert. When appointing repeated examination, the issue of justification of the methods applied during the previous examination can be raised before the expert. The decree on repeated examination must indicate the motives of disagreement with the results of the previous examination. The experts who conducted the previous examination can be present at the repeated examination, give clarifications, however, they do not participate in the examination and writing the conclusion.

Article 252. Interrogation of the expert

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If the conclusions of the expert are not sufficiently clear, and contain gaps, to fill which additional examination is not necessary, or there is a need to clarify the applied methods and used terminology, the investigator is entitled to interrogate the expert, observing the requirements in Articles 205, 206 and 209 of this Code.

The expert is not allowed to be interrogated prior to the presentation of his conclusions.

CHAPTER 36. ACQUISITION OF SAMPLES FOR INVESTIGATION

Article 253. Grounds to acquire samples

The investigator is entitled to obtain samples describing the specific features of a human being, corpse, animal, substance and other objects, provided their examination is significant for the case.

The investigator adopts a justified decree on the acquisition of samples in which the following must be indicated: the recipient of the samples, who shall provide the sample, in what amount and specifically what samples must be received, when and where the person should go to collect the samples, where and to whom the samples are presented after acquisition.

When necessary, the investigator can obtain samples with participation of an expert or specialist.

Article 254. Types of samples

The following can serve as samples:

- 1) blood, sperm, hair, fingernail clippings, microscopic skin scrubbings;
- 2) saliva, sweat, and other secretion;
- 3) patterns of skin prints, moulds of teeth and extremities;
- 4) handwriting, signature, and other materials reflecting human skills;
- 5) audio records;
- 6) experimental samples of finished products, raw materials, substances;
- 7) weapons, cartridges, bullets, cartridge cases;
- 8) other materials and items.

It is prohibited to obtain samples by methods causing torturing to the human being or threatening health or corporeal integrity.

Article 255. Sample acquisition procedure

The investigator invites the person or visits the latter, takes a signature certifying the familiarization with the sample collection decree, explains the rights and duties to the person, the specialists, the attesting witnesses.

With participation of the specialist, if the former was invited in the presence of attesting witnesses, the investigator conducts necessary actions and obtains the samples. All samples except documents are packaged and sealed.

In appropriate cases sample collection is conducted by means of search or seizure or at the same time with these actions.

Article 256. Sample collection protocol

After collection of samples the investigator writes a protocol which describes all sample collection activities in the same sequence in which they were carried out, used scientific and technical methods, and the obtained samples.

The obtained samples are attached to the protocol.

CHAPTER 37. SUSPENSION AND TERMINATION OF CRIMINAL PROCEEDINGS

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Article 257. Suspension of criminal proceedings

If there are grounds specified in part 1 of Article 31 of this Code, the investigator, the prosecutor is entitled to suspend the criminal proceedings by adopting a justified decree to that effect.

Article 258. Investigator's actions after suspension of the proceedings

The investigator must give a written notice about the suspension of the criminal proceedings to the injured person, his representative, civil claimant and civil defendant or their representatives and at the same time, to explain that the decree on suspension of criminal proceedings can be appealed against in procedure specified in this Code.

After suspension of the criminal proceedings the investigator, both personally and through the investigating body:

takes measures to reveal the person to be impleaded as an accused, in cases envisaged in Article 31, part 1, paragraph 1 of this Code;

takes measures to reveal the place of the accused or to find the accused evading from investigation, in cases envisaged in Article 31, part 1, paragraph 2 of this Code;

When necessary, in cases envisaged in part 2 of this Article, the investigator can conduct appropriate investigatory actions.

Article 259. Search for the accused

The investigator can announce the search for the accused both when conducting preliminary investigation of the case and at the same time with suspension of the criminal proceedings.

If the place of the accused is not known or if the accused is hiding from investigation, the investigator by his own decision, instructs the investigation bodies to conduct the search.

The search for the accused is the disclosure of his whereabouts, arrest of the accused and handing him over to the body in charge of the proceedings. Based on the investigator's decree, by procedure envisaged in this Code, measures to secure the appearance of the accused can be used.

Article 260. Resumption of suspended criminal proceedings

Suspended criminal proceedings can be resumed by investigator's decree provided: the grounds envisaged in Article 31, part 1 for suspension of criminal proceedings, have disappeared;

it is necessary to conduct procedural actions which can be implemented without participation of the accused;

Resumption of criminal proceedings is done also in the case when the prosecutor by his decree invalidates the investigator's decision to suspend the criminal proceedings.

The investigator must inform the accused and the lawyer about the resumption of criminal proceedings, as well as the injured, civil defendant, civil claimant or their representatives.

Article 261. Termination procedure of criminal proceedings and criminal prosecution during preliminary investigation

The investigator makes a justified decision on the termination of proceedings and criminal prosecution.

The introductory part of the decree on termination of proceedings and criminal prosecution indicates the date and place of decision made, the investigator's name, surname and position, data concerning the investigated case.

The descriptive and explanatory part of the decree indicates the considerations, which were the ground for instituting criminal prosecution, other considerations disclosed during the preliminary investigation, based on which the criminal proceedings were terminated.

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The conclusion of the decree describes the investigator's decision to terminate the case, referring to the relevant legal norm of this Code, as well as the cancellation of given instructions, release of arrested property and the destiny of exhibits.

In case of the availability of considerations envisaged in Article 35, part 1, paragraphs 1-3, when terminating the proceedings, it is not allowed to include formulations in the decree, which would raise suspicions about the innocence of the person whose criminal proceedings have been terminated.

Article 262. Investigator's actions after termination of criminal proceedings

The copy of the investigator's decision to terminate criminal proceedings is forwarded to the suspect, the accused, the lawyer, as well as the injured person, his representative, the civil defendant and claimant or their representatives.

The persons mentioned in part 1 of this Article are told about their right to familiarize with the case materials and about the procedure of appealing against the termination decree. The persons mentioned in part 1 of this Article are entitled to familiarize themselves with materials of the terminated case.

Article 263. Appealing against the termination decree

Within 7 days from the date of receipt of the copy of the termination decree, it can be appealed against to the higher prosecutor, by the suspect, the accused, the lawyer, as well as the injured person, his representative, the civil defendant and claimant or their representatives as well as by the representatives of the physical persons or legal entities whose statement was the basis for the institution of persecution.

The prosecutor's refusal to satisfy the appeal can be appealed against in court.

Article 264. Resumption of terminated criminal proceedings

In case of the invalidation of the termination decree of criminal proceedings, and provided the period of limitation established in article 21 of this Code has not expired for impleading the person for criminal persecution, the criminal proceedings are resumed.

The suspect, the accused, the lawyer, as well as the injured person, his representative, the civil defendant and claimant or their representatives are advised about resumption of criminal proceedings in the written form.

CHAPTER 38. WRITING THE INDICTMENT AND FORWARDING THE CRIMINAL CASE TO THE COURT

Article 265. Familiarization with the case prior to writing indictment

When the investigator believes the collected evidence is sufficient to hand it over to the prosecutor, in order to write the indictment and to forward to the court, the investigator informs the accused, the lawyer, the injured, civil defendant, civil plaintiff, his representatives about that and determines the time and place for their familiarization with the case.

The investigator presents the case for the familiarization of the injured persons, civil defendant and civil claimant at their request, and for the familiarization of the accused and the lawyer, regardless of request.

If the lawyer of the accused or the injured person's civil defendant and civil claimant can not be present at the appointed time, the investigator postpones the familiarization for 5 days. In case of the lawyer's or representative's failure to appear within this deadline, the accused is given a possibility to obtain another lawyer, by consent or appointment, and the injured person, the civil claimant, civil defendant, another representative.

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Article 266. Procedure for familiarization with the criminal case

The investigator presents the case for familiarization in the paginated form and in the form of a few bound volumes or a list of documents in each volume. The exhibits for the case and the appendices to the investigatory actions protocols must be also presented. If the case consists of a few volumes, all volumes must be presented at the same time.

When familiarizing the participants of the trial with the case, the investigator, at their request, reproduces by various devices the record, video and film tapes, visual views attached to protocols, and presents the exhibits.

The accused and the lawyer familiarize themselves with the case after other trial participants. They are entitled to familiarize with the case together or separately. Similarly, the injured person, civil defendant, civil claimant can familiarize themselves with the case together with the representatives or separately.

The persons familiarizing themselves with the case are entitled to make notes from documents enclosed into the case and make copies, take photographs of the exhibits.

Article 267. Appeals made after familiarization with the case

After familiarization with the case, the investigator finds out from the accused, the lawyer, the injured person, civil claimant, civil defendant and their representatives whether they have appeals on additional investigatory actions or new procedural decrees. To present the appeal 1 day is given.

The investigator makes a justified decision on complete or partial rejection of the appeal, the copy of which is given to the applicant within one day after the appeal. Until the application issue is resolved, the case can not be forwarded to the court.

The investigator's rejection of the application concerning the case which the investigator is going to send to the prosecutor in the form of indictment, can be appealed to the prosecutor within 2 days after the copy of the rejection was handed to the applicant.

Unless the complaint issue is resolved, the case can not be forwarded to the court.

The prosecutor's rejection of complaint on the petition concerning the case forwarded to the court is no obstacle to institute the same application in the court.

Article 268. Protocol on familiarization with the case

The investigator writes a protocol on the familiarization with the case which indicates the date and place of familiarization, his position, data about the authorization documents of the persons familiarizing with the case and the lawyer, and the injured person, the representative of the civil defendant and civil claimant.

A separate protocol is written on familiarization with the case of each person. If the lawyer familiarized himself with the case together with the client, or the representative familiarized himself with the case together with the represented injured person, civil claimant and civil defendant, then a single protocol can be written about the familiarization of the lawyer and the clients, as well as the representative and the represented person with the case.

The protocol indicates the number of volumes of the case presented for familiarization and the number of pages in each volume, the presented exhibits and the appendices to the protocols on investigatory actions.

The protocol indicates each day of familiarization with the case, the hour and minutes of the beginning and the end.

The protocol includes the oral appeals made after familiarization with the case. The written appeals are attached to the protocol and a record is made in the protocol about that.

Article 269. Repeated familiarization with the case after satisfaction of appeal

In case of satisfaction of the appeal of the party, regardless of who appealed, the investigator gives an opportunity to the suspect, the lawyer of the accused, the civil

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claimant, civil defendant, their representatives to familiarize themselves with the added part of the case again.

Article 270. Indictment

Indictment consists of the descriptive and argumentative part and the conclusion. In the descriptive and argumentative part the investigator describes the circumstances of the crime, the accused, and the characteristic features of the injured person, the evidence proving the guilt of the accused, considerations in defense of the accused and the proofs collected when verifying these considerations. In the conclusion the data on the accused and the formulation of the charges is reproduced, indicating the norm of criminal legislation specifying this offense. The investigator signs the indictment, indicating the date and place.

Article 271. Appendices to indictment

The indictment is attached with a list of persons who in the investigator's opinion are subject to being summoned to the trial. In the list the investigator indicates the whereabouts of the persons to be summoned and the pages of the case which contain their testimonies or conclusions.

The investigator's certificates about the exhibits and their whereabouts, measures to provide the civil claim and possible property seizure, court costs, measures to secure the appearance, are attached to the indictment, indicating the period the person has been in detention.

Article 272. Forwarding the criminal case to the prosecutor

After having signed the indictment, on the same day, the investigator sends the criminal case to the prosecutor in charge of supervision over preliminary investigation.

Article 273. Issues concerning the received case resolved by the prosecutor

The prosecutor examines the received case with indictment, in order to inspect:

- whether the act incriminated to the accused is proved and whether it contains formal element of a definition of a crime;
- whether the fault of the accused is grounded;
- whether all proved offenses of the accused are included in the charge;
- whether all people who participated in the crime have been impleaded as the accused;
- whether there are considerations to terminate the criminal proceedings and criminal prosecution;
- whether the acts of the accused were adequately qualified;
- whether the measures to secure appearance were correctly chosen;
- have measures been taken to provide the civil claim and possible seizure of property, court costs;
- whether circumstances promoting the crime have been revealed and measures taken to eliminate them;
- whether a comprehensive, complete, objective examination of the circumstances of the case has been done;
- whether indictment meets the requirements of Articles 270 and 271 of this Code;
- whether the all rules of this Code determining the preliminary investigation procedure have been observed.

Article 274. Prosecutor's decree on the received case with indictment

No later than in 5 days after the receipt of the case with indictment, the prosecutor must make one of the following decisions:

1) to approve the indictment;

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2) by his own decision, to withhold separate paragraphs from the criminal charge formulation, to determine the crime in accordance with the law which in contrast with the crime determined in the indictment, envisages a less severe punishment and establish these alterations in the indictment.

3) by his own instruction, to send the case back for additional investigation or for rewriting the indictment;

4) to suspend the criminal proceedings;

5) to terminate the case completely or partially.

The prosecutor must return the case to the investigator to bring additional charges or change the charges, when there are grounds to complete the charges or there are grounds for replacement with more severe charge or essentially different one in terms of facts from the previously made charges.

Article 275. Decree on measures securing the appearance

The prosecutor is entitled to invalidate or change the measures securing the appearance, and if no such measures were applied, to choose these measures or to appeal to the court for choosing arrest as such measure.

Article 276. Changes in the list of persons liable to be summoned to the trial

Prior to forwarding the case to the court, the prosecutor is entitled to shorten or expand the list of persons liable to be summoned to the trial by his own decree. The accused, the legal-capacity injured person, legal representatives of the injured and accused, civil claimants, civil defendants and their representatives can not be excluded from the list.

Article 277. Forwarding the case to the court.

After approval of the indictment, the prosecutor forwards the case to the court which has jurisdiction over the case.

The prosecutor immediately informs the accused and his lawyer, the injured person, the civil claimant, civil defendant and their representatives about forwarding the case to the court, explaining to them that now they are entitled to send their appeals to the court.

At the same time, the prosecutor instructs the accused, and in case of appeal, also the lawyer, and the injured person to hand over the certified copies of the indictment and its appendices with signing. If changes have been made in the indictment or its appendices, the accused is given only the latest version of it. If the prosecutor decided to change the indictment, the copy of the appropriate prosecutor's decree is also presented.

The accused and the lawyer who do not master the language of the criminal proceedings are given the confirmed translations of the indictment and its appendices signed by the translator and the copies of these documents in the language of the proceedings.

CHAPTER 39. COURT SUPERVISION OVER PRETRIAL PROCEEDINGS

Article 278. Domain of court supervision

The court considers the implementation of investigative, operative and searching activities and the petitions concerning the application of judiciary enforcement restricting the constitutional rights and freedoms of the person.

The court considers complaints concerning the legitimacy of decrees and actions of preliminary investigation bodies, investigators, prosecutors and operative and searching bodies in accordance with the procedure specified in this Code.

The court decrees mentioned in part 1 of this Article can be reconsidered by the higher court, based on the petition of a body concerning the actions of the prosecutor, and the complaint of the persons or their representatives whose interests were affected.

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Article 279. Investigatory actions conducted by court decree

The court decrees the implementation of apartment search, as well as investigatory actions concerning the restriction of privacy of correspondence, telephone conversations, telegram and other communications.

Article 280. Judiciary enforcement carried out by court decree

The following criminal and judiciary enforcement measures are carried out only by court decree: detention, in cases specified in Article 150, part 2 of this Code, arrest as a measure to secure appearance, putting the suspect, the accused and other persons whose mental condition does not allow to plead them as the accused in medical institutions for implementation of judiciary and psychiatric or forensic examination.

Article 281. Implementation of operative and search actions by court decree

Operative and search actions concerned with the restriction of the confidentiality of correspondence, telephone conversations, mail, telegrams and other communications are implemented by court decree.

Based on court decree, operative and search actions mentioned in the law on "Operative and search actions" are conducted.

Article 282. Appeals concerning investigatory, operative and search actions and court enforcement measures

The basis for the initiation of court proceedings is the appeal in the decree of the prosecutor, the investigator or the person in charge of operative and search actions for the receipt of a permission for appropriate actions.

The explanatory part of the decree must indicate data about the crime for which there is an intention to carry out investigatory or operative and search actions, what data must be obtained as a result of restriction of the constitutional rights and freedoms of the citizens, the deadline of activities, the place, the immediate performers, the form of recording the results, and other data which are necessary for the court to make grounded and legitimate decision. If these materials are not sufficient, the judge is entitled to demand additional data.

Article 283. Reviewing procedure for appeals for investigatory, operative and search actions and court enforcement measures

Appeals are reviewed solely by the judge, at closed-doors court session in the presence of the appealing official or his representative.

The prosecutor is entitled to be present at the court session, if he finds it necessary to defend the appeal. The prosecutor is entitled to recall the submitted appeal.

The judge is entitled to:

to demand necessary documents and exhibits to verify the grounds for the appeal;
submit explanations.

Appeals must be reviewed by the judge immediately, but not later than on the next day after their receipt.

When the discussion of the appeal is over, the judge makes a decision on approving or turning down the appeal, mentioning the grounds for approval or dismissal.

Article 284. Discussion procedure of appeals against operative-searching measures

Operative-searching activities concerned with the restriction of the individual's right for the confidentiality of correspondence, telephone conversations, mail, telegrams and other

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communications, except the cases when the one of the interlocutors gave his consent to supervision, are carried out only with a court ruling.

The authorization to conduct operative-search measures envisaged in this Code is granted by the court located in the same district with body carrying out such measures or the one which appeals for such measures.

The ground for the authorization of operative-searching measures envisaged in this Code is the decree of the body in charge of operative-searching actions, which contains an appeal to obtain authorization for such activities. The decision indicates the grounds for operative-searching measures, the data which is planned to obtain as a result of these measures, the venue and deadline of the measures, and all data substantiating the necessity of the operative-searching measures. The decision and attached materials are submitted to the court by the head of the body in charge of operative-search measures or by his deputy.

The judge considers the appeal solely, in a closed-door court session with participation of the official who submitted the appeal, or his representative. The appeal must be considered and a ruling made within 12 hours after its receipt.

At the request of the judge, other materials grounding the need for the operative-searching measures are submitted to him, except the cases when there is danger of breaching a state or official secret, or when this can expose the secret agents of the operative-searching body and persons who secretly collaborate with this body, certain sources of information and the methods of receiving the information. The judge can demand additional materials and explanations from the officials to verify the sufficiency of the grounds for the implementation of operative-searching measures.

Based on the results of the discussion of the issue, the court makes a decision to authorize or turn down the application, indicating the grounds for approval or dismissal. The relevant materials are returned by the court to the body in charge of operative-searching measures.

The period of validity of the court is calculated from the day its adoption and it can not exceed six months, unless otherwise envisaged in the ruling. The deadline for the implementation of operative-searching measures can be extended based on the application contained in the decision of the head of the operative-search body, as established in this article.

In the case when the delay in the implementation of the operative-search measures can lead to a terrorist act or to threats to the national security, military or environmental threats, based on the decision of the head of the operative-search body it is allowed to carry out such measures within 48 hours, advising the court about that, submitting documents envisaged in part 3 of this article. In the case when the court finds that the grounds for the implementation of the operative-search measures are insufficient, the implementation is immediately terminated, and the materials and data obtained as a result are liable to prompt elimination. Otherwise, the court rules to authorize the implementation of operative-search measures, as envisaged in this article.

Article 285. Discussion of the appeal for arrest as a means to secure the appearance
When necessary to use arrest as a means to secure the appearance or extend the arrest, the prosecutor or the investigator appeals to the court to use this measure or to extend the arrest. The decree concerning the appeal must indicate the motives and grounds of arresting the accused. The decree is attached to materials supporting the justification of the appeal.

The decree on appeal for arrest as means of securing the appearance is subject to immediate discussion solely by the judge in the vicinity of preliminary investigation or detention, with participation of the appealing person, the lawyer, if the latter participates in

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the case. The lawyer's failure to appear, provided he was informed on time, is no obstacle to discussion of the appeal in court.

As a rule, the accused in confinement must be present at the court session. The court is entitled to summon the injured person and his representative, the accused and his legal representative to the session.

When discussing the appeal, the judge is entitled to demand materials and explanations substantiating the appeal.

Discussing the appeal, the judge makes a decision on using arrest as means to secure the appearance of the accused or on rejection of the appeal. The judge's ruling is handed to the person who appealed for using this means, is sent to the accused, the injured person and is subject to immediate implementation.

After the rejection of the appeal for choosing the given appearance securing measure, a repeated appeal to the court for the arrest of the same person for the same case is possible only in case of new considerations grounding the arrest.

In the case of decree to replace arrest as a measure to secure the appearance with a bail, the accused remains under arrest until the actual payment of the agreed-upon amount to the court deposit account.

Article 286. Court decrees on investigatory, operative and investigatory activities and judiciary enforcement measures

The court decree must indicate: the day of compilation, the month, the year and the place, judge's surname, the prosecutor, his degree, a note on the use of investigatory, operative and investigatory activities and judiciary enforcement measures, indicating what these activities consist in or the measure, and whom they are extended to, period of validity of the decree, the official or body in charge of implementation, signature certified with the judge's seal.

Article 287. Appeal against a court decree to use or not to use arrest as means of securing appearance

Appeals against the judge's decree to use or not to use arrest as means of securing appearance, as well as to extend the arrest (or to turn down arrest extension), are brought by the prosecutor, the accused, his lawyer or legal representative to the court of appeal directly or through the court which made the decision or the administration of the place of arrest.

The administration of the place of arrest, after having received complaints addressed to the court, must register them and forward by jurisdiction, informing the supervising prosecutor about that.

The court of appeal, receiving the complaint, immediately demands to present the materials justifying the necessity of arrest, and the court decree.

Article 288. Court trial into the legitimacy or justification of decree to use or not to use arrest as measure to secure appearance

The court trial into the in the legitimacy or justification of the decree to use or not to use arrest as measure to secure appearance, or to extend or not the arrest is done by the court of appeal.

The legitimacy and justification of arrest or arrest extension is examined by the court in the course of three days after the receipt of materials attesting to the legitimacy and justification of the chosen measure to secure the appearance.

The court trial is conducted at a closed-door session with participation of the prosecutor, the accused, his lawyer and legal representative. The failure of the party previously notified about the inquiry day to be present, does not inhibit the implementation of the inquiry. At the discretion of the court, the person from the investigation body or the

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investigator, as well as the injured person can be summoned to the court sessions to provide explanations.

At the beginning of the session, the chairing judge announces what complaint will be considered, introduces the persons present at the session and explains to them their rights and duties. After that, the applicant, if he participates in the discussion of the complaint, justifies the complaint, after that other present persons are heard.

As a result of court trial one of the following decrees can be adopted:

- 1) decree to lift arrest as means of securing the appearance and free the person from arrest;
- 2) decree on choosing arrest as means to secure appearance or its extension;
- 3) decree to leave the complaint without satisfaction.

In the case when no materials attesting the legitimacy and justification of arrest as means of securing the appearance or arrest-term extension have been submitted, the court rules to lift these means of securing the appearance and to set the person free from arrest.

The copy of the court decree is sent to the prosecutor and the applicant, and in case of the ruling to set free a person from arrest, to the administration of the arrest place of the person, for immediate implementation.

In case of turning down the complaint, repeated inquiry by the same court into the complaint of the same person is allowed, in accordance with this Article, in each case of arrest extension.

Article 289. Appealing against and inquiring into court decrees ruling investigatory and operative and investigatory actions and using court enforcement measures

Appellation against and inquiry into court decrees ruling investigatory and operative and investigatory actions and using court enforcement measures is done in accordance with the provisions of Articles 287 and 288 of this Code.

Article 290. Appealing against illegitimate and ungrounded decrees and actions of the person in charge of investigation, the investigator, the prosecutor and operative and investigatory bodies

Complaints against illegitimate and ungrounded decrees and actions, envisaged in this Code, of the person in charge of investigation, the investigator, the prosecutor and operative and investigatory bodies can be submitted to the court by the suspect, the accused, the lawyer, the injured person, participants of criminal proceedings, other persons whose rights and legal interests were breached by these decrees and actions, if their complaints were not satisfied by the prosecutor.

The persons mentioned in the paragraph 1 of this Article are also entitled to appeal to the court when making statements about committed crimes, when satisfying appeals and challenges, in case of refusal to initiate criminal prosecution by investigatory body, the investigator and prosecutor, as well as in cases of suspension or termination of criminal cases envisaged by this Code.

The complaint can be submitted to the court where the body in charge of proceedings is located after the receipt of rejection notification for the complaint, or if no answer has been received, within one month after the expiration of one month period.

The complaint is considered solely by the judge within 10 days after the receipt, informing the applicant and the body in charge of proceedings about that. The failure of the applicant or the body in charge of proceedings to be present does not inhibit the consideration of the complaint, however, the judge can consider the presence of the mentioned persons mandatory. The body in charge of proceedings must present materials concerning the complaint to the court. The body in charge of proceedings and the applicant are entitled to provide explanations.

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After recognizing the complaint as grounded, the judge makes a ruling about the responsibility of the body in charge of proceedings to eliminate the breach of the rights and freedoms of the citizen. Finding that the actions appealed against were done in compliance with law and the rights and freedoms of the citizen were not violated, the judge decides to turn down the complaint. The copy of the judge's decree is sent to the applicant and the body in charge of proceedings.

SECTION 9. PROCEEDINGS IN FIRST INSTANCE COURT

CHAPTER 40. PREPARATION OF THE TRIAL

Article 291. Taking the case by court for proceedings

The criminal case entering the court is taken over by judges, as established by procedure, which is indicated in a ruling.

Within three days after taking the case for proceedings, the court must inform about that the accused, his lawyer, the injured, the civil claimant, the civil defendant or their representatives, sending to them an established notice with the explanation of rights and duties of the addressee, including the procedure of appealing to the court and the deadlines.

Article 292. Decrees adopted while preparing cases for trial

The judge who has undertaken a case examines the materials of the case and within 15 days after having undertaken the case takes one of the following decisions on:

appointment of court trial;
termination of criminal proceedings or criminal prosecution;
suspension of the criminal proceedings;
return of the case to the prosecutor;
return of the case for additional preliminary investigation;
to forward the case by jurisdiction.
Self-challenge.

Article 293. Decree on appointing court trial

The court adopts a decree on appointing a court trial, if there are no grounds for termination of the proceedings in the criminal case, and if the pre-trial proceedings had been conducted without essential breach of criminal proceedings law.

The decree on the appointment of court trial must include a note about the accused person, criminal law the violation of which is incriminated, decree on measures to secure appearance and measures to compensate for the damage done, decrees concerning the appeals, challenges and other statements by trial participants, decree on the composition of the court, decree on the person selected by the accused as a defense counsel, or allowed to be appointed as one, the list of people to be summoned to trial, data on court trial place and time, decision to hold closed-door session, as specified in this Code, decision to apply protective measures for trial participants.

The court trial must be appointed within 10 days after the decree on the appointment of court trial.

Article 294. Decree to terminate criminal case proceedings or criminal prosecution

When there are grounds specified in this Code, the judge adopts an argued decree to terminate the proceedings of the case or criminal proceedings, when this is possible

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without trial. If considerations ruling out criminal prosecution concern only a certain part of the accusation, the case proceedings are terminated for that part.

The decree to terminate the proceedings or criminal prosecution includes a decision about the elimination of the means of securing the appearance and damage compensation, and means of criminal proceedings enforcement, it also determines the destiny of exhibits.

The copy of the decision on the termination of the case or criminal proceedings is given to the accused, the defense counsel, the prosecutor, the injured party, the civil claimant, the civil defendant and their representatives.

Article 295. Decree on suspension of criminal proceedings

If the accused is in hiding, or his whereabouts are unknown, or he is severely ill, or he enjoys criminal immunity, or in case of force major which rules out his participation in the trial, as well as in other cases envisaged in article 31 of this Code, the court adopts an argued decree to suspend the proceedings.

The proceedings can be suspended concerning one out of a few accused persons, provided that does not restrict his right for defense.

Article 296. Decree to return the case to the prosecutor

The judge adopts a decree to return the case to the prosecutor when the indictment does not comply with the requirements of this Code.

The decree on return of the case to the prosecutor, in addition to the grounds for such a decision, indicates the deadline within which the prosecutor must eliminate the flaws in the indictment. If the accused is under arrest, the above mentioned deadline shall not exceed 3, and in other cases, 7 days.

Article 297. Decree to return the case for additional preliminary investigation

The judge adopts a decree to return the case for necessary investigatory actions only when the court finds out that the inquest and preliminary investigation bodies committed essential breaches of the criminal proceedings law which can not be eliminated during trial.

Article 298. Decree to forward the case by jurisdiction

If the judge finds out that the case is not under his jurisdiction, he rules to forward the case its jurisdiction, indicating the legal grounds for such decision and the court which has jurisdiction over the case.

Article 299. Decree on self-challenge

When the judge finds out that in the case under his consideration there is a ground for challenge envisaged in article 90 of this Code, he decides to make a self-challenge transferring the case to the cassation court.

Article 300. Decree on means to secure appearance

At the same time with adopting decrees, except the decree to forward the case by jurisdiction, the court must consider the issue of using or not using means to secure appearance of the accused, and whether these means are justified or unjustified, if this means had been selected.

CHAPTER 41. GENERAL CONDITIONS OF COURT TRIAL

Article 301. Invariability of the court composition when receiving the case

Any case is examined by the same composition of the court.

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In case of impossibility of the judge's presence at the trial, he is substituted by another judge, and the examination of the case begins anew.

Article 302. Participation of the defendant in the trial

Court trial is done in the presence of the defendant whose attendance of the court is mandatory.

Article 303. Consequences of the defendant's failure to attend

In case of the defendant's failure to attend the examination of the case is postponed. In the case of the defendant's failure to attend without good motives, the latter can be brought in by force, by court decree, and in case of availability of grounds specified in this Code, means to secure his appearance can be applied to him or replaced with a more severe ones.

Article 304. Participation of defense lawyer in trial and consequences of his failure to attend

When participating in court trial, the lawyer enjoys equal rights with the accused. In the case of the lawyer's failure to attend the trial and impossibility to replace the latter by another lawyer, the trial of the case is postponed. The replacement of an absent lawyer is allowed only with the consent of the accused. If the participation of the lawyer invited by the accused is impossible time-wise, the court postponing the session, is entitled to propose to the accused to select another lawyer, and in case of the accused person's refusal, to appoint a new lawyer. When postponing the case, and resolving the appointment of the lawyer, the court takes into consideration the reasonability of such ruling (time spent on the court trial, complexity of the case, and the duration of examination of case materials by the new lawyer, etc.) The court provides sufficient time to the new lawyer to familiarize with the case. He is entitled to repeatedly appeal against any action, which had been performed prior to his participation in the case.

Article 305. Participation of civil defendant in court trial and consequences of his failure to attend

To defend his rights and legal interests concerning the suit, the civil defendant during court trial enjoys the rights specified in this Code. The failure of the civil defendant or his representative to attend the session does not inhibit the court examination and reviewing the civil claims.

Article 306. Prosecutor's participation in the court trial and consequences of his failure to attend the session

The prosecutor during court trial is entitled to the rights specified in this Code and supports the prosecution in court.

Supporting the prosecution, the prosecutor is governed by the demands of law, and his inner conviction based on the proofs examined during court trial.

The prosecutor must reject the prosecution if he is convinced that it had not been confirmed during court trial.

In case of the prosecutor's refusal from the prosecution, the court terminates the proceedings and the criminal prosecution, and if the prosecutor refuses from separate sections of the prosecution, the court terminates the proceedings in the respect of this section.

In the case of the prosecutor's failure to attend and when necessary to replace the latter with another prosecutor, the case is postponed. The new prosecutor is provided with sufficient time to prepare and support the prosecution.

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Article 307. Participation of the injured person in court trial and consequences of his failure to attend the session

Taking part in the court trial, the injured person enjoys the rights specified in this Code. In case of the injured person's failure to attend the session, after hearing the opinions of the parties, the court resolves in the absence of the injured, whether it is possible to adopt a complete, comprehensive, objective, grounded verdict.

In case of failure to attend the session without good motives, the court is entitled to bring him in forcefully, if according to the court, his presence is necessary.

Article 308. Participation of civil claimant in the court trial and consequences of his failure to attend the session

The civil claimant during the court trial supports his initiated civil claim.

In the case of the civil claimant's or his representative's failure to attend, the court leaves the civil claim without consideration, while the civil claimant is entitled to initiate a claim by civil proceedings. The court is entitled, by appeal of the civil claimant or his representative, to examine the civil claim in his absence.

Article 309. Limits to court trial

Consideration of the case in court is done only in relation to the accused and only within the limits of the charges by which the accused had been brought to court.

Article 310. Postponement of court trial and suspension of criminal case

In the case of the impossibility of examination of the case, as a result of the absence of one of the persons summoned to the trial, or by the appeal of the parties or as a result of the court's initiative to demand new proofs, the court postpones the examination and takes measures to summon the absent persons or to demand new proofs. The court establishes a deadline by which the case will be postponed.

If the defendant is hiding, in case of the mental or other severe illness, which makes him incapable of coming to the court, the judge suspends the proceedings against this accused person until the accused is found or has recovered, and resumes the examination of the remaining accused persons. If separate examination makes the comprehensive, objective and complete examination difficult, the court suspends the whole proceedings.

The court is entitled to announce the search for the hiding accused person.

Article 311. Sending the criminal case to additional preliminary investigation

The court sends the case to additional preliminary investigation: when inquest or preliminary investigation bodies essentially breached the criminal proceedings legislation, in order to eliminate these breaches, if these can not be eliminated, during the court trial; by the prosecutor's appeal, when there are grounds to substitute the prosecution with a more severe one or different from the initial one for factual reasons.

Article 312. The issue of means to secure appearance

During court trial, the court hearing the explanations of the accused and the opinions of other parties, is entitled to select, alternate or eliminate the means to secure the appearance.

Article 313. Procedure of making decisions at court sessions

The court makes decisions on all issues that are resolved during court trial.

Decisions on sending the case for additional examination, termination or suspension of the case, altering or eliminating the means of securing the appearance, challenges,

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appointment of expert examination are adopted by the court in the judges' conference room and must be formulated in the form of separate documents, signed by the all members of the court.

All other decisions, at the discretion of the court, can be adopted either by the above mentioned procedure, or on site after the deliberations of the judges, incorporating the decision into the protocol of the court session.

The decisions adopted during court trial are publicized.

Article 314. Procedure of court session

At the moment of the entrance of the judges into the session room, the secretary announces, "The court is coming!" All persons present at the court session rise to their feet.

All participants of the court trial address the court as "Honorable court", after that make all the necessary statements on foot, make appeals and challenges. Deviation from the form of address is allowed by permission of the chairman.

The chairman's instructions are mandatory for each person participating in the court trial or present at the court session.

Persons under sixteen years of age are not allowed to enter the session room, unless they are a party or witnesses.

Article 315. Court session protocol

At the sessions of first instance and appellate courts a protocol is conducted.

The protocol can be handwritten or typewritten or computer typed.

It is mandatory that the court session protocol indicates the session place and date, mentioning the beginning and end, the case under consideration, the name and composition of the court, the secretary, the accused, the defense counsel, the defendant, the injured party, the civil claimant, the civil defendant or their representatives, other persons summoned by the court, if they are present, data on the identity of the defendant and the means to secure appearance, the actions of the court in the order in which they took place, statements and appeals made by the participants of the case, those decrees of the court which were made without leaving for the conference room, notes that the decrees were made in the conference room, explanation of rights and duties to participants of the case, the content of testimonies, questions asked to the expert and his answers, results of court examinations and other actions performed at court session aimed at collection of proofs, mentioning those facts which the case participant asked to record in the protocol, court deliberations and the defendant's last word briefly outlined, a note on declaration of the verdict and the deadlines and procedure of appeal. In addition, the protocol indicates the facts of disorder in the court room and disrespectful behavior towards the court, about the offender, and the punitive measures taken by the court.

The court session protocol must be written at the court session, be prepared and signed by the chairman and the court session secretary no later than in 5 days after the end of the court session.

The chairman must give a possibility to the parties to familiarize themselves with court session protocol.

The parties as well as the person interrogated at the court session are entitled to appeal to familiarize themselves with the record of their testimonies in the protocol. Such a right must be given no later than on the next day after the appeal.

Article 316. Comments on court session protocol.

Within five days after signing the court session protocol, the parties are entitled to make comments on the protocol.

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The comments on the court session protocol are considered by the chairman in the presence of the person who presented the comments and the court secretary. The grounded court decree on confirmation of the comments made and their relevance, or on their rejection, is attached to the court session protocol.

CHAPTER 42. PREPARATORY PART OF COURT SESSION

Article 317. Opening a court session

The chairman opens the court session for examination of the criminal case at the appointed hour and announces what case is under examination.

Article 318. Checking the presence of persons summoned to the court session

The court session secretary reports to the court about the presence of the parties, witnesses, experts, specialists, and the translator at the court and on the reasons for failure to come of the absent persons.

Article 319. Sending the witnesses out of the court room

The chairman instructs the witnesses to leave the court room to a room allocated for them.

Article 320. Explanation of rights, responsibilities and duties to the translator

The chairman announces the name of the translator and explains to the latter the rights, responsibilities and duties specified in Article 83 of this Code.

Article 321. Resolution of challenge to the translator

The chairman explains to the present parties, that they are entitled to challenge the translator and the legally specified grounds for challenge.

Hearing the persons specified in paragraph 1 of this Article, the court resolves the presented challenge. When necessary, the court leaves for the conference room to make a decision.

Article 322. Announcement of court composition and resolution of challenge to judges

The chairman announces the court composition and explains to the parties their right to challenge individual judges participating in the collegiate court as well the whole court composition. He explains the grounds for challenging the judges.

The challenge to the judge or court is resolved as specified in paragraph 4 of Article 90 of this Code.

Article 323. Identification of the defendant, clarification of timely handing of the indictment copy to the defendant

The chairman specifies the identity of the defendant, clarifying his surname, name, birth date, month, day, birth-place, marital status, and other data characteristic of the defendant.

The chairman asks the defendant whether the copy of the indictment was handed to him and when. If this document was not handed within a period specified in this Code, the court session is postponed for three days and the copy of the indictment is handed to the defendant.

Article 324. Announcement of the prosecutor and resolution of his challenge

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The chairman announces the name of the person who supports the prosecution (surname, name, class, position) and explains to the parties that they are entitled to challenge the prosecutor and the challenge grounds specified in Article 91 of this Code.

If one of the parties challenges the prosecutor, the court hears the opinion of the other party before making a decision. The court decree on the challenge must be grounded.

In case of necessity to satisfy the challenge and to substitute the prosecutor at the given court session, the court postpones the trial.

The new prosecutor participating in the case is given an opportunity to study the case.

Article 325. Announcement of the representative of the injured person, the civil claimant, and resolution of their challenge

The chairman, while announcing the legal representative of the injured person and the civil claimant, explains to the parties that they are entitled to challenge the representative of the injured person and the civil claimant and the challenge grounds.

The ruling of the challenge is made after hearing the other parties and must be grounded.

Article 326. Defense of the defendant and resolution of issues ruling out the participation of the given defense counsel

The chairman announces the name of the defense counsel, explains to the parties the circumstances ruling out the participation of the defense counsel in the case, specified in Article 93 of this Code, and asks the parties whether they appeal for dismissing the defense counsel from the case.

In case of availability of circumstances specified in Article 93, part 1, paragraphs 1-3, of this Code, the court is entitled to dismiss the defense counsel from the proceedings, at the court's initiative.

Article 327. The expert, the specialist, and resolution of challenges to these persons

The chairman introduces the expert and the specialist and governed by the rules established in Articles 96 and 97 of this Code, resolves the presented challenges.

If the challenge to the expert is accepted, the court decides to invite another expert, taking into account the opinion of the parties. The issue of challenging the new expert is resolved based by general procedure.

The rules specified in this Article are also applied when a specialist participates in the case.

Article 328. Explanation of rights and responsibilities to the defendant

The chairman explains the rights and responsibilities specified in Article 65 of this Code to the defendant.

Article 329. Explanation of rights to injured person, civil defendant and civil claimant

The chairman explains their rights and responsibilities specified in Articles 59, 61, 79, 75 of this Code, respectively, to the injured person, civil defendant and civil claimant and their representatives during the court examination.

Article 330. Explaining the rights and duties to the expert and the specialist

The chairman explains the rights and duties specified in Article 85 of this Code to the expert.

The chairman explains the rights and duties specified in Article 84 of this Code to the specialist.

Article 331. Appeals and their resolution

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The chairman asks the prosecution party and the defense party whether they have appeals to demand new proofs and attaching them to the case. The appealing person must demonstrate for the clarification of what circumstances the additional proofs are necessary.

Each initiated appeal must be considered by the court, the opinion of the other part must be heard. If the circumstances about which the appeal was made can be significant for the case or the material whose probatory significance is disputed, was obtained with essential breach of law, the court satisfies the appeal. The court adopts a decree on the rejection of the appeal. Rejection of the appeal by court does not restrict the rights of the appealing person to make the same appeal later, depending on the process of trial.

The court is entitled, by its own initiative, to decide the summoning of witnesses, appointment of examination, demanding other proofs.

Article 332. Resolution on examination of the case in the absence of the witness, expert and specialist

In case of absence of one of the summoned witnesses, specialist or expert, the court hearing the opinion of the parties, decrees to continue or postpone the examination of the case. The court examination can continue if the non-appearance of one of the mentioned persons will not inhibit the complete, comprehensive and objective examination of circumstances of the case.

When adopting a decree to postpone case examination, the court is entitled to interrogate the present witnesses, experts and specialists, the injured person, the civil claimant, the civil defendant or their representatives. If after postponement, the case examination is conducted by the same court composition, the mentioned persons are summoned to court session again only in case of necessity.

CHAPTER 43. TRIAL

Article 333. Beginning of trial

The chairman announces that the court begins the trial. The trial begins with the presentation of the final part of the indictment by the prosecution.

Article 334. Clarification of the defendant's position

The chairman explains the essence of the charges to the defendant, the legal qualification of the criminal act, the grounds and the amount of the brought civil suit. In case of several defendants, a similar clarification is done to each of them.

The chairman asks each defendant whether they plead guilty and specifically for what.

The defendant must be told that he is not restricted with statements accepting or not accepting one's guilt made during preliminary investigation, is not obliged to answer to the question and the refusal to answer can not be qualified to his detriment.

The chairman asks the defendant whether he, partially or in full, accepts the civil suit brought against him. If the defendant answers to this question, he is entitled to justify it.

The parties are entitled to ask such questions to the defendant that are aimed at the clarification of the defendant's position.

Article 335. Order of proof examinations

After having heard the opinions of the parties, the court makes a decision on the procedure of examinations of proofs.

Article 336. Interrogation of the defendant

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The chairman proposes to the defendant to testify on the charges brought against him and on other circumstances of the case. It is explained to the defendant that he is entitled not to testify and that can not do harm to the defendant.

After the testimony made by the defendant, he is first interrogated by his defense counsel, other defendants and their defense counsels, the civil defendant and his representative, and then, the prosecutor, the injured person, the civil claimant and his representative.

The judge asks questions to the defendant after interrogation by persons mentioned in paragraph 2 of this Article. At the end, the right to ask questions to the defendant is granted in any case to his lawyer.

The chairman dismisses the questions irrelevant to the case.

By permission of the chairman, the defendant is entitled to testify at any moment during the examination of each proof.

During interrogation the defendant is entitled to use notes and documents.

After reading the notes and documents relevant to the testimony, the documents at the request of the court, and the notes with the defendant's consent are presented to the court for attachment to the case.

During the interrogation of the defendant, the parties and the court can present items or documents attached to the case or possessed by the party. The parties are entitled to appeal for publicizing these documents and attaching them to the case. The parties and the court are entitled to ask questions to the defendant, related to the items and documents presented to him. The court session protocol must indicate what items and documents were presented to the defendant and by which party.

In exceptional cases, when it necessary for comprehensive, complete and objective examination of the case, by a grounded court decree, the defendant can be interrogated in the absence of the other defendant. In this case, after the return of the defendant to the court room, the testimonies given in his absence and recorded in the protocol are read to him and he is given an opportunity to provide necessary testimonies, ask questions to the defendant interrogated in his absence.

Article 337. Publicizing the testimonies of the accused and the defendant

It is allowed to publicize the testimonies provided by the accused during the preliminary investigation, during previous trials or during the given trial, as well as the reproduction of testimony records:

when the defendant refuses to testify during the trial on the essence of the charges;
when there are essential contradictions between testimonies provided during the given trial and the previous testimonies. In this case publicizing the defendant's testimonies is possible only after testimony and after answering to the questions by the defendant. Reproduction of the testimony record is not allowed, without prior publicizing those testimonies of the accused, the defendant which are contained in the protocol of the appropriate interrogation or in the trial protocol.

Article 338. Interrogation of Convict

The convict if interrogated about circumstances which have been established in the valid verdict adopted in relation to him for the purposes of interrogation of the defendant, as specified in the rules of this Code.

Article 339. Clarification of reasons for the witness's refusal to testify and warning about the responsibility for refusal or evasion from testimony and for perjury

Prior to interrogation, the chairman finds out the identity of the witness and explains to him:

that he is entitled not to testify against his spouse or close relative;

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the responsibility for refusal or evasion from testimony and for perjury;

The implementation of the requirements specified in paragraph 1 of this Article is recorded in the trial protocol.

A witness under sixteen years of age is not warned about the responsibility for refusal or evasion from testimony and for perjury.

Article 340. Procedure of the interrogation of the witness

Witnesses are interrogated apart from each other and in the absence of not yet interrogated witnesses.

The chairman clarifies the witness's relations with the defendant, the injured person, the civil claimant, the civil defendant and other persons participating in the case and suggests to the witness to announce all he knows about the case. In this case it is not allowed to interrupt the witness with questions.

The witness summoned to the trial by appeal of a party or presented by the party, is first interrogated by the appealing party or by the person who presented the witness, and after that, by other persons in that party, and finally, the representatives of the opposite party, and the court.

The witness summoned by the initiative of the court is first interrogated by the prosecution party, then, the defense party, and finally, the court.

Article 341. Interrogation of an under-age witness

Interrogation of an under-age witness, if it is necessary for complete, comprehensive and objective examination of the circumstances of the case, can be conducted by appeal of the parties or by court initiative, in the absence of the defendant. After return to the court room, the testimonies of the under-age witness are publicized for the defendant; the latter is given an opportunity to ask questions to the witness and to testify on the data provided by the witness.

A witness under sixteen years of age must be taken from the court room after the interrogation, except those cases when the court by appeal of a party or by its own initiative finds it necessary that the witness should be present.

Article 342. Publicizing the testimonies of witness

Publicizing the testimonies of the witness during the inquest, preliminary investigation or the preliminary trial and the reproduction of the audio records of these testimonies during the trial is allowed when the witness is absent from the trial for reasons which rule out the possibility of his presence, when there are essential discrepancies between these testimonies and the ones the witness gave in court, and in other cases envisaged in this Code.

The reproduction of audio records of the testimonies of the witness is possible only after publicizing the interrogation protocol or the court trial protocol where his testimonies are recorded.

Article 343. Interrogation of the injured person

The injured person is interrogated in accordance with rules specified in Articles 339-342.

Article 344. Examination of the expert's conclusion during court trial

If an examination was done during preliminary investigation, at the court trial the parties and the court study the expert's conclusion. When necessary, the expert is invited to the trial and participates in the examination of the proofs relevant to the subject of examination, he asks questions related to the subject of examination during the

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interrogation of the defendant, the injured person and witnesses, participate in the examination of exhibits and other investigatory actions.

After having examined the expert's conclusion, the court is entitled, by appeal of parties or by its own initiative, to appoint repeated or additional examination, hearing in this case the opinion of each party.

Article 345. Expert examination during court trial

If no expert examination was appointed during the preliminary investigation, the parties are entitled to appeal for appointing it during court trial.

The party by whose appeal the expert examination is conducted presents those questions, in the written form, on which the expert must make a conclusion, indicating what must be examined, can indicate who should be involved as an expert. The other party is entitled to express its own opinion about that.

Appointing examination by court initiative, the chairman proposes to the prosecution and defense parties to formulate the questions to the expert and express their ideas as to whom the expert examination must be entrusted and what must be examined. The court makes the final decision.

A recess is announced, if any person makes an appeal on behalf of the defense or prosecution party during formulation of opinion. The parties are entitled to present items and documents as objects of expert examination. The court must make justified ruling when excluding the items from these objects.

The copy of the court decree on appointment of expert examination is handed to the appointed expert. An explanation is made about his rights and duties. The expert's conclusion is publicized and examined as established in article 344 of this Code.

Article 346. Interrogation of the expert

After publicizing of the expert's conclusion, he can be asked questions to clarify his conclusions or to complete them.

The expert is first interrogated by the person by whose appeal the examination was appointed, then, by other persons in that party, then, by the opposite party representatives and finally by the court.

When expert examination was conducted with the consent between the parties or by the court's initiative, the expert is first interrogated by the prosecution party, then by the defense party and finally by the court.

Article 347. Appointment of repeated or additional expert examination

When the expert's conclusion is regarded as not sufficiently clear or complete, in case of disagreement between the experts, the court can appoint additional or repeated examination, preserving the rules mentioned in this Code for execution of examination in pre-trial proceedings.

Article 348. Examination of exhibits

The exhibits in the court and the items presented by the parties and recognized as exhibits are examined by the prosecution party, the defense party and the court. If a party presented an item recognized as an exhibit, this party is the first to participate in its examination. During examination, the exhibits can be presented by the chairman to the witnesses, the expert, the specialist. These persons must attract the court's attention to all circumstances discovered during the examination of the exhibits and relevant for the case. The examination of those exhibits which can not be brought to the court is done in accordance with rules specified in paragraph 1 of this Article.

Article 349. Publicizing of documents

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Documents attached to the case during the preliminary investigation or submitted to the court during the session are publicized, if they indicate or establish issues relevant for the case.

Article 350. Examination of the place and building

If the court after having heard the opinion of the parties finds that it is impossible to confine oneself to publicizing the protocol on the examination of the place and building done during the investigation, or if these actions had not been done, the examination of the place and building is done during the court trial.

When necessary, the examination of the place and the building can be done with participation of the witnesses, experts, and specialists.

Article 351. Identification, investigatory experimentation, obtaining samples for examination

Identification, investigatory experimentation, obtaining samples for examination during the court trial is done in accordance with provisions specified in this Code, without attesting witnesses, however, with participation of the parties.

Identification, investigatory experimentation, obtaining samples for examination can be done at a closed-door court session, if it is necessary based on the circumstances of the case.

Article 352. Limitations on proof examination

The prosecutor is entitled to appeal to limit the examination of the proofs with proofs that had been examined up to-date. The court, having heard each party, is entitled to satisfy this appeal. The court turns down the appeal, if it finds that the not yet examined proofs concern such essential circumstances which had not yet been sufficiently elucidated.

The defense party is entitled to refuse from the examination of those not yet examined proofs which were submitted, attached to the case by this party. Such refusal is mandatory for the court.

Article 353. End of court trial

When proofs have been examined, the chairman:

explains to the parties that they are entitled, at the court dispute phase, and the court, when adopting the verdict, to be based only on those proofs which were examined during the trial;

asks the defense and prosecution parties whether they appeal for completion of the trial, for the examination of which proofs and discovery of what specific circumstances of the case.

If an appeal is made to complete the court trial, the court adopts it governed with the requirement of comprehensive, complete and objective examination of circumstances of the case. In case of satisfying the appeal, the court trial continues.

If no appeal is made to continue the court trial, or the court turns it down with argumentation, the chairman announces the court trial over.

CHAPTER 44. ORAL ARGUMENT AND THE DEFENDANT'S LAST WORD

Article 354. Content and procedure of oral argument

After the end of court trial, the chairman announces that the court passes to the hearings of oral argument and the defendant's last word.

If one of the participants of the oral argument appeals to be given time for preparation of oral argument, the chairman announces a recess for the duration of the preparation time.

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The oral arguments consist of speeches made by the prosecutor, the injured person, or his representative, the civil claimant or his representative, the civil defendant or his representative, the defense counsel, and the defendant, in the given order.

If the prosecution supports several charges, several injured persons participate in the case, defense counsels, civil defendants, and their representatives, civil claimants and their representatives, defendants, the chairman gives them time to decide between themselves the order in which they will take the floor. When necessary, a recess can be announced for that purpose. If these persons do not reach a consensus on the order of oral arguments, the court, hearing their opinion, adopts an appropriate decree.

In their speeches the parties have no right to be based on proofs which had not been examined during court trial. To support one's conclusions, when necessary to use new proofs, the party appeals for resumption of the court trial, mentioning what issues exactly require additional examination and based on what new proofs. The court, hearing the opinion of the other party, makes a grounded decree to satisfy or turn down the appeal. The court can not limit the oral arguments with a definite deadline, however, the chairman is entitled to interrupt the persons participating in the oral argument, if they refer to issues irrelevant to the examined case.

All participants of oral argument after their speeches are entitled to yet another speech in the form of reply. The right for the last reply always belongs to the defense counsel and the defendant.

Article 355. The defendant's last word

When the oral argument is over, the last word is given to the defendant. During the defendant's last word it is not allowed to ask him questions.

The court can not limit the defendant's last word with a definite deadline. The chairman is entitled to interrupt the defendant when the latter refers to obviously irrelevant issues. If in the last word the defendant announces new circumstances essential for the case, the court resumes the court trial.

Article 356. Retirement of court to deliberation room

After having heard the defendant's last word, the court retires to the deliberations room to adopt a verdict or decree.

CHAPTER 45. ADOPTING THE VERDICT

Article 357. Adopting the verdict

The court adopts the verdict in the name of the Republic of Armenia.

Article 358. Legal, grounded and argumented verdict

The court verdict must be legal and grounded.

The court verdict is legal if it was adopted in accordance with the Constitution of the Republic of Armenia, this Code and those laws whose norms are applied when resolving the given case.

The court verdict is grounded, if:

its conclusions are based only on proofs examined during the court trial,
these proofs are sufficient to evaluate the charges,
the circumstances established and recognized by the court coincide with the proofs examined in the court.

The court verdict must be argumented. All conclusions and decrees described in the verdict are subject to argumentation.

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Article 359. Secrecy of deliberations room

The court adopts the verdict in the deliberations room. Only the judges in charge of the given case can be in that room. The presence of other persons is not allowed.

The judges can make a recess for necessary rest, when the working day is over, also on weekends and holidays.

The judges have no right to publicize the secrets of the deliberations room.

Article 360. Issues subject to resolution by court, when adopting the verdict

When adopting the verdict the court resolves the following issues in the following order:

whether the deed of which the defendant is accused is proved;

whether this deed corresponds to the norms specified in the Special Part;

whether it is proved that the defendant committed that deed;

whether the guilt of the defendant is proved in committing this crime; if yes, then by what article and part, paragraph of the Penal Code it is specified;

whether it is proved that there are extenuating or aggravating circumstances;

whether the defendant is liable to punishment for the committed crime;

what punishment must be given specifically to the defendant;

whether the defendant must undergo the punishment;

the type of correction or disciplinary institution, with the appropriate regime, where the defendant must undergo his punishment in form of imprisonment;

whether the civil claim is liable to satisfaction, in whose favor and to what extent, whether the property damage inflicted is liable to compensation, if no civil claim was submitted;

whether the compensation for damage inflicted to property by the crime or the possible seizure of property will be lifted;

what to do with exhibits;

whether the means of securing appearance will be eliminated, alternated or a means of securing appearance will be selected (what kind of means);

who and in what amount will pay the court costs;

whether enforced medical treatment for alcoholism or drug addiction must be applied to the defendant who has been convicted for the crime, whether wardship must be appointed.

When accusing the defendant of several crimes, the court resolves the issues indicated in paragraphs 1-9 of the first part of this Article separately for each crime.

In case of several defendants all issues indicated in the paragraphs of the first part of this Article are resolved in relation to each defendant separately.

Article 361. Discussion of the defendant's imputability

When during investigation, preliminary investigation or court trial the issue of the defendant's imputability has arisen and the issue of feeling responsibility for his actions, on which occasion a medical and mental examination was appointed, the court must discuss that issue again when adopting the verdict.

Finding that the defendant was in the imputable state at the moment of performing the actions, or after committing the crime he became mentally ill, which deprived him of the capacity to be responsible for his actions, the court adopts an appropriate decree.

Article 362. Establishment of supervision over convict on probation

When using probatory conviction the court decrees whether it is necessary to establish supervision over the convict on probation and who in particular is responsible for that.

Article 363. Resumption of court trial or forwarding the criminal case to additional investigation

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If during discussion of issues mentioned in Articles 360-362 of this Code in the deliberations room, the court finds that for their resolution the court trial must be completed, the court rules to resume the court trial. After having finished the resumed court trial, the court begins court deliberations again and hears the defendant's last word after that retires to the deliberations room to adopt a verdict.

Finding grounds for forwarding the case for additional investigation specified in Article 311 of this Code, the court adopts a justified decree on that.

Article 364. Types of verdicts

The court verdict can be a conviction or an acquittal.

Article 365. Conviction

The judgment of conviction contains the recognition of the defendant's guilt, subjecting the defendant to criminal punishment, and in cases envisaged in this Code, the court decree not to subject him to criminal punishment or exempt him from punishment.

The conviction can not be based on guesses and is adopted only when the defendant's guilt is proved during court investigation. The guilt of the defendant in committing the crime can be considered proved when the court governed with the presumption of innocence, based on inquiry results and reliable proofs, interpreting all unproved suspicions in favor of the defendant, provides affirmative answers to questions contained in paragraphs 1-4, part 1, Article 360.

Article 366. Acquittal

The acquitting verdict recognizes and states the defendant's innocence in relation to the accusation for which criminal proceedings were initiated and he was put on trial.

The court must, in case of one of the grounds specified in Article 35, part 1, paragraphs 1-3, and part 2, of this Code, adopt an acquitting verdict.

If during the adoption of the acquitting verdict the person who committed the crime is unknown, the court after validating the verdict sends the case to the prosecutor to decide the initiation of criminal prosecution against a new person.

Article 367. Resolution of civil claim when adopting the verdict

When adopting the verdict the court satisfies the civil claim in full or partially or turns it down or leaves without consideration, depending on the grounds and amount of the claim.

Article 368. Issue of providing the civil claim

In case of satisfaction of the civil claim, the court is entitled before the verdict becomes valid, to decree on measures to provide the claim, if such measures had not been previously taken.

Article 369. Compiling the verdict

After having resolved all necessary issues, the court starts putting together the verdict. The verdict is compiled in the language of the court trial, in clear and understandable terms.

The verdict consists of the introduction, description and argumentation, and conclusion.

The verdict, in whole and on each page, must be signed by all judges. Judges who have a special opinion also sign the verdict.

Corrections in the verdict must be agreed upon and approved with signatures of all judges, in the deliberations room, prior to announcement of the verdict.

Article 370. Verdict introduction

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The introduction to the verdict indicates:
that the verdict was adopted in the name of the Republic of Armenia;
the time and place of adoption of the verdict;
the name of the court, court composition, court session secretary, the prosecutor, the defense counsel, the civil claimant, the civil defendant, their representatives;
the defendant's name, surname, date of birth, month, day, and birth place, marital status, place of work, occupation, education, and other data related to the defendant relevant to the case;
the criminal law by which the defendant is put on trial.

Article 371. Descriptive and argumentation part of the verdict

Descriptive and argumentation part of the verdict indicates:
the content of the accusation;
the court's conclusion on the circumstances of the case, whether the accusations proved and the defendant's guilt;
the proofs on which the court's conclusions are based;
other norms of law by which the court was governed when adopting the decree.

Article 372. Conclusion of verdict

The conclusion indicates:
the court's rulings;
the procedure of appeal against court's verdict.

Article 373. Publicizing the verdict

After having signed the verdict, the court returns to the court session room and the chairman announces the verdict. All persons present in the room listen to the verdict on their feet.
If the verdict is compiled in the language which the defendant does not understand, then immediately after announcement of the verdict, the translator must read it in the language known to the defendant.
The chairman explains to the defendant and other parties the procedure of appeal against court's verdict and the deadline. The right of the acquitted person must be explained to him to get compensation for illegal putting on trail, illegal detention, and being illegally charged with a crime.
When convicting the defendant for life, the right for appeal for pardon is explained to him.

Article 374. Release of the defendant from arrest

In the case of acquittal, or without appointing punishment, convicting without appointment of punishment, or putting on probation, or postponing the execution of verdict, or punishment not related to imprisonment, or convicting to imprisonment, which does not exceed the term served by the defendant under detention, if the defendant is under arrest, the court immediately releases the defendant in the court room.

Article 375. Handing the copy of the verdict to the convict or the acquitted person

No later than in 5 days after the announcement of the verdict, its copy must be handed to the convict or the acquitted person, his defense counsel and the prosecutor. The injured person, the civil claimant, the civil defendant, their representatives get the verdict copy within the same period by their appeal.

PART 10. PROCEEDINGS IN APPELLATE COURT

CHAPTER 46. APPEAL

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Article 376. The right to appeal

The convict, the acquitted person, their defense lawyers and legal representatives and the prosecutor are entitled to appeal against the verdicts and decisions of the first instance court which have not come into legal force. The civil claimant and the civil defendant or their representatives are entitled to appeal in the part of the civil claim. The injured and his representatives can make an appeal only on the cases instituted on the basis of the complaint of the injured person.

The prosecuting attorney who participated in the case as the prosecutor is entitled to appeal the case. The prosecutor is not entitled to appeal the verdict in the part of the civil claim.

Persons who do not participate in the case as parties also are entitled to appeal on the civil claim, if the verdict or the decision concerns their interests.

Article 377. The court considering appealed cases

The cases appealed against the verdicts and decisions of the first instance court are considered in the appellate court of criminal and military cases (referred to below as the appellate court).

Article 378. Procedure of filing the appeal

The appeal is submitted to the appellate court and its copy is submitted to the court which made the verdict, in accordance with requirements specified in article 382 and article 383, part 2.

Article 379. Deadlines of filing the appeal

The appeal is filed with 15 days after the publicizing of the verdict of the first instance court.

The appeals filed after this deadline are left without consideration.

Article 380. Procedure of recovering the appeal deadline

In the case of missing the established deadline for appeal for good motives, the persons entitled to appeal can petition to the court, which took the decision or verdict to recover the missed deadline. The petition for the recovery of the missed deadline is considered at a court session by the court which took the decision or verdict, which is entitled to summon the person who submitted the petition for explanations.

The decision to turn down the petition on the recovery of the missed deadline, within 10 days, can be appealed in the appellate court, which is entitled to recover the missed deadline and consider the case observing the requirements specified in article 382 and 383, part 2 of this Code.

In the case of satisfying the petition, the verdict or decision are suspended.

Article 381. Appeal

The appeal must contain:

the name of the court to which the appeal is addressed;

data on the applicant, indicating his procedural status, place of residence or accommodation;

the verdict or decision which is appealed against and the name of the court which made the decision;

a note on whether the verdict or decision is appealed against in full or partially;

the conclusions of the applicant on what are the inaccuracies of the verdict or decision and the essence of the appeal;

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if any, other proofs, with which the applicant supports one's demands and which must be examined in the appellate court, including the proofs which the first instance court previously did not consider;
the list of materials attached to the appeal;
the signature of the applicant.

In the case when the appeal does not conform with the above requirements, which prevent the case from being considered, the appeal is regarded as filed but is returned by the court for repeated compilation and a concrete deadline is mentioned. This deadline is not included into the deadline for consideration of cases in the appellate court. In the case of failure to submit the appeal within the deadline appointed for repeated compilation, the appeal is regarded as not filed.

Article 382. Notification about the filed appeal

The court, which made the decision or verdict notifies about the filed appeal the convict or the acquitted parson, the accused, the injured persons and his representatives, the civil claimant, the civil defendant and their representatives, if the appeal concerns their interests. The copy of the appeal is sent to these persons with clarification that they have an opportunity to make written objections to the appeal, and the deadline for the objections.

The received objections to the appeal are attached to the case.

The parties are entitled to present new materials to support their appeal and the objections of the other party to that appeal, or petition to summon the witness or expert they mention.

Article 383. Consequences of appeal

The appeal against the verdict suspends the verdict preventing it from coming into legal force.

When the deadline for appeal expires, the court which made the decision or verdict forwards the case together with the objections to the appeal to the appellate court and notifies the parties about that.

The applicant is entitled to revoke the appeal before the beginning of the session in the appellate court.

Article 384. Decisions made in the first instance court which are liable to appeal

According to the rules of this chapter, only the final decision of the court is liable to appeal, if not otherwise specified in this Code.

CHAPTER 47. CONSIDERATION OF THE CASE IN THE APPELLATE COURT

Article 385. Limits to consideration of the case in the appellate court

The appellate court is not restricted with the appeal and can consider the case in complete scale as well as the additional proofs contained in the case.

Article 386. The subject of the appeal

Based on the appeal, the appellate court checks the adequacy of discovery of factual circumstances and application of criminal law in the case, as well as the observance of procedural law during the consideration and resolution of the case.

Article 387. The composition of the court considering the appeal against the case

The case is considered in the appellate court by three judges, one of them is the chairman.

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Article 388. The date of beginning of consideration in the appellate court
Based on the appeal, the appellate court begins the consideration of the received cases no later than in 15 days after the receipt of the appeal, however, not earlier than 10 after the expiration of the appeal of the verdict. In the case of good motives, this deadline can be extended by court decision, but not more than 10 days.

Article 389. Appointment of the session of the appellate court
After the receipt of the case in the appellate court, it is handed to the chairman of the court.

Having examined the received case, the chairman by his decision appoints the consideration of the case in the court.

The following issues must be resolved in the decision to appoint a court session: the venue and time of the consideration of the case; based on the need to check the legitimacy and justification of the verdict, the amount of evidences is examined at the court session, the witness summoned to the court session, the expert and other persons, if necessary, the maintenance of the prevention measures towards the convict, and the issue of closed-door session, as envisaged in this Code.

Article 390. Procedure of consideration of the case in the appellate court

Consideration of cases in the appellate court is done in accordance with rules established for the consideration of cases in first instance courts and also as specifies in this Code. The parties are notified about the venue and time of the consideration of the case. The failure of persons who did not appeal the verdict or the decision to come does not prevent the consideration of the case and adoption of a decision.

The participation of the following in the session is mandatory for the following:
the prosecutor;

the defendant who submitted the appeal, or for whose interests the lawyer or the legal representative submitted an appeal, or when the prosecutor submitted the appeal not in favor of the convict.

The lawyer, in cases envisaged in article 69 of this Code.

Article 391. Trial in the appellate court

The trial begins with the chairman's announcement of the essence of the content of the verdict as well as the appeal and the objections to the appeal.

After the report of the chairman, the court hears the speech of the party, which justifies the conclusions made in the appeal and the objections of the opposite party, which did not appeal to the verdict.

After having heard the speeches of the parties, the court checks the evidences by means of interrogation of the summoned defendant, witness and the injured, as well as, by petition of the parties or its own initiative, publicizes the documents, protocols and other materials of the case. The examination procedure of evidences is determined by the court, after having heard the opinions of the parties.

The evidences examined in the first instance court are examined in the appellate court, if it is considered necessary, by petition of a party or the court's initiative.

The parties are entitled to file petitions, i.e., to summon new witnesses, appoint expert examination, demand material evidence or documents. The filed petitions are resolved by the rules established in article 331, the appellate court can not reject the petitions on the grounds that they were not satisfied in the first instance court.

Article 392. Court deliberations: the last word of the defendant

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After having finished the examination of evidences, the chairman asks the parties whether they petition to complete the trial and having resolved these petitions, starts the court deliberations.

Court deliberations are conducted by rules established in article 354 of this Code, and the first to take the floor is the applicant.

After having finished court deliberations, the chairman gives the defendant the opportunity of the last word, after which the court retreats to the deliberations room.

Article 393. Adopting the verdict

As a result of the consideration of the appeal, the appellate court adopts a verdict which completely or in part replaces the verdict adopted by the first instance court.

The appellate court adopts the verdict by the general rules specified in this Code, taking into account the requirements established in this article.

During the conference of judges, only the judges participating the court for this case can be in the deliberations room. The presence of other persons is not allowed. The judges can not publicize the opinions expressed during the conference.

In the verdict of the appellate court the following should be mentioned: on what grounds verdict of the first instant court is considered correct, and why the conclusions in the appeal are groundless, what were the grounds for the change in the verdict of the first instance court, completely or partially.

The chairman raises the issues for resolution of the court in the sequence and formulation mentioned in articles 360-362 of this Code.

Each judge must give a positive or negative answer to each question. The judges can not abstain from voting. The chairman votes last.

Issues are resolved by simple majority of votes.

For each issue mentioned in article 360 of this Code, first of all, the most favorable proposal for the defendant is voted.

In the case of a special opinion of the judge, is entitled to present it in the written form within 3 days after announcement of the verdict. The special opinion is handed to the chairman and attached by him to the case in a closed envelope which can be opened only during the consideration of the case in the cassation court.

When making decisions, the appellate court is entitled to support its decisions with the testimonies made by persons interrogated in the first instance court but not summoned to the appellate court session.

The whole verdict and each page of it must be signed by all judges. The judge with a special opinion also signs the verdict.

Corrections in the verdict must be agreed upon and approved by the signature of all judges, in the deliberations room prior to the announcement of the verdict.

Announcement of the verdict is done as established in the rules of article 373 of this Code.

Article 394. Decisions made by the appellate court

As a result of consideration of the case, the appellate court makes one of the following decisions:

leaves the verdict or decision of the first instance court unchanged, and the appeal unsatisfied;

turns down the convicting verdict of the first instance court and makes an acquitting verdict or terminates the proceedings and the criminal prosecution;

turns down the acquitting verdict of the first instance court and makes a convicting verdict;

changes the verdict or decision of the first instance court;

turns down the verdict or decision and based on article 311 of this Code sends the case to additional preliminary investigation.

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Article 395. Grounds for turning down or changing the verdict or decision of the first instance court

The verdict or decision of the first instance court is turned down or changed and a new verdict or decision is made, if:

the conclusions made in the verdict on the factual circumstances do not correspond to evidences examined in the appellate court;
criminal law was not adequately applied;
there are essential breaches of proceedings law;
the punishment in the verdict does not correspond to the severity of the committed crime and the personality of the defendant.

Article 396. Discrepancies between the conclusions made in the verdict or decision on the factual circumstances of the case and evidences examined in the appellate court

Having revealed that the conclusions in the verdict or decision of the first instance court on factual circumstances do not correspond to the evidences examined in the appellate court, the appellate court, completely or partially, turns down the verdict and adopts a new verdict in accordance with the results of the trial.

The appellate court, having assessed the examined evidences during its trial, is entitled to regard as proved those facts which have not been confirmed or have not been taken into account in the verdict of the first instance court.

Article 397. Incorrect application of criminal law

Incorrect application of criminal law means the application of the article of the RoA Penal Code or part of the article which was not liable to be applied, the failure to apply the article or part of an article which was applicable, incorrect interpretation of law which contradicts with its true sense.

Having found as a result of the case, that the action has not been correctly qualified in legal terms, the appellate court is entitled to replace the qualification of the crime with the article of the Penal Code which envisages responsibility for a less severe crime.

As a result of consideration of the case, the appellate court is entitled, within the brought charges, to apply a law for more severe crime or appoint a more strict punishment only when the prosecutor made an appeal on that basis, as well as the injured or his representative.

Article 398. Essential breach of procedural law

Essential breach of procedural law is the breach of the principles of this Code and other general provisions which, through limitation or deprivation of legally guaranteed rights of the case participants, prevented the complete, objective and comprehensive examination of the case, affected or can affect the adequate decision making.

The verdict must be turned down when lopsided or incomplete trial is the reason for erroneous withdrawal of permissible evidence from the case or ungrounded dismissal of a petition of a party on the examination of an evidence, which could be significant for the case.

The verdict is liable to be turned down in all cases, if:

in the case of grounds for termination of criminal proceedings or criminal prosecution, the first instance court did not terminate the proceedings or did not terminate the prosecution;
the verdict was adopted by an illegal composition of the court;
the case was considered in the absence of the defendant;
the case was considered in the absence of the defense lawyer, when his participation, according to law, was mandatory, or the defendant's right for defense was otherwise violated;

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the defendant's right to use his mother tongue and an interpreter in court was breached;
the defendant was deprived of the right to participate in the court argument;
the defendant was deprived of the right for the last word;
the principle of secrecy in making the verdict was breached;
there are no court session protocols in the case;
there is no descriptive and argumentative part in the verdict;
the jurisdiction if case investigation was breached.

Having found that the first instance court made breaches envisaged in paragraphs 2-11 of part 2 of this article, the appellate court turns down the verdict and adopts a new verdict, and in cases envisaged in paragraph 1, turns down the verdict and terminates the proceedings and criminal prosecution.

If the first instance court made another essential breach of procedural law, the appellate court conducts a court investigation, taking measures to eliminate the breaches, turns down the verdict of the first instance court and having taken the results of the investigation, makes a new verdict.

The appellate court turns down the verdict and sends the case for additional investigation, if breaches of procedural law were made which affected the objective, comprehensive and complete investigations of the case and which can not be eliminated by court investigation.

Article 399. Inadequacy of the appointed punishment to the severity of the crime and the defendant's personality

Having found that the punishment appointed in the verdict is obviously unjustly strict, does not correspond to the severity of the crime and the defendant's personality, the appellate court reduces the punishment, governed by general principles of appointing punishment. The appellate court can appoint a more strict punishment to the defendant than in the verdict of the first instance court only when the appeal was made by the prosecutor as well as the injured or his representative.

Article 400. Turning down or changing an acquittal

The appellate court can turn down an acquittal and adopt a prosecuting sentence, in the case of an appeal on the unjustified acquittal filed by the prosecutor, the injured or his representative.

An acquittal can be changed, based on the appeal of the acquitted concerning the grounds for acquittal.

Article 401. Protocol of the session of the appellate court

In the appellate court the court secretary conducts the protocol in accordance with the envisaged rules in article 315 of this Code. The parties can make comments on the protocol which the chairman considers as envisaged in article 316 of this Code.

Article 402. Verdict or decision of the appellate court coming into legal force and handing the verdict or decision to the parties

The verdict or decision of the appellate court come into legal force in 10 days after the announcement.

No later than in 3 days after the announcement, the verdict or decision are handed to the convict, the acquitted, their lawyers and legal representatives, the prosecutor, the injured and his representatives, the civil claimant, the civil defendant or their representatives, if they participated in the consideration of the case in the appellate court.

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PART 11. PROCEEDINGS IN THE CASSATION COURT

CHAPTER 48. PROCEEDINGS IN THE CASSATION COURT

Article 403. Reconsideration of verdict and decision if cassation court

Subject to cassation are the verdicts and decisions of the first instance and appellate court which came into legal force, as well as the verdicts and decisions of the appellate court which have not come into legal force.

Article 404. The persons entitled to file cassation appeal

The persons entitled to file cassation appeal are:

Prosecutor General of the Republic of Armenia and his deputies, against verdicts and decisions of the first instance and appellate court which came into legal force,

Lawyers who possess a special license and register in the cassation court, against verdicts and decisions of the first instance and appellate court which came into legal force, based on application made by the participants of the trial, particularly, the appeals of the civil claimant, the civil defendant and their representatives can concern only the civil claim, and the appeals of the injured and his representative can concern the cases which were instituted only based on the appeal of the injured;

the verdicts and decisions of the appellate court which have not come into legal force can be appealed by the convict, the acquitted, their lawyers and legal representatives, the prosecutor, the injured and his representatives, as well as the civil claimant, the civil defendant or their representatives concerning the civil claim. The prosecutor can not appeal against the civil claim of the verdict or decision.

Article 405. The court considering the cases of cassation appeals

The verdicts and decisions of the first instance and appellate court which came into legal force, as well as the verdicts and decisions of the appellate court which have not come into legal force, based on cassation appeals, are reconsidered by the chamber of criminal and military cases of the cassation court of the Republic of Armenia (referred to below as cassation court).

Article 406. The grounds for filing cassation appeals

The grounds for filing a cassation appeal are:

breach of financial rights of trial participants or breach of procedural rights;
newly emerged circumstances.

When resolving the issue of breached financial or procedural rights of the participants, the court is governed with rules specified in articles 397 and 398.

The persons mentioned in paragraph 3 of article 404 of this Code can file a cassation appeal only based on the grounds specified in part 1 of this article.

The cassation appeal is compiled in accordance with the requirements established in article 381 of this Code for appellate appeals.

Article 407. Cassation appeal

Cassation appeal must contain:

the name of the court to which the appeal is addressed;

data on the applicant, mentioning his procedural status, place of residence or accommodation;

the verdict or some other decision which is appealed against and the name of the court which made this decision;

a note on whether the verdict or other decision are appealed against completely or partially;

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grounded indication of whose and which financial or procedural rights have been violated, or what newly emerged circumstances exist;
the essence of the appeal;
the list of materials attached to the appeal;
signature of the person who filed the appeal.

In the case when the appeal was filed by a lawyer with a special license and registered in the cassation court, the application of a trial participant is attached to the appeal which served as a ground for filing the appeal for the lawyer.

In the case when the cassation appeal does not correspond to the requirements established in the article, when it was filed by the person who is not entitled to do that, or the appeal is expired, by decision of the cassation court it is left without consideration. The appeal is left without consideration also in the case when the cassation court had already made a decision on the grounds mentioned in the appeal.

Article 408. Grounds for revival of cases and the deadlines for newly emerged circumstances

The criminal case is revived due to newly emerged circumstances, if:
obviously deceitful conclusion of the expert, or the testimony of the injured or the witness had been established in the verdict or decision which came into legal force, as well as the forgery of material evidence, investigative and procedural actions, protocols and other documents, which caused the adoption of an unjustified or illegal verdict;
in the verdict or decision which came into legal force, confirm the criminal actions of the judges which they committed while considering the given case;
in the verdict or decision which came into legal force, confirm the criminal actions of the investigators of the case which caused the adoption of an unjustified or illegal verdict or decision on termination of the case;
other circumstances unknown at the moment of adoption of the verdict have emerged, which by themselves or with previously known circumstances prove the innocence of the convict or his crime being less severe or more severe than the one he was convicted for, as well as proving the guilt of the acquitted or other person, whose proceedings or criminal prosecution had been terminated.

If the adoption of the verdict is impossible due to the expired prescription period, or general amnesty or due to pardon of some individuals, or due to death of the accused, the newly emerged circumstances are clarified in accordance with procedure mentioned in articles 409 and 410, part 1, paragraphs 1-3 of this Code.

The reconsideration of acquittal and the decisions on termination of proceedings or criminal prosecution is allowed only within the prescription period.

The revival of cases on which a prosecuting verdict was adopted, as a result of emergence of new circumstances which show the innocence of the convict or commitment of a less severe crime than the one he was convicted for, is not limited to the prescription period.

The death of the convict is no restriction to the revival of the case due to newly emerged circumstances, in order to rehabilitate the rights of the convict or other persons.

Article 409. Initiation of proceedings as a result of newly emerged circumstances

The statements of citizens and officials about newly emerged circumstances are forwarded to the prosecutor or to the lawyer with a special license registered in the cassation court.

In the case of any of the grounds envisaged in article 408, part 1 of this Code, the authorized persons make a decision to initiate proceedings as a result of newly emerged circumstances and the occasion of these newly emerged circumstances the lawyer registered in the cassation court with a special license carries out examination, and the

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prosecutor gives instructions to the investigator or another person to conduct investigation.

If the persons who received the statement have no grounds to initiate proceedings on the occasion of newly emerged circumstances, they reject the initiation of proceedings by a grounded decision.

Article 410. Actions of the prosecutor and the specially licensed lawyer after the investigation (examination) of the newly emerged circumstances

After the end of investigation of newly emerged circumstances, the prosecutor, considering that there are grounds for the revival of the case, forwards the investigation act to the Prosecutor General or his deputy.

Prosecutor General, his deputy or the lawyer with a special license registered in the cassation court, considering that there are grounds for the revival of the case, submit an appeal to the cassation court, attaching to it the appropriate investigation or examination acts.

In the case when there are no grounds to revive the case, the prosecutor or the lawyer with a special license registered in the cassation court by their grounded decision terminate the proceedings. This decision must be communicated to the interested persons and institutions.

Article 411. Procedure of appeal against the verdict

The cassation appeal is brought to the cassation court and its copy to the court which adopted the verdict to carry out the requirements of article 413, part 2 of this Code.

Article 412. Deadlines for verdict appealing

A cassation appeal against a verdict of an appellate court, which has not come into legal force, can be submitted within 10 days after the announcement of verdict or the decision. No appealing deadline is established for verdicts and decisions which came into legal force, except cases envisioned in this Code.

Expired appeals are left without consideration.

Article 413. Consequences of appeal

Appealing against verdicts, which have not come into legal force, suspends the coming of the verdict into legal force.

After the established expiry date of the appeal, the court which made the decision or verdict sends the case with the received appeal to the cassation court about which announces to the person who filed the appeal.

The person who filed the appeal is entitled to take it back before the beginning of the session in the cassation.

Article 414. Decisions liable to appeal

Only final decisions of the court are liable to appeal in accordance with this article, unless otherwise envisaged in this Code.

Article 415. Limits to consideration of the case in cassation court

The cassation court reconsiders verdicts and decisions made by first instance and appellate court which came into legal force, as well as verdicts and decisions of the appellate court which have not come into legal force, within the grounds mentioned in the cassation appeal.

If a few persons are convicted in the case, and the appeal concerns only one or more convicts, the court within the mentioned grounds in the cassation appeal, must check the case only in relation to these convicts.

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Article 416. Composition of court considering a cassation appeal

The case, based on cassation appeal, is considered by the majority of judges of the cassation chamber for criminal and military cases and by the chairman.

Article 417. Preparation for the session of the cassation court

Cassation court considers the case at the session within 1 month after the receipt of the appeal.

The applicant is notified about the venue and time of the consideration of the case.

Article 418. Procedure of consideration of the case in cassation court

Consideration of the case in the cassation court begins with the report of the judge of the cassation chamber.

The speaker relates the circumstances of the case, the content of the verdict or the decision and the arguments in the cassation appeal.

The judges of the cassation chamber are entitled to ask questions to the speaker.

The applicant is entitled to be present at the session of the cassation court.

If necessary to present explanations, the applicant and the participants of the proceedings, who are notified about the venue and place of the session, can be summoned to the session of the cassation court. Their failure to be present is no hindrance to the consideration of the case.

Article 419. Decision of the court which considers the appeal

When considering the cassation appeal against the case, the court can make one of the following decisions:

leave the verdict or decision unchanged, and leave the appeal without satisfaction;
turn down the verdict completely or partially and send the case for new investigation to the first instance or appellate court which considered the case to be investigated in another composition of court or to send the case for new preliminary investigation;
to turn down the verdict or decision in the case of grounds envisaged in this Code when this is possible without court consideration, to terminate the criminal proceedings and criminal prosecution. If the circumstances ruling out criminal prosecution concern one accused, the criminal prosecution is terminated only in relation to the latter.

Article 420. Turning down the acquittal

Acquittal can be turned down as a result of cassation only based on the appeal of the prosecutor, the injured and his representative, or based on the appeal of the acquitted person, if he disagrees with the grounds for acquittal.

Acquittal, termination of the case or other decision in favor of the accused can not be turned down based on the motive of essential breach of procedural law, unless the innocence of the acquitted person does not raise doubts.

Article 421. Turning down the verdict and sending the case for new investigation

The verdict is liable to be turned down and the case is sent to new investigation, if essential breach of procedural law has been made which affected or can affect the legitimacy of the verdict.

The verdict can be also turned down, if it is necessary to apply a law on a more severe crime or appoint a more strict punishment, if the verdict was regarded as unjust, for being obviously soft, however, only in those cases when the prosecutor, the injured or his legal representative appeal on these grounds.

The verdict is liable to be turned down by sending the case to new preliminary investigation, if an essential breach of procedural law has been made which can not be eliminated during court trial.

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Article 422. Content of decisions made by the cassation court

The decisions made by the cassation court must indicate:

case number and the year when the decision was made, month, composition of the cassation court which made the decision;

the name of the person who filed the cassation appeal;

the name of the court which considered the case, the year, month the decision was made, composition of the court;

brief description of the essence of the verdict or decision;

names and surnames of the participants of the proceedings;

grounds on which the issue of legitimacy of the verdict or decision were raised;

laws which governed the cassation court when making decision;

the motives on which the cassation court disagreed with the court which made the verdict or decision;

conclusions as a result of consideration of the cassation appeal.

When the cassation court has discovered that there are no grounds for turning down the verdict or decision, this must be indicated in the decision of the court.

The decision is signed by the whole composition of the court.

The court decisions are attached to the case with the appeal.

Article 423. Procedure of decision making by cassation court

A decision is made as the result of consideration of the case by the cassation court.

The decision is made in the name of the Republic of Armenia.

The decision is made in the absence of the applicant and other summoned persons.

The decision is made by open vote. The decision is regarded as adopted, if the majority of judges present at the session of the cassation chamber voted in its favor.

The decision is signed by the judges who made the decision.

The conclusion of the decision is announced at the session.

Within 3 days after adoption of the decision, it is sent to the applicant and the participants of the proceedings.

Article 424. The decision of the cassation court coming into legal force

The decision of the cassation court comes into legal force from the moment of announcement and is not liable to appeal.

Article 425. Separate decision of the cassation court

When considering the case, the cassation court, having found that the lawyer with special license who is registered in the cassation court filed an obviously ungrounded appeal, is entitled to file a petition to the body which granted the special license for measures of influence on the lawyer.

The body which granted the license must within 1 month notify the cassation court about the taken measures.

When finding a repeated violation made by the same lawyer, the cassation court is entitled to invalidate the registration of the lawyer.

Article 426. Investigation of the case after turning down the verdict or decision

The investigation of the case after the verdict or decision was turned down is conducted on general grounds for investigation.

PART 12. IMPLEMENTATION OF COURT DECISIONS

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CHAPTER 49. Implementation of court decisions

Article 427. The court decision coming into force and its implementation

The decision made by the first instance court come into effect after the expiry of appeal deadline in the appellate court, if it was not appealed. In the case of an appeal, the court decision, if it not turned down, comes into effect after the expiry of the established deadline for appealing by participants of the proceedings, if it is not appealed against. The decision of the cassation court comes into effect at the moment of announcement. The court decision which came into effect is implemented by the court which made the decision within 3 days after coming into effect, or the returned of the case from appellate or cassation court.

The decision on acquittal or exemption of the defendant from punishment is handed for implementation by the court which made the decision. In this case the arrested defendant is immediately released in the court room after the announcement of the verdict.

In accordance with the procedure envisaged in part 2 of this article, released from arrest, is also the defendant who was convicted without appointing a punishment or with a punishment which is not related to imprisonment, or was sentenced to probational imprisonment, or with postponement of the verdict, or for an other term, which does not exceed the period of arrest or preventive measures or the term changed as result of cassation decision of the given person.

Article 428. The instruction to hand the court decision for implementation

The instruction to hand the court decision for implementation with the copy of the decision, and in the case of changes based on appellate decision, also with the copy of the appellate court decision, is forwarded to those persons or the body which are entitled to carry out court decisions.

At the same time, the court must inform the family of the convict who is under arrest or sentenced to imprisonment about forwarding the court decision for implementation.

The bodies which carry out court decisions immediately inform the court which made the decision about the implementation of the decision. The administration of the institution which executes criminal punishment must inform the court which made the decision and the family of the convict about the place where he serves his sentence, about his movements and about his release.

If the court decision deprives the convict of honorary, military or special titles and ranks, or it was necessary to raise the issue of depriving him of state decorations, the court which made the decision sends the copy of the decision to the body which awarded the convict with the honorary, military or special titles or ranks, or with state decorations.

Article 429. Providing the rights of the convict while implementing the court decision

While implementing the court decision, the procedural protection of the convict's right is provided, related to the implementation of the court decision.

The convict is entitled to appeal to the court which made the decision for the postponement of the implementation of the court decision, for exemption from the punishment due to illness, disability or expiration of the postponement, for parole and for replacement of the unserved part of the punishment with a softer punishment, for the change of conditions in the correction institution, and other appeals envisaged in this Code.

When the court discusses the issues related to the implementation of the its decision, the convict is entitled to participate in the court session and to testify, present evidences, initiate petitions and announce challenges, to get familiarized with all materials of the case, and to appeal against the court's actions and decisions.

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The convict can administer his rights personally or with the assistance of the lawyer. The issues related to the implementation of court decisions concerning the under-aged convict or the one with physical or mental handicaps must be considered in the court with mandatory participation of the lawyer.

Article 430. Resolution of doubts and uncertainties concerning the court decision

The court which adopted a verdict or some other decision is entitled to resolve the doubts and uncertainties which arise in the course of its implementation:

to determine accurately the measure of calculated punishment, if not otherwise established in the court verdict;

to establish another type of an institution executing criminal punishment where the convict must serve his imprisonment, if not otherwise established in the verdict;

to resolve the issue of prevention measures, redistribution of court costs, disposal of evidences, if not otherwise resolved or resolved uncertainly.

To interpret the uncertainties of its decisions.

Article 431. Postponement of the implementation of the court decision

The court which made a decision to imprison the convict is entitled to postpone its implementation if the following one of the following grounds:

severe illness of the convict which prevents him from serving the sentence until he recovers

the pregnancy of the convict at the moment of implementation of the court decision, for no longer than 1 year;

the female convict has small children, until the child becomes three years old;

when immediate punishment can cause especially severe consequences for the convict or his family members, in the case of fire or other natural disaster, due to the severe illness of the only provider in the family, death, or other exceptional case, by a period established by the court, but not longer than three months.

The payment of a fine can be postponed or divided, up to six months, if the immediate payment of the fine is impossible for the convict.

The court resolves the issue of its decision concerning the civil claim or other damage, taking into account the specific circumstances of the case and the financial situation of the convict.

The issue of postponement of implementation of the court decision is discussed by the court, by initiative of the convict, his legal representative, close relatives, the lawyer, other participants, as well as, by initiative of the court which made the decision.

Article 432. Exemption from punishment due to illness

In the case when the convicted sentences to imprisonment develops chronic mental or some other severe disease while serving the sentence, which is an obstacle to serving the sentence, the court, by petition from the administration of the penitentiary, which must be based on the conclusion of the medical commission, is entitled to decide to exempt the convict from further serving the sentence.

While exempting the convict who has a chronic mental disease, the court is entitled to apply to him enforced medical measures or to send him for guardianship to the public health bodies or to the relatives.

When resolving the issue of exemption of severely ill convicts from the sentence, the court takes into account the gravity of the committed crime, the personality of the convict and other circumstances.

When exempting the convict from the serving the further sentence, the court is entitled to exempt him not only from the main sentence but also from the additional one.

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Article 433. Exemption of the convict whose court decision implementation is delayed, as well as the elimination of the delay in the implementation of the court decision

The court exempts from the sentence the convict whose court decision is delayed by petition from the body in charge of execution of the punishment. The petition for exemption from the punishment can be also submitted by the convict, his lawyer or legal representative.

The court eliminates the delay in the execution of the imprisonment sentence and sends the convict to serve the sentence by petition of the body in charge of execution of the sentence.

Article 434. Release on parole and replacement of the sentence with a less strict one

The court, by petition of the body in charge of execution of punishment, releases on parole and substitutes the unserved part of the sentence with a less strict punishment. In relation to those who serve the sentence in the disciplinary battalion, the court applies these measures by petition of the administration of the disciplinary battalion. A petition for release on parole and substitution of the unserved part of the sentence with a less strict punishment can be submitted also by the convict, his lawyer or legal representative.

The court exempts from the sentence prohibiting the occupation of certain positions and practicing certain activities, by petition of the NGOs, the convict or his lawyer.

In the case when the court rejects the release on parole and substitution of the unserved part of the sentence with a less strict punishment, the repeated discussion of this issue can take place no sooner than in 6 months after the refusal.

Article 435. Changes in the conditions of imprisonment

The transfer of convicts from one penitentiary to another with a less severe regime is done by the court by petition of the administration of the penitentiary, or by petition of the convict or his lawyer.

In the case when the court rejects the transfer of the convict from one penitentiary to another with a less severe regime, the petition can be discussed again no sooner than in 6 months after the rejection of the petition.

Article 436. Inclusion of the time spent in a medical institution in the calculation of the term

The time spent by a convict sentenced to imprisonment in a medical institution is calculated in the term of his punishment.

Article 437. The courts which resolve the issues concerning the execution of court sentences

The court which made the decision resolves the issues concerning the execution of the decision.

If the court decision is executed beyond the court district, then this issue is resolved by the same instance court of that district. In the given case, the copy of the decision is sent to the court which made the decision.

The issues concerning: the exemption of ill or invalid convicts, the release on parole and substitution of the unserved part of the sentence with a less strict punishment, the transfer of convicts from one penitentiary to another with a less severe regime are resolved by the court in the area where the convict serves the term, no matter which court made the decision.

The issues concerning: the shortening of the probation period, or termination of probation and sending the convict to serve the court sentence, the termination of the delayed sentence, exemption from punishment, termination of delay in punishment and sending

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the convict to serve the sentence, are resolved by the court at the place of residence of the convict.

Article 438. Procedure of resolving the issues concerning the execution of court decisions
Issues concerning the execution of court decisions are considered by the court at the court session with participation of the convict. In cases envisaged in this Code the presence of the lawyer is also mandatory.

If the issue concerns the execution of the civil claim, the civil claimant is also summoned. The failure of these persons to come does not inhibit the consideration of the case.

When the court resolves the issue of release of the convict due to illness or disability, the presence of the representative of the medical commission which made the conclusion.

The issues of: the release on parole and substitution of the unserved part of the sentence with a less strict punishment, the transfer of convicts from one penitentiary to another with a less severe regime, are considered in the court in the presence of the body in charge of execution of punishment.

The consideration of the case begins with the announcement of the petition by the chairman, after which the court examines the evidences and hears the opinions of persons present at the court session. The last to take the floor is the convict or his lawyer. After that, the court retreats to the deliberations room to make a decision.

PART 13. PECULIARITIES OF CRIMINAL PROCEEDINGS ON CERTAIN CRIMES

CHAPTER 50. PECULIARITIES OF PROCEEDINGS ON CASES CONCERNING THE UNDER-AGED

Article 439. Procedure of cases involving the under-aged

The provisions of this chapter are applied in relation to the crimes of those persons who were under 16 years of age at the moment of commitment of the crime.

The procedure of proceedings concerning the cases of the under-aged is governed by the general rules of this Code and by the articles of this chapter.

Article 440. Circumstances liable to verification in cases concerning the under-age

Except the circumstances liable to verification on all cases, in the cases concerning the under-aged it is necessary to establish the following data about the under-aged person:

the age (birth date, year, month, day);

conditions of life and rearing;

health condition and general level of development.

Article 441. Participation of the legal representative of the under-aged person in the investigation of the case

The legal representative of the under-aged accused or the suspect participates in the investigation of cases concerning the crimes of the under-aged.

Article 442. Application of arrest to an under-aged person as a means of prevention

Application of arrest to an under-aged suspect or accused is allowed only in the case when medium, severe and especially severe crimes are incriminated to him.

Article 443. Exemption of the under-aged person from punishment by applying to him disciplinary enforcement measures

When adopting the verdict, the court concludes that the under-aged person can be corrected without using criminal punishment, the court can exempt the under-aged person from the punishment and use disciplinary enforcement measures.

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CHAPTER 51. PECULIARITIES OF PROCEEDINGS CONCERNING PERSONS ENJOYING PRIVILEGES AND IMMUNITY ENVISAGED BY INTERNATIONAL TREATIES

Article 444. Persons with diplomatic immunity under the jurisdiction of the Republic of Armenia

Persons with diplomatic immunity can be under the jurisdiction of the Republic of Armenia in those cases when the foreign country in question or the international organization will give a special consent on that occasion.

Article 445. Persons enjoying diplomatic immunity

The following persons enjoy diplomatic immunity:

heads of foreign diplomatic missions, the members of the diplomatic staff of these missions and the members of their families residing with them, if they are not citizens of the Republic of Armenia;

on reciprocal basis, the administrative and technical employees of the diplomatic missions and their family members residing with them, if they are not citizens of the Republic of Armenia and do not reside permanently in the Republic of Armenia;

on reciprocal basis, the service staff of the diplomatic mission who are not citizens of the Republic of Armenia and do not reside permanently in the Republic of Armenia;

diplomatic couriers;

heads of consular offices and other officials;

representatives of foreign states, members of advisory and governmental delegations and, reciprocally, other members of a foreign delegation who arrived for international negotiations, conferences or on other official businesses or with same purposes they are in the territory of the Republic of Armenia in transit, the family members of these persons if they are not citizens of the Republic of Armenia.

Heads of foreign missions in the international organizations, members and staff, their officials who are in the territory of the Republic of Armenia on the basis of commonly known international traditions;

The heads of diplomatic missions in third countries, members of diplomatic missions who are in the Republic of Armenia in transit and their family members accompanying them or travel separately to join them or travel back to their home country.

Article 446. Personal immunity

Persons mentioned in article 445 of this Code enjoy personal immunity. They can not be arrested or detained, except those case when this is necessary for the implementation of the verdict concerning them which has come into effect.

The preliminary investigation body which arrested or detained the persons mentioned in the first part of this article, the prosecutor or other the court must immediately inform the foreign ministry of the country in question with a telegram, by phone or other means of communication.

Article 447. Immunity to criminal prosecution

In the territory of the Republic of Armenia, the persons mentioned in article 445 of this Code enjoy immunity to criminal prosecution. The issue of involvement of such persons as the accused or the suspects is resolved by diplomatic channels.

The service employees of diplomatic missions who are not citizens of the Republic of Armenia and do not reside permanently in the Republic of Armenia, heads of consular offices and other officials in the Republic of Armenia enjoy immunity to criminal prosecution only in their line of duty.

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Article 448. Immunity when testifying

Persons mentioned in article 445 of this Code must not testify as witnesses or the injured, in the case of agreement to testify are not obligated to go to the investigator, the prosecutor or to the court.

When these persons testify during the inquest as witnesses or the injured, and have not appeared in court trial, the court can publicize their testimonies.

Heads of consular offices and other officials can not refuse from testimonies as witnesses or the injured, except those cases when the testimony is concerned with the implementation of their professional duties. In the case of refusal to testify by consular officers, no enforcement measures can be applied to them.

In the case of agreement mentioned in the first part of this article, the notification handed to these persons can not contain a clause on the enforcement measures applied in the case of failure to appear.

Persons enjoying diplomatic immunity are not obligated to submit to the prosecutor or to court correspondence or other documents concerning their duties.

Article 449. Immunity of facilities and documents

The building occupied by the diplomatic mission, the residence of the head of diplomatic mission, the dwellings of the diplomatic personnel, their property and vehicles are immune. Entrance to these facilities, searches, seizures, arrest of property can be done only with consent of the head of diplomatic mission or other official.

Reciprocally, the rights envisaged in the first part of this article are extended to the administrative and technical personnel of diplomatic missions, their dwellings occupied by family members living together, if these persons and their family members are not citizens of the Republic of Armenia and do not reside permanently in the Republic of Armenia.

The buildings occupied by consular offices and the residences of heads of consulates, reciprocally, are immune. Entrance to these facilities, searches, seizures, arrest of property can be done only with consent or at the request of the head of diplomatic mission or the consulate.

The archive of the diplomatic mission or consulate, the documents and official correspondence are immune. Diplomatic mail can not be opened and taken.

The bodies in charge of criminal proceedings obtain the consent from the heads of diplomatic missions or consulates for cases mentioned in parts 1, 2, 3 through the ministry of foreign affairs of the Republic of Armenia.

Searches, seizures and arrests in the above mentioned premises are by all means done in the presence of the prosecutor and representative of the foreign ministry of the Republic of Armenia.

PART 14. SPECIAL PROCEEDINGS

CHAPTER 52. PROCEEDINGS CONCERNED WITH ENFORCEMENT OF MEDICAL MEASURES IN RELATION TO INSANE PERSONS

Article 450. Grounds for enforced medical measures

The court carries out enforced medical measures in relation to those persons who committed a criminal offence in the insane state, if these persons continue to be dangerous for the society.

The procedure of proceedings concerning cases related to enforced medical measures is determined by general rules of this Code and by this article.

Article 451. Pre-trial proceedings on application of enforced medical measures

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Preparation of materials on cases concerned with enforced medical measures is done in the form of preliminary investigation.

The investigator, the prosecutor make a decision about initiation of proceedings concerning application of enforced medical measures.

The lawyer, the legal representative, the person against whom the proceedings on enforced medical measures have been initiated, except cases when his mental state inhibits his participation, participate in the investigative actions.

If the person in relation to whom the proceeding on enforced medical measures is implemented, due to his mental state, can not participate in the proceedings, the investigator or the prosecutor compile a protocol which is sent to the court to solve the issue of recognizing the person as insane.

Article 452. Data on the insane liable to be verified

The following must be found out about the persons to whom proceedings on the application of enforced medical measures are initiated:

the time, the place, method and other circumstances concerning the offence committed by the person;

commitment of the action by this person;

did the person suffer from mental disorder before commitment of the action, the degree of illness and nature at the moment of commitment of the action, after that, and during the investigation;

behavior of the person prior and after the action;

the amount and nature of damage caused.

Article 453. Disjoinder of the criminal case

If during the criminal case it turns out that one of the accomplices at the moment of committing the act was in the insane state, the case in relation to him is separated into a special proceeding.

Article 454. Participation of the lawyer

Participation of the lawyer is mandatory from the moment of initiation of proceedings on application of enforced medical measures.

Article 455. Legal representative

Close relatives of the person against whom proceedings are initiated on enforced medical measures may be applied or the representative of the medical institution where the person is kept, by decision of the investigator, the prosecutor or the court participate in the proceedings as the legal representatives.

Article 456. The rights of persons in relation against whom proceeding on enforced medical measures are applied

The person against whom proceedings are initiated on enforced medical measures is entitled to all rights of the accused. He is entitled, depending on the degree and nature of his illness, to know what socially dangerous action is incriminated to him, to have a lawyer, to testify, present evidences, by permission of the investigator, to participate in investigative activities, to familiarize himself with the protocols of investigative activities in which he participated, and make comments on the completeness and reliability of records, file petitions and challenges, to familiarize himself with all materials after the end of proceedings and make notes without restrictions of amount, to have the copy of the decision on sending the case on enforced medical measures to the court, to participate in the trial, in the examination of evidences, to familiarize himself with the trial protocol and make comments.

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Article 457. Security measures

Prevention measures can not be applied to persons who committed socially dangerous offences in the state of insanity.

When necessary, the following security measures are applied to these persons:

sending the patient to the relatives, the guardians, for supervision;

sending the patient to a mental asylum.

Article 458. Sending the patient to relatives, guardians and tutors

From the moment of establishment of the fact of insanity of the person who committed criminal offence but who is not socially dangerous, the latter can be sent to his relatives, guardians and tutors for supervision, with notification of medical bodies.

The investigator, the prosecutor and the court make a justified decision about choosing this measure.

Article 459. Sending the person to a mental asylum

From the moment of establishment of the fact of insanity of the person who committed criminal offence and who is socially dangerous, the latter can be sent to a mental asylum.

Sending to a mental asylum is allowed by a justified decision of the investigator which is approved by the court.

Article 460. The end of pretrial preparation

When the investigator believes that the collected evidence is sufficient for the end of case proceedings, he makes one of the following decisions:

on sending the case to court for the application of enforced medical measures;

on the termination of the case proceedings, if the person who committed the criminal offence in the state of insanity, has recovered at the moment of investigation and has not need for application of enforced medical measures;

on the termination of the criminal proceedings and criminal prosecution on general grounds.

After having finished the case proceedings, the investigator presents the materials of the case to the injured, his representative, to the person who was the subject of the proceedings, his legal representative and the lawyer.

A protocol is compiled about the familiarization of the persons mentioned in part 2 of this article with the case materials.

Article 461. The prosecutor's authorities at the end of the preliminary investigation of a case concerning the insane person

The materials of the finished proceedings materials with the decision of the investigator on sending the case to the court for application of enforced medical measures are handed to the prosecutor who makes one of the following decisions:

approves the investigator's decision and sends the case to the court;

sends the case to the investigator for additional investigation;

terminates the criminal proceedings and criminal prosecution.

Article 462. Consideration of the case in court

The trial begins with the prosecutor's report on the need of the application of enforced medical measures to the person who committed criminal offence. After that the court examines the evidences presented by the parties and hears the person who is the subject of the proceedings, his lawyer and legal representative and the opinion of the prosecutor.

After that the court retreats to the deliberations room to make a decision.

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Article 463. Issues discussed by the court when making decision

When making decision the court must resolve the following issues:

whether a socially dangerous action was committed;

whether the action was committed by the person against whom the proceedings on application of the medical enforcement measures are instituted;

whether the action was committed in the insane state, whether the person is in the insane state at the moment of the trial;

whether the person needs enforcement medical measures to be applied to him and which measures in particular.

Article 464. Decision-making

The court having ruled that the person committed criminal offence in the state of insanity, decides to exempt the person from criminal liability and punishment and to apply to him measures of medical enforcement.

If the person is not very dangerous for the society and does not need measures of medical enforcement, the court makes a decision on the termination of criminal proceedings and criminal prosecution. If at the moment of committing of the action the person was in the state of insanity, and recovered at the moment of trial, the court also makes a decision on the termination of the criminal proceedings and criminal prosecution.

Article 465. Elimination or change of enforced medical measures

If there is no need in the further enforced medical measures after improvement or full recovery of the person, the court, based on the conclusion of the medical commission, by petition of the medical body, considers the issue of elimination or change of the enforced medical measure.

The petitions on the elimination or change of the enforced medical measure can be filed by the close relatives, legal representatives and other interested persons.

All issues are resolved by the court in the district where the enforced medical measures are applied and with mandatory participation of this person, based by whose petition the issue of elimination or change of the enforced medical measures is resolved.

CHAPTER 53. PROCEEDINGS ON APPLICATION OF MEDIAL ENFORCEMENT MEASURES TO PERSONS WHO DEVELOPED A MENTAL DISORDER AFTER THE INCIDENT

Article 466. Pretrial preparation

The pretrial preparation of cases of this category is done in the form of preliminary investigation.

The person who developed a mental disorder after the incident, his lawyer and legal representative can participate in the criminal case proceedings.

If the mentally ill person can not participate in the proceedings due to his health condition, the investigator and the prosecutor must compile a protocol on that.

When the investigator believes the collected evidences are sufficient, he makes one of the following decisions:

to suspend the proceedings and send the materials to the prosecutor to send the case to court to resolve the issue of application of the enforced medical measures.

To terminate the criminal proceedings and criminal prosecution.

Having received the materials mentioned in part 4 of this article, the prosecutor makes one of the following decisions:

approves the investigator's decision to send the materials to the court to apply enforcement medical measures;

returns the case to the investigator for additional investigation;

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terminates the criminal proceedings and criminal prosecution.

Article 467. Participation of lawyer

Participation of lawyer is mandatory from the moment when the fact of mental disorder has been established, if he had not participated in the case before.

Article 468. Disjoinder of the criminal case

If in the course of the proceedings it is revealed that one of the accomplices has developed a mental disorder after having committed a crime, the case in relation to him can be separated into a separate proceeding.

Article 469. Prevention measures

Prevention measures can be applied to persons who developed a mental disorder after having committed a crime, if their health condition allows that. If the given persons are in detention they must be kept in special medical institutions, under medical supervision. If prevention measures can not be applied to persons who developed a mental disorder due to their health condition; security measures envisaged in articles 458 and 459 are applied to them.

Article 470. Bringing the charges

When there are sufficient evidences for bringing charges for commitment of crime, the investigator makes a justified decision on the impleading the person as the accused. The decision can be presented to the person, if this is not inhibited by his health condition. In the case of necessity to get familiarized with the decision, a protocol is compiled. The lawyer and the legal representative of the accused are familiarized with the decision.

Article 471. Consideration of the case in court

When considering the case in court, the participation of the prosecutor and the lawyer is mandatory. An expert can be invited to the court session. The trial begins with the announcement of the investigator's decision, after which the court examines the evidences.

At the end of the trial, the prosecutor takes the floor and the opinion of the lawyer is heard.

After that the court retreats to the deliberations room to make a decision where the following issues must be resolved:

whether the action was committed;

whether the crime contains a formal element of crime;

whether the crime was committed by the accused;

whether the person developed a mental disorder, what is the nature of this disorder, when the disorder began;

whether the person needs application of enforced medical measures and what measures in particular.

If the disorder began at the phase of the trial, the court must also resolve the issue of suspension of the criminal proceedings.

Article 472. Elimination or change of enforced medical measures

If there is no need in the further enforced medical measures after improvement or full recovery of the person, the court, based on the conclusion of the medical commission, by petition of the medical body, considers the issue of elimination or change of the enforced medical measure.

The petitions on the elimination or change of the enforced medical measure can be filed by the close relatives and other interested persons.

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All issues are resolved by the court in the district where the enforced medical measures are applied.

Article 473. Resumption of the proceedings

If the court finds that the person to whom enforced medical measures were applied has recovered, then based on the medical conclusion, a decision is made to eliminate the enforced medical measures and resolves the issue of sending the case to preliminary investigation or trial.

The time served in the medical institution is included into the term of detention.

CHAPTER 54. INTERRELATIONS OF COURTS, PROSECUTORS AND INQUEST BODIES WITH APPROPRIATE INSTITUTION OF FOREIGN COUNTRIES AND OFFICIALS IN LEGAL ASSISTANCE IN CRIMINAL CASES

Article 474. Instructions to perform procedural actions

If necessary to conduct interrogation, examination, seizure, search, expert examination and other investigatory and procedural actions envisaged in this Code in foreign countries, the court, the prosecutor, the investigator and inquest body delegate the performance of these actions appropriate bodies of the foreign country, if there is an international agreement on legal assistance.

The instruction about conducting a separate investigatory action is sent by the Prosecutor General of the Republic of Armenia, and the instruction on procedural actions, by the Minister of Justice or his deputies.

The instruction is written in the language of the foreign country in question where it is sent, if not otherwise envisaged in the foreign treaty.

Article 475. The content of the instruction on procedural action

The instruction on the implementation of separate investigatory and procedural must be in the written form, signed by the sending official, confirmed with a seal with the national coat of arms, and contain the following:

the name of the body which gives the instruction;

the name and address of the body where the instruction is sent;

name of the case and essence of the instruction;

data on the persons in relation to who the instruction is given, their citizenship, occupation, residence or the place where they are, for legal entities, their titles and location;

list of circumstances which must be found out, and a list of required documents, material evidence, etc.;

data on: the factual circumstances of the committed crime, its qualification, if necessary, data on the damage and amount caused by the crime.

Article 476. Summoning and interrogating the witness, the injured, the civil defendant, the civil claimant, their representatives and the expert

The witness, the injured, the civil defendant, the civil claimant, their representatives and the expert, if they are foreign citizens, by their consent, for implementation of investigatory or procedural actions, can be summoned to the Republic of Armenia by the body in charge of criminal proceedings.

The application for the presence of the summoned person is sent by procedure envisaged in part 2 of article 474 of this Code.

Procedural actions with participation of the witness, the injured and other persons mentioned in part 1 of this article are implemented by the rules envisaged in this Code, with the following reservations: it is not allowed to subject these persons to enforced appearance, fines and criminal liability for their refusal or evasion to testify, or for perjury.

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Article 477. Implementation of instructions to perform procedural actions

The court, the prosecutor, the investigator, the inquest body, perform their instructions as established in this Code, based on general rules.

When performing the instructions, the procedural norms of the foreign country can be applied, if this is envisaged in the international treaty signed with this country.

In cases envisaged in the international treaty, when implementing the instruction, the representative from the appropriate institution of the foreign country can be present.

If the instruction can not be implemented, the received documents are returned through the ministry of justice or the procuracy to the institution from which the instruction came, indicating the reasons which prevented its implementation. The instruction is returned in all cases, if its implementation can affect the independence or security of the Republic of Armenia, or contradicts the legislation of the Republic of Armenia.

Article 478. Sending the case materials for continuation of the criminal prosecution

In the case of the crime committed by a foreign citizen in the territory of the Republic of Armenia and in the case of his departure from the country, all materials of the initiated case are forwarded to the procuracy of the Republic of Armenia which decides the issue of sending them to the appropriate institutions of the foreign country for the continuation of the investigation.

Article 479. Implementation of the application for the continuation of criminal prosecution or initiation of criminal prosecution

The application of the appropriate institution of the foreign country concerning the crime committed by a citizen of the Republic of Armenia in the foreign country who returned to Armenia, for further investigation, is considered by the procuracy of the Republic of Armenia. In such cases, the preliminary investigation of the case and trial is done as envisaged in the procedure of this Code.

The evidences received while conducting the investigation in a foreign country, within his jurisdiction, by the authorized official, in the case of continuation of the investigation in the Republic of Armenia, have equal legal rights with all other evidences.

The authorized body in the Republic of Armenia can initiate a criminal case and investigate that, prior to the initiation of the criminal case by the appropriate bodies in the foreign country where a citizen of the Republic of Armenia committed a crime and then returned to this country.

Article 480. Extradition

The institution which received the request must, when required, extradite the person who is in the territory of its country in order to subject him to criminal liability or to execute a court verdict.

Extradition for subjecting the person to criminal liability is done for actions which are considered punishable in the country which sent the request and country which received it, and the envisaged punishment is in the form of imprisonment for not less than 1 year. Extradition for the execution of the verdict is done for those actions which are considered punishable in the country which sent the request and country which received it, and the person was sentenced to no less than six months of imprisonment or more.

Article 481. Refusal from extradition

Extradition is not allowed, if:

at the moment of the receipt of the requirement, appropriate criminal prosecution can not be initiated in the legislation of the inquiring country or the verdict can not be executed for reasons of expiration of the prescription period, or on other legal grounds;

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a verdict or decision to terminate the proceedings or criminal prosecution which came into effect, has already been executed in relation to the person.

It is allowed to refuse from extradition, if:

the person whose extradition is required is the citizen of the country which received the request or he was granted a political asylum;

the crime was committed in the territory of the country which received the request;

the person whose extradition is required is prosecuted for political, racial or religious reasons.

The person whose extradition is required is prosecuted for the commitment of a military crime in peaceful time;

The country which applied for extradition does not provide reciprocity in this domain.

Article 482. The content of the extradition requirement

The extradition requirement must contain:

the name of the sender of the request;

description of the factual circumstances of the action and the original text of the law of the country which sends the request, based on which this action is considered a crime;

the name and surname of the person who is liable to extradition, his citizenship, residence and, if possible, other data;

a note on the damage inflicted by the crime.

Attached to the requirement for extradition, should be a certified copy of the decision to arrest the person.

Attached to the requirement to extradite to execute a verdict, should be a certified copy of the verdict, with a note when it came into legal force and criminal law article which was used to sentence this person. If the convict has already served part of the punishment, information about that is also communicated.

Article 483. Additional information

If the extradition requirement does not contain all necessary information, the institution which received the request can require additional information. For that, up 1 month term can be envisioned.

If the institution which presented the request fails to submit additional information, the institution which received the request must release the person liable to extradition, if he was arrested.

Article 484. Arrest for extradition

Measures are taken to arrest the person liable to extradition, prior to the extradition decision when the copy of the decision to arrest is received with the extradition request.

In accordance with the provisions of this article in part 1, the arrested person is entitled to appear before court for the establishment or elimination of the prevention measure.

Article 485. Arrest or detention prior to the receipt of request for extradition

The person whose extradition is required, by petition of the applying country, can be arrested also prior to the receipt of the extradition request. The petition must contain references to the decision to arrest or to the verdict which came into legal force, indicating that the extradition request will be sent additionally. The petition on arrest prior to extradition request can be sent by mail, by telegram or by fax.

The person can also be arrested without the petition mentioned in the first part of this article, if there are legally envisaged grounds to suspect that he committed a crime in the territory of another country and is liable to extradition.

(not official copy)

The appropriate institution of the foreign country which presented the request is immediately informed about the arrest or detention executed prior to receipt of the extradition request.

In accordance with parts 1 and 2 of this article, the arrested person is entitled to appear before court for the establishment or elimination of the prevention measure.

Article 486. Release from arrest or detention

The person arrested, based on grounds envisaged in article 485, part 1, if no extradition request will be received within 1 month after his arrest.

The person arrested, based on article 485, part 2, must be released, if no extradition request will be received within the period established in the legislation of the given state for arrest.

Article 487. Postponement of extradition

If the person, whose extradition is required, was subjected to criminal liability or was convicted for another crime in the given state, his extradition can be postponed until the end of criminal prosecution, the execution of the verdict or release from punishment.

Article 488. Temporary extradition

If the postponement of extradition envisaged in article 487 of this Code, can lead to expiration of the prescription period for criminal prosecution or damage the investigation, the person whose extradition is required can be extradited temporarily.

The temporarily extradited person must be returned after the end of the execution of the criminal case proceedings for which he was extradited, but not later than within three months after the extradition. In justified cases the extension of the term must be done by agreement of the parties.

Article 489. Conflict of extradition requests

If the extradition requests are received from several countries, the institution which received the request decides at its discretion which request must be satisfied first.

Article 490. Limits to criminal liability of the extradited person

Without the consent of the institution which received the request, it is not allowed to subject the extradited person to criminal liability and punishment for the crime he committed before extradition, for the crime which he was not extradited for.

Without the consent of the institution which received the request, the person can not also be extradited to the third state.

The consent of the institution which received the request is not required, if the extradited person within 1 month after the criminal proceedings, and in the case of conviction, after having served the sentence and release, within 1 month, will not leave the territory of the state which received the request, or if he will return there of his own accord. The time when the extradited person could not leave the country which sent the request against his will is not included into this term.

Article 491. Transfer of the extradited person

The institution which received the request informs the institution which sent the request about the time and place of extradition.

If the institution which requested the extradition does not received the person liable to extradition within 15 days after the established deadline, the person is released from arrest.

Article 492. Repeated extradition

(not official copy)

If the extradited person evades criminal prosecution or is fugitive from punishment, and returns to the country which received the request, at a new request he must be extradited without submission of materials mentioned in this chapter.

Article 493. Transit extradition

By petition of the institution which submitted the request, the institution which received the request resolves the issue of transit extradition of persons extradited to a third country through its own territory.

The petition concerning such a transit is discussed in the same procedure as the extradition request.

The institution which received the request resolves the issue of transit extradition the way it finds most expedient.

Article 494. Mandatory nature of criminal prosecution

The preliminary investigation body must with consent of the institution which submitted the request, carry out appropriate criminal prosecution of its citizens who are suspected in the commission of crime in the country which submitted a request.

If the crime by which a criminal case is initiated involves civil claims of people who suffered damage due to the crime, in the case of their petitions on compensation of damage, they are considered in the proceedings of that case.

Article 495. Instructions to execute criminal case proceedings

The instruction to execute criminal case proceedings must contain:

the name of the institution which presents the request;

the description of the action on which the instruction is sent to execute criminal prosecution;

accurate information about the time and place of commission of the action;

the original text of the law of the institution which presented the request which regards this action as a crime, and the original texts of those legislative norms which are essential for the proceedings;

the name and surname of the suspect, citizenship and other information;

the amount of damage inflicted by the crime.

The instruction is attached to the materials and evidences possessed by the institution which sent the request.

When sending the criminal case initiated by the institution which presented the request, the investigation of the case is continued by the institution which received the request, in accordance with the legislation of its country. Each document in the case must be certified with a seal with the coat of arms.

Article 496. Notification about the results of the criminal proceedings

The institution which received the request must notify the institution which sent the request about the final decision on the criminal case. By petition of the institution which presented the request the copy of the final decision is mailed to its address.

Article 497. Consequences of the adopted decision

The institution which received the request can not initiate a criminal case and the one that was initiated is liable to termination, if to the institution was sent the verdict instructing to implement proceedings or other final decision of the institution which made the request, after it came into effect.

Article 498. Procedure of consideration of a case which is under jurisdiction of the courts of several countries

(not official copy)

When one or more persons are charged with several crimes and the appropriate cases are under jurisdiction of the courts of several countries, the right for the consideration of these cases belongs to the court of the country where the preliminary examination was finished. In this case it is considered in accordance with the proceedings legislation of that country.

Article 499. Transfer of items

The institution which received the request transfers to the institution which made the request the items, which:

were used during commitment of crime, including instruments of crime, items which were obtained in a criminal way or received by the criminal as compensation to the criminal for items obtained in a criminal way;

can have probatory value for the criminal case; these items are transferred also when the extradition of the criminal is impossible because of his death, flight or other reasons;

If the institution which received the request needs the items mentioned in part 1 of this article, their transfer can be postponed until the end of the proceedings.

The rights of the third persons for the transferred items stand. After the end of the criminal proceedings these items must be returned to the institution which transferred them, without compensation.

PART 15. CLOSING PROVISIONS

CHAPTER 55. TRANSITION PROVISIONS

Article 500. Coming into legal force

This Code comes into legal force on January 12, 1999.

Those citizens are entitled to compensation indicated in article 66 of this Code whose criminal prosecution was terminated in accordance with part 1, paragraphs 1-3 and part 2 of article 35, or who was acquitted after June 1, 1981.

After this Code comes into force, the March 7, 1961 Criminal Proceedings Code with further amendments becomes null and void.

Yerevan

September 1, 1998

RoA President Robert Kocharian

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