

CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF TAJIKISTAN

(News of the Supreme Assembly of the Republic of Tajikistan, p. 2009, No. 12, art. 815, art. 816; p. 2010, No. 7, art. 551; p. 2011, No. 3, art. 159, No. 7-8, art. 2012, article 715, article 1025. Art. 511, Art. 11, Art. 2016, Art , article 611, article 2018, article 3 2020, art. 608, Law of the Republic of Tajikistan, no. 1755

(Law of the Republic of Kazakhstan dated 21.07.2010 [No. 618](#) , dated 25.03.2011 [No. 692](#) , dated 2.08.2011 [No. 755](#) , dated 16.04.2012 [No. 809](#) , dated 03.07.2012 [No. 864](#) , dated 01.08.2012 [No. 28](#) 12.2012 [No 927](#) dated 28.12.2012 [No. 932](#) dated 22.07.2013 [No. 982](#) dated 14.03.2014 [No. 1067](#) dated 27.11.2014 [No. 1134](#) dated 23.11.2015 [No. 1229](#) dated 15.03.2016 [No. 1275](#) , from 14.05.2016 [No. 1306](#) , from 23.07.2016 [No. 1332](#) , from 24.02.2017 [No. 1381](#) , from 17.05.2018 [No. 1516](#) , from 2.01.2019 [No. 1556](#) , from 04.07.2020 [No 6](#) , dated 04.07.2020 [No. 1702](#) , from 01.29.2021 [No. 1755](#) , from 04.20.2021 [No. 1777](#) , from 12.23.2021 No. [1810](#) , from 12.23.2021 No. [1811](#) , from 03.18.2022 [No. 1853](#) , from 07.19.2022 [No 24.12.2022 No. 1926](#) , [No. 1927](#))

PART I. GENERAL PART

SECTION I. BASIC PROVISIONS

CHAPTER 1. CRIMINAL PROCEDURE LEGISLATION

Article 1. Legislation that determines the procedure for proceeding with a criminal case

1. In the Republic of Tajikistan, the Criminal Procedure Code of the Republic of Tajikistan, which originates from the Constitution of the Republic of Tajikistan, determines the procedure for conducting a criminal case (*Law of the Republic of Tajikistan dated 24.02.2017 [No. 1381](#)*).

2. The procedure established by the criminal procedural legislation is mandatory for the court, prosecutor's office, preliminary investigation and investigation, as well as for the participants in the criminal trial.

3. The international legal acts recognized by Tajikistan are an integral part of the legal norms that regulate the conduct of criminal proceedings. If, according to these acts, a different order is provided than the provisions of this Code, then the provisions of international legal acts shall apply.

Article 2. Duties of conducting criminal court proceedings

1. Duties of conducting criminal court proceedings include:

- establishing the procedure for proceeding with criminal cases;
- protection of human and citizen rights and freedoms;
- protecting the interests of society, the state and organizations that have suffered from crime;
- timely and complete detection of crime;
- criminal prosecution of the person who committed the crime;
- fair resolution of the issues under consideration in court;
- compliance with procedural norms during the implementation of the criminal law;
- guarantee of protection of legal interests of participants in criminal court proceedings and other persons.

2. Criminal court proceedings are aimed at strengthening legality and legal order, preventing crime, respecting the law, the rights and freedoms of people and citizens, and implementing judicial justice.

3. The procedure established by this Code for conducting a criminal case protects a person and a citizen from unjustified accusations and convictions, illegal restriction of his rights and freedoms, and in the case of finding an innocent person guilty or condemning him, he is acquitted without delay.

Article 3. Implementation of the Code of Criminal Procedure on the spot

1. Within the territory of the Republic of Tajikistan, criminal proceedings are conducted in accordance with this Code.

2. The rules of this Code are also applied when conducting a case on crimes committed on airplanes, sea and river vessels, which move outside the territory of the Republic of Tajikistan in open waters or airspace and under the flag or distinctive emblem of the Republic of Tajikistan. .

3. In the territory of the Republic of Tajikistan, the criminal procedural law of a foreign state is applied by the investigative bodies and courts of a foreign state or by their order by the relevant authorities in the case that this situation is provided for in the international legal document recognized by Tajikistan. has been

Article 4. Application of the Criminal Procedure Code in time

When conducting a criminal case, the criminal procedural law is applied, which is in force at the time of investigation and preliminary investigation or the trial of the case in court.

Article 5. Application of the Code of Criminal Procedure against foreign citizens and stateless persons

1. Prosecution of a crime committed by a foreigner or a stateless person in the territory of the Republic of Tajikistan shall be conducted in accordance with the provisions of this Code.

2. In relation to a person with the right of diplomatic immunity, only with his request or consent, which is obtained through the Ministry of Foreign Affairs of the Republic of Tajikistan, procedural actions provided for by this Code are conducted.

Article 6. Basic concepts

The main terms used in this Code have the following meanings:

- state prosecutor - an official of the prosecutor's office, who supports prosecution on behalf of the state in court proceedings on a criminal case;

- private prosecutor - a person who files an application to the court in accordance with the procedure established by this Code and supports the prosecution in court, as well as a victim who supports the prosecution in court when the public prosecutor refuses to prosecute;

- night time - is the time interval from 22:00 to 6:00 of the next day;

- participants in criminal proceedings - authorities and persons who carry out criminal prosecution and prosecution in court, as well as persons who defend themselves against accusations and protect their rights and interests (state prosecutor-accuser, victim-private accuser, civil plaintiff, representatives legal and their representatives, suspect, defendant, defendant, their legal representatives, defender, civil defendant, legal representative and his representative) (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);

- other participants in the criminal proceedings - an expert (expert), a specialist, a witness, a neutral person, a translator;

- decision - an act adopted by the investigator, investigator, prosecutor in the course of conducting preliminary investigation and investigation, as well as an act adopted by the judge of the first instance court alone or an act issued by the judge of the supervisory instance court regarding the resolution of a complaint or supervisory objection adopted or an act adopted by the court board during the revision of the legally valid acts of the lower courts;

- criminal law - Criminal Code of the Republic of Tajikistan;

- the moment of real support - the moment of actual restriction of a person's freedom, including the ability to move freely, forcibly keeping him in a certain place, forcibly bringing him to the authorities of criminal prosecution or preventing him from carrying out other movements of his own free will, regardless of the official granting of any status procedurally to the detained person or execution of other prescribed procedures (*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*);

- criminal court proceedings - criminal proceedings and criminal proceedings;

- an investigator is a public official and is authorized to carry out a preliminary investigation of a criminal case within the scope of the authority established by this Code;

- legal representatives - parents, children, guardians, guardians of the suspect, the accused, the defendant or the victim, representatives of the institution and organization under whose care the suspect, the accused or the victim is;

- prosecutor - the Prosecutor General of the Republic of Tajikistan, the first deputy and his deputies, the Chief Military Prosecutor of Tajikistan, the prosecutors of Badakhshan Mountainous Autonomous Region, regions, the city of Dushanbe, the transport prosecutor of Tajikistan, the first deputy and their deputies, heads of departments (departments), the first deputy and their deputies, senior assistants and assistants of the Prosecutor General, senior prosecutors and prosecutors of departments (departments), senior assistants and assistant prosecutors of Badakhshan Mountainous Autonomous Region, regions, Dushanbe city, prosecutor of transport of Tajikistan, senior prosecutors and prosecutors of regional prosecutor's offices, city and district prosecutors and prosecutors of they are equalized, which include prosecutors of transport, military garrisons and supervision of law enforcement in correctional institutions, first deputy and their deputies, senior assistants and their assistants, prosecutor-senior criminalists and prosecutor-criminologists who operate within their jurisdiction (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702*);

- presiding judge - a judge who presides over a court session during collective or individual consideration of a criminal case;

- the head of the investigation unit - an official who heads the board, department and other investigation units within the scope of his rights and powers;

- court - a judicial authority that is included in the judicial system of the Republic of Tajikistan and considers criminal cases collectively or individually (the Supreme Court of the Republic of Tajikistan, the Military Court, the court of the Badakhshan Mountainous Autonomous Region, the regional courts, the city of Dushanbe, the city and the district);

- the court of cassation - the court that hears the case based on appeals and objections to the sentence, order and decision of the court of first instance that has not gained legal effect;

- supervisory court - a court that examines a criminal case based on an appeal, objection to a sentence, order, or legally binding decision of a court of first instance or an order of a court of cassation;

- court of first instance - a court that has the authority to review and make the first decision on a criminal case;

- judge - an official who is appointed or elected to administer justice according to the procedure established by the legislation of the Republic of Tajikistan;

- the prosecuting party - prosecutor (public prosecutor), victim (private prosecutor), civil plaintiff, legal representatives and representatives of the victim and civil plaintiff;

- the defense side - the suspect, the accused, the defendant, his legal representative and his representative, the defender, the civil defendant and his legal representative (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*);

- parties - participants in the trial who support the prosecution or defend against the prosecution on the basis of discussion and equal rights;

- investigation - is a form of criminal investigation, and the investigator conducts a criminal case that does not require a preliminary investigation;

- appointment - a court decision (except for a sentence) issued by a court of first instance during a criminal case trial, as well as any document issued by cassation and supervisory courts, other than the presidium of the court, during the review of valid legal acts. accepted by the court;

- criminal prosecution - a procedural activity carried out by a prosecutor, investigator, researcher in order to identify an act prohibited by the criminal law and to bring the person who committed it as an accused, as well as to ensure the implementation of punishment or other coercive measures against such a person does;

- close relatives - parents, children, adopted children, adopted children, brothers and sisters, grandfather, grandmother (grandmother), grandson, as well as spouse;

- arrest is a preventive measure that is applied by a judge's decision or a court order only to suspected, accused or defendant persons;

- defender - a person who protects the rights and legal interests of the arrested, suspect, accused, defendant and convicted person during the criminal proceedings and provides them with legal assistance by any means and method not prohibited by law;

- verdict - a decision made by the court of first instance on the guilt or innocence of the defendant.

CHAPTER 2. LEGAL PRINCIPLES OF CRIMINAL PROCEDURE

Article 7. Implementation of justice

(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))

In the Republic of Tajikistan, justice in criminal cases is carried out only by the court *(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))* .

Article 8. Judicial protection

Everyone is guaranteed judicial protection. Every person has the right to demand that his case be considered by a competent, independent and impartial court established by law.

Article 9. Legality during criminal proceedings

1. The court, judge, prosecutor, investigator, investigator, when conducting criminal cases, are obliged to follow the provisions of the Constitution of the Republic of Tajikistan, this Code and other laws precisely and uniformly *(Law of the Republic of Tajikistan dated 24.02.2017 [No. 1381](#))* .

2. The provisions of criminal court proceedings, which are provided for in other laws of the Republic of Tajikistan, must be in accordance with the provisions of this Code.

3. The decision of the court, judge, prosecutor, investigator, investigator must be legal and justified. During the conduct of criminal proceedings, non-compliance with the requirements of the law, regardless of the basis on which it was made, is not allowed and will lead to the responsibility established by law, and the illegally adopted acts will be considered invalid and canceled *(Law of the Republic of Tajikistan dated 2.08.2011 [No. 755](#) , dated 20.04.2021 [No. 1777](#))* .

Article 10. Respect for the dignity of a person

1. Respecting the dignity of a person is the duty of officials and authorities who conduct criminal proceedings.

2. None of the participants in the criminal proceedings can be subject to violence, torture or other cruel or degrading treatment.

Article 11. Inviolability of personality

1. No one can be arrested and detained without legal grounds.

2. Arrest, forced detention of a person in medical or educational institutions is carried out only on the basis of the decision of the court or judge.

3. A person who is subject to preventive detention, as well as a person caught as a suspect in committing a crime, should be kept in places where the conditions do not pose a threat to life and health.

4. The arrested person has the right to appeal.

5. Courts, judges, prosecutors, investigators, and investigators are obliged, within the scope of their authority, to immediately arrest a person who is illegally arrested or deprived of liberty, or who is illegally kept in medical or mental institutions or in prison or house arrest for more than the period specified in this Code. (Law of *the Republic of Tajikistan dated 20.04.2021 No. 1777*).

6. The decision of the court, the judge on the release of a person from detention shall be executed immediately.

Article 12. Protection of the rights and freedoms of a person during criminal proceedings

1. The court, judge, prosecutor, investigator, researcher are obliged to protect the rights and freedoms of the person participating in the criminal court proceedings, to create conditions for their implementation, to take timely measures to satisfy the legal requirements of the participants in the court proceedings.

2. Compensation for damage caused to a person during criminal proceedings as a result of non-observance of his rights and freedoms should be carried out in accordance with the provisions of the legislation of the Republic of Tajikistan.

3. When there is sufficient information that the victim, witness or other participants in criminal proceedings, as well as their family members or close relatives are threatened with murder, violence, destruction or damage to property or other dangerous illegal actions. , the court, judge, prosecutor, investigator, investigator are obliged to take measures provided for by the law to protect the life, health, honor, reputation and property of these persons (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

4. The procedure for protecting the life, health, honor, reputation and property of the trial participants is determined by the Law of the Republic of Tajikistan "On State Protection of Participants in Criminal Trials" and other normative legal acts of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702*).

5. No one is obliged to testify against himself or his close relatives, whose scope is defined by this Code.

Article 13. Inaccessibility of housing

1. A person's residence is inviolable.

2. It is forbidden to enter the apartment without the consent of its residents.

3. Inspection, search and finding of housing are carried out in accordance with the procedure established by this Code (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 14. Confidentiality of correspondence, telephone conversations, correspondence, communications, personal and family secrets

Personal and family secrets are protected by law. Every person has the right to protection of personal data, confidentiality of deposits and deposits, correspondence, telephone conversations, correspondence, communications and other information. Restriction of these rights in the course of criminal proceedings is possible only by a court decision in the cases and procedure directly established by the legislation (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702* , dated *20.04.2021 No. 1777*).

Article 15. Presumption of innocence

1. No one shall be deemed guilty of committing a crime until the court's judgment becomes legally binding.
2. The burden of proving guilt is placed on the accuser.
3. The suspect, the accused and the defendant are not obliged to prove their innocence (*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275*).
4. Any doubts about the guilt of the accused, which cannot be removed by the procedure provided by this Code, will be interpreted in favor of the accused.
5. The conviction cannot be based on guesswork.

Article 16. Equality before the law and the court

All are equal before the law and the court. The state guarantees rights and freedoms to everyone, regardless of nationality, race, gender, language, religious belief, political position, social status, education and property.

Article 17. Independence of judges

1. Judges are independent in their activities and obey only the Constitution and the law.
2. It is forbidden to interfere with the activities of judges.

Article 18. Language of criminal court proceedings

1. Criminal court proceedings are conducted in the state language.
2. Participants in the criminal court proceedings who do not know the language of the proceedings have the right to speak in their native language or another language that they know, to testify, to express requests, to familiarize themselves with the case materials, and to provide them with the services of an interpreter in accordance with the procedure determined by this Code. is provided or criminal court proceedings are conducted in the language of the majority of the local population.
3. Procedural documents issued to the suspect, defendant, defendant, convict, as well as other participants in the criminal court proceedings by the authorities of these documents in accordance with this Code, must be duly certified and written in the state language or a language they know. , translated (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

Article 19. Openness of the court hearing

1. The criminal case is discussed in court in an open manner.
2. A closed court hearing is possible only in the cases specified in Article 273 of this Code.

Article 20. Discussion and equality of the parties

1. Criminal court proceedings are conducted in the manner of discussion and on the basis of the equality of the parties.
2. The court is not a criminal prosecution body and does not favor the prosecution or the defense. The court creates conditions for the exercise of procedural rights and obligations of the parties.
3. The prosecution and the defense have equal rights in criminal proceedings and have equal opportunities to defend their position.

Article 21. Comprehensive, complete and impartial investigation of work situations

1. The prosecutor, the investigator and the researcher are obliged to take all the measures provided for by the law in order to comprehensively, completely and objectively investigate the

circumstances of the case, to determine the revealing, exculpatory, aggravating, mitigating and responsible circumstances of the accused.

2. The court, judge, prosecutor, investigator and investigator have no right to assign the duty of proving innocence to the accused.

3. All provable circumstances must be thoroughly, completely and objectively checked.

4. When solving any issues arising from the case, both the incriminating and exculpatory circumstances of the accused, as well as the light or aggravating circumstances of his liability, should be determined and taken into account.

5. The court, the judge observes fairness and impartiality, and in the full investigation of the circumstances of the case, creates the necessary conditions for the realization of the rights of the parties.

Article 22. Provision of the right of defense to the suspect, the accused, the defendant and the convicted

1. Every person can use the help of a defender from the moment of actual arrest (*Law of the Republic of Tajikistan dated 20.04.2021 No. 1777*).

2. Arrested persons, suspects, defendants, defendants and convicts have the right to use their rights to defend themselves from accusations in accordance with the procedure established by this Code, personally, as well as through their defender or legal representative.

3. Courts, judges, prosecutors, investigators, investigators are obliged to explain their rights to suspects, defendants, defendants, and convicts, to provide them with the opportunity to defend themselves with the methods and means established by law, and to ensure the protection of their personal and property rights.

4. The right to defense is also provided to a person against whom a criminal case regarding the implementation of coercive measures of a medical nature is pending.

5. In the cases stipulated by the law, the persons entrusted with the prosecution of the criminal case are obliged to ensure the participation of the defender of the suspect, the accused, the defendant and the convicted.

Article 23. The right to appeal the actions and decisions of the trial

1. Participants in the trial, citizens, representatives of enterprises, institutions, and organizations interested in conducting a criminal case have the right, in accordance with the procedure and time limits established by this Code, against the actions (inaction) of responsible persons or over the decision of the court, judge, prosecutor, head of the investigative unit, investigator, the head of the investigation unit and the investigator to complain (*Law of the Republic of Tajikistan dated 20.04.2021 No. 1777*).

2. A convicted or acquitted person has the right to request a review of the sentence by the higher court in accordance with the procedure established by this Code.

CHAPTER 3. GROUNDS FOR REFUSAL AND TERMINATION OF PROGRESS OF A CRIMINAL CASE

Article 24. Cases of private, private-public and general prosecution

1. Depending on the nature and degree of gravity of the committed crime, prosecution is carried out in court in a private, private-general and general procedure.

2. Cases on the crimes provided for in Articles 112, 116, Article 156, Parts 1 and 2 of the Criminal Code of the Republic of Tajikistan are recognized as private prosecution cases and are initiated with the application of the victim of the crime, his legal representative, and the proceeding of the case in case of his reconciliation. is terminated with the accused (*Law of the Republic of Tajikistan dated 28.12.2012 No. 927*).

3. Cases on crimes under articles 113 - 115, 118 part 1, 119, 120, 123 parts 1 and 2, 124, 125 part 1, 126 part 1, 127 part 1, 128 part 1, 129 part 1 of the Criminal Code of the Republic of Tajikistan provides that private-public prosecution cases are recognized and initiated by the application of the victim of the crime, his legal representative. If the victim of the crime reconciles with the accused and restores the compensation for the damage caused to the victim, the proceeding of the case will be terminated (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1332* , dated 24.12.2022 *No. 1926*) .

4. The prosecutor has the right, regardless of the position of the victim, to carry out criminal prosecution on private and private-public charges in the cases provided for by this Code.

5. The prosecutor's refusal to prosecute does not deprive the victim of a crime of the right to support the prosecution.

6. Criminal cases, with the exception of cases related to the crimes specified in parts 2 and 3 of this article, are considered cases of a general nature.

Article 25. The right of the victim to participate in criminal prosecution

1. If the victim dies or is unable to express his will due to age or health, his legal representative or his representative in the criminal court proceedings have the right to participate in the prosecution of the accused in accordance with the procedure provided by this Code, in the case of private prosecution. have the right to present and support accusations against the relevant person.

2. The victim, his legal representative or his representative have the right to refuse to support the accusation at any moment of the criminal proceedings.

Article 26. Obligation to carry out criminal prosecution

1. The prosecutor, investigator, and investigator are obliged to initiate a criminal case within the scope of their authority upon discovering a crime, and to establish the crime, the person who committed it must take the measures provided for by the law, and if there is sufficient evidence, submit the criminal case materials to the court for consideration. .

2. In the criminal court proceedings, the prosecutor, the investigator, the investigator exercise their authority in accordance with the requirements of this Code and regardless of any authorities and officials.

3. Any kind of pressure on the prosecutor, investigator or investigator in order to interfere with the objective investigation of the criminal case in accordance with the procedure established by the law shall lead to liability.

4. Fulfillment of the request of the prosecutor, investigator, investigator, submitted in accordance with this Code, is mandatory for all enterprises, organizations, institutions, regardless of their organizational and legal form, officials and citizens.

Article 27. Circumstances that preclude the initiation of a criminal case

1. In the following cases, the criminal case shall not be initiated and the initiated case shall be terminated:

- when there is no crime incident;
- when there are no signs of a crime in the committed act;
- when the term of criminal responsibility has expired;
- when accepting the act of amnesty;
- when the victim is reconciled with the accused in the criminal case of private prosecution;
- in the absence of the victim's application, if the criminal case is initiated precisely according to his application, except for the cases provided for in part 2 of Article 147 of this Code, where the prosecutor is given the right to initiate a criminal case without the victim's application;

- in relation to the deceased person, except for the cases where criminal proceedings are initiated to establish his innocence or criminal proceedings are restarted regarding newly discovered circumstances against other persons;

- in respect of a person against whom there is a legally binding judgment or a court order or a judge's decision to terminate a criminal case on the same grounds;

- against a person who has an unsolicited decision of an investigator, investigator, prosecutor to stop criminal proceedings or a decision to refuse to initiate criminal proceedings on the same charge.

2. If the circumstances specified in the first and second paragraphs of part 1 of this article are revealed during the court hearing, the court shall conclude the court hearing and issue an acquittal verdict.

3. It is not allowed to terminate the case on the grounds provided for in the third and fourth paragraphs of part 1 of this article, provided that the accused expresses his displeasure in this regard. In this case, the proceeding of the case will continue in accordance with the requirements of this Code, an indictment or an acquittal will be issued, and the person will be released from punishment.

4. If, before the sentence becomes legal, the crime and punishment of this act has been eliminated by the new criminal law, in accordance with the second paragraph of part 1 of this article, the criminal case should be stopped.

Article 28. Refusal and termination of criminal proceedings by releasing a person from criminal liability

1. On the basis of articles 72, 73, 74, 75 and 82 of the Criminal Code of the Republic of Tajikistan, the court, judge, prosecutor, as well as the investigator and the investigator, with access to the mentioned articles and with the consent of the prosecutor, have the right to refuse to initiate a criminal case or to proceed with the case in the following cases stop the crime by releasing the person from criminal responsibility (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*):

- regret for the act;

- reconciliation with the victim and restoration of compensation for the damage caused;

- change of situation;

- Expiration of the term of criminal prosecution;

- implementation of the act of amnesty (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

2. It is not possible to terminate the proceeding of the criminal case on the grounds specified in part 1 of this article, unless the suspect, the accused, does not agree to it. In this case, the criminal case will continue.

3. The victim is informed about the refusal to start a criminal case or the termination of its proceedings, and it is explained that he has the right to appeal to the higher court or the prosecutor within five days from the decision of the court or the decision of the prosecutor, investigator, investigator in relation to the mentioned issue. to declare above.

Article 29. Exemption of a person from criminal liability due to remorse for his actions

1. On the basis of Article 72 of the Criminal Code of the Republic of Tajikistan, the court, judge, prosecutor, as well as the investigator and investigator, with access to the mentioned article and with the consent of the prosecutor, have the right:

- to refuse to open a criminal case against a person who has committed a minor or medium-level crime for the first time (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*);

- terminate the criminal case by releasing the person from criminal liability.

2. Refusal to start a criminal case or to stop its proceeding on the grounds provided for in part 1 of this article may take place in relation to other crimes, provided that it is provided for in the articles of the special part of the Criminal Code of the Republic of Tajikistan.

3. Before refusing to start a criminal case or terminating a criminal case based on the grounds provided for in parts 1 and 2 of this article, the person must be explained the grounds of the adopted decision and his right to express dissatisfaction with this decision.

Article 30. Release of a person from criminal liability due to reconciliation with the victim

The court, judge, prosecutor based on Article 73 of the Criminal Code of the Republic of Tajikistan, as well as the investigator and investigator in accordance with the mentioned article and with the consent of the prosecutor, have the right:

- on the basis of the application of the victim or his legal representative, to refuse to initiate a criminal case against a person who has committed a minor or medium-level crime, provided that he has reconciled with the victim and restored the compensation for the damage caused to him;
- terminate the criminal case by releasing the person from criminal liability.

Article 31. Release of a person from criminal liability due to a change in circumstances

The court, judge, prosecutor based on Article 74 of the Criminal Code of the Republic of Tajikistan, as well as the investigator and investigator in accordance with the mentioned article and with the consent of the prosecutor, have the right:

- on the basis of the application of a person who has committed a minor or medium-level crime for the first time, they refuse to initiate a criminal case, provided that due to a change in the situation, this person and the act committed by him are no longer dangerous to society;
- terminate the criminal case by releasing the person from criminal liability.

Article 32. Exemption of a person from criminal liability due to the expiration of the term of criminal liability

Based on Article 75 of the Criminal Code of the Republic of Tajikistan, the court, judge, prosecutor, as well as the investigator and investigator, in accordance with this article and with the consent of the prosecutor, are obliged to prosecute:

- refuse to start a criminal case;
- to stop proceeding with the initiated criminal case.

SECTION II. PARTICIPANTS IN CRIMINAL COURT PROCEEDINGS

CHAPTER 4. COURT

Article 33. Courts that administer justice in criminal cases

Judicial justice in criminal cases in the Republic of Tajikistan is carried out by the Supreme Court of the Republic of Tajikistan, the Military Court, the Court of the Badakhshan Mountain Autonomous Region, the regional courts, the city of Dushanbe, the city and the district.

Article 34. The composition of the court

1. The criminal case is considered collectively or individually in the first instance court.
2. The collective review of the criminal case is carried out by the court, consisting of a judge and two people's advisers.
3. People's advisers use all the rights of a judge when administering justice.

4. The judge only examines criminal cases, except for cases of particularly serious crimes (*Law of the Republic of Tajikistan dated 16.04.2012 No. 809*).

5. The criminal case shall be reviewed by the cassation and supervisory procedure in the panel of judges established by Articles 365 and 410 of this Code.

Article 35. Jurisdiction of the court

1. Only the court has the right:

- find a person guilty of committing a crime and impose a punishment on him;
- appoint educational measures against minors in accordance with Chapter 44 of this Code;
- appoint coercive measures of a medical nature against a person in accordance with Chapter 45 of this Code;
- give permission to arrest a person and place him under house arrest or extend his term;
- cancel or change the acts adopted by the courts of the lower stages;
- to allow for the conduct of a forensic-medical or forensic-psychiatric examination to place a suspect and an accused who is not in custody in a hospital or psychiatric clinic;
- to give permission for inspection of the apartment, if the residents do not agree;
- give permission to search the house;
- allow seizure of property;
- give permission to search and find items, documents containing deposit information and bank accounts;
- authorize the seizure of funds of individuals and legal entities that are in accounts and deposits or in the custody of banks and other financial institutions (*Law of the Republic of Tajikistan dated 19.07.2022 No. 1900*);
- to allow the seizure of communications, their inspection, their finding in the communication institution or telegraphic messages and other messages that are transmitted through electrical communication networks and postal communication (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*);
- to make a decision on temporary dismissal of the accused in accordance with Article 114 of this Code;
- allow listening and recording of telephone conversations and other conversations;
- in the cases provided by the legislation of the Republic of Tajikistan, to initiate a judicial review of a criminal case on private prosecution or to send its materials to the relevant authorities for the initiation of a criminal case and conducting an investigation or preliminary investigation according to investigative jurisdiction (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*);
- exercise other powers provided for by this Code.

2. If, during the judicial review of a criminal case, non-compliance with the rights and freedoms of a citizen, as well as non-compliance with the provisions of the law, which are revealed during the investigation, preliminary investigation, and judicial review, the court, the judge has the right to punish those who made the mistake, make a private appointment (decision).

3. Courts and judges have the right to issue private orders (decisions) in other cases as well.

Article 35(1). The procedure for reviewing materials on the restriction of constitutional rights of citizens during operational-search activities (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*)

The procedure for consideration of the material on the restriction of the constitutional rights of citizens during operational-search activities is determined in accordance with this Code and the

Law of the Republic of Tajikistan "On operational-search activities" (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*, dated 20.04.2021 *No. 1777*).

Article 35(2). The procedure for obtaining court permission to conduct an investigative action

(*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*)

1. In the cases provided by the sixth-fourteenth paragraphs of part 1 of article 35 of this Code, the investigator, the investigator, with the consent of the prosecutor, submits a request to the court to conduct an investigative action, and a decision is issued on this.

2. The request to conduct an investigative action will be considered by the judge at the place of conducting the preliminary investigation or conducting an investigative action within a period not later than 24 hours from the moment of receiving it.

3. Investigators, investigators and prosecutors have the right to participate in court meetings.

4. The judge will review the request and issue a decision on whether to allow the investigation or refuse to conduct it, indicating the reasons for the refusal. The court's decision will be handed over to the criminal prosecution authorities.

5. Upon receiving written information about conducting a search without the permission of the court and finding related materials, the judge shall check the legality of the decision to carry out the investigative action within the period specified in part 2 of this article. According to the results of the examination, the judge makes a justified decision on the legality or illegality of the decision of the criminal prosecution body and sends a copy of it to the prosecutor and the criminal prosecution body.

6. The decision of the court (judge) to grant permission to conduct an investigation or to refuse to conduct it can be appealed or protested to the higher court by way of cassation within three days. The judge, who has considered the request of the criminal prosecution body or its written report on conducting the investigative action, is obliged to send the material to the court of cassation within two days from the moment of the objection or appeal.

7. The court of cassation shall make a decision on the appeal or protest within three days from the moment the material enters the court.

8. If the judge or the court of cassation considers the decision to conduct the investigation and the protocol of the investigation as illegal, all the evidence obtained during such an investigation will be considered inadmissible in accordance with the requirements of Article 88(1) of this Code (*Law of the Republic of Tajikistan dated 29.01. 2021 No. 1755*).

CHAPTER 5. PARTICIPANTS IN CRIMINAL COURT PROCEEDINGS WHO CONDUCT CRIMINAL PROSECUTION

Article 36. Prosecutor

1. The prosecutor is a public official and, within the scope of his authority, carries out prosecution on behalf of the state and ensures its prosecution in all stages of criminal proceedings in accordance with this Code.

2. The prosecutor supervises the exact observance and uniform execution of laws by the investigation and preliminary investigation bodies.

3. The prosecutor who participates in the judicial review of the criminal case is called the public prosecutor. During the strengthening of the state prosecution, the prosecutor expresses his position on the issues of the application of the criminal law and the imposition of punishment against the defendant, in accordance with the requirements of the law and his inner confidence, which is justified by the results of the investigation of all the circumstances of the case.

4. The prosecutor has the right to appeal to the higher court within the scope of the authority established by this Code to cancel or change the document adopted by the court (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

5. The prosecutor has the right to refrain from criminal prosecution and prosecution on the grounds and in the procedure provided for by this Code until the moment when the court enters the consultation room to issue a verdict.

Article 37. Authority of the head of the specialized anti-corruption body

The head of the specialized anti-corruption body has the right to establish an operational-investigative group at the expense of the employees of this body to investigate a single crime or several crimes (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*).

Article 38. Head of the investigation unit

1. The head of the investigation unit has the following powers:

- supervise the activity of investigators in the investigation of crimes;
- take measures to fully, comprehensively and impartially investigate the circumstances of the criminal case;
- to start a criminal case and to accept it or to entrust the investigation of a criminal case to an investigator;
- take the criminal case from one investigator and give it to another investigator;
- remove the investigator from conducting the criminal case, if the investigator has violated the requirements of this Code (*Law of the Republic of Tajikistan dated 20.04.2021 No. 1777*);
- submit a request to the prosecutor to cancel the unjustified decisions made by the investigator;
- to control the compliance of the preliminary investigation period by the investigators;
- to ensure the execution of the instructions of the prosecutor by the investigators;
- entrust the preliminary investigation of the criminal case to several investigators;
- to supervise the performance of the tasks of other investigators established by this Code;
- participate in the investigation of the criminal case under investigation, and at the same time use the powers of the investigator.

2. The instructions of the head of the investigation unit on the criminal case cannot limit the independence of the investigator and his rights established by Article 39 of this Code. Instructions are given to the investigator in writing and their implementation is mandatory.

Article 39. Investigator

1. The investigator has the following powers:

- to initiate a criminal case if there are grounds specified in Article 140 of this Code;
- accepts the criminal case and conducts investigative actions;
- to independently make a decision on a criminal case, except for cases where this Code requires obtaining the consent of the prosecutor or the permission of the court;
- conduct the criminal case in a timely manner;
- to make a decision on bringing a person as a defendant, the classification of the crime, the amount of the charge;
- stop criminal proceedings in accordance with the procedure established by this Code or send them to court;

- in case of disagreement with the instructions of the prosecutor, he has the right to send the case to the senior prosecutor with a written statement of his displeasure;
 - get familiar with operational-search materials related to the investigated case, in accordance with the legislation (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*) ;
 - to give written orders and instructions to the employees of investigative bodies for carrying out operational-search activities and conducting investigative actions, the implementation of which is mandatory, and to request the assistance of these authorities in conducting investigative actions (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*) ;
 - to take measures for a comprehensive, objective and objective investigation of the criminal case;
 - to press charges against persons for whom sufficient corroborative evidence has been collected for the commission of a crime;
 - to choose a preventive measure in accordance with the procedure established by this Code;
 - take measures to restore the damage caused by the committed crime in accordance with the procedure provided by the legislation (*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275*) ;
 - carry out criminal prosecution and hand over the case to the prosecutor with the intention of indictment.
2. In accordance with the provisions of this Code, the implementation of the decisions made by the investigator on the criminal case under his supervision is mandatory for all legal entities, regardless of organizational and legal forms, officials and citizens.

Article 40. Investigation bodies

1. The investigation bodies are considered to be:
- units of the Ministry of Internal Affairs of the Republic of Tajikistan;
 - units of the bodies of the State Committee of National Security of the Republic of Tajikistan;
 - units of the authorities of the Ministry of Defense of the Republic of Tajikistan;
 - units of the Committee of Emergency Situations and Civil Defense under the Government of the Republic of Tajikistan;
 - heads of correctional institutions;
 - units of state fire control bodies;
 - units of the National Guard of the Republic of Tajikistan;
 - units of customs authorities;
 - units of the Agency for Narcotics Control under the President of the Republic of Tajikistan;
 - units of specialized anti-corruption authorities.
2. Investigative bodies are responsible for:
- reception, registration and review of applications and information about committed or unfinished crime;
 - conducting investigation on criminal cases for which preliminary investigation is not mandatory;
 - performing urgent actions on cases for which preliminary investigation is mandatory;
 - conducting a preliminary investigation in the cases provided for by this Code.
3. Initiation of a criminal case in accordance with the procedure established by Article 146 of this Code and implementation of urgent investigative actions shall be entrusted to the following:

- the heads of teams and groups of wintering geological research that are located at a distance from the place of stay of the investigation bodies listed in part 1 of this article - regarding the crimes committed in the place of stay of these teams and groups of wintering;

- heads of diplomatic missions and consular institutions of the Republic of Tajikistan - on criminal cases about crimes committed within the territory of these missions and institutions.

Article 41. The head of the investigation unit and investigator

1. The head of the research unit is an official and, according to the provisions of this Code, he has the following powers in relation to his subordinate researchers:

- entrust the investigation of complaints and complaints about crime to the investigator;
- according to the provisions of Article 145 of this Code, make a decision on the resolution of complaints;
- to carry out operational-search activities and investigative actions related to the criminal case (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*);
- take the criminal case from one investigator and hand it over to another investigator;
- submit a request to the prosecutor to cancel the illegal or groundless decision of the investigator to refuse to initiate a criminal case;
- to start a criminal case, to carry out its promotion and to carry out investigative actions in full using investigative powers;
- study the material of the criminal case;
- to give instructions to the investigator on conducting the investigation, separate investigative actions, choosing the type of prevention measure against the suspect, the classification of the crime and the amount of the charge.

2. The orders of the head of the investigative unit on the criminal case are given in writing, and their execution is mandatory by the investigator. In case of disagreement with the assignment, the investigator has the right to report to the prosecutor. Filing a complaint does not stop the execution of orders.

3. The investigator is an official and has the following powers according to the provisions of this Code:

- carry out investigative actions and other procedural actions independently, except for the cases provided for by this Code, their approval by the head of the investigation unit, the permission of the prosecutor or the court;
- during the investigation of a criminal case for which a preliminary investigation is not mandatory, the rules for preliminary investigation provided for by this Code, with the exception of the provisions of Chapter 20 of this Code, shall be followed.

4. The researcher is obliged to:

- on the request of the head of the investigation body, in urgent cases, initiate a criminal case for which it is mandatory to conduct a preliminary investigation, carry out urgent investigative actions and operational-search activities, and inform the prosecutor and the investigative authorities about this within 24 hours. to inform in advance (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*);
- to carry out the orders of the court, judge, prosecutor, preliminary investigation body, head of the investigation body on carrying out separate investigative actions, on the implementation of measures to ensure the safety of persons participating in criminal proceedings.

5. Instructions of the court, judge, prosecutor, preliminary investigation body, head of the investigation body are mandatory for the investigator.

6. It is possible to complain about the instructions of the head of the investigative body to the supervising prosecutor, and about the instructions of the prosecutor to the senior prosecutor.

7. Complaining does not stop the execution of orders, with the exception of instructions on the classification of the crime, the amount of the charge, when the criminal case is handed over to the prosecutor and further referred to the court or termination of the criminal case.

Article 42. Victim

1. A victim is a person who, regardless of age, mental and physical condition, has been physically, materially and morally harmed by a crime, as well as a person whose rights and interests are under direct threat of an attempted crime. A victim can also be recognized as a legal person who has suffered material or moral damage as a result of a crime. In this case, the rights and obligations of the victim are applied by the representative of the legal entity. The investigator, the investigator and the prosecutor immediately make a decision on the recognition of a natural or legal person as a victim after establishing the incident of the crime and the reality of the damage caused by the crime, and the court issues an order.

2. The victim, his legal representative and his representative have the right:

- provide evidence;
- express a request or refusal;
- demonstrate in their mother tongue or another language they know;
- use the help of a translator for free;
- have a representative;
- get acquainted with the protocol of the investigative actions conducted with their participation and make comments on them;
- with the permission of the investigator or investigator, participate in the investigative actions carried out at his request or at the request of his legal representative and representative (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*);
- after the completion of the investigation, get acquainted with all investigation materials, write down any information from them in different sizes, participate in the trial and court negotiations on the case in the court of first instance;
- get acquainted with the protocol of the court meeting and express their comments about it;
- complain about the action or decision of the investigator, investigator, prosecutor, court, judge;
- appeal against the sentence or order or decision of the court;
- to be informed about complaints and objections expressed in relation to the case and to express dissatisfaction with them;
- to participate in the judicial review of the submitted objections and complaints.

3. The victim is obliged to:

- appear at the invitation of the investigator, investigator, prosecutor, court, judge, inform about all the information known to him about the case, and answer the proposed questions;
- not to disclose the information of initial investigation or preliminary investigation known to him;
- to follow the established procedure when conducting the investigation and the court meeting.

4. The victim is brought forcibly when he does not appear at the summons without good reason.

5. The victim will be prosecuted for refusing to appear at the invitation of the investigating, investigative or court authorities, or for refusing to give evidence and knowingly giving false evidence in accordance with Articles 351 and 352 of the Criminal Code of the Republic of Tajikistan.

6. In cases of crimes, the consequences of which have caused the death of the victim, the rights provided for in this article are held by his close relatives.

7. The victim also has other rights and obligations stipulated by this Code.

8. The state guarantees access to justice and compensation for the damage caused to the victim.

Article 43. Private accuser

1. A private accuser is a person who makes an application to the court in accordance with the procedure established by this Code and supports the accusation in court, as well as a victim who supports the accusation in court when the public prosecutor refuses to accuse (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. If the victim is a minor or incapacitated, the private prosecutor is considered to be his legal representative who has expressed a request, plea or complaint.

3. The private accuser uses all the rights and obligations of the victim, as well as the rights provided for in parts 1 and 2 of article 42 of this Code, with the exception of the rights related to the criminal prosecution stage.

4. The private accuser uses the rights and obligations assigned to him personally or through his representative.

Article 44. Civil plaintiff

1. A civil claimant is recognized as a natural person or a legal entity who has suffered property damage as a result of the commission of a crime and has submitted a claim for its development. A civil claimant may also file a civil claim for moral damages.

2. The investigator, the investigator, the prosecutor make a decision on the recognition of the civil claimant, and the court issues an order.

3. In order to protect the interests of minors, as well as persons who have been recognized as incompetent by the established procedure, a civil lawsuit may be filed by their legal representatives.

4. Civil plaintiff has the right:

- support a civil claim or withdraw from a claim;
- provide evidence;
- submit a request or refusal;
- to give statements and instructions in his native language or a language he knows;
- use the services of a translator free of charge;
- have a representative;
- get acquainted with the protocols of the investigative actions that took place with his participation;
- with the permission of the investigator or researcher, participate in the investigative activities conducted according to his or her representative's request;
- after completing the investigation, get acquainted with the materials on the civil claim and write down the necessary information from it;
- to participate in court hearings of the first, cassation and control stages;
- to appear in court hearings and negotiations;
- get acquainted with the protocol of the court meeting and make comments on it;
- to complain about the actions and decisions of the investigator, investigator, prosecutor and court, judge;

- appeal against the verdict and order of the court, the judge, the decision of the judge in the part related to the civil claim;

- to be informed about complaints and objections related to the case and to express dissatisfaction with them;

- to participate in the judicial review of complaints and objections.

5. The civil claimant is obliged to:

- to appear at the invitation of the authorities conducting the criminal court proceedings;

- provide the court with copies of the claim application in accordance with the number of civil defendants;

- at the request of the authorities conducting the criminal court proceedings, submit the items and documents they have;

- to obey the legal orders of the authorities conducting criminal court proceedings;

- not to divulge information about the circumstances that have become known to him as a result of the criminal case, provided that he has been informed about this by the authorities conducting the criminal court proceedings or the court.

6. For disclosing the information of the preliminary investigation and preliminary investigation without the permission of the authorities conducting the criminal court proceedings, the civil plaintiff shall be prosecuted in accordance with Article 361 of the Criminal Code of the Republic of Tajikistan.

7. A civil claimant may be questioned as a witness.

8. The civil claimant uses his rights and fulfills the obligations assigned to him personally or through his representative.

9. A civil claimant may withdraw from a claim at all stages of the proceedings until the court enters the consultation room to issue a verdict. Refusal of the claim leads to the termination of its promotion.

Article 45. Representatives of the victim, civil plaintiff and

private prosecutor

1. The representatives of the victim, civil plaintiff and private accuser are recognized as close relatives or other persons who, in accordance with the law, have the right to represent the legal interests of the victim, civil plaintiff or private accuser during the criminal proceedings, and by the decision of the investigator, investigator, prosecutor, court order, the judge should be allowed to participate in the case.

2. In order to protect the rights and legal interests of minor victims or those who, according to their physical and mental condition, are deprived of the opportunity to independently protect their rights and legal interests, their legal representatives are involved for mandatory participation in the case review.

3. Legal representatives and representatives of the victim, civil claimant and private accuser, along with natural and legal persons who represent them, exercise procedural rights.

4. The personal participation of the victim, civil plaintiff and private accuser in the consideration of the case does not deprive them of the right to have their own representative in this case.

CHAPTER 6. PARTICIPANTS IN CRIMINAL PROCEEDINGS WHO PROTECT THEIR RIGHTS AND INTERESTS OR THEIR REPRESENTATIVES

Article 46. Suspect

1. A suspect is a person against whom a criminal case has been initiated based on the basis and procedure established by this Code due to his suspicion of committing a crime, and the investigator or investigator informs him about this, or he has been arrested, or he is pending trial. The prevention measure has been implemented.

2. The suspect must be interrogated immediately, but not later than 24 hours, if the suspect is a minor, not later than 12 hours from the moment of his actual arrest (*Law of the Republic of Tajikistan dated 23.12.2021 No. [1811](#)*).

3. The suspect has the right to protection from the moment of actual arrest in accordance with Article 49 of this Code (*Law of the Republic of Tajikistan dated 14.05.2016 No. [1306](#)*).

4. The suspect has the right to:

- from the moment of actual arrest, to use the services of the defender without delay, to meet with the defender one-on-one, including before the start of the interrogation (*Law of the Republic of Tajikistan dated 14.05.2016 No. [1306](#)*);

- get acquainted with the decision to initiate a criminal case (*Law of the Republic of Tajikistan dated 01.29.2021 No. [1755](#)*);

- to give evidence or not and to be informed about it before the questioning;

- to know why he is suspected;

- receive a copy of the protocol of arrest or the decision on the implementation of preventive measures;

- to demonstrate in his mother tongue or another language he knows;

- use the services of a translator free of charge;

- provide evidence;

- express a request;

- get acquainted with the protocols of the investigative actions conducted with his participation, as well as with the material sent to the court for the implementation of arrest against him as a preventive measure;

- express refusal;

- to appeal against the actions and decisions of the court, prosecutor, investigator and investigative person.

Article 47. Accused

1. The accused is a person against whom a decision has been issued to prosecute as an accused (*Law of the Republic of Tajikistan dated 23.07.2016 No. [1333](#)*).

2. The accused is called the defendant after the case is assigned to the court session; the defendant against whom the court verdict was issued is called convicted, if the sentence is completely acquitted, it is called acquitted (*Law of the Republic of Tajikistan dated 29.01.2021 No. [1755](#)*).

3. The accused has the right to protect his legal interests by all means and methods that do not contradict the law and this Code, and to have sufficient time and opportunity to prepare for the defense.

4. The accused has the right to:

- to give evidence or not and to be informed about it before the questioning;

- to find out what he was accused of and to receive a copy of the decisions on criminal prosecution as an accused, on the implementation of a preventive measure, as well as a copy of the opinion of the prosecution;

- to testify on the charge announced against him;

- provide evidence;

- express request and refusal;
- to demonstrate in his mother tongue or another language he knows;
- use the services of a translator free of charge;
- has a defender from the moment of arrest, in particular, according to the conditions and procedures stipulated by this Code, he can use the help of a defender free of charge;
- meet one-on-one with the defender without hindrance from the moment of arrest;
- to take part in investigative actions conducted at his request or at the request of the defender;
- get acquainted with the protocol of investigative actions and express his opinion about it;
- get acquainted with the decision to appoint an expert and the expert's opinion;
- after completing the investigation, get acquainted with the case material and write down any necessary information from it;
- to complain about the actions and decisions of the investigator, prosecutor, court, judge;
- to express displeasure regarding the termination of the case;
- to participate in the court hearing on the selection of preventive measures.

5. The accused is obliged to:

- to appear at the invitation of the authorities conducting the investigation;
- to obey the legal orders of the authorities conducting the investigation;
- to participate in investigative and other procedural actions, provided that the preliminary investigation authority deems it necessary.

6. The defendant has the right to:

- to participate in the trial of the court of first instance and cassation;
- to say the last word;
- get acquainted with the protocol of the court meeting and submit comments on it;
- appeal against the sentence, order and decision of the court, judge;
- receive copies of appealed decisions;
- receive copies of complaints and proposals brought to the criminal case and express dissatisfaction with them;
- to participate in consideration of issues related to execution of sentence;
- to use other rights provided by this Code.

7. The convict may use the rights provided for in Articles 403 and 410 of this Code.

Article 48. Legal representative of a minor

In cases of crimes committed by minors, their legal representatives must be involved in order to participate in the case in accordance with the procedure established by this Code.

Article 49. Defender

1. Advocates are allowed as defenders. By court order, decision of the judge, prosecutor, investigator and investigator, close relatives and legal representatives of the arrested, suspect, accused and defendant are allowed to conduct the case as defenders (*Law of the Republic of Tajikistan dated 23.11.2015 No. 1229*).

2. The defense attorney is allowed to consider the criminal case and places of detention of the suspect, the accused, the defendant and the convicted by submitting a warrant and a lawyer's certificate (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. One person cannot be the defender of two arrested, suspected, accused, defendant, provided that the interests of one of them conflict with the interests of the other.

Article 50. Summons, appointment and replacement of the defender

1. The defender is summoned by the arrested, suspected, accused, defendant, their legal representative, as well as by other persons on their behalf or with their consent.

2. The body conducting the criminal court proceedings has no right to recommend to anyone the appointment of a certain defender.

3. The participation of the defender is provided by the investigator, investigator, prosecutor or court, judge at the request of the arrested, suspected, accused or defendant and their representative.

4. If the participation of the selected or appointed defender is not possible for at least five days, the investigator, the investigator and the prosecutor and the court have the right to invite the arrested, suspected or accused person to summon another defender, and if he refuses to appoint a defender, take measures think

5. If the defense attorney participating in the criminal case cannot participate in the trial operation within five days, the suspect, the accused does not invite another defense attorney and does not submit a request for the appointment of a defense attorney, the investigator, investigator, prosecutor has the right to conduct the same procedural action without the participation of the defense attorney. except for the cases provided for in part 1 of article 51 of this Code.

6. If within 24 hours from the moment of the arrest of the suspect or the arrest of the suspect, it is not possible for the accused to appoint a defender of their choice, the investigator, investigator or prosecutor must take measures to appoint another defender.

7. If the suspect, the accused refuses the appointed defender, investigative actions with the participation of the suspect, the accused can be conducted without the participation of the defender, except for the cases provided for in part 1 of article 51 of this Code. Waiver of defense counsel by the suspect and the accused is carried out in accordance with the procedure established by Article 52 of this Code.

8. If the suspect or the accused does not use the right to get a defense attorney, the prosecutor or the investigator will appoint him a defense attorney (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

9. The defense counsel shall be replaced in court proceedings in accordance with the requirements of Part 2 of Article 281 of this Code.

10. The defender's salary is paid in accordance with the current legislation.

11. The investigator, investigator, prosecutor or court, judge have the right to fully or partially exempt the arrested, suspected, accused or defendant from paying legal aid. In such a case, the defender's salary is paid at the expense of the state.

12. The defense attorney's salary, as well as in the cases provided for by part 4 of this article, when the defense attorney participated in the preliminary investigation or the court, according to the appointment, without concluding a contract with the client, is paid at the expense of the state. In this case, the compensation of the state's expenses can be imposed on the convict.

13. The provision of a defense attorney at the expense of the state and the payment of his service fee in the cases provided for in Article 50(1) shall be carried out in accordance with the procedure established by the Law of the Republic of Tajikistan "On Legal Aid" (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1696*).

Article 50(1). Payment of the defense attorney's fee at the expense of the state

1. The following persons are guaranteed payment of the defense attorney's fee at the expense of the state:

- suspects, defendants, defendants and convicts who are in need of legal assistance but cannot afford such services and are recipients of social assistance according to the legislation of the Republic of Tajikistan;

- a suspect, accused, defendant or convicted of an unaccompanied minor or a minor whose parents (persons replacing them) do not have the opportunity to pay for such services and are recipients of social benefits in accordance with the legislation of the Republic of Tajikistan;

- veterans of the Great Patriotic War and persons equivalent to them, veterans of military operations in the territory of other states and persons equivalent to them, as well as persons who suffered damage due to the disaster of the Chernobyl nuclear power plant or participated in the elimination of the consequences of this disaster;

- persons specified in the third, fifth, sixth and seventh paragraphs of part 1 of article 51 of this Code.

2. When providing a defense attorney at the expense of the state, the investigator, investigator, prosecutor, and judge make a decision, and the court issues a decision on the appointment of a lawyer as a defense attorney, and after the completion of the case, on the rightful payment of the lawyer's services (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1696*).

Article 51. Mandatory participation of the defender

1. The participation of the defender in the proceedings is mandatory, provided that:

- the suspect, the accused or the defendant submit a request in this regard;

- the suspect, accused or defendant is a minor;

- the suspect, the accused or the defendant cannot independently exercise their right to defense due to physical and mental defects;

- the suspect, the accused or the defendant do not know the language of the proceedings;

- the defendant under arrest refuses to appear at the court meeting (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*) ;

- the accused is outside the territory of the Republic of Tajikistan and refuses to appear for the investigation (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*) ;

- a person is accused of committing a crime punishable by death or life imprisonment.

2. Investigators, investigators, prosecutors, courts, and judges have the right to consider the participation of a defense attorney necessary in other cases as well, provided that they are considered such that the complexity of the case and other circumstances may make it difficult for the suspect, the accused, or the defendant to exercise their right to defense.

3. If in the cases specified in this article, the defender was not invited by the arrested person, the suspect, the accused, the defendant or their legal representative, as well as by other persons with their consent, the investigator, investigator, prosecutor, court, judge are obliged to participate in the defense. provide a case. In this case, the decision of the investigator, investigator, prosecutor, judge or court order to appoint a defense attorney is mandatory for the Union of Advocates of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 23.11.2015 No. 1229*) .

Article 52. Waiver of the defender

1. The suspect, the accused or the defendant have the right to refuse the services of a defense attorney in his presence at any moment of the case proceeding, on their own initiative, submitted in writing.

2. Refusal of a defense attorney due to lack of funds to pay for legal aid or other circumstances that indicate forced abandonment of a defense attorney is not allowed.

3. In the cases provided for by part 1 of article 51 of this Code, it is not allowed to withdraw from the defense.

4. Refusal of a defense attorney does not deprive the suspect, the accused, and the defendant of the right to submit a request for a defense attorney to participate in the prosecution of the criminal case. Allowing the defender does not require repeated procedural actions.

Article 53. Authority of the defender

1. The defender is obliged to use all the means and methods not prohibited by the law and this Code and to provide them with the necessary legal assistance in order to reveal and present evidence exonerating the suspect, the accused, the defendant or mitigating their liability.

2. The defense attorney has the right from the moment he is admitted to the case:

- to know why the person whose interests he is protecting is suspected or accused, to get acquainted with the decision to initiate a criminal case or to bring him to justice as an accused (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*);

- talk to the person under his protection one-on-one without hindrance, without limiting the number and duration (*Law of the Republic of Tajikistan dated 27.11.2014 No. 1134*);

- to collect and present evidence and information necessary for providing legal assistance;

- participate in the procedure established by Part 3 of Article 225 of this Code when the defendant is charged;

- take part in the questioning of the suspect and the accused, as well as other investigative actions carried out at the request of the defense counsel;

- get acquainted with the protocol of arrest, the decision on the implementation of preventive measures, the protocol of the investigation carried out with the participation of the suspect or the defender himself, with the documents that have been presented or should be presented to the suspect or the accused;

- after completing the investigation or preliminary investigation, get acquainted with all the materials of the case and write down any information from it in any volume;

- express a request;

- participate in the trial of the court of first instance;

- to appear in court negotiations;

- to participate in the court meeting, which considers the case in the cassation or supervisory procedure, or when the case is restarted on newly discovered circumstances, and to give explanations on complaints;

- to refuse;

- to complain about actions and decisions of investigators, prosecutors and courts, judges and take part in their consideration;

- to use any means and methods that are not against the law for protection;

- to have information on objections and complaints submitted to the case and to express dissatisfaction with them.

3. The defense attorney, who participated in the investigative actions, has the right to ask questions to the interrogated persons with the permission of the investigator. The investigator or investigator may refuse to ask guiding questions, but is obliged to record them in the protocol (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

4. The defender has the right to reflect his written comments on the accuracy and completeness of the record in the protocol of the investigation.

5. The defense attorney participating in the case review may have an assistant. With the consent of the suspect, the accused, the defendant in the presence of the defender or with his power of attorney, the assistant can familiarize himself with the material of the case.

6. The defender does not have the right to:

- disclose the information that became known to him due to the implementation of protection or provision of other legal assistance;
- renounces his obligation to defend the suspect, the accused or the defendant;
- recognize the person under his protection as guilty of an act dangerous to society or guilty of committing a crime, contrary to his position;
- without the request of the person under his protection, to apply for reconciliation with the victim, to recognize the civil claim and to return the complaint filed by him;
- to arbitrarily terminate his powers and, without the consent of the person to be protected, assign his powers of protection to another person.

7. The defender is obliged to:

- at the invitation of the leading authorities of the criminal court proceedings and the court, the judge appears to protect the rights and legal interests of the suspect, the accused or the defendant and to provide them with legal assistance;
- in case of not being able to appear within 24 hours, inform the authorities leading the criminal prosecution and the court about it;
- to obey the legal orders of the authorities conducting the criminal court proceedings;
- not to divulge the information about the cases that became known due to the provision of legal assistance to him, as well as the information of the preliminary investigation and the closed court session.

8. The defender shall be prosecuted for disclosing the information of the initial investigation or preliminary investigation without the permission of the authorities conducting the criminal court proceedings in accordance with Article 361 of the Criminal Code of the Republic of Tajikistan, provided that he is informed about this by the authorities conducting the criminal prosecution or the court, the judge in accordance with Article 177 of this Code has been notified.

Article 54. Civil defendant

1. A natural person and a legal entity are involved as a civil defendant, who are financially responsible for the damage caused by the crime according to the law.

2. The researcher, the investigator, the prosecutor and the judge issue a decision on bringing a person to civil liability, and the judge issues an appointment.

3. The civil defendant has the right to:

- to know the essence of the accusation and the civil claim;
- express dissatisfaction against the claim;
- give evidence on the nature of the submitted claim;
- have a representative;
- provide evidence;
- request and refuse;
- after completing the investigation, get acquainted with the case material related to the civil claim, write down the necessary information;
- participate in court proceedings;
- to appear in court negotiations;
- to complain about the action and decision of the investigator, investigator, prosecutor and court, judge;
- get acquainted with the protocol of the court meeting and submit comments on it;

- to appeal against the verdict and order of the court regarding the civil claim, to know the objections and appeals presented in relation to the case and to express dissatisfaction with them (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);

- participate in the judicial review of objections and complaints.

4. The civil defendant is obliged to:

- upon the invitation of the leading authorities of the criminal court proceedings and the court, the judge shall appear;

- to obey the legal decision of the leading criminal court proceedings and court, judge;

- not to divulge information about the circumstances that have become known to him as a result of the criminal case, provided that he has been informed about this by the authorities conducting the criminal court proceedings or the court, the judge.

5. The civil defendant shall be prosecuted for disclosing the information of the initial investigation or preliminary investigation without the permission of the authorities conducting criminal court proceedings in accordance with Article 361 of the Criminal Code of the Republic of Tajikistan.

Article 55. Representative of the civil defendant

1. The representative of the civil defendant is recognized as a guardian, close relatives and other persons who, in accordance with the law and this Code, have the right to protect the legal interests of the civil defendant when conducting a criminal case, and by the decision of the investigator, investigator, prosecutor, judge or by the order of the court to participate are allowed in the case.

2. The representative of the civil defendant has the same rights as the civil defendant.

3. Participation of the civil defendant in the case does not deprive him of the right to have a representative in this case.

CHAPTER 7. OTHER PARTICIPANTS OF CRIMINAL COURT PROCEEDINGS

Article 56. Witness

1. A person who is aware of a situation important for the criminal case is called as a witness to testify.

2. The following persons cannot be questioned as witnesses:

- persons who, due to physical or mental disabilities, are not capable of correctly understanding and reconstructing the circumstances established in the criminal case;

- the lawyer and his assistant to clarify the information that may have been revealed to them due to the application for legal assistance or the provision of such assistance;

- close relatives of the suspect, the accused, the defendant, provided that they have not agreed to be questioned as witnesses in this case;

- judge, people's adviser on cases of discussion of issues that became known during their participation in the consideration of the case.

3. The witness has the right to:

- to give instructions in his native language or in another language he knows;

- use the services of a translator free of charge;

- to express a refusal to the translator who participates in his questioning;

- record his/her testimony in the interview protocol with his/her own hand;

- submit a request for the implementation of measures to protect one's rights and freedoms in accordance with the provisions of Article 12 of this Code;

- to complain about the action of the investigator, investigator, prosecutor and court, judge.

4. The witness is obliged to:

- appear at the invitation of the investigator, investigator, prosecutor and the court;

- to accurately inform all that is known to him about the case and to answer the questions correctly;

- not to disclose information about the circumstances of the case known to him without the interrogator's permission;

- to observe the established procedure for conducting investigative actions and court meetings.

5. When a witness intentionally fails to appear upon summons, he is forcibly brought and prosecuted according to the procedure established by the legislation of the Republic of Tajikistan.

6. The witness is responsible for refusing to appear and for deliberately giving false testimony or not wanting to give testimony in accordance with Articles 351 and 352 of the Criminal Code of the Republic of Tajikistan.

Article 57. Specialist

1. A specialist is a person who is not interested in solving a criminal case, has special knowledge and experience, and can help an investigator, investigator, prosecutor, court, judge in discovering or finding evidence, justifying it, as well as in the application of technical tools. be involved.

2. A specialist is invited to participate in the investigation and trial of a criminal case in accordance with Articles 179, 284, 305 of this Code.

3. The specialist has the right to:

- to know the reason for being called;

- if he does not have knowledge and experience in the relevant field, he refuses to participate in the proceedings;

- with the permission of the researcher, the investigator, the prosecutor and the court, the judge will ask questions to the participants of the investigative action;

- get acquainted with the protocol of the inspection, in which he participates, and submit comments that should be included in the protocol;

- to complain about the action of the investigator, investigator, prosecutor and court, judge.

4. The specialist is obliged to:

- appear at the invitation of the investigator, investigator, prosecutor and court, judge;

- to use his knowledge and experience and scientific and technical means in the conduct of investigative actions and court hearings, to participate in uncovering or finding evidence and justifying it;

- to explain his actions during the court session.

5. A specialist shall be prosecuted for refusing to appear at the summons of the initial investigation, investigative and court authorities or for refusing to perform his duties in accordance with the legislation of the Republic of Tajikistan.

Article 58. Expert (expert)

1. An expert is invited in cases where there is a need for special knowledge in the field of science, technology, culture or professions for conducting an investigation, preliminary investigation or during a judicial hearing of a case.

2. As an expert, any person who has special knowledge and, in necessary cases, an appropriate license, can be invited to provide an opinion.

3. Inviting an expert, appointing and conducting an expert examination shall be carried out in accordance with the procedure provided for in Chapter 24 of this Code.

4. The expert has the right to:

- get acquainted with the material of the criminal case related to the subject of the examination;
- to request him to provide additional materials that are necessary for giving a conclusion or to appoint a comprehensive examination;
- with the permission of the investigator, the investigator, the prosecutor and the court, the judge participates in conducting the investigative action and asks questions to the interrogated persons and other persons participating in this action, related to the issues of the subject of the examination;
- to demonstrate in his mother tongue or another language he knows;
- use the services of a translator free of charge;
- to complain about the action of the investigator, investigator, prosecutor and court, judge, which restricts his rights during the examination;
- if the solution of the problem is beyond the scope of his specialized knowledge or the material at his disposal is insufficient to give a conclusion, he should refuse to submit a conclusion.

5. An expert does not have the right to negotiate with other participants in the trial on issues related to expertise without notifying the researcher, investigator, prosecutor and the court, the judge, to independently collect materials for the research, if the special permission of the researcher, investigator, prosecutor, court, in the absence of a judge, conduct an investigation that leads to the complete or partial destruction of objects or changes in their appearance or basic properties.

6. The expert is obliged to:

- appear at the invitation of the investigator, investigator, prosecutor and court, judge;
- to present a reasonable and realistic written conclusion related to the research issues and the proposed questions;
- not to disclose the information of the case material;
- to follow the procedure during the investigation and court session.

7. An expert will be prosecuted for deliberately giving a false opinion, as well as for refusing to appear or perform his duties in accordance with Articles 351 and 352 of the Criminal Code of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

Article 59. Translator

1. An interpreter is a person who knows the languages necessary for translation and is able to participate in investigative and judicial actions in cases where the suspect, the accused, the defendant, their defenders or the victim, the civil plaintiff, the civil defendant or their representatives, as well as witnesses and other participants in the proceedings speak a language, They do not know how the case will be conducted, and they are also invited to translate written materials.

2. The translator is appointed by the decision of the investigator, investigator, prosecutor, judge and court order.

3. According to this Code, an interpreter is also considered a person who understands the gestures of the deaf and is able to communicate with the deaf using signs.

4. The translator has the right to:

- get acquainted with the protocol of the investigative action, which he participated in during its conduct, as well as with the protocol of the court meeting and comment on them, and it should be included in the protocol;

- if he does not have the necessary knowledge for translation, he refuses to participate in the case;

- to complain about the action of the investigator, investigator, prosecutor and court, judge.

5. The translator is obliged to:

- appear at the invitation of the investigator, investigator, prosecutor and court, judge;

- carry out the translation of the text assigned to him accurately and completely, the accuracy of the translation in the protocol of the investigation carried out with his participation, as well as the translation of the text of the procedural documents given to the participants of the trial in their native language or another language they know confirm with his signature;

- not to disclose the information of the case material;

- to follow the procedure during the investigation and court meeting.

6. In the event of deliberate wrong translation, as well as in the case of refusing to appear at the summons or to perform his duties, the translator shall be held criminally liable in accordance with the procedure established by Articles 351 and 352 of the Criminal Code of the Republic of Tajikistan.

Article 60. Pure person

1. An innocent person is a person who is not interested in solving a criminal case and has been invited to participate in an investigative action or other procedural action to confirm the evidence, conduct it, its content, process and results by the investigator, investigator, prosecutor and court, judge.

2. These cannot be pure persons:

- minors;

- unqualified persons;

- participants in court proceedings and their relatives;

- interns, non-unit (public) assistants and unit employees of law enforcement agencies (*Law of the Republic of Tajikistan dated 04.20.2021 No. 1777*).

3. There should not be less than two persons involved in conducting the investigation. Before starting the investigation, the researcher, the investigator, the prosecutor will explain to them their rights and obligations.

4. A natural person has the right to:

- to participate in conducting the investigation;

- to express his/her comments on the conduct of the investigation, to receive comments, and these comments must be recorded in the protocol;

- get acquainted with the inspection protocol in which he participated;

- to complain about the action of the investigator, investigator and prosecutor.

5. The net person is obliged to:

- appear at the invitation of the investigator, investigator, prosecutor and court, judge;

- to participate in conducting the investigation;

- to confirm the fact of carrying out this action, its process and results in the inspection protocol by signature;

- not to disclose the information of the investigation material;

- to follow the procedure when conducting the investigation.

6. In case of refusal to appear or to perform his duties, the innocent person shall be prosecuted according to Article 352 of the Criminal Code of the Republic of Tajikistan.

7. A pure person should be able to fully and accurately understand all the actions that occur in his presence.

CHAPTER 8. CIRCUMSTANCES EXCLUDING THE POSSIBILITY OF PARTICIPATION IN CRIMINAL COURT PROCEEDINGS

Article 61. Circumstances that exclude the participation of a judge in the consideration of a criminal case

1. A judge cannot participate in the consideration of a criminal case if:
 - according to the law, he is not authorized to consider this criminal case;
 - is a victim, a civil plaintiff, a civil defendant or a witness in the same criminal case;
 - participated in the same criminal case as an expert, specialist, translator, neutral person, researcher, investigator, prosecutor, secretary of the court meeting, defender, representative of the suspect, defendant, defendant, representative of the victim, civil plaintiff or civil defendant;
 - himself, his close relatives are directly or indirectly interested in solving the case;
 - he is a relative of a public prosecutor, a private prosecutor, an investigator, an investigator, an accused, a victim, a civil plaintiff, a civil defendant, their representative, a defender;
 - there are circumstances that call into question the judge's impartiality (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).
2. In the cases specified in part 1 of this article, the judge is obliged to refuse to participate in the case.

Article 62. Circumstances that exclude the repeated participation of a judge in the consideration of a criminal case

1. The judge who made the decision to arrest or place the suspect or the accused under house arrest, extended the term of their detention or house arrest, cannot participate in the consideration of the same case in the courts of first instance, cassation and control (*Law State Gazette dated 16.04.2012 No. 809*).
2. A judge who participated in the review of a criminal case in the court of first instance, during the review of the same case by way of cassation or control, as well as in case of annulment of the sentence or decision (appointment) on the termination of the criminal case made with his participation has been made, at the same time, he cannot participate in the re-examination of the criminal case in the court of first instance.
3. A judge who has participated in the review of a criminal case in the court of cassation cannot participate in the review of the same case in the court of first instance or control, as well as in the new review of the case in the court of cassation after the annulment of the order issued with his participation.
4. A judge who participated in the consideration of a criminal case in the supervisory court cannot participate in the consideration of the same case in the first and cassation courts.

Article 63. Rejection of the judge

1. When there are situations provided for by Articles 61 and 62 of this Code, the judge and the people's counsel are obliged to refuse to participate in the case. On the same grounds, the participants of the legal proceedings specified in Article 301 of this Code may file a denial to the judge and the people's counsel.
2. The refusal must be substantiated and reported before the start of the judicial investigation. A later filing of the denial is allowed only in cases where the grounds for the denial have been revealed to the court or to the person declaring the denial after the initiation of the judicial

investigation. The judge or people's councilor to whom the refusal was reported has the right to make a statement on this issue.

Article 64. The procedure for solving the objection against the judge

1. The issue of recusal of the judge, as well as other participants of the trial, which was reported during the trial, is resolved by the court by making an appointment in the consultation room.

2. The objection against the judge is resolved by other judges in his absence. The defendant has the right to state his statement about the denial before entering the court room. In the case of equal votes, the judge is considered rejected.

3. Refusal filed against several judges or the full panel of the court shall be decided by the full panel of the same court with a majority of votes.

4. Refusal to the judge who hears the case alone or hears the appeal regarding the implementation of preventive measures and other coercive procedural measures shall be resolved by the judge only by making a decision.

5. In the case of satisfying the rejection request, the criminal case, complaint or request for consideration will be transferred to another judge.

6. As soon as one of the parties objects to the judge, secretary of the court meeting, translator, expert, specialist, the issue of the judge's refusal will be resolved in the first place.

Article 65. Refusal of the prosecutor

1. The prosecutor is obliged to refuse to participate in the consideration of a criminal case when there are grounds provided for in Article 61 of this Code.

2. If the prosecutor participated in the preliminary investigation or investigation, as well as supporting the accusation in court, it cannot be an obstacle for his further participation in the case.

3. The suspect, the accused, the defendant, their legal representative, the defender, as well as the victim and his representatives, the civil claimant, the civil defendant or their representatives can file a denial to the prosecutor on the grounds provided for in Article 61 of this Code.

4. The issue of refusal of the prosecutor during the judicial proceeding of the case is decided by the senior prosecutor, while during the judicial proceeding of the case, it is decided by the court reviewing the case.

Article 66. Rejection of the investigator and researcher

1. The investigator and investigator cannot participate in the investigation of the criminal case when there are grounds provided for in part 1 of article 61 of this Code. Their participation in the investigation or preliminary investigation, which was previously carried out on the same case, cannot be a reason for their rejection.

2. When there are grounds for rejecting the investigator or investigator, they are obliged to refuse to participate in the criminal case.

3. The issue of refusal of the investigator or investigator is resolved by the prosecutor.

Article 67. Rejection of the secretary of the court meeting

1. The provisions of Article 61 of this Code also apply to the secretary of the court meeting. His previous participation in the case as the secretary of the court session cannot be a reason for his rejection.

2. The issue of refusal of the secretary of the court meeting is resolved by the court or the judge who examines the case.

Article 68. Rejection of the interpreter

1. The translator cannot participate in the proceeding of the case when there are grounds specified in Article 61 of this Code, as well as in the event that his/her incompetence is revealed.

2. When these grounds are present, the suspect, the accused, the defendant, his legal representative, the defender, the accuser, as well as the victim and their representative, the civil plaintiff, the civil defendant or their representatives may object to the interpreter.

3. In the event that the interpreter's incompetence is revealed, the witness whose testimony was translated by the interpreter may file a rebuttal against him.

4. Earlier participation of a person in the case as an interpreter cannot be a reason for his rejection.

5. The issue of the refusal of the interpreter during the investigation or preliminary investigation, respectively, is resolved by the investigator, investigator or prosecutor, in court proceedings by the court, the judge who is considering the case.

Article 69. Refusal of an expert

1. An expert cannot participate in the proceedings in the following cases:

- when there are grounds mentioned in Article 61 of this Code;
- if he was or is under the professional or other dependence of an investigator, investigator, prosecutor, judge, suspect or accused or defendant, defender or their legal representatives, victim, civil claimant, civil defendant or their representatives;
- if he has conducted an inspection (audit) on the same case;
- in the event of his incompetence being discovered.

2. Previous participation of an expert in the case as a specialist or as an expert cannot be a reason for his rejection.

3. The issue of refusal of an expert shall be resolved in accordance with the procedure provided for in Part 5 of Article 68 of this Code.

Article 70. Refusal of a specialist

1. A specialist cannot participate in the proceedings when there are grounds specified in Article 61 of this Code.

2. Previous participation in the case as a specialist cannot be a reason for his rejection.

3. The issue of refusal of a specialist is resolved in accordance with the procedure provided for in Part 5 of Article 68 of this Code.

Article 71. Circumstances that exclude the participation of the defender, representative of the victim, civil plaintiff or civil defendant in the case

1. The defense attorney, the representative of the victim, the civil plaintiff or the civil defendant have no right to participate in the consideration of the criminal case, provided that:

- have previously participated in the case as a judge, prosecutor, investigator, investigator, secretary of the court meeting, witness, expert, specialist, translator or a private person;
- have a family relationship with a judge, prosecutor, investigator, investigator or secretary of a court meeting who participates in the investigation or judicial review of the same case or with a person whose interest is in conflict with the interests of the participants in the trial with him on the provision of legal assistance;
- provides legal assistance or has previously provided assistance to a person whose interests conflict with the interests of the accused or the suspect protected by him or the victim, the civil plaintiff and the civil defendant who represents them.

2. The issue of refusal of the defender, representative of the victim, civil plaintiff or civil defendant shall be resolved in accordance with the procedure provided for in Part 5 of Article 68 of this Code.

SECTION III. EVIDENCE AND PROOF

CHAPTER 9. EVIDENCE

Article 72. Evidence

1. Evidence on a criminal case is considered to be real information, based on which the court, prosecutor, investigator, investigator, in accordance with the procedure established by this Code, determines the presence or absence of an act dangerous to society, the proven or non-existence of a case related to a criminal case and other circumstances. determine what is important for the correct resolution of the case.

2. The following shall be considered as evidence:

- testimony of a witness;
- indication of the victim;
- indication of the suspect;
- testimony of the accused;
- testimony of the defendant;
- expert's conclusion and testimony;
- expert's conclusion and indication;
- physical evidence;
- protocols of investigative and judicial actions;
- hidden records;
- listened and recorded telephone conversation;
- electronic, video and tape observations;
- other documents.

Article 73. Testimony of a witness

In order to establish all the circumstances related to the criminal case, including the identity of the suspect, the accused, the defendant, the victim and the relationship between them, the witness should be asked. If the witness cannot indicate the source of this information, the information given by him cannot be evidence.

Article 74. Identification of the victim

1. The victim may be asked about the circumstances that need to be proven in this case, as well as about the relationship between him and the suspect, the accused and the defendant.

2. If the victim cannot show the source of the information he gave, it could not be evidence.

Article 75. Identification of the suspect

The suspect has the right to testify about the circumstances that are the basis for his arrest or the selection of preventive measures against him, as well as about the circumstances of the criminal case known to him.

Article 76. Identification of the accused

1. The accused has the right to testify about the charges against him, as well as other circumstances known to him that are relevant to the case and evidence.

2. The defendant's confession of guilt cannot be the basis for his guilty plea, unless it is proven by the evidence collected in the case.

Article 77. Conclusion and testimony of an expert

1. If special knowledge in the field of science, technology, art or profession is necessary during the investigation and trial of a criminal case, an expert examination shall be appointed, the procedure for which is determined by Chapter 24 of this Code.

2. The expert's opinion is not binding for the court, the judge, but their objection to the opinion must be justified.

3. The expert may be asked about the circumstances arising from his conclusion.

Article 77(1). Conclusion and indication of the specialist

(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))

1. If there is a need for special knowledge and experience during the investigation and trial of a criminal case, a specialist is involved.

2. The specialist's conclusion on assisting in discovering or finding the evidence and justifying it, as well as the application of technical means, is indicated in the protocol of the investigative action conducted with his participation. The written conclusion of the specialist who participated in the investigative actions and the court hearing is attached to the protocol of the investigative and judicial action.

3. The specialist may be asked about the circumstances arising from his conclusion *(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))*.

Article 78. Physical evidence

1. Physical evidence is considered to be an object that:

- used as crime tools;
- have kept signs of crime;
- were the object of a criminal act;
- money and other valuables obtained by criminal means;
- other items that are used to detect the crime, determine the true circumstances of the case, find the culprits or deny the charge or mitigate the responsibility.

2. Physical evidence should be recorded in detail in the examination protocol, photographed as much as possible, and added to the file by the decision of the investigator, prosecutor, court, judge.

3. When issuing a verdict, order or decision to stop criminal proceedings, the issue of physical evidence should be resolved in the following ways:

- crime tools belonging to the accused, the defendant, must be confiscated or handed over to the relevant institution or destroyed;

- objects, the circulation of which is prohibited, must be handed over to the relevant institution or destroyed;

- an item that has no value and is not required by a person should be destroyed, or it can be given to an interested person or institution upon request;

- incomes obtained through crime, regardless of the fact that they have been legalized (officialized), are transferred to the benefit of the state by a court order, and other items are returned to their legal owners, in such cases. if their owners are not identified, they will be

transferred to the property of the state (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);

- in the event of a dispute regarding the ownership of the object, the dispute must be resolved in accordance with the procedure of civil court proceedings;

- a document that is physical evidence is kept with the file or handed over to the relevant institution.

4. The court recognizes the importance of physical evidence only in the following cases, if:

- with its complete picture, sealing and other such actions, which were performed immediately after its acquisition, and the possibility of replacing it, significantly changing the signs, properties, traces existing in it were eliminated;

- it was recognized by the suspect, accused, victim or witness immediately before the investigation in court.

Article 79. Preservation of physical evidence

1. Physical evidence must be kept together with the criminal case.

2. If physical evidence cannot be kept in a criminal case due to its size or for some other reason, take a photo, seal it, and store it in a place indicated by the investigator, investigator, prosecutor, court, judge, and record it in the case. relevant information is recorded.

3. During the transfer of a criminal case from the investigation body to the investigator or from one investigator to another investigator, as well as when it is handed over to the prosecutor and the court, physical evidence is sent together with the criminal case, except for the cases specified in part 2 of this article, sections 3 and 4 of Article 185 of this Code are provided for (*Law of the Republic of Tajikistan dated 01.08.2012 No. 878*).

4. If the preservation of physical evidence is not detrimental to the case, then it is entrusted to the care of the owner, and at the same time he is warned that in case of illegal movement in relation to physical evidence, he will be held accountable according to the legislation of the Republic of Tajikistan.

Article 80. Periods of preservation of physical evidence

1. Physical evidence, as well as samples of physical evidence provided for in Part 5 of Article 185 of this Code, shall be kept until the judgment becomes legally effective or until the expiration of the appeal period against the decision or order to terminate the case. In cases where the dispute over the right to the object is resolved by civil court proceedings, physical evidence is kept until the court decision becomes legally valid (*Law of the Republic of Tajikistan dated 01.08.2012 No. 878*).

2. In some cases, the physical evidence can be returned to its owners until the expiration of the terms mentioned in part 1 of this article, provided that this does not harm the investigation of the case.

3. If physical evidence is a perishable product and cannot be returned to the owner, they will be handed over to relevant institutions for their intended use. If necessary, instead of them, the owner will be paid for things of the same quality or value.

Article 81. Minutes of investigative action and court meeting

The protocol of investigative action, drawn up in accordance with the requirements of this Code, confirming the circumstances that occurred during inspection, witnessing, finding, searching, arresting, for recognition, presenting, checking evidence at the scene of the incident, investigative testing, listening to telephone conversations and there were other technical means of communication, as well as the protocol of the court meeting, prepared in accordance with the requirements of this Code, are considered evidence of the criminal case.

Article 82. Other documents

1. Other documents are recognized as evidence, provided that the information in them reflected or confirmed by enterprises and organizations, officials and natural persons is relevant for the criminal case.

2. The document may contain information recorded in writing or in another way. The document includes audio and video footage, audio and video recordings, obtained from electronic sources of information and other sources, or submitted in accordance with the procedure provided for in Article 86 of this Code and recognized as evidence of the case.

3. If the document contains all the signs mentioned in Article 78 of this Code, it is considered material evidence.

Article 83. Attaching, storing and returning documents to the case

1. The document is added to the criminal case file by the authorities conducting the criminal proceedings and is kept for the entire period of its existence.

2. If the document received and attached to the file is needed by its legal owner for accounting or current reporting or other legal purposes, he is given the opportunity to receive or copy this document for temporary use.

3. One year after the court verdict or the decision of the criminal trial authority to terminate the criminal case becomes legal, the original document attached to the case shall be returned to its legal owner upon request. At the same time, a copy of a document is kept in the file, the authenticity of which has been confirmed by the investigator, prosecutor or court, judge, depending on the place of storage of the criminal case.

Article 84. Use of the results of operative-search activities

(Law of the Republic of Tajikistan dated 25.03.2011 [No. 692](#))

The results of the operational-search activity obtained are recognized as evidence provided that they are collected in compliance with the provisions of this Code *(Law of the Republic of Tajikistan dated 25.03.2011 [No. 692](#))*.

CHAPTER 10. PROOF

Article 85. Circumstances that must be proven in a criminal case

1. Proving consists of gathering, checking and evaluating the evidence in order to establish the circumstances provided for in part 2 of this article *(Law of the Republic of Tajikistan dated 20.04.2021 [No. 1777](#))*.

2. During the investigation, preliminary investigation and hearing of the criminal case, the following circumstances must be proven *(Law of the Republic of Tajikistan dated 20.04.2021 [No. 1777](#))*:

- crime incident (time, place, manner and other circumstances of crime);
- circumstances that determine the identity of the accused;
- circumstances that exclude the criminality of the act;
- circumstances that may lead to the release of a person from criminal responsibility and punishment;
- circumstances that determine the guilt of the accused in committing a crime and facilitating it, the degree of guilt and its motive;
- circumstances affecting the degree and nature of the defendant's responsibility, provided for in Articles 61 and 62 of the Criminal Code of the Republic of Tajikistan, as well as other circumstances that assess the identity of the defendant;

- circumstances that determine the nature and extent of the damage caused by the committed crime;
- circumstances that led to the commission of a crime.

Article 86. Collection of evidence

1. Collection of evidence during investigation, preliminary investigation and court hearing is carried out in accordance with the procedure provided by this Code.

2. Investigators, investigators, prosecutors, as well as courts, judges, at the request of the parties, have the right to:

- to involve any person as an expert for questioning and presenting a conclusion in accordance with the procedure established by this Code;
- carry out inspections, searches and other investigative actions provided for by this Code;
- to demand from the company, organization, institution, officials and citizens, as well as the bodies performing operative-search activities, to submit documents and items important for the case (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*);
- demand the conduct of inspection and inspection (revision) from authorized bodies and officials.

3. The defense attorney, who has been admitted to participate in the consideration of the case in accordance with the procedure established by this Code, has the right to:

- provide evidence;
- collect information necessary for providing legal assistance;
- to request references, descriptions and other documents from various institutions, organizations and enterprises that are obliged to issue these documents or their copies in accordance with the established procedure;
- with the consent of the protected person, ask the opinion of specialists to explain the issues that arise in connection with the provision of legal assistance and that require special knowledge.

4. Information in oral, written, audio and video recording, as well as objects and documents that can be evidence, suspect, accused, defender, accuser, defendant, victim, civil plaintiff, civil defendant and their representatives, citizens, company officials, Organizations and institutions have the right to submit.

Article 87. Verification of facts

The evidence gathered in the case must be thoroughly and objectively investigated. Investigation consists of analysis of obtained evidence, their comparison with other evidence, newly collected evidence, obtained sources of evidence.

Article 88. Evidence evaluation

(*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*)

1. The investigator, investigator, prosecutor, court, judge, guided by the law and legal understanding, examines the facts with his inner opinion, which is based on a comprehensive, complete and objective review of all the circumstances of the case in terms of relevance, admissibility, accuracy and assesses the sufficiency of all the collected evidence to solve the criminal case.

2. The evidence is recognized as belonging to the case, if it consists of factual data that confirm, deny or cast doubt on the existence of circumstances relevant to this case.

3. Evidence is recognized as admissible if it was obtained in accordance with the procedure provided for in this Code.

4. Evidence is recognized as valid, if it is found as a result of investigation that it corresponds to the truth.

5. The set of evidence is recognized as sufficient for solving a criminal case, if the relevant and admissible evidence has been collected, which will establish the truth about each and every circumstance that needs to be proven in this case without dispute.

6. No evidence has a predetermined force for the researcher, investigator, prosecutor, court, judge (*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*).

Article 88(1). Inadmissible evidence

(*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*)

1. Evidence is considered inadmissible if it violates the requirements of this Code by depriving or limiting the rights of participants in criminal proceedings guaranteed by law, violating the procedure for gathering evidence or other rules of criminal proceedings during prosecution or the judicial hearing of the case was obtained and affected or had the potential to affect the accuracy of the obtained factual information, including:

- the use of torture, cruel treatment, violence, threats, deception or other illegal acts;
- the use of confusion caused by misunderstanding, incomplete or incorrect explanation of the rights and obligations of the participant in the criminal proceedings;
- conducting a procedural action by a person who did not have the right to proceed with this criminal case;
- conducting a procedural action with the participation of the person who should have been rejected;
- serious violation of the procedural procedure;
- obtaining information from an unknown source or another source that cannot be identified in the criminal proceedings;
- use of methods contrary to modern scientific knowledge during proof.

2. Inadmissibility of evidence, as well as limitation of their use in criminal proceedings, are determined by the investigator, investigator, prosecutor, court, judge on their own initiative or at the request of the parties. Actual information about the use of torture or ill-treatment against the suspect, the accused or the defendant, regardless of the entry of their application or the request of the defense, in terms of the admissibility of their testimony as evidence, is subject to investigation and evaluation.

3. When solving the issue of inadmissibility of evidence, the researcher, investigator, prosecutor, court, judge are obliged to determine exactly what the violation of the law manifests itself in each case and make a reasoned decision. When the evidence is considered inadmissible due to the use of torture or cruel treatment, the investigator, investigator, prosecutor, court, judge, within the scope of their authority, take measures to hold the persons responsible for these actions accountable.

4. Evidences that are considered inadmissible are considered invalid and cannot be used as a basis for accusation and cannot be used to prove any of the cases mentioned in Article 85 of this Code.

5. Real information obtained by violations of the law provided for in part 1 of this article can be used as evidence of the existence of relevant violations of the law and accusations of the persons who committed them in the course of criminal prosecution (*Law of the Republic of Tajikistan dated 14.05. 2016 No. 1306*).

Article 89. Prejudice

1. The legally valid verdict on the criminal case is mandatory for the court, judge, prosecutor, investigator and researcher when conducting the criminal case regarding the established cases and their legal assessment.

2. Legally valid court decisions on civil, family, and economic cases and court decisions on administrative violation cases are binding for the court, judge, prosecutor, and investigative investigator when conducting a criminal case only on the issue of the occurrence of the event or act itself, and should not be to decide in advance the guilt or innocence of the defendant (*Law of the Republic of Tajikistan dated 27.11.2014 No. 1134*).

Article 90. Circumstances that must be established regarding the criminal case against minors

1. When conducting a preliminary investigation and court hearing on a criminal case against minors, it is necessary to pay special attention to identifying the following cases:

- minor's age (day, month, year of birth);
- conditions of life and education (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);
- reasons and conditions that contributed to the commission of a crime by a minor;
- existence of instigators and other partners.

2. When there is information about the minor's insanity, which is not related to mental illness, it should also be revealed that he is able to fully understand the nature of his actions.

In order to establish this situation, it is necessary to ask the minor's parents, teachers, tutors and other persons who can provide the necessary information, as well as request the necessary documents and perform other investigative and judicial actions.

SECTION IV. PROCEDURE ENFORCEMENT MEASURES

CHAPTER 11. PERSONAL SUPPORT

Article 91. Arrest of a person

1. Arresting a person means bringing him to the criminal prosecution authorities and keeping him for a short time in special places in accordance with the procedure established by the legislation and this Code.

2. Support of a person applies only:

- in relation to the suspect in the commission of a crime for which punishment in the form of deprivation of liberty or detention in military disciplinary units is prescribed;
- against the accused and the defendant who violated the rules of the preventive measure applied to him;
- in relation to the convicted person, who is subject to the proposal of the authorized body on the conditional cancellation of non-application of the sentence (Article 71 of the Criminal Code of the Republic of Tajikistan), conditional early release from serving the sentence (Article 76 of the Criminal Code of the Republic of Tajikistan), postponement of the sentence there is a punishment (Article 78 of the Criminal Code of the Republic of Tajikistan).

3. A person is arrested only in the following cases:

- on the basis of direct suspicion of committing a crime;
- based on the decision of the criminal prosecution authorities;
- on the basis of the decision (appointment) of the court, the judge to arrest the convicted until the resolution of the issue of canceling the conditional non-application of the sentence, postponing the serving of the sentence or conditional early release from serving the sentence.

4. The date and time of bringing the arrested person to the criminal prosecution authorities and summoning the defender are indicated in the registration book of the arrested person (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 92. Arrest based on direct suspicion of committing a crime

1. A person may be considered a suspect in the commission of a crime under the condition that he/she is arrested by the authorities conducting criminal prosecution within the scope of their jurisdiction when one of the following grounds is present, if:

- was arrested during the commission of a crime or immediately after its commission;
- the witnesses of the incident, including the victim of the crime, should directly identify the person who committed the crime or arrest them in accordance with the procedure provided by Article 94 of this Code;
- traces of a crime were found on the person's body, clothes, personal belongings, things he used, his home, workplace, or vehicle, which indicate his complicity in committing a crime;
- if there are other sufficient grounds to suspect a person of committing a crime, provided that he tried to hide from the scene of the incident or from the criminal prosecution authorities, or does not have a permanent place of residence, or lives in another place, or his identity has not been determined to be

2. A person may be arrested on the grounds provided for in part 1 of this article before the initiation of a criminal case. Currently, the issue of starting a criminal case by the criminal prosecution authorities must be resolved within 12 hours from the moment of arrest. In case of refusal to start a criminal case or failure to make a decision on the initiation of a criminal case within the specified period, the arrested person should be released.

3. A person cannot be detained for more than 72 hours from the moment of detention, and a minor cannot be detained for more than 48 hours on the grounds specified in part 1 of this article. After the expiration of this period, the arrested person should be released from custody or another preventive measure provided for in this Code should be applied to him, except for the provisions of Part 5 of Article 111 of this Code. The beginning of the term of arrest of a person is considered the moment of his actual arrest (*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306 , dated 23.12.2021 No. 1811*).

Article 93. The right of a citizen to arrest a person who has committed a crime

Every citizen has the right to arrest a person who has committed a crime or is trying to hide after committing a crime and hand him over to the authorities.

Article 94. Procedure for arresting a suspect

(*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*)

1. When arresting a person suspected of committing a crime, an authorized officer of the criminal prosecution body or another competent person is obliged to verbally announce to the person at the place of actual arrest the crime for which he was arrested, his right to a telephone call , or informing a lawyer or a close relative, having a defense attorney and refusing to testify, explaining and warning that his testimony may be used as evidence in a criminal case against him.

2. After bringing the detainee to the criminal prosecution authorities, the official of the investigative body, the investigator, the investigator will draw up the arrest protocol within three hours. During the preparation of this protocol, the suspect's rights, provided by Article 46 of this Code, are explained, and this is recorded in the arrest protocol. The following information is included in the arrest protocol:

- date, place and time of drawing up the protocol, its serial number;
- surname, first name and patronymic, position and rank of the employees of the criminal prosecution authorities, officials and other persons who participated in the arrest operation;
- in case of the participation of private persons, translators and other persons in the arrest operation, surname, first name, patronymic, address and other information that determines their identity;

- grounds and circumstances of arrest, place and time of actual arrest, bringing the person to the criminal prosecution authorities (with mention of date, hour and minute);

- information on explaining the rights of suspects, innocents and other persons participating in the operation;

- the results of personal searches;

- date and time of arrest of a person and notification of the place of detention of an adult family member or a close relative of the arrested person, the method of notification (by whom and by what means, if it is a telephone message, the phone number, surname, name and the name of the father of the person who was notified of the arrest and the place of detention of the arrested person.

3. The protocol of arrest is announced to the arrested person, drawn up by its official and signed by the arrested person, his defender (if he is involved) and other persons who participated in this operation.

4. When the suspect is placed in the isolator (parking) of temporary detention, a medical examination is conducted by a medical officer to determine the general state of health or the presence of physical injuries. The suspect or his defender has the right to request that an independent doctor or forensic expert conduct a medical examination. The conclusion of the medical examination is attached to the arrest protocol.

5. After bringing the arrested person to the criminal prosecution authorities, explaining his rights, drawing up the arrest protocol and conducting a medical examination, the arrested person is immediately placed in a temporary detention facility.

6. Investigating bodies, investigators or investigators are obliged to inform the relevant prosecutor in writing about the arrest of the suspect within 12 hours from the moment of the actual arrest of the person (*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*).

Article 95. Arresting the accused to declare the charge

1. If the accused is in another place or his whereabouts are unknown, the criminal prosecution authority has the right to issue a decision on the arrest of this person. The decision must be implemented by the investigative body.

2. The criminal prosecution authority that issued the decision is immediately notified of the execution of the arrest decision.

3. Arrest based on the grounds provided for in part 1 of this article cannot continue for more than 72 hours from the moment of actual arrest.

4. An arrestee may be charged within this term, provided that by the end of 72 hours from the moment of arrest, he is released from custody with the application of a preventive measure that is not connected with detention or without the application of a preventive measure. he should be released.

Article 96. Detention of the accused until his arrest based on the decision of the authorities conducting the criminal proceedings

1. If the accused does not comply with the rules of the preventive measure applied to him, which is not related to detention, or his written obligation to appear at the invitation of the authorities conducting the criminal proceedings or to inform about the change of residence, the authorities conducting the criminal proceedings have the right to make a decision (appointment) about the arrest of this person at the same time, in accordance with the procedure established by this Code, to resolve the issue of the implementation of a preventive measure in the form of arrest.

2. Arrest of the accused in accordance with the procedure provided for in part 1 of this article cannot exceed 72 hours from the moment of actual arrest.

Article 97. Detention of the convicted until the resolution of the issue of canceling the conditional non-application of the sentence or conditionally early release from serving the sentence or postponing the serving of the sentence

1. The court, the judge issues a decision (appointment) on the arrest of the convicted until the resolution of the issue of canceling the conditional non-application of the sentence or conditionally early release from serving the sentence or postponing the serving of the sentence, provided that the authorized body submits a material entered, in which the reasons for the convict's non-fulfillment of the obligations set for him by the court or other conditions provided for in Articles 71, 76 and 78 of the Criminal Code of the Republic of Tajikistan are evidenced.

2. The court, the judge shall consider the proposal of the authorized body within seven days from the moment of actual arrest.

3. The court, the judge sends the decision (appointment) on the arrest of the convicted person for execution to the investigative body. Regarding the implementation of the decision (appointment) on arrest, the authorities immediately notify the court.

Article 98. The procedure for keeping the suspect, the accused, the defendant in custody

The order and conditions of detention of the suspect, the accused, the defendant are determined in accordance with the legislation of the Republic of Tajikistan.

Article 99. Release of arrested persons

1. The detainee should be released based on the decision (appointment) of the criminal proceedings authority in the following cases, if:

- the suspicion that the person has committed a crime has not been confirmed;
- the grounds for further detention have disappeared;
- it is established that the arrest was carried out in violation of the rules established by this Code;
- the detention period has passed.

2. In the cases provided for in the fourth paragraph of part 1 of this article, the head of the temporary detention facility shall release the arrested person after notifying the authorities conducting the criminal proceedings that arrested the accused.

3. The body conducting the criminal proceedings, which has decided to release the arrested person, gives him a certificate, which indicates the arrest by whom, the reason, place and time of the arrest, the reason, the reason and the time of release.

Article 100. Notification of arrest

1. The body conducting the criminal proceedings that arrested the person is obliged to notify any adult family member or close relative of the arrest and the place of detention of the arrested person or the change of the place of detention of the arrested person without delay from the moment of the actual arrest, or to give the arrested person the opportunity to do so. (*Law of the Republic of Tajikistan* dated 14.05.2016 [No. 1306](#)).

2. The body conducting criminal proceedings that has arrested a citizen of a foreign state, within the time limit specified in part 1 of this article, informs the Ministry of Foreign Affairs of the Republic of Tajikistan about the arrest to inform the embassy or consulate of this state.

CHAPTER 12. PREVENTIVE MEASURES

Article 101. Preventive measures

1. Preventive measures are coercive actions applied to the suspect, the accused or the defendant in order to prevent them from committing a crime or actions that interfere with the conduct of a criminal case, as well as to ensure the execution of a sentence.

2. Preventive measures are:

- letter about not leaving the place of residence;
- personal guarantee;
- transfer of a military serviceman under the control of the command of the military unit;
- placing a minor under supervision (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*);
- pledge;
- house arrest;
- arrest.

Article 102. Basics of implementation of prevention measures

1. Authorities conducting criminal proceedings can apply a preventive measure only if:

- the evidence gathered in the criminal case should provide a sufficient basis that the suspect, the accused, the defendant can hide from the criminal prosecution authorities and the court;
- the suspect, the accused, the defendant obstruct the preliminary investigation of the criminal case or its consideration by the court, including concealing or falsifying material important for the case, or illegally influencing the persons participating in the criminal proceedings, without good reason at the invitation of the prosecuting authorities fail to appear at the criminal trial, commit another crime, obstruct the execution of the sentence.

2. When it is necessary to apply preventive measures against the suspect, the accused or the defendant, the nature of the suspicion or accusation, their personality, age and state of health, type of occupation, family and property status, presence of a permanent place of residence and other circumstances are taken into account.

Article 103. Application and term of preventive measure against the suspect

If there are grounds and taking into account the circumstances provided for in Articles 101 and 102 of this Code, preventive measures may be applied to the suspect. If in this case, the suspect was arrested and then a preventive measure in the form of arrest was applied to him, he should be charged within ten days from the moment of applying the preventive measure, within the same period from the moment of the actual arrest. If the charge is not announced within this period, the body conducting the criminal proceedings must cancel the preventive measure immediately.

Article 104. Procedure for implementation, change or cancellation

taking preventive measures

1. The investigator, prosecutor, judge and court shall make decisions on the implementation, modification or cancellation of the preventive measure, in which the necessity of implementing, changing or canceling the preventive measure is indicated.

2. Arrest and house arrest as a preventive measure shall be applied by judge's decision or court order.

3. The body conducting the criminal proceedings announces the decision or order to apply, change or cancel the preventive measure to the suspect and the accused, explains the procedure of appeal, and hands over a copy of the decision or order to him. The execution of these actions is confirmed by the signature of the suspect or the accused and the official who announced the decision or order to implement the preventive measure.

4. If the circumstances of the criminal case require, preventive measures will be canceled or changed. Canceling and changing preventive measures in the form of house arrest and arrest during the pendency of a criminal case is carried out by the investigator or investigator with the consent of the prosecutor (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

Article 105. Statement on not leaving the place of residence

1. Letter on not leaving the place of residence in obtaining a written commitment from the suspect or the accused or the defendant about not leaving the place of permanent or temporary residence without the permission of the criminal prosecution authorities or the court, the judge, not to obstruct the investigation of the criminal case and its consideration in court, Appearing at the appointed time is indicated by the summons of the authorities conducting the criminal proceedings.

2. In the event that the suspect or the accused or the defendant does not comply with the requirements of the summons, a strict preventive measure will be applied to him, and this requirement must be announced to him when he receives the summons.

Article 106. Personal guarantee

1. Personal guarantee is a written commitment by a trustworthy person that the suspect or the accused or the defendant will not hide from the criminal prosecution authorities and the court, will not obstruct the investigation of the case or its judicial review, and will not engage in criminal activities while at liberty. .

The number of guarantors should not be less than two.

2. Personal guarantee is applied upon the written request of the guarantor and the consent of the person to whom it is guaranteed.

3. The guarantors confirm that the nature of the suspect or accusation of the person they are vouching for and the guarantor's responsibility have been explained to them.

4. If the guarantor does not fulfill his obligations, he will be prosecuted in accordance with Article 117 of this Code.

Article 107. Transfer of a military serviceman under the control of the command of the military unit

1. Placing a military serviceman under the control of the command of a military unit means assigning the task of ensuring their desired behavior to the command of a military unit, troop, head of a military institution where the suspect, accused or defendant is serving or gathered for military training.

2. A copy of the decision or order for the implementation of this preventive measure will be given to the commanding officer under whose control the suspect, accused or defendant is placed. The command of the military unit informs the authorities that implemented this preventive measure about the establishment of control.

3. In order to fulfill its obligations to monitor the suspect, the accused or the defendant subordinate to him, the commanding body has the right to take appropriate measures provided for by the Disciplinary Charter of the Armed Forces of the Republic of Tajikistan, which can ensure the appropriate behavior of these persons and their appearance at the invitation of the authorities conducting criminal proceedings. .

4. In the event that the suspect, the accused or the defendant commits an act for the prevention of which the same prevention measure was taken, the command of the military unit must immediately inform about it to the authorities that applied such a measure.

Article 108. Placement of a suspect, accused or defendant minor under supervision

(*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*)

1. Under the supervision of parents, guardians, guardians or other trustworthy persons, as well as representatives of special children's institutions, the transfer of minors consists in the fact that one of the listed persons undertakes a written undertaking that the juvenile suspect, defendant or defendant at liberty does not hide from the criminal prosecution authorities and the court, does not prevent the investigation of the case and its judicial review, and does not engage in criminal activities (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

2. It is possible to hand over a minor under the supervision of the persons specified in part 1 of this article upon their written request. At the moment, they are informed about the nature of the crime and their liability in case of non-compliance with control obligations (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. The persons under whose supervision the suspect, accused or defendant minor is entrusted, in case of non-observance of the obligation by them, will be held accountable in accordance with the legislation of the Republic of Tajikistan.

Article 109. Pledge

1. Bail consists of depositing money to the deposit of investigative or judicial authorities by the suspect, the accused, the defendant or other natural and legal persons to ensure the presence of the suspect, the accused, the defendant at the invitation of the criminal prosecution authorities and the court. (*Law of the Republic of Tajikistan dated 03.07.2012 No. 864*, dated 29.01.2021 *No. 1755*).

2. The investigator and the investigator apply the bail with the consent of the prosecutor. The amount of the bail is determined by the bodies conducting criminal and judicial proceedings depending on the severity of the crime, the identity of the suspect, the accused, the defendant and the property status of the pledger, which is from three hundred indicators for accounts for minor crimes, from nine hundred indicators for accounts for medium-level crimes and from two a thousand indicators cannot be less for calculations regarding serious crimes (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. If he is not a suspect or an accused person, the essence of the suspicion or accusation of the person against whom this preventive measure is applied is explained to the pledger, and it is confirmed by the signature of the person against whom this preventive measure is applied, the pledger and the official person who applied this preventive measure. A copy of the decision, the appointment to deliver the pledge is given to the mortgagor.

4. In case of refusal of the suspect, the accused or the defendant to appear at the invitation of the criminal prosecution authorities and the court, preventive measures will be changed, and the amount of the bail will be transferred to the state in accordance with the requirements of Article 118 of this Code based on the court's decision.

5. In other cases, the court decides the issue of returning the amount of the pledge to the mortgagor while issuing a judgment or order (decision) on the termination of the criminal case. When criminal proceedings are terminated during the preliminary investigation period, the bail amount is returned to the bailor by the decision of the investigator, investigator, prosecutor or his deputy.

Article 110. House arrest

1. House arrest consists of keeping the suspect, the accused and the defendant in complete isolation from society without arrest, but with the application of legal restrictions determined by the court or judge.

2. House arrest can be applied with the following measures separately and together:

- not leaving the house at all or at a certain time;
- prohibition of telephone conversation, correspondence and use of means of communication, except for the cases specified in the fifth paragraph of this part;
- banning communication with certain persons and accepting any person in their home;

- use of electronic monitoring tools, commitment to take these tools with you and ensure their work;

- oblige to respond to telephone monitoring calls or other monitoring signals (signals), to call by telephone or to appear in person at a certain time to the investigative authorities or other authorities monitoring the behavior of the suspect, the accused or the defendant;

- taking control of the suspect, the accused or the defendant, or the house, as well as the protection of the house or other place allocated to him as a house;

- other measures that ensure appropriate behavior and keeping the suspect, accused or defendant apart from society.

3. The grounds and procedures for applying house arrest as a preventive measure, establishing and extending its term, canceling house arrest are regulated by the relevant norms related to the preventive measure in the form of arrest.

4. The judge's decision and the court's order on house arrest shall specify the specific restrictions applied to the suspect, the accused or the defendant, as well as the authority or official person who will carry out such control.

Article 111. Arrest

1. Detention as a preventive measure by a judge's decision or a court's order is applied only to a suspect, an accused or a defendant, whose crime is punishable by imprisonment for a term of more than two years. In exceptional cases, this preventive measure may be applied to suspects, defendants or defendants for crimes for which the law provides for the punishment of deprivation of liberty for a period of less than two years, provided that they are in the Republic of Tajikistan. do not have a permanent place of residence or their identity has not been established, or they are hiding from the criminal prosecution authorities or the court, or have not followed the preventive measure (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702*).

2. When there is a need to choose preventive measures in the form of arrest, the prosecutor, investigator and researcher, with the consent of the prosecutor, submit the relevant request in the form of a decision to the court. In the decision to submit a request for the selection of preventive measures in the form of arrest, the basis and reasons for which the need to arrest the suspect, the accused, and the choice of another preventive measure is impossible, are included. Materials confirming the validity of the request shall be attached to the decision. If the request is initiated against the suspect who was arrested in accordance with the procedure established by Articles 92 and 94 of this Code, the decision and the mentioned materials must be submitted to the judge no later than 8 hours before the end of the arrest period. The suspect, the accused and the defender. should be introduced at the request of the criminal prosecution authorities and the materials that confirm the justification of the request in order to send it to the court (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. The decision to initiate a request to choose a preventive measure in the form of arrest by the judge of the city and district court or the military court of the garrison with the participation of the suspect, the accused, the prosecutor, the defender, provided that the defender participates in the criminal case , based on the location of the preliminary investigation or the location of the suspect's arrest, will be considered within 8 hours from the moment the material enters the court. The suspect, who was arrested in accordance with the procedure established by Articles 92 and 94 of this Code, will be brought to the court. The legal representative of the suspect and the accused minor, the investigator, the investigator have the right to participate in the court meeting. Absence of the parties, who have been notified of the time of the court session, without valid reasons, cannot prevent the consideration of the request, except for cases of non-appearance of the suspect or the accused.

The meeting of the court shall be held in accordance with the procedure provided by Article 276 of this Code, taking into account the requirements of Articles 273, 277, 278, 279, 281, 290, 293, 299, 301 and 306 of this Code. At the same time, the petitioner or the prosecutor substantiates the request, then the defense side's position on the merits of the request is determined. When considering the request of the criminal prosecution authorities, the court is limited to examining the

material related to the legality of the arrest and the appropriateness or lack of implementation of the preventive measure, taking into account the requirements specified in Article 102 of this Code. The participants of the court meeting have the right to familiarize themselves with the protocol of the court meeting within one day from the moment of the announcement of the court's decision and submit comments to it within the same period. Acquaintances are signed in the protocol of the court meeting by the persons who are acquainted (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

5. The judge considers the request and makes one of the following decisions:

- permits the detention of the suspect or the accused as a preventive measure in the form of arrest, house arrest (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);

- on rejection of the request;

- on postponing the adoption of a decision on the request for a period of no more than 72 hours for the submission of valid evidence of the arrest. In this case, the judge determines in the decision that he will extend the period of detention to several days and hours.

6. The decision of the court, the judge is sent to the person who submitted the request, the prosecutor, the suspect or the accused and must be executed immediately.

7. Regarding the arrest of the same person on the same criminal case, after the court's decision to refuse the choice of this preventive measure, only when new circumstances appear that make it necessary to apply the arrest of the person to the court again can be applied for.

8. If the issue of arresting the defendant arises in the court proceedings, in this case, the judge or the court, at the request of the parties or on his own initiative, will resolve this issue and issue a decision or order.

9. It is possible to appeal and protest against the judge's decision to arrest as a preventive measure or to reject it to the higher court in the cassation procedure within 3 days from the day of issuing the decision. The court that made such a decision must send the appeal or objection together with the materials to the court of cassation no later than the next day after the end of this term. The court of cassation shall make a decision on appeal or objection within 3 days from the moment of receipt of the material (*Law of the Republic of Tajikistan No. 755 of 08.2.2011, No. 809 of 04.16.2012*).

10. A person who is being prosecuted for a criminal case is obliged to inform the commander of the military unit in order to implement a preventive measure in the form of arresting the persons specified in Article 100 of this Code, in the case of military personnel.

Article 112. The term of detention and the procedure for extending it

1. Preventive measures in the form of arrest during the preliminary investigation of a criminal case should not exceed two months.

2. The period of detention is calculated from the time of the arrest of the suspect, the accused, until the day the prosecutor sends the case to the court. This period includes the time a person is kept in places of deprivation of liberty (temporary detention center and other places of detention of prisoners in the internal affairs bodies and other institutions of social welfare), as well as the period of forced stay in a hospital or psychiatric hospital.

3. Extension of the term of detention of the accused during the preliminary investigation up to six months by the judge of the district and city court or the military court of the garrison in accordance with the procedure established by parts 2 and 3 of Article 111 of this Code only if it is impossible to complete the investigation within a period of 2 months and if there is no reason to apply another measure of prevention against the accused. In the future, it is possible to extend the term of detention for a period of more than six months only in respect of persons accused of committing serious or particularly serious crimes, as well as in respect of persons who have committed crimes within the territory of the Republic of Tajikistan and do not have a permanent place of residence in the Republic of Tajikistan, provided that there are sufficient grounds to suspect that they are hiding from investigation and court outside the territory of the Republic of Tajikistan. In this case, the judge of the same court will extend the term of detention based on the

request of the investigator with the consent of the prosecutor of Badakhshan Mountainous Autonomous Region, the prosecutor of the region, transportation of Tajikistan, the city of Dushanbe and the prosecutors equivalent to them, for the subordinate districts of the republic with the consent of the deputy general prosecutor of the Republic of Tajikistan. , submitted by the Chief Military Prosecutor of the Republic of Tajikistan shall be implemented for a period of up to 12 months.

4. Detention of more than 12 months in prison only in exceptional cases, in relation to persons who are accused of committing particularly serious crimes, by the judges of the Badakhshan Mountain Autonomous Region Court, regional courts, Dushanbe city and the military collegium of the Supreme Court The Republic of Tajikistan may extend the period up to 18 months based on the request of the investigator, submitted with the consent of the Prosecutor General of the Republic of Tajikistan and his deputies. The term of detention in the subordinate districts of the republic is extended by the judge of the Supreme Court of the Republic of Tajikistan.

5. It is not allowed to extend the term of detention and the accused must be released immediately, except for the cases provided for in part 8 of this article.

6. The material of the completed investigation of the criminal case must be presented to the accused and his defender for identification no later than 30 days before the end of the final period of detention, which is determined by parts 3 and 4 of this article (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

7. If, after the completion of the preliminary investigation, the materials of the criminal case were presented to the accused and his defense in a period of less than 30 days until the end of the final term of detention, then the accused will be released after this period has passed. In this case, the accused and his defender have the right to further familiarize themselves with the materials of the criminal case (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

8. If, after the completion of the preliminary investigation, the deadline stipulated in part 6 of this article for the presentation of the materials of the criminal case to the accused and his defense was observed, but 30 days were not enough for familiarization with the materials of the criminal case, the investigator has the right not later than 5 days until the end of the final term of detention, with the consent of the prosecutors provided for in parts 3 and 4 of this article, to submit a request to the courts of Badakhshan Mountain Autonomous Region, Dushanbe city, regional, Supreme Court of the Republic of Tajikistan to extend the term of detention.

9. The judge of the relevant court must make one of the following decisions within 5 days after receiving the request:

- on extending the term of detention until the accused and his defense attorney complete familiarization with the criminal case materials and the prosecutor sends the criminal case to court, except for the case provided for in part 7 of this article;

- on rejection of the request and release of the accused from custody.

10. The following terms are also counted as the term of detention:

- the period of arrest of a person as a suspect;

- period of being under house arrest;

- the period of a person's detention in the territory of a foreign country in accordance with the requirements of providing legal assistance or his transfer to the Republic of Tajikistan in accordance with the requirements of Article 481 of this Code (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);

- a period of forced stay in a hospital or psychiatric hospital based on a court decision;

11. In the case of repeated application of preventive measures in the form of arrest for the suspect, the accused during the preliminary investigation of the same case, as well as the criminal case connected to it or separated from it, will be kept in custody by taking into account the previous term under are considered to be under arrest.

12. When returning a criminal case for additional investigation, where the term of detention of the accused stipulated by part 1 of this article has expired, and depending on the circumstances of the case, the preventive measure cannot be changed in the form of detention, the term of

detention with the procedure established by parts 3 and 4 of this article is extended. In this case, the term of the criminal case is not taken into account.

CHAPTER 13. OTHER COMPULSORY PROCEDURAL MEASURES

Article 113. Grounds for applying other coercive procedural measures

1. In order to ensure the order of the investigation and trial of criminal cases provided for by this Code, the appropriate execution of the sentence, the investigator, investigator, prosecutor or court, judge has the right to apply the following coercive procedural measures to the suspect, the accused or the defendant within their jurisdiction. represent:

- temporary removal from office;
- forced delivery;
- imposing a fine;
- confiscation of property, including the amount of deposits, bank accounts.

2. In the cases provided for by this Code, the investigator, investigator, prosecutor or court, judge within their jurisdiction have the right to apply the following coercive procedural measures against the victim and other participants in the trial:

- forced delivery;
- imposing a fine.

Article 114. Temporary removal from office

1. Temporary removal from office consists in the fact that the accused is prohibited from performing the authority or engaging in the activity that he used to do before.

2. The body conducting the criminal proceedings, with the consent of the prosecutor, submits a request to the court for the temporary dismissal of the accused. This request will be considered by the judge in accordance with the procedure provided by Article 35(2) of this Code (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. The decision to temporarily dismiss the accused is sent to the head of his workplace, and he is obliged to implement it within three days after receiving the decision, and to inform the official of the criminal prosecution authority and the court that issued the decision to dismiss him. has received, inform.

4. The dismissed accused has the right to be provided with a monthly state allowance in the amount of at least two indicators for calculations, provided that he cannot switch to another job as a result of circumstances beyond his control (*Law of the Republic of Kazakhstan dated 03.07.2012 No. 864*).

Article 115. Forced delivery

1. In the event that the suspect, the accused, the defendant, as well as the witness and the victim do not appear at the summons without good reason, they will be forcibly brought by the internal affairs authorities by the reasoned decision of the investigator, investigator, prosecutor or judge or by the order of the court. Reasons for not appearing at the summons are recognized as the cases specified in Part 2 of Article 224 of this Code. The suspect, the accused, the defendant, as well as the witness and the victim, must inform the summoning authorities about the existence of valid reasons that may prevent them from appearing within the specified period according to the summons.

2. The decision (appointment) to forcibly bring the suspect, the accused, the defendant, as well as the witness and the victim, is announced before its execution, and this situation is confirmed by their signature on the decision.

3. Forced delivery at night is not allowed except in urgent cases.

4. It is not allowed to forcibly bring a minor under 14 years of age, a pregnant woman, as well as a patient who cannot or should not leave their place of residence due to their health condition, and this condition has been confirmed by a doctor of a medical institution.

Article 116. Seizure of property

1. Seizure of property is a coercive procedural measure, which consists of registering the property and prohibiting its owner or owner from disposing of and, in necessary cases, using this property.

2. Seizure of property is applied to secure a civil claim, execution of punishment in the form of fines and collection of other property payments or possible confiscation of property. With the consent of the prosecutor, the body conducting the criminal case submits a request to the court for the seizure of the property of the suspect, the accused or persons who are materially responsible for their actions in accordance with the law. The judge issues a decision on confiscation of property. Within three working days after the adoption of the court document, the authority that submitted the request to the court to seize the property shall send a copy of the court document to the authorized body for entering relevant information into the Unified State Register of Secured Obligations or the Unified State Register of Property. transfers real estate and rights to it (*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516 , dated 2.01.2019 No. 1556*).

3. Seizure of property and preparation of the protocol is carried out according to the rules of articles 35(2), 172 and 173 of this Code (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

4. It is not possible to imprison property that is considered to be the first necessity according to the Annex to the Criminal Code of the Republic of Tajikistan.

5. Seizure of property is carried out with the participation of honest persons and, in necessary cases, with the participation of a specialist who determines its value.

6. Seized property may be seized or, with the authority of the person who detained it, handed over for safekeeping to a representative of local self-government bodies, a housing organization, the owner of this property, or to another person authorized to ensure its safekeeping. , about which a letter will be received.

7. Seizure of the amount of deposits, bank accounts, securities stops any transactions.

8. Seizure of property is canceled by the decision of the investigator, investigator, prosecutor, court order, judge who is handling the case, provided that the need for this measure disappears. Based on the decision of the investigator, investigator, prosecutor or judge, the authorized body, in accordance with the procedure established by the legislation of the Republic of Tajikistan, enters the information on the cancellation of the seizure of property into the Unified State Register of secured obligations or the Unified State Register of immovable property and rights to it. The Government of the Republic of Tajikistan determines the procedure for entering information into the mentioned registers (*Law of the Republic of Tajikistan dated 2.01.2019 No. 1556*).

Article 117. Fine

For non-fulfilment of procedural obligations, non-observance of procedure in the court meeting, the participants of the criminal court proceedings shall be fined in the amount of up to ten indicators for calculations in accordance with the procedure established by Article 118 of this Code.

Article 118. The procedure for imposing a fine and benefiting the state

carrying the amount of the deposit

1. The fine is imposed by the court in the cases stipulated by Article 117 of this Code.

2. If the procedural obligations are not fulfilled and the procedure is not followed in the court meeting, the decision to impose a fine will be made by the judge who is considering the case at the same court meeting, and an appointment (decision) will be issued.

3. If the violations provided for in Article 117 of this Code were committed during the judicial period of the criminal court proceedings, the investigator, investigator or prosecutor will draw up a protocol in this regard and send it to the court. The protocol is reviewed by the judge within five days at the invitation of the person who prepared the protocol and the person about whom the protocol was prepared. The non-appearance of the offender cannot prevent its consideration.

4. Based on the review of the protocol, the judge decides whether or not to impose a fine. A copy of the decision will be sent to the person who drew up the protocol and to the person against whom the fine was imposed.

5. The issue of transferring the amount of collateral to the benefit of the state in the cases provided by part 4 of article 109 of this Code shall be resolved by the court, the judge at the court session by issuing an order (decision).

CHAPTER 14. COMPLAINT AGAINST ACTION (INACTION) AND DECISIONS OF INVESTIGATOR, INVESTIGATOR, HEAD OF INVESTIGATION AUTHORITY, PROSECUTOR, COURT, JUDGE IN CRIMINAL COURT PROCEEDINGS

(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))

Article 119. Complaint

1. Participants in the criminal court proceedings, as well as other persons whose interests have been affected, may appeal against the action (inaction) and decisions of the investigator, investigator, head of the investigative body, prosecutor, court, judge in accordance with the procedure established by this Code (*Law of the Republic of Kazakhstan dated 29.01. .2021 [No. 1755](#)).*

2. The complaint can be oral or written. The verbal complaint is reflected in the protocol, which is signed by the complainant and the official who accepted the complaint.

3. The oral complaint of a citizen, which was made when he was received by the relevant official, is resolved on the same grounds as the written complaints. Additional materials can be attached to the complaint.

Article 119(1). The procedure for submitting a complaint of an arrested or detained person

(Law of the Republic of Tajikistan dated 20.04.2021 [No. 1777](#))

1. The administration of places of detention is obliged to immediately submit the complaint of the arrested or detained person to the authorities of criminal proceedings.

2. The administration of places of detention is obliged to submit to the prosecutor the complaint of the arrested or detained person on torture, other types of cruel, inhuman or degrading treatment, as well as on the action and decision of the employee of the investigative body and the investigator no later than three days. or the court, to submit a complaint about the action and decision of the prosecutor to the superior prosecutor or the court. Other appeals must be submitted to the person or authority in charge of the criminal case within the same period of time after they are received by the administration of places of detention (*Law of the Republic of Tajikistan dated 20.04.2021 [No. 1777](#)).*

Article 120. Deadline for submitting an appeal

1. It is possible to appeal against the action (inaction) and decision of the investigator, investigator, prosecutor, court, judge during the entire period of investigation, preliminary investigation and court hearing.

2. An appeal against the decision to refuse to start a criminal case and to terminate a criminal case, judgment and order issued by the courts of the first instance shall be submitted within the time limit specified by this Code.

Article 121. Suspension of the execution of the decision related to the appeal

A complaint in accordance with the procedure established by this Code does not stop the execution of the decision against which the complaint was made, unless otherwise provided for in this Code.

Article 122. General procedure for consideration of complaints

1. It is forbidden to entrust the review of the appeal to the prosecutor and the judge who complained about their actions, as well as to the official who approved the decision appealed against.

2. The prosecutor or the judge during the review of the complaint is obliged to thoroughly examine the facts presented in it, if necessary, to request additional materials and, at the request of the applicant, to receive an explanation from him related to the action and decision appealed against.

3. The prosecutor or the judge who considers the complaint is obliged to take measures within his authority to restore the violated legal rights and interests of the participants in the criminal proceedings, as well as other citizens, enterprises, organizations and institutions.

4. If the citizen suffered moral, physical or material damage due to the illegal act or decision complained of, he should be informed of his rights regarding compensation or removal of damage and the procedure for implementing this right, which is provided for by Chapter 47 of this Code.

Article 123. Complaints against actions (inaction) and decisions of investigative bodies, investigators, investigators and prosecutors

1. Actions (inaction) and decisions of investigative bodies, investigators, and investigators may be appealed to the prosecutor who supervises the implementation of laws during the preliminary investigation and investigation. Actions and decisions of the prosecutor can be appealed to the superior prosecutor or the court (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. The prosecutor is obliged to consider the complaint within three days from the moment of receiving it. In exceptional cases, if it is necessary to request additional materials or take other measures for the investigation of the complaint, the complaint may be considered within seven days, and the person who complained and the interested party will be informed about it.

3. As a result of the review of the appeal, a decision is made to fully or partially satisfy the appeal by canceling or changing the appealed decision or to refuse to satisfy the appeal. At the moment, the previously adopted decision cannot be changed, provided that it leads to deterioration of the situation of the person who complained or for the benefit of which the complaint was filed.

4. The person who complained and the interested parties should be notified of the decision on the complaint.

Article 124. Judicial procedure for considering an appeal against the prosecutor's decision

1. If the complaint of a natural or legal person is not satisfied by the prosecutor, senior prosecutor, or has not been resolved within the time limit specified by this Code, they have the right to refuse to accept their application for a crime or violation of the law at the time of initiation, suspension or termination file a criminal case to the court (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

2. A complaint can be filed with the court of the location of the prosecutor's office within one month from the date of receipt of the prosecutor's notice of refusal to satisfy it or from the date of expiry of the one-month period after filing the complaint, provided that no response has been received.

3. The complaint will be considered by the judge within ten days from the moment of its receipt, notifying the complainant, investigator or investigator, and the prosecutor of the time of consideration. The non-appearance of the complainant, investigator or investigator and the prosecutor at the court meeting cannot prevent the review of the appeal, but the judge may

consider their presence mandatory. The prosecutor submits the materials related to the complaint to the court. At the beginning of the court session, the judge announces which complaint will be considered, explains their rights and obligations to the persons present at the court session. After this, the complainant, if he participated in the court meeting, substantiates his complaint, then other persons present at the court meeting express their opinions. The complainant will be granted leave to speak. Participants have the right to get acquainted with the protocol of the court meeting within one day after the announcement of the decision of the court, the judge, and to make comments on it within the same period. Acquaintance with the protocol is confirmed by the signature of the familiar persons in the protocol of the court meeting itself (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

4. The judge recognizes the appeal as justified and makes a decision to satisfy the appeal and cancel the decision or leave the appeal unsatisfied. The decision of the judge to cancel the decision to refuse to start, suspend or terminate the criminal case is sent to the prosecutor for implementation (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

5. The judge who reviewed the appeal against the prosecutor's decision does not have the right to participate in the consideration of the case (*Law of the Republic of Tajikistan dated 22.07.2013 No. 982*).

Article 125. Complaint against the court decision or objection to it

1. Complaints against verdicts, orders and decisions of the court of first instance, which have not gained legal force, or objections to them, are filed according to the rules of Chapter 38 of this Code.

2. Complaints or objections to reconsideration of judgments, orders and decisions of courts of the first, cassation and control stages, which have become legally valid, are submitted in accordance with the rules of Chapters 42 and 43 of this Code.

SECTION V. OTHER GENERAL PROVISIONS

CHAPTER 15. CIVIL ACTION IN A CRIMINAL CASE

Article 126. A civil claim considered in a criminal case

1. In the criminal case, the civil claim of a natural person and a legal entity, as well as the prosecutor and the specialized anti-corruption authorities, regarding the damage caused as a result of the commission of a crime, are considered.

2. The claimant is exempted from state duty when filing a civil claim in a criminal case.

3. Jurisdiction of a civil claim arising from a criminal case is determined according to the jurisdiction of the criminal case in which it is presented.

4. A civil claim arising from a criminal case shall be proved in accordance with the rules defined by this Code.

5. If the procedural relations arising from the civil claim are not regulated on the basis of this Code, the norms of civil procedural legislation shall be used.

Article 127. Submission of a civil claim

1. A person who has been harmed by a crime or an act prohibited by the Criminal Code, or his representative, has the right to file a civil claim from the moment of the initiation of the criminal case until the beginning of the judicial investigation. Refusal to dismiss a claim filed in a civil proceeding deprives the claimant of the right to file the same claim again in a criminal case.

2. A civil claim can be filed orally or in writing. The oral statement is recorded in the protocol in accordance with the procedure provided for by Part 2 of Article 141 of this Code.

3. The unknown person who should be involved as a defendant cannot prevent filing a civil claim in a criminal case.

4. A person who did not file a civil claim in a criminal proceeding, as well as a person whose claim was left unheard by the court, has the right to file a claim in the manner of a civil proceeding.

5. In order to protect the interests of the state, the prosecutor has the right to file a civil lawsuit in criminal proceedings.

Article 128. Recognition of a civil claimant

1. If it is determined from the materials of the criminal case that an individual or a legal entity has been harmed by a crime or an act of a person dangerous to society, the investigator, investigator, prosecutor or court shall explain to them or their representatives their right to file a civil lawsuit.

2. The natural and legal person who filed a claim shall be recognized as a civil claimant in accordance with the procedure established by Part 1 of Article 44 of this Code. The decision (appointment) to recognize the civil claimant will be announced to the person who submitted the claim and his representative, and the rights and obligations provided for in parts 4 and 5 of article 44 and part 3 of article 45 of this Code will be explained.

Article 129. Refusal to recognize a civil claimant

If there are no grounds provided for in Article 127 of this Code for filing a civil claim against a natural person or a legal entity who filed a claim, they will reject his recognition as a civil claimant, issue a reasoned decision or order, and give him the right to appeal. is explained. Refusing to be recognized as a civil plaintiff in the preliminary investigation before the start of the judicial investigation does not deprive him of the right to submit a claim in court (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

Article 130. Inclusion as a civil defendant in a criminal case

In the case of filing a civil claim in a criminal case, when identifying a person who is responsible for causing harm to an innocent person with a crime or an act dangerous to the society, the investigator, investigator, prosecutor or court shall appoint him as a defendant in accordance with the procedure established by Part 1 of Article 54 of this Code. attracts citizens. The civil defendant or his representative shall be notified of the decision (appointment) to be involved as a civil defendant, and the rights provided for in part 2 of Article 55 of this Code shall be explained.

Article 131. Application of rules on the basis, conditions, amount and manner of damage

When considering a civil claim filed in a criminal case, the basis, condition, amount and manner of damage are determined in accordance with the legislation of the Republic of Tajikistan, as well as in accordance with international legal documents recognized by Tajikistan.

Article 132. Waiver of civil claim

1. A natural or legal person has the right to withdraw from a civil claim.

2. The claimant's application to withdraw from the claim is included in the protocol of the investigative action and the court meeting. If the claim waiver is submitted in writing by the claimant, it will be attached to the file.

3. Waiver of the claim is accepted by the investigator, investigator or prosecutor at any time during the investigation of the criminal case, and a decision is issued on this matter. Also, the court may issue an order at any moment of the court hearing and accept the withdrawal of the claim until the court enters the consultation room to issue a verdict.

4. Acceptance of the withdrawal of the claim leads to the termination of its promotion and deprives the civil plaintiff in criminal or civil proceedings of the right to repeatedly submit a claim against the same person and on the same basis.

5. Until the claimant withdraws from the claim, the investigator, investigator, prosecutor or the court are obliged to explain to the claimant the consequences established by part 4 of this article.

6. If the civil claimant's withdrawal from the claim violates the law or violates the legally protected rights and interests of other persons, the investigator, investigator, prosecutor or the court will not accept the claimant's withdrawal from the claim and will issue a reasoned decision or order in this regard.

Article 133. Decision on civil claim

1. When issuing a verdict of indictment or an order on coercive measures of a medical nature, the court fully or partially satisfies or rejects the civil claim.

2. When satisfying a civil lawsuit, the judge has the right to go beyond the requirements of the lawsuit, provided that its volume does not affect the classification of the crime and the punishment of the guilty.

3. When issuing a verdict of acquittal, as well as issuing an order and a decision to terminate the case on the implementation of a coercive measure of a medical nature, the court may:

- to refuse to satisfy a civil claim, provided that the crime or act dangerous to society of the accused or the participation of the defendant or a person against whom the issue of applying coercive measures of a medical nature is being decided, the commission of a crime or act dangerous to society is determined, and not proven;

- to leave the claim without consideration, if the defendant was acquitted due to the absence of the content of the crime, or if the case was terminated due to the lack of a basis for the implementation of a compulsory measure of a medical nature, which is not dangerous for society due to the nature of the act committed by him and his condition and does not require forced treatment;

- in case it is impossible to determine the exact amount of the claim amount, it is explained to the civil claimant that he has the right to apply to the court in a general way with a civil claim.

4. When terminating the case on the grounds mentioned in the third-ninth paragraphs of part 1 of Article 27 and Article 28 of this Code, the court will not consider the civil claim.

5. If, according to the grounds provided for in part 3 of this article, the criminal case was terminated during the period of prosecution, a natural or legal person or their representatives have the right to submit a claim in the civil procedure.

Article 134. Ensuring the execution of the sentence in the part of the civil suit

If the civil claim is satisfied, the court has the right to make a decision on the adoption of a measure to secure the claim until the judgment becomes legally effective, provided that such a decision has not been made before.

Article 135. Execution of judgments and orders of the court in the part of the civil suit

When the civil claim is satisfied by the court, the judgment, as well as the order on the implementation of compulsory measures of a medical nature in the part of the civil claim, are implemented in accordance with the procedure provided for by the Law of the Republic of Tajikistan "On enforcement proceedings".

CHAPTER 16. TIME LIMITS AND COSTS OF PROCEDURE

Article 136. Accounting of the term

1. The period established by this Code is calculated in hours, days, months and years. The time and day when the term starts are not taken into account in the calculation of the term. This rule does not apply to the calculation of the retention period. Overtime is also included in the calculation of time.

2. In calculating the term by month or year, the term ends on the corresponding day of the last month, if this month does not have a corresponding date, the term ends on the last day of this month. If the expiration of the term falls on a non-working day, the last day of the term shall be considered the next working day, except for the cases of the calculation of the term during arrest, arrest, house arrest and the term of being in a medical institution.

3. During arrest, the term is calculated from the moment of actual implementation of this measure.

4. The deadline is not considered expired, provided that the complaint or other document is in the post office before the deadline, and for the detained persons, or in the medical institution, if the complaint or other documents are submitted to the administration of the place of detention or the medical institution before the deadline. have been delivered. The time of submitting the complaint or other documents to the post office is determined by the postmark and the time of its delivery to the administration of the place of detention or medical institution according to the records of the office or an official of these institutions.

5. Observance of the specified term by the official is confirmed by a corresponding entry in the procedural document. Receipt of the document, which should be handed over to the participants of the criminal court proceedings, is confirmed by their written statement attached to the case.

Article 137. Consequences of passing the term and restoring it

1. Procedural acts committed after the expiration of the term are considered invalid if the term is not restored.

2. A person who is interested in restoring the time spent, applies to the authorities conducting the criminal court proceedings with a request or request. According to the request or desire of the mentioned person, the execution of the decision related to the expiration of the established period can be suspended until the issue of restoration of the expired period is resolved (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

3. The term that has been extended due to valid reasons must be restored by the decision of the authorities conducting the criminal court proceedings, at the request or desire of the interested person who has extended the term.

4. An appeal can be filed regarding the refusal to restore the expired term in accordance with the procedure established by this Code.

Article 138. Procedural costs

1. Procedural expenses consist of the following funds:

- the amount paid to witnesses, victims and their representatives, experts, specialists, translators, private persons to cover their expenses when they appear at the place of the procedural action and return, for apartment rent, as well as daily expenses;

- sums paid to experts, translators, specialists for the fulfillment of their obligations during investigation, preliminary investigation or in court, except for the cases when these obligations were performed in accordance with the order of official assignment;

- compensation for the assistance of the right of the defender in case of the release of the suspect, the accused or the defendant from its payment or the participation of the defender in the investigation, preliminary investigation and in the court according to the appointment, without concluding an agreement with the client;

- the amount paid as compensation to the accused, against whom the preventive measure by removal from office was applied;

- the amount spent on storage and transportation of physical evidence;

- the amount spent for the search of the suspect, the accused or the defendant, which was hidden from the investigation or the court (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*);

- the amount spent for carrying out an examination in expert institutions;
- the amount spent on other measures for conducting the relevant criminal case or related materials.

2. Procedural costs shall be deposited with the court and paid from local budget funds, unless otherwise specified by this Code.

3. The amounts mentioned in the first - fourth and eighth paragraphs of part 1 of this article are paid by the decision of the investigator, investigator, prosecutor or by the order (decision) of the court.

Article 139. Recovery of procedural costs

1. Procedural costs are collected from the convicts or paid at the expense of the state.

2. The court, the judge has the right to recover the costs of the proceedings from the convicted person in the cases provided for by parts 4 and 5 of this article, except for the amount paid to the translator and also to the defense counsel. Procedural costs can be collected both from the convicted person who was released from punishment and from the convicted person who was not sentenced to punishment.

3. Procedural expenses related to the translator's participation in the case are paid by the state. If the translator has completed his duties according to the assignment, his salary will be reimbursed by the state to the enterprise where he works.

4. If the suspect or the accused refused the defense counsel, but it was not satisfied, and the defense counsel participated in the case according to the appointment, the salary of the defense counsel shall be paid in accordance with the procedure determined by the legislation and this Code.

5. In the case of the acquittal of the defendant or termination of the case in accordance with the first and second paragraphs of part 1 of article 27 and the second paragraph of part 1 of article 234 of this Code, the procedural expenses shall be paid at the expense of the state. If the defendant is partially acquitted, the court will order him to pay the costs of the proceedings related to the charge for which he was found guilty.

6. In case of bad property situation of the person from whom the procedural costs should be collected, it will be paid from the state. The court has the right to fully or partially exempt the convicted person from paying the costs of the proceedings, provided that it has a serious impact on the property situation of the persons who are under the custody of the convicted person.

7. The court in the case finds several defendants guilty and determines the amount of legal costs to be charged to each of them. Currently, the court takes into account the nature of the crime, the degree of responsibility and the property status of the convicted person.

8. Regarding the criminal case of minors, the court may impose the payment of legal costs on the parents of minors or persons who replace them.

9. When the defendant is acquitted in a case of private prosecution, the court has the right to fully or partially recover the costs of the proceedings from the person who initiated the case based on his complaint. When the case is terminated due to the reconciliation of the parties, the costs of the proceedings will be collected from one or both parties.

PART II. SPECIAL PART

SECTION VI. PROMOTION OF A CRIMINAL CASE

CHAPTER 17. CAUSES AND GROUNDS FOR INITIATING A CRIMINAL CASE

Article 140. Basis and reasons for initiation of criminal proceedings

Law of the Republic of Tajikistan dated 24.12.2022 [No. 1926](#)

1. The basis for starting a criminal case is the presence of sufficient information, which shows the elements of the crime provided for in the special part of the Criminal Code of the Republic of Tajikistan.

2. The reasons for initiating a criminal case are:

- criminal complaint;
- appearing with a confession of guilt;
- information of an official of an enterprise, institution and organization;
- information in mass media, including the Internet;
- by the investigator, investigator or prosecutor directly obtaining information that points to the signs of a crime (*Law of the Republic of Tajikistan dated 24.12.2022 [No. 1926](#)*).

Article 141. Petition about a crime

1. A complaint about a crime can be made verbally or in writing.

2. The written application must be signed by the applicant.

3. The oral application is included in the protocol and signed by the applicant and the official of the investigative body, investigator or prosecutor who accepted the application.

4. The protocol should contain information about the applicant, his place of residence and work, as well as his personal documents.

5. The applicant is notified of the criminal responsibility for deliberately delivering false information, recorded in the protocol and confirmed with his signature.

6. An application, letter or other information written anonymously, anonymously or with a forged signature or on behalf of a fictitious person cannot be the basis for initiating a criminal case.

Article 142. Confession of guilt

1. Confession of guilt is considered voluntary information of a person about the crime he committed, which is not known to the criminal prosecution authorities, provided that this person is not yet suspected or accused of committing a crime.

2. The application for confession of guilt is made orally or in writing and must be submitted by the applicant to the investigative body, investigator, investigator or prosecutor.

3. The oral application is included in the protocol and its content is fully reflected. The protocol is signed by the person present with the confession of guilt and the official who accepted it.

Article 143. Information of an official of an enterprise, institution and organization about a crime

1. Information of an official of an enterprise, institution and organization about a crime must be submitted in writing.

2. Documents and other materials confirming the circumstances of the crime may be attached to the information.

Article 144. Information of mass media

1. Information in the mass media, including the Internet, can be the basis for starting a criminal case, provided that it has a factual basis and is published in a newspaper or magazine or broadcast on radio and television (*Law of the Republic of Tajikistan dated 2.08. 2011 [No. 755](#) , dated 12.24.2022 [No. 1926](#)*).

2. An official of a mass media, who posted or broadcast information about a crime, is obliged, at the request of the person authorized to initiate a criminal case, to obtain all the documents and

materials in his possession confirming the broadcast information, as well as the person who provided this information, except for cases where this person provided it under the condition of confidentiality of the source of information.

Article 145. Mandatory acceptance and consideration of applications and information about crimes

1. Investigating authorities, investigators, investigators and prosecutors are obliged to receive and consider applications and information about any crime being prepared, committed or committed (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. The applicant is given a document on registration of the application or information about the crime with the name of the person who received the application or information and the time of its registration.

3. Unreasonable refusal to accept an application or information about a crime can be appealed to the prosecutor or the court in accordance with the procedure established by Articles 122, 123 and 124 of this Code.

4. The application and information about the crime submitted to the court will be sent to the prosecutor to resolve the issue of starting a criminal case, and the applicant will be notified.

5. The decision on the application and information about the crime should be made within three days from the moment of receiving the application and information. In necessary cases, the prosecutor can extend this period up to ten days to obtain additional statements from the applicant, request documents, inspect the scene of the incident (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

6. In the case of receiving an application or information about a crime or directly detecting a crime, the investigative body, the investigator, the head of the investigation unit, the investigator, the head of the investigation unit, or the prosecutor shall make one of the following decisions:

- on the initiation of a criminal case;
- on refusal to start a criminal case;
- about sending an application or information based on investigative authority.

7. The person, enterprise, institution, organization or official from whom the application or information was received will be notified of the decision regarding the application or information received, and the right to appeal the decision will be explained to them (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

8. In the case of sending an application or information based on investigative authority, the investigating authorities, investigators, investigators or prosecutors are obliged to take measures to prevent or eliminate the crime, as well as strengthen the traces of the crime.

CHAPTER 18. PROCEDURE FOR INITIATING A CRIMINAL CASE

Article 146. Initiation of criminal case of general accusation

1. If there are grounds provided for in Article 140 of this Code, the investigator, investigator, prosecutor shall make a decision to initiate a criminal case.

2. The time and place of its adoption, by whom it was adopted, the reason and grounds for initiating the case, the article of the Criminal Code under which the criminal case was initiated, as well as the further direction of the case are indicated in the decision. A copy of the decision to initiate a criminal case is immediately sent to the prosecutor, the person against whom a criminal case has been initiated is introduced to it, and the applicant is notified (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 147. Initiation of a criminal case of private-public prosecution

1. The cases of crimes provided for by part 3 of article 24 of this Code are initiated by the investigator, investigator or prosecutor in accordance with the provisions of this Code, only with the application of the victim, and in case of reconciliation between the victim and the accused, they are resolved in accordance with the provisions of this Code (*Law of the Republic of Tajikistan dated 2.08. 2011 No. 755*).

2. In exceptional cases, if the case of any crime provided for in part 3 of article 24 of this Code is of special public importance, or the victim of this case due to his infirmity, dependence on the accused or other reasons to protect his rights and legal interests unable, the prosecutor has the right to initiate a criminal case without the victim's application. Such a case will be resolved due to reconciliation between the victim and the accused in accordance with the provisions of this Code.

Article 148. Proceeding of the initiated case

After the decision to open a case:

- the investigation body on cases for which it is mandatory to conduct a preliminary investigation, after carrying out urgent investigative actions by the investigator, sends the case for conducting a preliminary investigation and conducts an investigation on the cases of crimes provided for in part 1 of article 154 of this Code;

- after accepting a criminal case, the investigator starts conducting a preliminary investigation;

- the prosecutor sends the criminal case to the investigator or investigator for conducting the preliminary investigation or starts conducting the preliminary investigation himself.

Article 149. Refusal to start a criminal case

1. When there is no basis for starting a criminal case, the investigative body, investigator, investigator or prosecutor shall issue a reasoned decision to refuse to start a criminal case.

2. A copy of the decision on refusal to start a criminal case is sent within three days to the person, company, institution, organization or official from whom the application or information was received.

3. At the same time, their rights and the procedure for appealing the decision should be explained to them.

4. The decision to refuse to start a criminal case can be appealed to the higher prosecutor or the court within fourteen days from the moment of receiving a copy of the decision to the prosecutor, as well as the prosecutor's refusal to satisfy the complaint in accordance with the procedure established by this Code.

5. When refusing to start a criminal case regarding a crime related to the commission of which information was received from a person, the prosecutor, investigator, investigator shall consider the issue of starting a criminal case based on the false information of the person.

6. Information about the commission of a crime published in mass media and not confirmed in the course of the investigation, a denial will be published in the same mass media.

Article 150. Supervision of the prosecutor regarding the legality of the initiation of the criminal case

The prosecutor has the right to:

- to extend the term of consideration of the application or information in accordance with the procedure provided for in Part 5 of Article 145 of this Code;

- to cancel the decision of the investigation body, investigator, investigator or lower prosecutor regarding the refusal to start a criminal case and send the material for additional examination;

- cancel the decision of the investigation body, investigator, investigator or lower prosecutor regarding the initiation of a criminal case and reject the initiation of a criminal case;

- cancel the decision of the investigation body, investigator, investigator or lower prosecutor regarding the refusal to start a criminal case and start a criminal case;

- cancel the decision of the investigation body, investigator, investigator or lower prosecutor regarding the initiation of the criminal case and terminate the criminal case, if investigative actions have been carried out on it.

SECTION VII. INVESTIGATION AND PRELIMINARY INVESTIGATION

CHAPTER 19. INVESTIGATION

Article 151. Investigation of criminal cases

Investigation of criminal cases regarding crimes provided for in articles 119, 120, 125 part 1, 126, 131 part 1, 171, 195 part 4, 213 part 1, 230, 232, 234, 235, 237 part 1, 238, 242 part 1, 243, 244, part 1, 252, part 1, 254, part 1, 255, part 1, 256, 259, part 1, 286, part 1, 294, 341, 342 of the Criminal Code of the Republic of Tajikistan are carried out by the investigative bodies.

Article 152. Activities of investigative bodies

The activity of investigative bodies differs depending on their operations with cases in which preliminary investigation is mandatory or cases in which preliminary investigation is not mandatory.

Article 153. The activities of investigative bodies in cases where preliminary investigation is mandatory

1. If there are signs of a crime, on which it is mandatory to conduct a preliminary investigation, the investigative body has the right to initiate a criminal case. The investigator, guided by the provisions of this Code, conducts urgent investigative actions and other procedural actions to establish and strengthen traces of crime, such as: inspection, finding, search, seizure of mail, telegraphic messages and other messages transmitted through electronic and communication networks. sending mail, listening and recording conversations, showing for recognition, testifying, arresting and questioning suspects, victims and witnesses (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. Immediately informs the prosecutor about the detected crime and the initiation of a criminal case.

3. After performing urgent investigation actions, but no later than ten days from the day of initiation of the case, the investigative body is obliged to hand over the case to the investigator.

4. After the case has been handed over to the investigator, the investigation body can carry out investigative actions and operational-search activities at the request of the investigator. If a case is handed over to the investigator, on which it was not possible to identify the person who committed the crime, the investigative body is obliged to continue operational-search activities in order to establish the person who committed the crime, and to inform the investigator of the results obtained (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*).

Article 154. The procedure for the investigation of criminal cases for which it is not mandatory to conduct a preliminary investigation

1. Regarding the criminal case where preliminary investigation is not mandatory, the investigative body shall initiate the case and shall take all the measures provided for by this Code to establish the circumstances that must be proven in the criminal case.

2. Regarding the criminal case in which preliminary investigation is not mandatory, the investigation material is the basis for considering the case in court.

3. If there are grounds provided for in Chapter 46 of this Code, the investigative body will carry out an accelerated investigation.

Article 155. Period of investigation

1. Regarding the case where preliminary investigation is not mandatory, the investigation must be completed within fifteen days from the day of initiation of the criminal case to the day of referral to the prosecutor or until the day of termination of the case.

2. The period of conducting the investigation does not include the period during which the investigation was suspended on the grounds provided by this Code.

3. The period of conducting the investigation provided by part 1 of this article may be extended by the prosecutor or his deputy, but not longer than fifteen days.

4. In exceptional cases, the term of investigation of the case may be extended according to the rules established by Article 168 of this Code.

Article 156. Exceptional cases of mandatory preliminary investigation

According to the rules of this Code, a preliminary investigation is not mandatory for a criminal case, provided that the crime was committed by a minor, an immature person, or a person suffering from mental illness after committing the crime, a preliminary investigation must be conducted.

Article 157. Completion and suspension of investigation

1. The investigation of the case, on which preliminary investigation is mandatory, ends with the preparation of the decision to send the case to the investigator.

2. The investigation of a case on which it is not mandatory to conduct a preliminary investigation ends with the preparation of an indictment or a decision to terminate the case.

3. If there is one of the grounds provided for in Article 234 of this Code, the investigative body closes the case with a reasoned decision and sends a copy of it to the prosecutor within one day.

4. In the case of termination of the case against the suspect, the investigative body will inform the district (city) military commissariat in this regard within seven days.

5. In other cases, an indictment is drawn up and the criminal case together with all the investigation materials is submitted to the prosecutor for approval.

6. If there is one of the reasons provided by Article 230 of this Code, the investigative body has the right to stop the proceeding of the case for which the preliminary investigation is not mandatory. A decision is made to suspend the investigation, and a copy of it is sent to the prosecutor within one day.

Article 158. Powers of the prosecutor to control the investigation

The prosecutor has the right to:

- to request research materials from the research bodies;
- initiate a criminal case;
- send the initiated case for preliminary investigation;
- exercise other powers established by this Code.

CHAPTER 20. GENERAL TERMS OF PRELIMINARY INVESTIGATION

Article 159. Preliminary investigation authority

1. The investigation of criminal cases is carried out by the investigators of the prosecutor's office, internal affairs, national security, anti-corruption, and control of narcotic substances in accordance with the investigative jurisdiction provided for by this Code.

2. The prosecutor has the right to initiate any criminal cases in accordance with the procedure provided by Articles 161, 168 and 169 of this Code (*Law of the Republic of Tajikistan dated 22.07.2013 No. 983*).

Article 160. Mandatory preliminary investigation

1. Preliminary investigation of all criminal cases, except for the criminal cases mentioned in Article 151 of this Code, is mandatory.

2. Preliminary investigation of all cases of crimes committed by minors or persons who are unable to exercise their right to self-defense due to physical or mental disability is mandatory.

Article 161. Jurisdiction of preliminary investigation of criminal cases

1. The preliminary investigation of criminal cases is carried out by the bodies specified in part 1 of article 159.

2. Preliminary investigation of cases on crimes referred to in articles 104-109, 121-124, 127-130, 1301, 131 parts 2 and 3, 132, 133, 137, 137(1), 138, 141-164, 168 -170, 172-178, 183, 185-188, 190, 191, 198, 199, 207-211, 217, 220-229, 231, 233, 236, 245 part 1, part 2 paragraphs "a", "b" ", "c", 246, 251, 257, 258, 261, 263, 274, 276, 286 parts 2 and 3, 2, 287-291, 295-297, 298-304, as well as articles 314-317, 322, 323, if this act is not of a corrupt nature, articles 328-332, 334(1), 338, 343-365, 368-393, 398-405 of the Criminal Code of the Republic of Tajikistan are provided for, it will be conducted by the investigator of the prosecutor's office (*Law of the Republic of Tajikistan from 08.2.2011 No. 755 , from 02.24.2017 No. 1381 , from 07.04.2020 No. 1702 , from 12.24.2022 No. 1926*).

3. Preliminary investigation of cases on crimes committed by a judge, prosecutor, investigator or an official of the internal affairs and customs authorities, the anti-corruption and drug control agency, as well as those committed while performing official duties, except the crimes provided for in part 7 of this article are conducted by the investigators of the prosecutor's office. The preliminary investigation of cases on crimes of a corruption nature, which are related to the investigation of cases on the crimes provided for in this part and part 2 of this article, is conducted by the investigators of the prosecutor's office (*Law of the Republic of Tajikistan dated 22.07.2013 No. 983*).

4. Preliminary investigation of cases on crimes committed by a military serviceman, a person with a military duty who is invited to a military gathering, as well as by a civilian member of the Armed Forces of Tajikistan in connection with the performance of official duties or within the territory of a military unit, investigators of the military prosecutor's office spend

5. Preliminary investigation of cases on crimes provided for in articles 179-182, 184, 189, 218, 287-290, 298-313, 335, 336, 395-397 of the Criminal Code of the Republic of Tajikistan by investigators of national security bodies is carried out (*Law of the Republic of Tajikistan dated 23.12.2021 No. 1810 , dated 24.12.2022 No. 1926*).

6. The preliminary investigation of cases on the crimes provided for in articles 314, 316, 319-322 of the Criminal Code of the Republic of Tajikistan is also carried out by the investigators of the national security authorities, provided that they investigate other criminal cases under the investigative jurisdiction. these authorities are related.

7. Preliminary investigation of cases on crimes referred to in Article 245, Part 2, Clause "d", Parts 3 and 4, Articles 246, 247, Part 2, Clause "d", Parts 3 and 4, provided that these actions are carried out with the use of official authority were committed, articles 257, 258, 259, 259(1), 260, 260(1), 261, 262, 264, if this act was committed by the head of the enterprise, institution and other organization regardless of the form of ownership, Articles 265, 268, 269, 270, 271, Article 273, Part 3, Clause "c", provided that these actions were committed using official authority, Articles 274, 278, 279, 280, 287, Article 289, Part 3, Clause "b" ", if this act was committed using official powers, part 4, if the subject of corruption crime was involved in an organized group, article 291, part 2, item "b", articles 292, 293, 295, 296, 314-317, if if these actions are of a corrupt nature, articles 318-321, 323-327, 338(1), 340(1), 345 part 3, if these actions were committed using official powers, articles 348, 349, 359 parts 2 and 3 , provided that these actions were committed by the

subject of a crime of a corruption nature, Articles 360, 363 and 391 of the Criminal Code of the Republic of Tajikistan, if these actions are of a corruption nature, they will be conducted by investigators of specialized anti-corruption agencies. Preliminary investigation of cases against judges, prosecutors, investigators, employees of law enforcement agencies (including employees of anti-corruption agencies), regarding the crimes provided for in this part, is conducted by investigators of specialized anti-corruption agencies. In the event that specialized anti-corruption bodies detect the crimes specified in this part, which were committed by military servicemen, as well as military personnel invited to military gatherings, the preliminary investigation of the cases will be conducted by the investigators of these bodies (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*, *dated 23.11.2015 No. 1229*).

8. The preliminary investigation of the cases on the crimes provided for in articles 143-164, 244-297 of the Criminal Code of the Republic of Tajikistan, which are related to the investigation of the case on the crimes provided for in part 7 of this article, was conducted by the investigators of specialized anti-corruption bodies. will be

9. Preliminary investigation of cases on crimes under Articles 181, 200, 201, 202, 202(1), 202(2), 206(1), 245, 246, 251, 257, 258, 261, 263-268, 273 - 280, 286, part 1, 287-291, 323-325 of the Criminal Code of the Republic of Tajikistan, as well as crimes that are not included in parts 2-7 of this article, are carried out by investigators of internal affairs bodies. The preliminary investigation of the cases on the crimes provided for in articles 314, 316, 340, 346, 347, 352, 353 of the Criminal Code of the Republic of Tajikistan is also carried out by the investigators of the internal affairs bodies, provided that they investigate other criminal cases are under the authority of these authorities, be related (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702*).

10. Preliminary investigation of cases on crimes committed by minors or persons who cannot defend their rights due to physical or mental illness is conducted by investigators of internal affairs bodies.

11. Regarding the cases related to crimes under articles 200, 201, 202, 202(1), 202(2), 203, 204, 205, 206, 206(1) and 289 (regarding trafficking in narcotic drugs or psychotropic substances or similar (analogues) of them or their precursors, strong and poisonous substances) provided by the Criminal Code of the Republic of Tajikistan, the preliminary investigation is also conducted by the investigators of the Drug Control Agency under the President of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 24.12.2022 No. 1927*).

12. In order to carry out a complete, thorough and impartial investigation and preliminary investigation, regardless of the jurisdiction of the investigation according to Article 168 of this Code, the prosecutor has the right to transfer any criminal case, except for cases of corruption-related crimes, from one investigation or investigation body to another investigation body. or investigate or take under the investigation of the prosecutor's office. If in the course of the activities of the prosecutor's office, internal affairs, national security and control of narcotic substances, crimes of a corrupt nature are detected, the prosecutor has the right to establish investigative-operational teams to investigate them and entrust the preliminary investigation of criminal cases to these authorities (*Law of the Republic of Tajikistan dated 22.07.2013 No. 983*).

Article 162. Place of preliminary investigation

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

2. In order to ensure a quick, impartial and complete conclusion, it is possible to conduct a preliminary investigation at the place where the crime was discovered, as well as at the place of stay of the suspect, the accused or most of the witnesses.

3. After determining that the case is not within his investigative jurisdiction, the investigator is obliged to carry out urgent investigative actions and hand over the case to the prosecutor for submission according to his jurisdiction. The issue of investigative jurisdiction is resolved by the local prosecutor where the investigation was initiated.

4. When it is necessary to carry out investigative actions in another place, the investigator has the right to conduct them personally or to entrust the conduct of these actions to the investigator or investigative body of this place. The investigator has the right to entrust the conduct of operative-

search activities to the investigative bodies of the place of preliminary investigation or the place of its conduct. The task of the investigator must be executed within fifteen days (*Law of the Republic of Tajikistan No. 692 of March 25, 2011*).

Article 163. Initiation of preliminary investigation

1. The preliminary investigation is conducted only after the initiation of the criminal case and in accordance with the procedure established by this Code.

2. The investigator is obliged to immediately start investigating the case initiated by him or the case assigned to him. The investigator makes a decision on accepting the case for consideration. If the criminal case has been initiated by the investigator and has been accepted to proceed, a decision will be issued on this matter. The investigator sends a copy of the decision to the prosecutor within 24 hours.

Article 164. Time period for preliminary investigation

1. The preliminary investigation of the criminal case must be carried out no later than two months from the date of initiation of the criminal case.

2. Preliminary investigation of criminal cases conducted by the investigator should be completed within one month from the date of initiation of the criminal case.

3. The period of preliminary investigation is calculated from the day of the initiation of the case and until the day of sending the case to the prosecutor with the intention of indictment or the decision to send the criminal case to the court for consideration of the issue of the implementation of coercive measures of a medical nature or until the day of issuing the decision to terminate the criminal case. will be

4. The period during which the preliminary investigation was suspended according to the grounds provided by this Code is not included in the period of preliminary investigation.

5. The term of the preliminary investigation of the criminal cases specified in part 1 of this article by the district, city, and equivalent prosecutors can be up to six months, by the Chief Military Prosecutor, the prosecutor of Badakhshan Mountainous Autonomous Region, regions, the city of Dushanbe, and the transport prosecutor of Tajikistan. to be extended for one year. The term of preliminary investigation of criminal cases in the subordinate cities and districts of the Republic is extended by the Deputy Prosecutor General of the Republic of Tajikistan. The term of further preliminary investigation of criminal cases will be extended by the Prosecutor General of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755, dated 14.03.2014 No. 1067*).

6. The period of familiarization with the materials of the criminal case of the accused and his defender shall not be counted towards the period of preliminary investigation.

Article 165. Completion of preliminary investigation

Conducting a preliminary investigation ends with the drafting of an indictment or a decision to refer a criminal case to court for the implementation of coercive measures of a medical nature or issuing a decision to terminate a criminal case.

Article 166. Consolidation of criminal cases

1. By the decision of the prosecutor, as well as by the decision of the investigative investigator or by the order and decision of the court, the judge may in one proceeding initiate cases on the accusation of several persons in the commission of one or more crimes in partnership, cases on the accusation of one person in the commission of several crimes, also on charges of concealment of these crimes without prior promise or failure to report them.

2. Consolidation of criminal cases in which the same person is both the accused and the victim is not allowed, except for private prosecution cases.

3. The term of conducting a criminal case in which several criminal cases are combined is counted from the day of initiation of the case that was initiated first. The total duration of the investigation of consolidated cases includes all actual calendar time spent on its conduct.

Article 167. Separation of criminal cases or materials

1. In the course of conducting a criminal case, an investigator, investigator or prosecutor has the right to separate a part of it for the following persons:

- the accused whose place of residence is unknown;
- the accused who is suffering from a serious illness;
- a minor defendant who is brought to criminal responsibility together with an adult in the same criminal case.

2. Regarding multi-point cases, taking into account the provisions of the law on the jurisdiction of the criminal case, the prosecutor, the investigator, the investigator have the right to recognize the collected evidence as sufficient for drawing up an indictment and sending the case to the court in relation to an individual in certain cases of accusation. cases to make a decision. The decision on separation and investigation of cases on other crimes (moments) is made in accordance with this Code. Separation of the case is possible on the condition that it does not affect the thorough and objective investigation of the case under investigation.

3. A criminal case on a crime committed by another person, which was discovered during the investigation of the crime and is not related to the action of the investigated case related to the accused, should be separated for separate proceedings. In such cases, material necessary for the initiation and investigation of the criminal case regarding the detected crime may be separated from the criminal case.

4. Separation of the case or material is carried out by the decision of the investigative body, investigator or prosecutor, by the decision or order of the court. A list of materials in original form or a copy of it should be attached to the separated file.

5. The term of the preliminary investigation of the separated case is counted from the day of making the relevant decision, provided that the case is separated into a new crime or against another person. In other cases, the term is counted from the moment of the initiation of the main criminal case.

Article 167(1). Establishment of a criminal case

(Law of the Republic of Tajikistan dated 15.03.2016 No. 1275)

1. Restoration of a destroyed or lost criminal case or part of its material during the preliminary investigation and investigation is carried out by the prosecutor's decision. In case of destruction or loss of the criminal case or part of its material during the court proceedings, their restoration shall be carried out by the court decision and sent to the prosecutor for execution.

2. The destroyed or lost criminal case shall be restored based on the preserved copies of the criminal case materials, which are recognized as evidence in accordance with the procedure provided by this Code, as well as by conducting investigative actions.

3. The periods of investigation, preliminary investigation of the criminal case and detention of the accused during the recovery of the criminal case are calculated according to the procedure established by Articles 112, 155 and 164 of this Code.

4. If the maximum term of detention has passed due to the criminal case of destruction or disappearance, the accused must be released immediately *(Law of the Republic of Tajikistan dated 15.03.2016 No. 1275)*.

Article 168. Powers of the prosecutor to control the implementation of laws during the investigation and investigation of a criminal case

1. The prosecutor supervises the implementation of laws during the investigation and investigation of a criminal case, within the scope of his authority:

- monitors the fulfillment of the requirements of the law during the reception, registration and review of applications and information about crimes;

- during the preliminary investigation and investigation, he checks the fulfillment of the requirements of the law, and at the same time has the right to demand from the preliminary investigation and investigation bodies criminal cases, documents, materials and other information about the committed crimes, the process of investigation and investigation, conducting operative-search activities. (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*);

- to give consent to the investigator, the investigator to submit a request to the court on the implementation of preventive measures in the form of arrest, house arrest, in particular, on their change and cancellation;

- to the investigator and the investigator to submit to the court a request for the arrest of postal correspondence, telegraphic messages and other messages transmitted through electronic communication networks and postal communication, to examine, find them from postal communication institutions or electronic communication networks, to listen and consent to the recording of telephone conversations and other conversations (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);

- to give consent to the researcher and the investigator to submit to the court a request for seizure of funds of individuals and legal entities that are in accounts and deposits or in the custody of banks and other financial institutions (*Law of the Republic of Tajikistan dated 19.07.2022 No. 1900*);

- participates in conducting the preliminary investigation and, in necessary cases, conducts the investigation personally, conducts a comprehensive preliminary investigation on each case in its entirety;

- in the cases stipulated by this Code, approves the decision or action of the investigator and researcher;

- extends the period of investigation and preliminary investigation;

- considers the application for the refusal of the investigator and the investigator, as well as the lower prosecutor;

- considers complaints about actions and decisions of investigators and investigators, as well as lower prosecutors;

- gives written instructions regarding the fulfillment of the requirements of the law and the investigation of criminal cases;

- initiates or refuses to initiate a criminal case;

- terminates or suspends criminal proceedings;

- gives consent to the termination of the criminal case by the investigator or investigative body in the cases provided for by this Code;

- cancels the illegal decisions of the investigator, investigative body, investigator and lower prosecutor;

- instructs the investigative body to carry out an investigation;

- instructs on carrying out operational-search activities to detect crimes and find perpetrators of crimes in cases under the supervision of a prosecutor or investigator (*Law of the Republic of Tajikistan dated 25.03.2011 No. 692*);

- returns criminal cases to the investigator or investigative body with his instructions on conducting additional investigations;

- receives the case from the investigative body and hands it over to the investigator;

- takes the case from one investigator and hands it over to another investigator or from one investigation body to another investigation body with mandatory indication of the basis in

accordance with the procedure provided for in Article 161 of this Code (*Law of the Republic of Tajikistan dated 07.22.2013 No. 983*);

- excludes the researcher or investigator, who violated the law during the investigation of the case, from further conducting the investigation;
- confirms the opinion of the accused;
- sends the case to the court;
- carries out other powers provided by this Code.

2. It is mandatory to follow the instructions of the prosecutor for the investigator, investigation and research bodies, given in the order provided by this Code.

Article 169. Conducting a preliminary investigation by a group of investigators

If the criminal case is complex or large-scale, its preliminary investigation can be assigned to a group of investigators (investigation group), and this situation is mentioned in the decision to initiate a criminal case or a separate decision is made. In this regard, the prosecutor, the head of the investigation unit or the head of the specialized anti-corruption body have the right to make a decision. In order to carry out the preliminary investigation of criminal cases, regardless of their investigative jurisdiction, the prosecutor creates investigative-operational teams and entrusts the investigation of the case to the prosecutor's office, internal affairs, national security, the specialized body for combating corruption or controlling narcotics. The decision must indicate all the investigators to whom the conduct of the investigation has been assigned, including the head of the group. The suspect, the accused, the victim, the civil plaintiff, the civil defendant and their representatives should be familiarized with the decision to investigate the case by the group of investigators, and their right to refuse any investigator from the team should be explained (*Law of the Republic of Kazakhstan dated 22.07.2013 No. 983*) .

Article 170. Authority of the head of the investigation team

1. The head of the investigation team accepts the criminal case, organizes the activity of the investigation team and directs the actions of other investigators.

2. Joint decision or separation of the case, initiation of a request for extension of the investigation period, application of arrest, house arrest and extension of their term as a preventive measure, as well as bail and temporary removal of the accused from office, termination of the criminal case in total or partial suspension or resumption of the case is accepted only by the head of the investigation team.

3. The head of the investigation team prepares the opinion of accusation or the decision to refer the case to the court for consideration of the issue of the application of coercive measures of a medical nature.

4. The head of the investigation team has the right to:

- to participate in the investigation carried out by other investigators;
- personally inspect:
- to make a decision on the case.

Article 171. General rules for conducting investigative actions

1. The investigator involves the persons provided for in this Code to the investigation, determines their identity, explains to them their rights and obligations, as well as the procedure for conducting the investigation.

2. It is prohibited to carry out the investigation at night, except in urgent cases.

3. Technical means, scientifically based methods of detection, registration and recording and finding traces of crime and physical evidence may be used during the investigation.

4. It is not possible to use violence, threats and other illegal measures, as well as to create a risk to the life and health of the persons participating in the investigation.

5. In the cases provided for by Article 35 of this Code, the investigation is carried out on the basis of a court decision.

Article 172. Protocol of investigative action

1. The protocol of the investigation is drawn up during the investigation or directly after its completion (Law of the Republic of Tajikistan [No. 755 dated 2.08.2011](#)).

2. The protocol can be written by hand, typed or computerized. Stenographic records, audio and video recordings may be used to complete the protocol. Shorthand notes, audio and video recordings are kept with the file.

3. The following are reflected in the protocol:

- locality (place) and date of investigation;
- its start and end time;
- position and name of the person compiling the protocol;
- name, father's name of each person who participated in the investigation, as well as his address;
- procedural actions in the same order as they took place;
- circumstances important to the case revealed during the trial;
- number of persons involved in conducting the investigation.

4. If photography, voice and video recording were used during the investigation, or modeling and tracing were done, and plans were made, then the technical means used during the investigation should be recorded in the protocol. the conditions and procedures for their implementation, the objects to which these tools are applied and the results obtained should be reflected. In addition, it should be recorded in the protocol whether before the implementation of technical means, the persons involved in the investigation process were informed about it or not.

5. The protocol is presented for identification to all persons who participated in conducting the investigation. They are explained the right to comment, which should be included in the minutes. All comments, additions and amendments included in the protocol must be agreed in advance and approved by the signature of these persons.

6. Each page of the protocol is signed by the investigator, the questioned person, the translator, the expert, the neutral persons and other persons participating in the investigative action.

7. Photo negatives, photographs, slides, cassettes, voice and video recordings, plans and schemes, templates, traces, made during the investigation process are attached to the protocol.

8. When there is a reason for the possibility that it is necessary to ensure the safety of the victim, his representative, witness and their family members, the investigator has the right to include information about the identity of the victim, his representative and the witness in the protocol of the investigation in which the victim, his representative and the witness participate. do not mention them. In this case, the investigator is obliged to make a decision, in which he mentions the reason for making the decision to keep information about the identity of the participant of the investigative action confidential, and to record the sample of the signature that he uses in the protocol of the investigative action with his participation. . The decision is kept in a sealed envelope, the content of which can be read by an investigator, a supervising prosecutor, a court panel or a judge ([Law of the Republic of Tajikistan dated 2.08.2011 No. 755](#)).

Article 173. Confirmation of the fact of refusal to sign or impossibility

signature of the inspection protocol

1. If the suspect, accused, witness or other person refuses to sign the protocol of the investigative action, this shall be recorded in the protocol and confirmed by the signature of the person who performed the investigative action.

2. The person who refused to sign the protocol should be given the opportunity to explain the reason and his explanation will be included in the protocol.

3. If the suspect, the accused, the victim or the witness cannot sign the interrogation protocol due to a physical defect or health condition, the investigator calls a stranger and he, with the consent of the questioned person, confirms the correctness of the recording of his testimony with his signature. This report is also signed by the investigator who conducted the interview. If, for these reasons, one of the persons mentioned in part 1 of this article cannot sign the protocol of another investigative action, it shall be mentioned in the protocol and confirmed by the signature of the investigator and honest persons.

Article 174. Obligation to explain and ensure the rights of participants in criminal proceedings

The investigator is obliged to explain the rights of each of them to the suspect, the accused, as well as the victim, the civil plaintiff, the civil defendant and their representatives, as well as other persons participating in the investigation, and ensure the possibility of exercising their rights during the investigation of the case. At the same time, they should be explained their obligations and the consequences of not fulfilling them.

Article 175. Mandatory consideration of the request

1. The investigator is obliged to consider all requests regarding the case. At the same time, he does not have the right to reject the request of the suspect, the accused, their defenders, as well as the victim, civil plaintiff, civil defendant and their representatives regarding the questioning of witnesses, conducting an examination and other investigative actions, if the circumstances that they have requested to establish, be relevant to the case.

2. The applicant will be informed about the results of the review of the application within five days. In case of complete or partial refusal to satisfy the request, the investigator is obliged to issue a decision stating the reasons for the refusal.

Article 176. Custody measures for the child, the needy and the protection of the property of the suspect or the accused

1. If the arrested or detained as a preventive measure have minor children without guardians or caregivers, elderly parents or other needy persons, the investigator is obliged to hand them over to parents or other persons for care or in institutions for unaccompanied children or place social (educational, medical institutions, social protection of the population and other institutions).

2. The investigator is obliged to take measures in accordance with the law to protect the property and residence of the arrested or detained suspect or accused.

3. The suspect or the accused will be informed about the custody and property protection measures.

Article 177. Improper disclosure of preliminary investigation information

1. Preliminary investigation information can be disclosed only with the permission of the person conducting the criminal prosecution and to the extent that he considers it possible.

2. In necessary cases, the person conducting the criminal prosecution informs the investigator, witness, victim, civil plaintiff, civil defendant, expert, specialist, translator, neutral persons and other persons involved in the investigation about the inadmissibility of disclosing preliminary investigation information without his permission. . A letter will be received from the mentioned persons regarding their notification regarding the liability provided for in Article 361 of the Criminal Code of the Republic of Tajikistan.

Article 178. Proposal to eliminate situations that contribute to the commission of crimes and other violations

1. When conducting the case, the investigator establishes the circumstances that contribute to the commission of the crime, and has the right to send a proposal to the organization, the relevant institution, regardless of the organizational and legal forms, or the relevant official to take measures to eliminate these situations or other violations of the law. .

2. The proposal must be considered within a month, and the result of the measures taken must be reported to the authority sent to the proposal.

Article 179. Participation of a specialist

1. The investigator has the right to involve a specialist who is not interested in the results of the case to participate in the investigation. The request of the investigator regarding the invitation of the specialist is mandatory for the head of the enterprise, institution or organization in which the specialist works.

2. Before starting the investigation, the investigator is sure of the identity and competence of the specialist, determines his attitude towards the suspect, the accused and the victim, explains to the specialist his rights and obligations, which are provided for by Article 57 of this Code, regarding the responsibility provided by this the article for refusal or refusal to fulfill its obligations informs him about it and in this regard mentions it in the protocol of the inspection action and confirms it with the signature of the specialist.

Article 180. Participation of translator

1. In the cases provided by part 2 of article 18 of this Code, the investigator is obliged to call the translator during the interrogation or other investigative action.

2. Before the start of the investigative action in which the translator participates, the investigator shall explain his rights and obligations, provided for by Article 59 of this Code, and inform him of the liability established by this Article in the case of refusal to appear or fulfill the obligation, as well as the liability informs the criminal for deliberately wrong translation and mentions this in the protocol of investigation and confirms it with the translator's signature.

Article 181. Participation of pure persons

1. In the cases stipulated by this Code, the investigation is carried out with the participation of at least two independent persons who are invited to confirm the reality of conducting the investigation, its process and results.

2. Before the start of the investigation, the investigator shall explain the purpose of the investigation, their rights and obligations as provided by Article 60 of this Code.

CHAPTER 21. REVIEW, TESTIMONY, TESTING (EXPERIMENTAL) INSPECTION

Article 182. Grounds for conducting a review

1. An inspection of the scene, area, building, equipment and documents is carried out in order to detect traces of the crime and other material objects, to determine other circumstances relevant to the case.

2. In urgent cases, the inspection of the scene of the incident can be carried out before the initiation of the criminal case.

Article 183. The procedure for the review

1. The inspection is carried out with the participation of honest persons. In exceptional cases (in hard-to-reach areas, when there are no relevant means of information, as well as in cases

where the inspection is dangerous for people's life and health), the inspection is carried out without clean persons.

2. The investigator and researcher have the right to involve the accused, the suspect, the victim, the witness, as well as the specialist, to participate in the examination.

3. When necessary, measurements, photography, sound recording, video recording, planning and design are carried out during inspection. The mold and copy of the traces are removed and, if possible, the trace itself together with the tools or a part of it is taken using the technical means and methods allowed by the law.

4. Inspection of traces, and other material objects detected is carried out at the place of investigation. If the inspection takes a long time or is extremely difficult to inspect at a designated location, the objects should be picked up, wrapped, and sealed and moved without damage to another location suitable for inspection.

5. All things discovered and taken during the inspection must be shown to innocent persons, other participants of the inspection.

6. Only objects relevant to the case will be taken. The objects received are closed and sealed and verified by the signature of the investigator and the clean persons.

7. The participants of the review have the right to draw the investigator's attention to everything that, in their opinion, can help clarify the circumstances of the case.

8. During the inspection of the residence, the presence of an adult resident must be ensured. If it is impossible for him to appear, representatives of the housing and communal organization or the local administration will be invited and the inspection of the house will be carried out in accordance with the requirements of Article 13 of this Code (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

9. The inspection is carried out in the premises of enterprises, organizations and institutions with the participation of their representatives and local self-governing bodies.

10. Inspections in buildings where diplomatic missions are located, as well as in buildings where members of diplomatic missions and their families live, are carried out only at the request or consent of the diplomatic representative and in their presence. Consent of the diplomatic representative is obtained through the Ministry of Foreign Affairs of the Republic of Tajikistan. During the inspection, the participation of the prosecutor and the representative of the Ministry of Foreign Affairs of the Republic of Tajikistan is mandatory.

Article 184. Examination of the body, exhumation

1. The investigator performs the physical examination of the corpse at the place of its discovery with the participation of innocent persons and a forensic medical expert, and if his participation is not possible, with the participation of another doctor.

2. Unrecognizable bodies must be photographed and fingerprinted.

3. When it is necessary to remove the body from the place of burial (grave) for examination, the investigator makes a decision. Execution of the decision to remove the body from the place of burial (exhumation) is mandatory for the administration of the cemetery and the close relatives of the deceased.

4. The removal of the body from the burial place and its inspection is carried out with the participation of the persons mentioned in part 1 of this article.

Article 185. Examination and storage of physical evidence

1. Items that are considered physical evidence in accordance with Article 78 of this Code and were discovered during the inspection of the scene or building, were taken during a search, find, investigative test or other investigative action, or at the request of the investigator, enterprises, organizations, institutions and submitted by citizens should be reviewed according to the rules of Article 183 of this Code.

2. The investigator makes a decision on the recognition of the object as physical evidence and its attachment to the case. In the same decision, the issue of attaching physical evidence to the case or handing it over to its owner or to other persons or to an organization for safekeeping should be decided.

3. If the item cannot be included in the file due to its size or other reasons, it should be photographed, sealed if possible and stored in a place determined by the investigator.

There should be a relevant reference on the place of storage of physical evidence in the case.

4. Perishable physical evidence, if it is not possible to return it to its owner, is handed over to the relevant institution for its intended use. If there is a reason, the owner will be returned the same item of the same quality or its value will be paid.

5. In cases with the grounds provided for in the first and second paragraphs of part 1 of article 230 of this Code, the suspension of the preliminary investigation of criminal cases related to the illegal circulation of narcotic drugs and psychotropic substances in large or especially large quantities, based on the decision of the investigator and with the consent of the prosecutor, with the participation Mandatory expert and impartial persons using video recording and photography from the total amount of physical evidence to add to the criminal case samples corresponding to the initial limit of large or especially large quantities of narcotic drugs and psychotropic substances, which are listed in Appendix 1 of the Criminal Code of the Republic of Tajikistan provided are separated. The remaining part of narcotic drugs and psychotropic substances will be destroyed according to the legislation of the Republic of Tajikistan and the procedure established by the Government of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 01.08.2012 No. 878*).

6. When terminating the criminal case at the investigation stage, the issue of physical evidence shall be resolved in accordance with the rules of Part 3 of Article 78 of this Code.

Article 186. Witnessing

1. In order to detect special signs, traces of a crime, physical wounds, to determine the state of intoxication or other characteristics and signs that are important for the case, provided that it does not require examination (expertise), it is possible to detect in the human body, testifying of the suspect, accused, victim or witness. The investigator decides on the conduct of testimony.

2. The decision to testify is mandatory for the suspect and the accused.

3. The witnessing is carried out by the investigator with the participation of innocent persons, and in necessary cases, with the participation of a doctor. In cases where this inspection is related to the undressing of the person being examined, the examination is carried out with the participation of pure persons of the same sex.

4. The investigator does not participate in the examination of a person of the opposite sex, provided that it is related to the nakedness of the person. In this case, the examination is carried out by a doctor with the participation of pure homosexuals.

Article 187. Protocol of inspection and witnessing

1. The investigator prepares a report on the examination and witnessing in accordance with the requirements of Articles 172 and 173 of this Code.

2. All actions of the investigator, as well as all the objects discovered during the inspection and witnessing, are recorded in the protocol in the same order as the inspection and witnessing took place, and in the same form as the discovered object was observed at the time of the inspection and witnessing. In the protocol, all objects obtained during inspection and certification are listed and recorded.

3. In addition, the following points should be mentioned in the protocol:

- at what time, in what kind of weather, in what kind of light was the inspection and witnessing carried out;

- what technical tools were applied and what are their results;

- who was involved in the inspection or witnessing and what is the essence of their participation;
- which objects are sealed and with which seal;
- where the body or objects relevant to the case were sent after the testimony.

Article 188. Verification test (experiment).

1. In order to test and clarify the information that is important for the case, the investigator has the right to conduct an investigation test (experiment) by repeating the operation, situation or other circumstances of the incident to determine and perform the necessary experimental action. At the same time, the ability to understand a fact, make a certain movement, the occurrence of an event is checked, as well as the sequence of the event and the way traces are formed. An investigational trial is permitted provided that it is not dangerous to the health of its participants.

2. During the verification test, clean persons should be involved. If necessary, a suspect, an accused, a victim, a witness, as well as a specialist, an expert, persons who carry out experimental operations may be involved in the investigation test. The purpose and procedure of conducting the inspection test will be explained to the participants.

3. In necessary cases, measurements, photography, sound and video recording are carried out during the inspection test, plans and designs are developed.

Article 189. Protocol of inspection test

1. The investigator shall draw up a protocol in accordance with the requirements of Articles 172-173 of this Code regarding the conduct of the inspection test.

2. The conditions, process and results of the verification test are detailed in the protocol, and the following are mentioned:

- for what purpose, when and where and under what conditions the test was conducted;
- exact repetition of the situation and the situation of the event in what was clearly revealed;
- what experimental movements were performed, in what sequence, by whom and how many times;
- what are the results obtained?

CHAPTER 22. SEARCH, SEIZURE, SEIZURE OF POSTAL CORRESPONDENCE, TELEGRAPH MESSAGES AND OTHER MESSAGES TRANSMITTED THROUGH ELECTRICAL AND POSTAL COMMUNICATION NETWORKS, eavesdropping and recording of telephone conversations

(Law of the Republic of Tajikistan dated 2.08.2011 [No. 755](#))

Article 190. Grounds for conducting a search

1. The basis for a search is the presence of sufficient information on the assumption that in any building or any place or in any person there may be crime tools, objects, documents or valuable things relevant to the case.

2. A search can also be conducted in order to identify the wanted person and the body.

Article 191. Grounds for finding

When it is necessary to find certain items or documents that are important for the case, provided that it is known where and in whose hands they are, they will be searched and found.

Article 192. Procedure for search and retrieval

1. Searches and searches are carried out with a justified decision by an investigator, investigator or prosecutor with the permission of a court or judge.
2. Search and retrieval of documents containing state secrets or other legally protected secrets must be authorized by a court or judge.
3. In exceptional cases, when there is a real risk that the object to be searched or found will be lost or destroyed due to failure to detect it in time, or will be used for criminal purposes, or the person being searched is hiding, it is possible to conduct a search without the permission of the court or the judge. Written information about this will be provided to the court within 24 hours.
4. Before starting the search, the investigator, the investigator or the prosecutor will familiarize the interested persons with the decision to conduct the search.
5. Searching and finding is carried out with the participation of honest persons and, in necessary cases, with the participation of specialists and translators.
6. Before the start of the investigation, the investigator should send the decision to the prosecutor regarding the request submitted by the prosecutor to the court.
7. The researcher, the investigator starts the search and suggests that the items and documents important for the case be handed over voluntarily. If they are voluntarily surrendered and the risk of hiding the objects and documents to be seized is eliminated, the further search will be stopped.
8. During the search, the lock of the building and locked warehouse may be forcibly opened if the owner refuses to open it voluntarily. Unnecessary tampering with door locks and other objects is not allowed.
9. Upon finding the objects and documents that are being searched, the researcher and the investigator will forcefully seize them.
10. Searches and finding in residences, buildings of enterprises, organizations and institutions are carried out with the participation of persons mentioned in parts 8 and 9 of article 183 of this Code.
11. Searches and searches are carried out in the premises occupied by diplomatic representatives, as well as in the residence where they live with their families, in compliance with the requirements specified in Part 10 of Article 183 of this Code.
12. The researcher and the investigator are obliged to take measures not to reveal the relevant information of the personal life of those who live in this building or other persons revealed during the search and recovery.
13. The researcher, the investigator has the right to the persons who are present in the building or the place of search or finding, as well as to the people who come to this building or place, to leave it until the end of the search or finding, as well as between each other or with prohibit other persons from interviewing them.
14. The researcher, the investigator during the search or finding should be strictly limited to taking items and documents related to the case. Items and documents prohibited for circulation should be taken regardless of their relevance to the case.
15. All items and documents received must be shown to the innocent persons and other participants, if necessary, sealed and sealed at the place of search or finding, and confirmed by the signature of the investigator and innocent persons.

Article 193. Personal search

1. In the presence of the grounds provided for in Article 190 and in compliance with the requirements of Sections 5 and 7 of Article 192 of this Code, the prosecutor, the investigator, the investigator have the right to detect and obtain objects and documents that may be on the body, clothing or equipment of a person. do a personal search.
2. When a person is arrested or detained, as well as when there are sufficient grounds, assuming that the person present in the building or other place where the search is conducted has

hidden documents or objects important for the case, a personal search may be carried out without a warrant. can be done specially.

3. Personal search is carried out only by a person of the same sex as the person being searched and with the participation of clean persons and professionals of the same sex.

Article 194. Protocol of search and recovery

1. The person who conducts the search or finding shall draw up a protocol in compliance with the requirements of Articles 172, 173 and 192 of this Code.

2. It should be mentioned in the protocol where and under what conditions the items and documents were discovered, whether they were given voluntarily or taken by force. The number, size, weight, individual marks and approximate value of all items received must be clearly indicated in the report.

3. If, during the search or retrieval, an attempt was made to destroy or hide the items or documents to be taken, this situation and measures to prevent it should be reflected in the protocol.

4. A copy of the protocol of the search and recovery shall be handed over to the person who was searched or the adult members of his family, and in their absence, to the representative of the housing organization or local self-governing body. If the search or discovery took place in an enterprise, institution, or organization, a copy of the protocol will be handed over to their representatives.

Article 195. Seizure of postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks, their inspection and retrieval

(Law of the Republic of Tajikistan dated 2.08.2011 No. 755)

1. When there are grounds for the assumption that a letter, telegram, radiogram, package, dispatch and other postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks contain information, documents or items relevant to the case. are, they can be put under arrest *(Law of the Republic of Tajikistan dated 2.08.2011 No. 755)* .

2. Seizure of postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks, their examination and retrieval shall be carried out only with the permission of the court or judge *(Law of the Republic of Tajikistan dated 2.08.2011 No. 755)* .

3. When it is necessary to seize postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks, the researcher, the investigator makes a justified decision and mentions *these*) :

- surname, first name and father's name of the person whose postal correspondence, telegraphic messages and other messages transmitted through electronic communication networks and postal communication should be seized *(Law of the Republic of Tajikistan dated 2.08.2011 No. 755 , dated 14.03.2014 No. 1067)* ;

- exact address of this person;

- grounds for calculating and receiving correspondence;

- types of postal correspondence, telegraphic messages and other messages transmitted through electronic communication networks and postal communication, which should be seized *(Law of the Republic of Tajikistan dated 2.08.2011 No. 755)* ;

- the period during which the arrest should be made;

- the name of the communication institution, which is responsible for the interception of postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks *(Law of the Republic of Tajikistan dated 2.08.2011 No. 755)* .

4. Consideration of the request of the investigator regarding the interception of postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks, review and finding thereof shall be carried out by the court, judge, in accordance with the rules of Articles 35(2) and 192 of this Code. If the court allows the interception of postal and telegraphic communications, the judge-investigator sends the decision to the relevant communication institution and suggests that it suspend postal and telegraphic communications and immediately inform the investigator about this (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*, dated 29.01.2021 *No. 1755*).

5. The investigator examines, finds and copies suspended mail and telegraph correspondence in the communication institution with the participation of the employees of this institution. In necessary cases, the investigator has the right to invite a relevant specialist, as well as a translator, to participate in the examination and retrieval of postal and telegraphic correspondence. To draw up a protocol for each examination of postal correspondence, telegraphic messages and other messages transmitted through electronic and postal communication networks, and to indicate by whom and how the postal and telegraphic correspondence was examined, copied, and as to who has been directed or suspended (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

6. Detention of postal correspondence, telegraphic messages and other messages transmitted through electronic communication networks and postal communication shall be canceled when the necessity ceases, but in any case not later than the termination of the case or its submission to the court (*Law of the Republic of Tajikistan from 2.08.2011 No. 755*).

Article 196. Listening and recording of conversation

1. Regarding the criminal case of serious and especially serious crimes, provided that there are sufficient grounds for the assumption that telephone conversations of the suspect, the accused and other persons or conversations with other means of communication may contain information about the crime or contain information important for the case, it is possible to listen and record this conversation in accordance with the procedure established by Articles 35(2) and 192 of this Code and with the permission of the court, the judge (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

2. When there is a threat of violence, extortion and other criminal acts against the victim, witness or their family members, according to their written application or when there is no such application, according to the request of the investigator with the permission of the court, the judge can talk through their phone or to other means of communication and recording it.

3. The investigator makes a reasoned decision about the need to listen and record the conversation, which mentions the following (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*):

- the criminal case and the grounds according to which this investigation is carried out;
- name and surname of the person whose conversation is listened to;
- during which period listening and recording of the conversation will be carried out;
- the institution entrusted with the technical means of listening and recording conversations.

4. The investigator sends the decision to the court, the judge, and if the court allows it, the judge sends it to the relevant institution for execution.

5. Listening and recording of conversation is determined for a period of no more than six months. When this measure is not necessary in the future, but in any case, this action will be canceled no later than the termination of the case or its referral to court.

6. The investigator has the right to request the phonogram to inspect and listen to it at any time during the entire term. The phonogram is sent to the investigator in a sealed form by letter, which should reflect the time of the start and end of the recording of the conversation and the necessary technical classification of the tools used.

7. Reviewing and listening to the phonogram by the investigator with the participation of impartial persons and, if necessary, a specialist, is carried out, and a protocol is drawn up, in which the same part of the phonogram that is relevant to the case is presented verbatim. The phonogram is attached to the case, and at the same time, the part that is not related to the case is destroyed after the legal effect of the judgment or termination of the case.

CHAPTER 23. INQUIRY, CONFRONTATION, IDENTIFICATION AND TESTING OF INDICATIONS AT THE SCENE

Article 197. Place of inquiry

1. The survey is carried out at the place of preliminary inspection. The investigator, if deemed necessary, may interrogate the person at the place of stay (*Law of the Republic of Tajikistan dated 19.07.2022 No. 1900*).

2. If the witness or the victim is outside the country, the interview can be conducted remotely using telecommunications and e-mail, with the preparation of the interview protocol and confirmed with a digital signature. The investigator may conduct a remote interview with the participation of neutral persons. The survey is carried out in compliance with the requirements of articles 199-203 of this Code and without drawing up a survey protocol (*Law of the Republic of Tajikistan dated 19.07.2022 No. 1900*).

Article 198. Procedure of calling for an inquiry

1. The witness, victim, as well as the suspect, the accused, who are at liberty, are invited for questioning by means of a summons, in which it is noted who, to whom, at which address, the time of appearance, the consequences of not appearing without a valid reason. will be

2. The invitation is delivered to the invited person and his signature is obtained. In the absence of the invitee, the invitation will be delivered to one of the adult family members and his signature will be obtained. In their absence, the invitation is handed over to the housing organization or local self-governing body or workplace administration, who are obliged to deliver it to the invited person. The invitee can also be invited by other means of communication.

3. The persons mentioned in part 1 of this article are obliged to appear for the interrogation in accordance with the summons. In case of non-appearance without good reason, coercive procedural measures provided for in Article 113 of this Code may be applied to them.

4. Detained persons are invited for questioning by the prison administration.

5. A person who has not reached the age of sixteen, together with his parents or other legal representatives, is invited as a witness or victim. Another procedure for summoning a minor is possible only if the circumstances of the case require it.

Article 199. General rules of inquiry

1. Before the interrogation, the investigator must determine the identity of the person being questioned. The interviewee gives evidence in his native language or another language he knows.

2. The person invited to the questioning is informed as to whom he is being questioned, according to which criminal case, his rights and obligations provided for in this Code are explained, and this is noted in the protocol. . Persons who have been called for questioning as witnesses or victims are warned of criminal liability for refusing or refusing to give evidence, as well as for knowingly giving false evidence.

3. The questioning starts with the person being questioned stating the circumstances of the case known to him. If the interviewee talks about circumstances that have nothing to do with the case, he should be warned.

4. After the end of the free narration, questions can be asked to the interviewee, the purpose of which is to make the information accurate and complete. It is forbidden to ask leading questions.

5. If the evidence is related to digital data or other information that is difficult to remember, the interrogated has the right to use the documents and records that can be included in the case at the initiative of the investigator and with the consent or at the request of the interrogated. .

6. During the interrogation, the investigator can show physical evidence and documents to the interrogated person, and after the end of the free narration, read the evidence contained in the criminal case file, show voice and video recordings or filmed materials, and ask for their explanation.

7. Continuous questioning cannot exceed 4 hours and its duration cannot exceed 8 hours per day.

Article 200. Protocol of inquiry

1. The process and results of the survey are prepared and reflected in the protocol in compliance with the requirements of Articles 172 and 173 of this Code. The testimony is recorded in the first person and, if possible, verbatim. Their questions and answers are recorded in the same order as during the survey. The protocol should also reflect the questions of the persons who participated in the interrogation, the questions that were removed by the investigator or the questions that the interrogated refused to answer, with the mention of the facts of removal or denial.

2. Demonstration of physical evidence and documents, reading of the protocol and display of voice recording, video and video recording of investigative actions, as well as related indications given by the interrogated party, must necessarily be reflected in the protocol.

3. In the course of the investigation, the respondent may prepare a design, plan, picture, diagram, which they will add to the protocol, and this will be noted in the protocol.

4. After the end of free narration, the interrogated has the right to write his testimony with his own hand. After hand writing and signature of the respondent, the investigator can ask complementary and clarifying questions.

5. After the end of the interview, the protocol will be presented to the interviewee for reading or it will be read at his request. The request of the interrogator to include additions and corrections in the protocol must be fulfilled.

6. The respondent confirms the proof of familiarization with the indication and correctness of their recording by signing at the end of the protocol. Each page of the protocol is signed by the interviewee.

7. If an interpreter participated in the survey, he also signs each page and the protocol as a whole. The interpreter signs the translation of the handwritten testimony of the interrogator.

8. All persons who participated in the survey sign the protocol.

Article 201. Use of voice and video recording during interrogation

1. By the decision of the investigator, voice and video recording can be used during the questioning of the suspect, the accused, the witness or the victim. Voice and video recordings can also be used at the request of the suspect, accused, witness or victim.

2. The investigator makes a decision on audio and video recording and informs the interviewee about it before the start of the interview.

3. Voice and video recording of the information mentioned in parts 3 and 4 of Article 172 of this Code should reflect the entire process of the interrogation. Voice and video recording of a part of the survey, as well as repetition of the information given during the same survey, specifically for the purpose of recording, is not allowed.

4. After the end of the survey, the voice and video recording will be fully listened to and shown to the interviewee. After the end of the show or listening to the recording, the interviewee is asked if he can complete or clarify what he said and if he confirms the accuracy of the recording. Questionable additions are included in sound and video recordings, as well as phonograms and videograms. The audio and video recording ends with a questionable statement confirming its authenticity.

5. Indications obtained during the interrogation with the use of voice and video recordings are included in the protocol in accordance with the rules of this Code. The interview protocol also mentions the following:

- noting the implementation of voice and video recording and informing the interviewee about this;
- information on technical means and conditions of voice and video recording;
- statement of the interrogated person regarding the application of voice and video recording against him;
- confirmation of the correctness of the protocol, voice and video recording by the interrogated person and the investigator.

6. Phonogram and videogram are kept together with the case and sealed after completion of preliminary investigation.

Article 202. Procedure for questioning the witness and the victim

1. A witness and a victim summoned for the same case shall be interrogated separately and in the absence of other witnesses and victims. The investigator takes measures so that witnesses and victims of the same case cannot talk to each other (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. Before the interrogation, the investigator makes sure of the identity of the witness or the victim, determines their relationship with the accused or the suspect, explains to them the procedural rights and obligations, regarding the criminal responsibility for refusing to give evidence and knowingly giving false evidence. warns. At the same time, the investigator is obliged to explain that the witness or the victim has the right to refuse to give evidence that accuses them or their close relatives of committing a crime. A witness or a victim who did not use this right will be informed of the criminal responsibility for knowingly giving a false testimony. In order to explain to the witness or the victim their rights and obligations, a warning about the criminal responsibility for refusing or refusing to give evidence, as well as knowingly giving false evidence, is recorded in the protocol and confirmed by the signature of the person being questioned.

3. The questioning of the witness and the victim is carried out in accordance with the rules provided by Article 199 of this Code.

Article 203. Nature of interrogation of a minor witness or victim

(*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275*)

1. When questioning a witness or victim under the age of sixteen, as well as a minor witness or victim who, due to his physical or mental condition, does not have the opportunity to independently protect his rights and legal interests, the participation of a teacher and (or) psychologist is mandatory. A teacher or psychologist participates in the questioning of a witness and a victim over the age of sixteen at the discretion of the prosecutor, investigator or at the request of the defender. During the questioning of a witness or a minor victim, the participation of its legal representatives is mandatory (*Law of the Republic of Tajikistan dated 23.12.2021 No. 1811*).

2. Witnesses and victims under the age of sixteen, as well as minor witnesses or victims who, due to their physical or mental condition, do not have the opportunity to independently defend their rights and legal interests, are not informed of the responsibility for not giving testimony and knowingly giving false testimony. When explaining to such minor witnesses and victims their rights and obligations of the Trial, it is emphasized to tell only the truth. Minor witnesses and victims are informed of the right not to give evidence that accuses them and their close relatives of committing a crime. An explanation of the rights and obligations is noted in the protocol, and it is confirmed by the signature of a witness or minor victim, his legal representative, a teacher or a psychologist (*Law of the Republic of Tajikistan dated 23.12.2021 No. 1811*).

3. With the permission of the investigator, the teacher or psychologist has the right to ask questions to the witness or minor victim, and after the end of the interrogation, get acquainted with the protocol of the interrogation and submit their comments on the correctness and completeness

of its records. The investigator explains this right to the teacher or psychologist before questioning the witness and the minor victim. In this regard, it is recorded in the survey protocol.

4. To the persons mentioned in part 1 of this article, who participated in the questioning of a witness or a minor victim, the right to submit comments to be included in the protocol regarding the violation of the rights and interests of the interrogated, to ask questions with the permission of the investigator is explained. The investigator can refuse the question, but must include it in the protocol and mention the reason for refusal (*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275*).

5. Interrogation of a witness or a minor victim under the age of seven cannot last more than 30 minutes per day without a break and more than one hour in total, from seven to fourteen years old per day without a break for more than one hour and more than two hours in total, from fourteen up to sixteen years of age lasts more than one hour and 30 minutes per day without a break and more than three hours in total, and from sixteen to eighteen years of age lasts more than two hours per day without a break and more than four hours in total. The duration of questioning of a witness or a minor victim who, due to his physical or mental condition, is unable to independently protect his rights and legal interests, is determined by the investigator based on the recommendation of a teacher or psychologist, but it should not exceed the standard stipulated in this part (*Law JT a z 23.12.2021 No. 1811*).

6. Provisions of part 5 of this article are applied in the course of conducting other investigative actions (confrontation, identification, investigative testing, examination of evidence at the scene of the incident, etc.) that are conducted with the participation of a minor witness or victim (*Law of the Republic of Tajikistan 23.12.2021 No. 1811*).

Article 204. Confrontation

1. The investigator has the right to confront two previously interrogated persons if there is a serious contradiction in their testimony.

2. Before the confrontation, the investigator explains to the participants of this action their rights and obligations, as well as the procedure for carrying out this investigative action. If the confrontation is conducted with the participation of the witness and the victim, they will be informed about the criminal responsibility for refusing to give evidence and knowingly giving false evidence, and this will be noted in the protocol (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

3. The investigator asks the persons who are facing each other whether they know each other or not and how they relate to each other. The participants are offered to take turns to give clues about the identification of the situations of confrontation. After giving the evidence, the investigator can ask questions to any of the interviewees. Persons facing each other may ask each other questions with the permission of the investigator. In this regard, it is noted in the protocol (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

4. During the confrontation, the investigator has the right to show physical evidence and documents included in the case.

5. It is possible to read the testimony of the participants of the confrontation, which are contained in the protocols of previous interrogations, as well as to listen and show the audio and video recording of this testimony only after they have given their testimony during the confrontation and recorded it in the protocol (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

6. In the interview protocol, the testimony of the questioned persons is recorded in the order in which they gave their testimony. Each participant of the confrontation signs his testimony and each page of the protocol separately (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

7. If it is established that the confrontation of the accused with the victim and the witness may harm the witness and the victim or frighten them, the confrontation should be excluded.

Article 205. Marking for recognition

1. The investigator may show a person or object for identification to a witness, victim, suspect or accused. The body can also be marked for identification.

2. Those to be identified are asked beforehand about the situations in which they have seen the relevant person or object, about the signs and specifications by which they can recognize the person or object.

Article 206. The order of identification

1. A person is shown for identification together with other persons who are similar to him. The total number of persons to be identified should not be less than three. This rule does not apply to the identification of a dead body.

2. Before showing for recognition, the person to be recognized is offered to occupy any place he wants among those to be shown, and this is noted in the protocol.

3. When it is impossible to mark a person for recognition, this action can be done based on his photo, together with photos of people who look similar to him, as much as possible, with no less than three photos.

4. The object is presented together with the same object with the number of at least three objects for recognition.

5. If the acquaintance is a witness or a victim, he will be informed about the responsibility for refusing or refusing to give testimony and knowingly giving false testimony before being recognized, which will be noted in the protocol.

6. The acquaintance is offered to show the person or thing mentioned in his testimony. It is not possible to ask leading questions.

7. If the acquaintance recognizes one of the persons or objects shown to him, he will be asked by what signs or specifications he recognized that person or object.

8. Marking for recognition is carried out in the presence of pure persons.

9. In order to ensure the safety of the acquaintance, showing a person for identification can take place in conditions where the person to be recognized cannot see the acquaintance. In such cases, pure persons should be in the place of acquaintance. Pure and familiar people should be given the opportunity to see recognizable people.

10. A protocol will be drawn up on showing for recognition in compliance with the requirements of Articles 172, 187 of this Code. In the protocol, the conditions, the process, the results of recognition are mentioned and, if possible, the comments of the acquaintance are expressed verbatim. If the presentation of the person indicated for recognition was made in conditions where the person to be recognized did not have the opportunity to see the acquaintance, this aspect will also be mentioned in the protocol.

Article 207. Examination of evidence at the scene of the incident

1. Indications of the suspect, the accused, the victim, and the witness may be used in the place where the 6a incident under investigation is related, in order to establish new factual information, to show the route and places where the action under investigation was committed, as well as to determine their reliability with check or clarify the way of comparison with the situation of the event.

2. Inspection of the indicator at the scene may include the following:

- the designated person at the scene of the incident restores the situation and circumstances of the incident under investigation;

- finds and shows objects, documents and signs that are important for the case;

- shows certain actions;

- shows what role this or that object played in the researched event;

- pays attention to the change of the situation at the scene of the incident;

- makes its previous indication concrete and clear.

3. No external interference or guiding questions can be asked in these actions.
4. The test of the indicator is carried out at the scene in the presence of innocent persons and, if necessary, with the participation of a specialist.
5. It is not possible to check the identification of several people at the same time at the scene of the incident.
6. After clarifying the indication and showing the actions to the person whose indication is being checked, questions related to the investigation actions can be asked.
7. In necessary cases, measurements, photographs, voice recording, video recording are made, and plans and designs are prepared during the inspection of the indicator at the scene of the incident.
8. A protocol will be drawn up regarding the performance of the indicator test at the scene of the incident in accordance with the requirements of Articles 172, 187 of this Code. The report details the conditions, flow and results of the on-site performance testing.

CHAPTER 24. EXAMINATION

Article 208. Procedure for appointment of expertise

1. The investigator deems it necessary to appoint an expert, makes a decision on this and mentions the following information:
 - the grounds for appointing expertise;
 - the name and surname of the expert or the institution where the examination should be conducted;
 - questions put to the expert;
 - the material presented to the expert.
2. Execution of the investigator's decision on the appointment of expertise is mandatory for the persons or institutions to whom the decision was sent and under their jurisdiction.
3. Expertise is carried out by specialists of expert institutions, other state and non-state institutions, organizations and enterprises or well-known persons appointed by the investigator.
4. It is not possible to replace the expertise with research that is carried out outside of the procedure established by law. Conclusions of departmental inspections, audit reports, expert consultations do not exclude the need to carry out an examination.
5. Until the decision is sent to the institution of judicial expertise, the investigator is obliged to introduce the suspect, the accused, the victim, as well as the witness who is subject to the expertise, and to explain to them the rights stipulated in Article 210 of this Code. In this regard, a protocol is drawn up and signed by the investigator and the person familiar with the decision.
6. The decision on the appointment of a forensic psychiatric examination and expert opinion shall not be announced to persons whose mental state makes it impossible to understand it.

Article 209. Mandatory appointment of expertise

- If it is necessary to establish the following circumstances according to the case, it is mandatory to appoint and conduct an examination:
- cause of death;
 - nature and severity of physical damage;
 - the age of the suspect, the accused, the victim, provided that it is important for the case and there are no age documents or they are doubtful;

- the mental or physical condition of the suspect, the accused, when there is doubt about their competence or ability to independently defend their rights and legal interests in criminal proceedings;

- the mental and physical condition of the victim, the witness in cases where their ability to correctly understand the circumstances relevant to the case and to give evidence about them is questioned.

Article 210. The rights of the suspect, the accused, the defendant, the victim, as well as the witness under examination during the appointment and conducting of the examination

(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))

1. When appointing and conducting an examination, the suspect, the accused, the defendant and the victim, as well as the witness subject to the examination, have the right *(Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#))*:

- get acquainted with the decision to appoint an expert;
- express a refusal to the expert;
- submit a request to remove the expert institution from carrying out the examination in case of establishing the circumstances in which the head of the expert institution is not interested in the outcome of the case - the job of a competent person is called into question;
- request that the persons mentioned by them or specialists of specific judicial expert institutions be involved as experts;
- submit additional questions;
- be present during the examination and ask the expert questions, explain and interpret;
- get acquainted with the opinion of an expert or the news of the impossibility of giving an opinion.

2. The examination of victims and witnesses is carried out only with their voluntary consent, which is given in writing. If these persons have not reached the age of sixteen or the court has recognized them as immature, their legal representatives give their written consent to conduct the examination.

3. If the request made by the persons mentioned in parts 1 and 2 of this article is satisfied, the investigator will change or complete his decision on the appointment of expertise accordingly. The investigator makes a decision about the rejection of the request, which is announced to the requested person and his signature is obtained.

Article 211. Conducting an examination in an expert institution

1. During the examination in the expert institution, the investigator sends his decision and necessary materials to this institution.

2. The head of the expert institution is obliged to:

- assign the examination to one or more experts and inform the investigator about it;
- to explain to the experts their rights and obligations provided for in Article 58 of this Code, to inform them of the criminal responsibility for knowingly giving a false opinion, and to receive a letter from them in this regard, which together with the expert's opinion will be sent to the investigator will be

Article 212. Carrying out the examination outside the expert institution

1. If the examination is conducted outside the expert institution, the investigator, before making a decision on the appointment of the examination, must be sure of the identity of the person to whom the examination is to be assigned, his competence, and his relationship with the accused,

the suspect, the victim and with the person, that has been subjected to expertise, to determine and check whether there are grounds for removing the expert or not.

2. After clarifying the necessary information, the investigator makes a decision on the appointment of an expert, hands it over to the expert, explains to him the rights and obligations provided for in Article 58 of this Code, and informs him of the criminal liability for knowingly giving a false conclusion. The investigator makes a note about the execution of these actions in the decision to appoint an expert and it is confirmed by the expert's signature.

Article 213. Commissioned expertise

1. Commission expert examination is carried out in cases of the need to carry out complex expert research and by several experts with the same specialty (profession).

2. During commission examination, experts jointly analyze the obtained results and, after reaching a consensus, draw up and sign a single conclusion (or an act on the impossibility of presenting a conclusion).

3. If there is a disagreement between the experts, each of them or a part of them will present a separate conclusion, or an expert whose opinion differs from the majority's conclusions will reflect his opinion separately in the conclusion.

Article 214. Comprehensive examination

1. Complex expertise is assigned in cases where research requires information from different fields of knowledge. It is conducted by experts with various specialties within their competence.

2. In the conclusion of the comprehensive examination, it should be mentioned which research was carried out by each expert and what was the conclusion.

3. Each expert signs the same part of the conclusion in which his research is reflected.

4. The general conclusion (conclusions) are issued by experts who are competent in evaluating the obtained result. If the evidence established by one of the experts (separate experts) is the basis of the commission's final conclusion or a part of it, it should be mentioned in the conclusion. In case of disagreement between the experts, the result of the study will be formalized in accordance with the requirements of part 3 of article 213 of this Code.

5. If the expertise is assigned to an expert institution, the organization of a complex investigation is entrusted to the head of that institution.

Article 215. Taking samples for comparative studies

1. The investigator has the right to take handwriting samples or other samples from the suspect or the accused, as well as the victim and the witness, for comparative research.

2. When taking samples for comparative research, methods should not be used that are dangerous to human life and health or degrade his honor and dignity.

3. The investigator makes a decision on taking samples for comparative studies of living individuals. Sampling is carried out with the participation of pure persons and, in necessary cases, with the participation of specialists. In this regard, a protocol is drawn up in compliance with the requirements of Articles 172, 183 of this Code.

4. If sampling is part of expert research, this action is performed by an expert. In this case, the expert reflects the information about this action in his conclusion.

Article 216. Placement in a medical institution for examination

1. If the need for inpatient examination arises during the appointment or conduct of a forensic medical or forensic psychiatric examination, the suspect or the accused may be placed in a state medical institution, which is specified in the decision on the appointment of the examination.

2. If there is a need for an examination and placement of the defendant in a medical institution during the court session, the court, the judge will issue an order or decision on this issue at the request of the parties or on his own initiative.

3. When the suspect is placed in a medical institution for inpatient forensic psychiatric examination, the period during which he should be charged is suspended until the opinion of the commission of psychiatrists on the mental state of the suspect is obtained.

Article 217. Content of expert opinion

1. After conducting the investigation, based on its results, the expert or experts draw up a conclusion on their behalf, which should include the following information:

- when and where the examination was conducted;
- by whom (surname, first name, patronymic, education, specialty, work experience, academic degree, position held) (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067 , dated 23.07.2016 No. 1332)* ;
- on what basis was the examination conducted;
- a note certified by the expert's signature that he has been notified of criminal liability for refusing or refusing to give an opinion or knowingly giving a false opinion;
- who participated in the examination;
- what kind of material did the expert use and what research did he conduct;
- questions put to the expert and his reasonable answers.

2. The conclusion is presented in writing and signed by the expert (experts). The physical evidence remaining after the investigation, the samples taken by experiment and used for comparison, as well as photos, designs, plans, tables and other additional materials that confirm the expert's conclusions should be attached to the expert's conclusion. The appendix of the conclusion is also signed by the expert.

3. If the expert is convinced that the issues raised are beyond the scope of his special knowledge, or the material presented to him is unusable or insufficient to provide a conclusion, and it is impossible to complete it, or that the level of science and expert practice is not sufficient to answer the questions set do not allow, he prepares a substantiated report on the impossibility of providing a conclusion and sends it to the authority or person appointed by the expert.

Article 218. Questioning by an expert

1. The investigator has the right to interrogate the expert to explain the conclusion presented by him. The expert can write his answers by hand. The protocol of the expert's inquiry is drawn up in accordance with the rules provided for in Article 172 of this Code.

2. It is not possible to question an expert until he/she submits a conclusion.

Article 219. Submission of an expert report to the suspect, the accused and the victim

1. The expert's conclusion or his report on the impossibility of providing a conclusion, as well as the protocol of the expert's interrogation until the preliminary investigation is completed, are presented to the suspect, the accused, the victim, as well as to the witness who was subjected to the expert examination, and they have the right to comment. present themselves and express their opinion on the expert's conclusion. If such a request is satisfied or rejected, the investigator issues a relevant decision and announces it to the person who made the request by receiving a letter (*Law of the Republic of Tajikistan dated 24.02.2017 No. 1381)* .

2. A protocol will be drawn up on familiarization with the expert's opinion and the protocol of the inquiry, which will reflect the news or protest expressed.

3. The rules of this article are also applied in cases where the examination was conducted before the involvement of a person as an accused, suspect or victim.

Article 220. Additional and repeated examination

1. When the conclusion is unclear or incomplete, as well as when new issues arise in relation to previously investigated cases, an additional examination may be assigned and its execution entrusted to the same expert or another expert.

2. In the event that the expert's opinion is unfounded or there are doubts about its correctness, it is possible to appoint a repeated examination, which is entrusted to an expert or other experts.

3. Additional or repeated expertise is appointed and conducted in compliance with the requirements of this chapter.

CHAPTER 25. ANNOUNCEMENT OF GUILT AND INTERROGATION OF THE GUILTY

Article 221. Prosecution as a defendant

1. When there is sufficient evidence, the prosecutor, investigator and investigator make a reasoned decision to prosecute a person as an accused in the commission of a crime and charge him.

2. The prosecutor, investigator, investigator informs the accused of the day of the indictment, and at the same time explains his right to call a defense attorney or submit a request to the investigator to ensure the defense attorney's participation.

3. Regarding the case, in accordance with parts 1 and 2 of Article 51 of this Code, the participation of the defender is mandatory, the investigator takes measures to ensure his participation, provided that the defender is invited by the accused himself, his legal representative or on his behalf by other persons. not done.

Article 222. Decision on prosecution as a defendant

1. The following information must be indicated in the decision to prosecute as an accused:

- time and place of its preparation;
- who made it;
- name, father's name of the person who is prosecuted as an accused;
- day, month, year and place of his birth;
- description of the crime according to which the person is considered guilty;
- indicating the time and place of the crime;
- other circumstances that must be proven in accordance with Article 85 of this Code;
- The Criminal Code (article, part, paragraph) that provides for liability for this crime.

2. The decision should include the question of holding a person accountable as a defendant in the case under investigation.

3. When accusing a person of committing several crimes provided for in various clauses and sections of the Criminal Code of the Republic of Tajikistan, the decision to bring him to justice as a defendant must specify which specific actions, in accordance with each clause and section of the Code criminal charges are imposed on the accused.

Article 223. Procedure for summoning the accused

1. The accused is summoned for questioning before the prosecutor, investigator and investigator in the following order:

- the defendant who is at liberty, with a notice, summons, telephone message or telegram;
- the accused who is in custody, through the administration of temporary and investigative detention centers.

2. The invitation contains the following information:

- surname, first name, father's name and name of the invited person (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);
- location, authorities, time of appearance and to whom to be summoned;
- the consequences of non-attendance.

3. The summons shall be handed over to the accused after obtaining his signature, and in case of his absence, it will be given to an adult member of his family or a representative of the administration of the workplace, place of education or a representative of the local self-government body to hand it over to the accused.

Article 224. Mandatory attendance of the accused

1. The defendant who is at liberty is obliged to appear at the summons of the investigator within the specified period.

2. Reasons for the defendant's failure to appear at the invitation of the investigator are recognized as follows:

- illness that makes it impossible for the defendant to appear;
- death of close relatives;
- natural disasters;
- not receiving an invitation;
- other circumstances that make it impossible for the accused to appear within a certain period.

3. The accused must inform the investigator, the researcher, about the reason for not appearing in the appointed time.

Article 225. Proclamation of guilt

1. The charge shall be announced no later than two days from the moment of issuing the decision to prosecute a person as an accused in the presence of a defender, provided that he participated in the criminal case or the participation of the defender is mandatory in accordance with this Code or in this case requested by the accused (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

2. The charge will be announced to the accused on the day he is forcibly brought. By the way, if the participation of the defender is mandatory according to this Code, the investigator must take all measures for the participation of the defender during the presentation of the charge (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

3. After becoming sure of the identity of the accused and the order (warrant) of the defender to conduct the defense, the investigator proposes to the accused and his defender the decision to prosecute as the accused.

4. The investigator is obliged to explain to the accused the essence of the proposed charge.

5. The execution of the actions specified in parts 3 and 4 of this article is confirmed by the signature of the accused, the defender and the investigator in the decision to prosecute as an accused, with the recording of the document and the time of filing the charge.

6. If the accused does not sign the decision, the investigator and the defender, provided that he was present at the time of the indictment, shall put a confirmation signature on the decision to bring him to justice as the accused and to announce the text of the decision to him.

7. The accused shall be given a copy of the decision to prosecute a person as an accused.

8. A copy of the decision will be sent to the prosecutor.

Article 226. Explaining the rights of the accused in the preliminary investigation

The investigator familiarizes the accused with the decision to prosecute him as an accused, and is obliged to explain to him his rights, which are defined by Article 47 of this Code, and record this in the decision. The record must be authenticated by the signature of the accused, as well as the signature of the defense attorney, provided that he is present at the time of the indictment.

Article 227. Questioning of the accused

1. The investigator is obliged to interrogate the accused immediately after he is charged, and if the accused refuses to testify, he must make a record of this in the protocol of his interrogation.

2. At the beginning of the interrogation, the investigator must determine whether the accused is willing to express his attitude to the charge, whether he fully or partially admits his guilt or denies his guilt regarding the charge. In this regard, a relevant record should be entered in the survey protocol.

3. The participation of a defense attorney during questioning of a minor accused, an accused who is unable to defend his rights due to a physical or mental disability, or does not know the language in which the proceedings are conducted, as well as during the prosecution of a person for a crime punishable by life imprisonment it is mandatory to be punished by imprisonment or death penalty.

4. The accused is interrogated according to the rules of articles 199 - 201 of this Code.

5. Accused persons summoned for the same case shall be interrogated separately. By the way, the investigator should take all measures to prevent them from talking to each other.

6. When there is a need to confirm or supplement previously given evidence, the accused may be interrogated additionally.

Article 228. Record of questioning of the accused

1. The investigator prepares a protocol for each questioning of the accused in accordance with the requirements of Article 200 of this Code.

2. In the protocol of the first interrogation, information about the identity of the accused, including last name, first name, patronymic, day, month, year and place of birth, citizenship, nationality, education, marital status, workplace, occupation or position, place of residence, previous court, as well as other information that is important for the circumstances of the case are mentioned (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1332*).

3. In the subsequent interrogation protocols, the information about the identity of the accused, provided that it has not changed, can be limited only to recording the last name, first name and patronymic (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

Article 229. Changing, adding, or partially canceling the declared charge

1. If, during the preliminary investigation, there is a reason for changing and adding charges, the investigator is obliged to make a new decision on bringing the accused to justice in accordance with the requirements of Article 225 of this Code and make it according to the procedure established by Articles 225 and 226 of this Code. to announce to the accused.

2. If in the course of the preliminary investigation one of the parts of the charged charge is not confirmed, the investigator by his decision stops the criminal prosecution of this part and informs the accused and other participants of the trial about this.

CHAPTER 26. SUSPENSION AND RESUME OF PRELIMINARY INVESTIGATION

Article 230. Basis, procedure and term of suspension of preliminary investigation

1. The preliminary investigation is suspended when there is one of the following grounds that may prevent its continuation and completion:

- due to failure to identify the person who should be prosecuted as an accused;

- in the event that the accused is hiding from the investigation or the court, or for other reasons, the place of his stay has not been determined;

- in case of mental illness or other serious illness of the accused, as confirmed by the doctor of the state medical institution;

- in the event that the location of the accused is known, but there is no real opportunity for his participation in the case due to the decision of the accused's deprivation of immunity or his transfer to a foreign state, as well as because he is on an expedition or business trip for more than two months.

2. The investigator issues a reasoned decision to suspend the preliminary investigation and sends a copy of it to the prosecutor.

3. If two or more defendants are involved in the case and the grounds for suspension do not apply to all of them, the investigator has the right to separate a part of the material for separate processing and suspend the processing in this part, or if the preliminary investigation cannot be continued without the participation of the accused, to proceed stop the case.

4. In the cases provided for by the first and second paragraphs of part 1 of this article, the preliminary investigation is suspended only after the expiration of the period for conducting it. In the cases provided for in the third paragraph of part 1 of this article, it can be suspended even before the expiration of the preliminary inspection period.

5. Until the suspension of the preliminary investigation, the investigator is obliged to carry out all investigative actions that can be carried out without the participation of the accused, and to take all measures to search for the accused, as well as to identify the person who committed the crime (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 231. Action of the investigator after suspension of the preliminary investigation

1. The investigator suspends the preliminary investigation and is obliged to notify the victim, his representative, the civil plaintiff, the civil defendant and their representatives in writing, and at the same time explain to them that the decision to suspend the preliminary investigation can be appealed to the prosecutor within five days. When the preliminary investigation is suspended on the grounds provided for in the third paragraph of part 1 of Article 230 of this Code, the accused and the defender are also informed about it.

2. After stopping the preliminary investigation, the investigator:

- in the cases provided for in the first paragraph of part 1 of article 230 of this Code, he takes measures directly, as well as through investigative bodies, to identify the person who should be prosecuted as an accused;

- in the cases provided for in the second paragraph of part 1 of article 230 of this Code, determine the whereabouts of the accused, if he is hiding, take measures to search for him (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. It is not possible to carry out an investigation on a case whose investigation has been suspended.

Article 232. Search of the accused

(*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*)

1. When the location of the accused is uncertain, the investigator has the right to hand over the search to the investigating authorities. This task is mentioned in the decision to suspend the preliminary investigation or a separate decision is issued in this regard (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

2. The search for the accused can be announced both during the preliminary investigation and when it is suspended (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

3. If there are grounds specified in Article 101 of this Code, preventive measures can be applied to the wanted accused. In the cases provided for by Article 111 of this Code, it is possible

to apply preventive measures in the form of arrest (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 233. Resumption of suspended preliminary investigation

1. Suspended preliminary investigation shall be restarted by reasoned decision of the investigator, provided that:

- the grounds for suspension have disappeared;
- there is a need to conduct an investigation, which can be done without the participation of the accused.

2. Suspended preliminary investigation can also be restarted with a reasoned decision of the prosecutor, which was issued due to the cancellation of the investigator's decision to suspend the investigation.

3. The accused and the defender, as well as the victim, his representative, the civil claimant, the civil defendant and their representatives will be informed about the resumption of the preliminary investigation.

CHAPTER 27. TERMINATION OF CRIMINAL CASES

Article 234. Grounds for termination of the criminal case

1. The criminal case is terminated on the following grounds:

- when there are grounds mentioned in Articles 27 and 28 of this Code;
- when the involvement of the suspect or the accused in the commission of the crime is not proven, provided that all opportunities for gathering additional evidence have been used.

2. If several defendants are involved in the case, but the reasons for its termination do not apply to all defendants, then the criminal prosecution against individual defendants shall be terminated.

3. If the investigator closes the case on the grounds provided for in the first and second paragraphs of part 1 of article 27 of this Code, as well as when the participation of the suspect or the accused in the commission of a crime is not proven, the investigator must seek the acquittal of the person and compensation for material damage as a result of illegal arrest or arrest. take all measures provided by law.

Article 235. Decision on termination of the criminal case

1. The investigator makes a reasoned decision to terminate the criminal case.

2. In the introductory part of the decision, the time and place of its preparation, last name, name and position of the investigator are recorded (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

3. In the part of the statement and justification of the decision, the circumstances that became the reason and the basis for the initiation of the case, the results of the investigation by showing information about the persons suspected or accused of committing a crime, its essence, the nature of the crime and the applied preventive measures is entered.

4. In the concluding part of the decision, the investigator on the termination of the case based on the article of this Code, which is the basis for the termination of the case, as well as the instruction on the cancellation of the preventive measure, cancellation of the seizure of property, on the fate of physical evidence is reflected.

5. In cases where, according to the law, termination of the case is allowed only with the consent of the accused or the victim, the existence of such consent should be mentioned in the decision.

6. During the termination of the case in accordance with the grounds provided for in the first and second paragraphs of part 1 of article 27 and part 1 of article 229 of this Code, it is forbidden to include in the decision the expressions questioning the innocence of the person against whom the case was terminated.

7. A copy of the decision to terminate the criminal case is sent to the prosecutor.

Article 236. Action of the investigator after termination of the criminal case

1. The investigator notifies in writing the suspect, the accused, their defenders, the victim and his representative, the civil plaintiff, the civil defendant and their representatives, as well as the person or institution on whose application the case was initiated, of the termination of the case and the reasons for its termination. If the case against the conscript is closed, the investigator will inform the district (city) military commissariat about it within seven days.

2. The right to familiarize with the case materials and the procedure for appealing against the decision to terminate the case shall be explained to the persons mentioned in part 1 of this article. At the request of these persons, a copy of the decision to terminate the case will be handed over to them.

3. Acquaintance with the case materials is carried out in accordance with the requirements of Articles 240-242 of this Code.

4. If, as a result of the investigation, circumstances have been established that require the application of disciplinary measures or administrative punishment against the accused person or other persons, the investigator closes the case, delivers the information to the administration of his place of work, and provides the material for directs the implementation of influence measures to the competent authorities, provided that the term of administrative and disciplinary responsibility has not passed.

Article 237. Appealing against the final decision of a criminal case

1. From the decision of the investigator to terminate the criminal case, the suspect, the accused, their defenders, the victim and his representative, the civil plaintiff, the civil defendant or their representatives, as well as the person or the representative of the institution, according to whose application the criminal case was initiated, to the prosecutor supervising the investigation may file an appeal within seven days from the date of delivery of a copy of this decision or notice of termination of the case.

2. If the case was terminated with the consent of the prosecutor, the decision will be appealed to the superior prosecutor.

3. The time period for filing an appeal, which has been passed due to valid reasons, can be restored by the prosecutor who received the appeal.

4. If the prosecutor does not satisfy the complaint, the termination of the criminal case may be appealed to the court in accordance with the provisions of Article 124 of this Code.

Article 238. Resumption of proceedings in a terminated criminal case

1. If the term for bringing a person to criminal responsibility has not passed, the proceedings of the terminated criminal case shall be restarted by the decision of the prosecutor in the following cases:

- cancellation of the investigator's decision to terminate the criminal case;

- by the court in accordance with the procedure determined by Article 124 of this Code, satisfaction of the complaint regarding the groundlessness of the termination of the criminal case;

2. The suspect, the accused and their defenders, the victim and his representative, the civil plaintiff, the civil defendant and their representatives, as well as the person or institution with whose application the case was initiated, will be notified in writing about the resumption of criminal proceedings. .

CHAPTER 28. SENDING THE CRIMINAL CASE TO THE PROSECUTOR WITH THE INTENDED INVESTIGATION

Article 239. Announcement of completion of preliminary investigation on criminal case

1. The investigator, recognizing that all the investigative actions in the criminal case have been completed and the collected evidence is sufficient to form an indictment, is obliged to inform the accused about this and explain to him that he has the right personally or with the help of a defense attorney. get acquainted with all the materials of the case and request to complete the preliminary investigation in order to make a different decision regarding the case.

2. The investigator is obliged to inform the defense attorney of the accused, if he participates in the case, as well as the victim and his representative, the civil plaintiff, the civil defendant and their representatives, about the completion of the preliminary investigation and the right to get acquainted with the materials of the case and the petition. make

3. If the defender of the accused or the representative of the victim, the civil plaintiff, the civil defendant, due to valid reasons, cannot appear for familiarization with the case at the specified time, the investigator postpones the term of familiarization for no more than five days.

4. If the defender or representative does not appear within this period, the investigator will take measures for the appearance of another defender or representative.

5. In exceptional cases in the case of serious and especially serious crimes, when the accused is outside the territory of the Republic of Tajikistan and refuses to appear for the investigation, the investigator shall have the right to familiarize himself with the case materials and submit a request informs the defender about the completion of the preliminary investigation (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

Article 240. Familiarizing the victim, civil plaintiff, civil defendant and their representatives with the materials of the criminal case

1. In the event of a verbal or written request of the victim, his representative, civil plaintiff, civil defendant and their representatives, the investigator will acquaint these persons with all the materials of the case or with that part of the case that they want to get acquainted with. If the civil claimant, civil defendant or their representative has requested to get acquainted with the case materials, only the part related to the civil claim will be introduced.

2. Acquaintance is carried out in accordance with the procedure provided by Article 241 of this Code.

Article 241. Acquaintance of the accused and his lawyer with the materials of the case

1. The investigator fulfills the requirements of Articles 239-240 of this Code and presents to the accused and his defense all the materials of the case that must be stitched and numbered. Physical evidence is also presented for identification, and at the request of the accused or his defense, phonograms, video recordings, films, slides, provided they are attached to the protocol of the investigation, are also presented for listening and viewing. At the request of the accused or his defense, they can be introduced to the case materials together or separately. In the cases provided for by Part 5 of Article 239 of this Code, the case material shall be presented to the defender for familiarization. In the cases stipulated by Part 5 of Article 239 of this Code, the case materials are presented to the defense attorney for familiarization (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

2. If the case consists of several volumes, the accused and the defender have the right to repeatedly return to each volume, to copy any information from them in different sizes, including copying documents with the help of technical means. which must be confirmed by the investigator. Transcripts and copies of case documents containing state, commercial or other confidential information protected by law shall be kept in the case file and handed over to the accused and his defense during the trial, which they may use only at the court session and after the end of each

trial. the court session will be returned to be kept in the case (*Law of the Republic of Tatarstan dated 27.11.2014 No. 1134*).

3. There is no time limit for the defendant and his lawyer to familiarize themselves with all the materials of the case. If the accused or the defense attorney delays the period of familiarization with the case materials, the investigator and the prosecutor have the right to set a certain period sufficient for familiarization with the case materials by their reasoned decision. In the case of failure to complete the familiarization with the criminal case materials by the decision of the investigator or the prosecutor within the specified period, the familiarization with the criminal case materials is considered completed (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

4. After familiarizing the accused and the defender with the case materials, the investigator is obliged to ask them if they want to make a request and what they want to make a statement about.

Article 242. Protocol on familiarization with the materials of the criminal case

1. To announce the completion of the preliminary investigation to the accused and to familiarize himself with all the materials of the case, draw up a single protocol, in which place and date of conducting the investigation, the time of its start and end, position, surname, name and father's name of the person of the protocol, draw up which criminal case is being identified, surname, name, father's name of the accused and the article of the Criminal Code on the basis of which he was charged, the desire of the accused to be identified with or without the participation of the defense counsel (for cases where the participation of the defense counsel is they are not mandatory), about the provision of an interpreter, the form and volume of the case indicating the time and date of familiarization, the request of the accused and the defense attorney after familiarization with the case, if any. The protocol is signed by the persons involved in dating. During the preparation of the protocol, the requirements of Article 172 of this Code are also observed. A protocol will be drawn up on the identification of the victim and his representative, the civil plaintiff and the civil defendant or their representatives in accordance with the requirements of this article (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

2. If the accused and his defense attorney or the victim and his representative were acquainted with the case materials together, a single protocol will be drawn up.

Article 243. Application fee and its consideration

1. Requests of the accused and his defender, as well as the victim, civil claimant, civil defendant and their representatives, expressed verbally after familiarization with the case materials, are reflected in the protocol of familiarization with the case materials.

2. If the participant of the case requests to submit a written request, a certain time will be set aside for its preparation, it will be recorded in the protocol, and then the written request will be attached to the file.

3. According to Article 175 of this Code, the investigator has no right to refuse to satisfy the request to determine the circumstances that are important for the case. In such cases, the investigator is obliged to complete the preliminary investigation, because familiarization with the materials of the criminal case does not prevent the resolution of the request and, if it is resolved, the investigation.

4. After conducting the additional investigation, the investigator is obliged to re-inform the participants of the trial about the completion of the preliminary investigation and provide them with the conditions to familiarize themselves with the additional materials of the case.

5. In case of full or partial refusal to satisfy the request, the investigator will issue a decision, explain the procedure and time limit for submitting an appeal, and send a copy of the decision to the applicant.

Article 244. Indictment

1. After completing the preliminary investigation and familiarizing the persons listed in Article 239 of this Code with the materials of the case, the investigator prepares an indictment opinion.

2. The accusation consists of an introduction, explanation and justification, and a conclusion.

3. In the introductory part, the investigator shall reflect the name, patronymic and surname of the accused (accused) against whom (them) an accusation is being made, the article, part and clause of the criminal law, according to which his actions are condemned.

4. The following are reflected in the explanation and justification part:

- the essence of the accusation;
- place and time of crime;
- method, cause, consequence and other important circumstances;
- information about the victim, the nature and extent of the damage caused to him, the claimant and the defendant;
- evidence confirming the guilt of the accused;
- mitigating and aggravating circumstances;
- the reasons that the accused puts forward for his defense and the result of the examination of these reasons.

5. The indictment must include a reference to the volume and pages of the case.

6. In the part of the conclusion, the information about the identity of the accused, the description of the announced charge with the indication of the criminal law (article, part, clause) that provides responsibility for this crime are mentioned.

7. The investigator indicates the place and date of drafting the indictment and signs it.

Article 245. Addendum to the indictment

1. The list of the accused, victim, witnesses, expert who should be invited to the court meeting is attached to the indictment.

2. In the opinion of the prosecution, there is also information about the period of investigation, selected preventive measures, indicating the period of detention and house arrest, about the physical evidence and the place of their storage, the civil lawsuit, about the measures to ensure the civil lawsuit, execution punishment in the form of a fine, collection of other property payments and the possibility of confiscation of property have been taken, procedural costs are attached (*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516*).

3. Names, patronymics and surnames, places of residence or stay of persons and case sheets containing their evidence or conclusions are mentioned in the list of persons to be summoned to the court meeting. In the cases stipulated by the law and this Code, only the pseudonyms of the persons who should be summoned to the court meeting are recorded in this list (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

4. The appearance in court of the persons whose surnames are recorded in the lists is ensured by the competent authorities for criminal proceedings (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702*).

Article 246. Sending the criminal case to the prosecutor

After the indictment is signed by the investigator, the criminal case is immediately sent to the prosecutor.

CHAPTER 29. ACTION AND DECISION OF THE PROSECUTOR REGARDING THE CRIMINAL CASE INTRODUCED WITH THE INTENT OF ACCUSATION

Article 247. Issues that the prosecutor resolves in connection with the criminal case filed with the intention of indictment

1. The prosecutor must study the criminal case filed with the intention of indictment and check the following cases within seven days:

- whether there is a criminal act attributed to the accused and whether this act contains the elements of a crime or not;
- whether there are no circumstances in the case that may lead to its termination;
- whether the announced charge is justified and it is confirmed by the facts in the case;
- whether charges have been announced for all the actions committed by the accused, which have been identified and proven;
- whether all the persons who have been found to have committed a crime in the case have been involved as defendants;
- whether the act of the accused is correctly defined;
- whether the prevention measure has been chosen correctly or whether there is a reason to change or cancel it in the case;
- whether measures have been taken to ensure a civil claim, execution of punishment in the form of a fine, collection of other property payments and the possibility of confiscation of property (*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516*);
- whether the indictment was prepared in accordance with the requirements of this Code;
- whether serious violations of the criminal procedural law were not committed during the preliminary investigation;
- whether the initial investigation or preliminary investigation was conducted comprehensively, fully and objectively;
- whether the conditions that contributed to the commission of the crime have been determined, and measures have been taken to eliminate their consequences.

2. The period mentioned in part 1 of this article is not included in the inspection period.

Article 248. Prosecutor's decision on a case entered with the intention of indictment

1. The prosecutor or his deputy, considering the case submitted by the investigator with the intention of indictment, has the right to make one of the following decisions:

- confirm the opinion of the accused;
- by their own decision, remove individual charges;
- punish the defendant's actions with the application of the law on relatively light punishment;
- to terminate the criminal case completely or against individual defendants;
- return the case to the investigator with written instructions to conduct an additional investigation or redraft the indictment;
- in exceptional cases, in the case of serious and especially serious crimes, when the accused is outside the territory of the Republic of Tajikistan and refuses to appear for the investigation, confirm the opinion of the prosecution and submit the case to the court with a request to conduct the trial in absentia. to be sent by the defendant (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*);
- draw up an indictment (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

2. Prosecutors of cities and districts and prosecutors equal to them approve the idea of indicting criminal cases, except for criminal cases on crimes for which the Criminal Code of the Republic of Tajikistan provides for life imprisonment or death penalty. The idea of indicting criminal cases on crimes for which the Criminal Code of the Republic of Tajikistan is punishable by life imprisonment or the death penalty, by the Prosecutor General of the Republic of Tajikistan and his deputies, the Chief Military Prosecutor, the prosecutor of the Badakhshan Mountainous Autonomous Region, regions, cities Dushanbe, the transport prosecutor of Tajikistan and their

deputies are confirmed by jurisdiction (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

Article 249. Decision on prevention measures

Regarding the criminal case submitted to the prosecutor's office with the intention of indictment, the prosecutor or his deputy has the right to cancel or change preventive measures previously taken against the accused, as well as other preventive measures, with the exception of arrest or choose to receive house arrest.

Article 250. Referral of a criminal case to the court

1. After confirming the indictment, the prosecutor provides the defendant with a copy of the indictment and its annex to the defense attorney in the cases stipulated by the sixth paragraph of part 1 of Article 248 of this Code. If the accused does not know the language in which the indictment is prepared, a copy of the indictment with a translation into the language he knows is handed over. At the request of the defender or the victim, a copy of the indictment will also be handed over to them (*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275*, dated 23.07.2016 *No. 1333*).

2. At the request of the prosecutor, investigator or investigator, the administration of places of detention shall hand over the copy of the indictment to the accused detained in custody, with a written note on which the signature, date and time of handing over must be written. The original copy of the letter will be presented to the court (*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275*).

3. The prosecutor, who approved the indictment, must send the criminal case to the court of jurisdiction, and at the same time inform about it the accused, the defense, the victim and his representative, the civil plaintiff, the civil defendant and their representatives.

4. After sending the criminal case to the court, all requests and complaints about the case are sent directly to the court.

PART III. JUDICIAL PROCEEDINGS

SECTION VIII. PROMOTION OF CRIMINAL CASE IN THE COURT OF FIRST INSTANCE

CHAPTER 30. JURISDICTION

Article 251. Jurisdiction of criminal cases

1. City and district courts have jurisdiction over all criminal cases, except for cases that are subject to higher courts or military courts (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. City and district courts make decisions in the course of judicial review of criminal cases on the issues provided for in Part 1 of Article 35 and Article 124 of this Code, unless otherwise provided for in the legislation of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

Article 252. Jurisdiction of criminal cases to the Badakhshan Mountain Autonomous Regional Court, regional courts, Dushanbe city court

Badakhshan Mountainous Regional Court, regional courts, Dushanbe city court have jurisdiction over all criminal cases for which life imprisonment or death penalty is prescribed according to the law, in addition to related cases of military courts.

Article 253. Jurisdiction of criminal cases to the Supreme Court of the Republic

Tajikistan

1. The Supreme Court of the Republic of Tajikistan has jurisdiction over the criminal cases mentioned in Article 252 of this Code and committed in the districts and cities under the jurisdiction of the Republic.

2. The Supreme Court of the Republic of Tajikistan also has jurisdiction over criminal cases that contain state secrets or whose consideration is entrusted to the jurisdiction of the Supreme Court of the Republic of Tajikistan according to the law.

Article 254. Jurisdiction of criminal cases to military courts

1. Military courts of the Republic of Tajikistan have jurisdiction over the following criminal cases:

- cases on all crimes committed by military personnel, as well as military personnel during the period of military gathering;

- cases on crimes committed by military servicemen of units and militia units organized on call of the Ministry of Internal Affairs of the Republic of Tajikistan;

- cases on crimes against the established order of service, committed by members of the management team of correctional institutions;

- cases of espionage.

2. Military courts, along with criminal cases, handle civil claims of military units, enterprises, institutions and organizations, other legal entities, regardless of their ownership, as well as claims of citizens for compensation for material damage caused to them as a result of crimes committed by military personnel. are considered.

3. Garrison military courts make decisions in the course of judicial review of criminal cases on the issues provided for in part 1 of article 35 and article 124 of this Code, if the legislation of the Republic of Tajikistan does not provide otherwise (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

4. When a person or a group of persons is found guilty of committing one or more crimes, provided that at least one case is under the jurisdiction of the Military Court, the cases of all crimes will be reviewed by the Military Court.

5. When a group of persons is found guilty of committing one or more crimes, provided that the case against at least one defendant is under the jurisdiction of a military court, the cases against all the defendants will be considered by the military court.

6. Cases on the crimes of the persons mentioned in the first-third paragraphs of part 1 of this article, committed during military service and dismissed from service during the hearing of the case in court, are considered by military courts.

7. Jurisdiction of cases on crimes committed by a person before being called up or joining the military service in the bodies provided for in the first - third paragraphs of part 1 of this article is determined in accordance with the requirements of articles 251-253 of this Code.

8. The Garrison Military Court has jurisdiction over cases of crimes committed by persons with the rank of lieutenant colonel.

9. Cases on crimes committed by persons with the rank of colonel and above or occupying the position of regimental commander and persons of equal rank, cases on crimes committed by military personnel, for whom the criminal law is punishable by life imprisonment. provided for freedom or execution, have jurisdiction over the Military Collegium of the Supreme Court of the Republic of Tajikistan.

10. The military collegium of the Supreme Court of the Republic of Tajikistan has the right to consider any case that is under the jurisdiction of a lower military court as a court of first instance.

Article 255. The right of the higher court to review criminal cases under the jurisdiction of the lower court

In exceptional cases, the upper court has the right to request any criminal case from the lower court, accept it for its own proceedings and review it as a court of first instance.

Article 256. Territorial jurisdiction of criminal cases

The criminal case must be considered in the same court, within the jurisdiction of which the crime was committed. If it is not possible to determine the place where the crime was committed, the case is under the jurisdiction of the court within the scope of which the preliminary investigation or investigation of the case was conducted.

Article 257. Determination of jurisdiction when combining criminal cases

1. When a person or a group of persons is accused of committing several crimes, the case of which is subject to the courts of different levels, the case regarding these crimes is considered by the higher level court of the said courts.

2. The case is considered by several courts of the same instance in the court, within the limits of which the preliminary investigation or investigation of the case has been completed.

Article 258. Handing over of the criminal case according to the jurisdiction of the court

1. If the court, the judge determines that the entered case is not under the jurisdiction of this court, he will send it according to the jurisdiction of the court.

2. If the court, the judge determines that the criminal case before him is under the jurisdiction of another court of the same stage, only in that case he has the right to continue this criminal case, provided that he has started the consideration of the case in the court session. If the case is under the jurisdiction of a superior court or a military court, it must in any case be directed by jurisdiction.

3. The case, the consideration of which was started in the judicial meeting of the upper court, cannot be sent to the lower court.

Article 259. Transfer of a criminal case from a court under its jurisdiction to another court

1. In certain cases, for the purpose of full and impartial review of the criminal case, it can be transferred from one court to another similar court. On these grounds, the transfer of a criminal case is allowed only before the start of its consideration in the court session in the following cases (*Law of the Republic of Tajikistan dated 20.04.2021 No. 1777*):

- at the request of the parties, in the case of a satisfactory refusal to the full court in accordance with the requirements of Article 63 of this Code;

- at the request of the parties or at the proposal of the head of the court, if the criminal case was previously discussed by the same court;

- at the request of the parties, or at the proposal of the head of the court, if not all the participants in the court proceedings live in the territory where the case is being considered, and all the defendants agree to change the territorial jurisdiction of the criminal case (*Law of the Republic of Tajikistan dated 20.04.2021 No. 1777*).

2. The issue of transfer of a criminal case from the district (city) court to another court within Badakhshan Mountainous Autonomous Region, regions and Dushanbe city is allowed by the head of the Badakhshan Mountainous Autonomous Region court, the presidents of regional and Dushanbe courts, respectively.

3. The Chairman of the Supreme Court of the Republic of Tajikistan or his deputy shall allow the transfer of criminal cases from one court to another of the subordinate cities and districts of the Republic to the Badakhshan Mountainous Autonomous Region Court, regional and Dushanbe courts.

Article 260. Invalidity of the dispute about jurisdiction

Disputes about jurisdiction between courts are illegal. Any case that is transferred from one court to another in accordance with the procedure provided by Articles 258 and 259 of this Code must be accepted by the court to which it was sent without prejudice.

CHAPTER 31. APPOINTMENT OF JUDICIAL TRIAL AND PREPARATION FOR IT

Article 261. Jurisdiction of the judge on the case brought to the court

1. The judge shall make one of the following decisions regarding the criminal case brought before the court:

- on the appointment of a court meeting;
- about returning the case for additional investigation;
- on suspending the proceeding of the case;
- about sending the case according to the jurisdiction of the court;
- on termination of the case.

2. Regarding the criminal case, the judge adopts his document in the form of a decision, which should indicate the following:

- time and place of decision making;
- position, surname, name and father's name of the judge who made the decision (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);
- the basis and essence of the adopted decisions,

3. The decision should be made no later than fourteen days from the moment the criminal case was brought to the court. For complex and large-scale cases, the term can be extended up to one month by the decision of the head of the court.

Article 262. Determination of the circumstances related to the criminal case brought to the court

1. When a criminal case is brought to the court, the judge must determine the following situations:

- whether the case is under the jurisdiction of this court or not;
- whether or not there are circumstances that lead to termination or suspension of the proceeding of this case;
- during the preliminary investigation and investigation, whether or not violations of the criminal procedural law, which could hinder the appointment of a court session, were committed;
- whether a copy of the indictment or the decision to initiate a criminal case on expedited proceedings has been submitted;
- whether it is necessary to change or cancel the selected prevention measure;
- whether measures have been taken to ensure compensation for damage caused as a result of committing a crime, execution of punishment in the form of fines, collection of other property payments and possible confiscation of property (*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516*);
- applications and requests can be satisfied or not.

2. During the review of applications and requests, the judge has the right to invite the person or representative of the organization that submitted the request to provide explanations.

3. The person or institution submitting the request will be informed of the result of the review of the request. Rejection of the request is not subject to appeal, but it can be presented again at the court session.

Article 263. Appointment of court meeting

1. The judge determines the absence of reasons preventing the consideration of the case in the court session and issues a decision on the appointment of the court session.

2. The following issues are resolved in the decision to appoint a court meeting:

- about the place and time of the court hearing;
- about the participation of the defender in the court hearing, provided that his participation is mandatory;
- about the persons invited to the court meeting;
- regarding the consideration of the case in the closed session of the court in the cases stipulated by Article 273 of this Code.

3. In addition to the issues mentioned in part 2 of this article, the decision to appoint a court meeting should reflect preventive measures against persons who are found guilty in a criminal case, information about their identity in connection with the crime they are charged with.

4. The parties should be notified at least five days before the start of the court hearing.

Article 264. Return of the criminal case for additional investigation

1. In case of serious non-compliance with the requirements of the criminal procedure law in the court proceedings, the judge has the right to return the case for additional investigation.

2. The criminal case is returned to the prosecutor for additional investigation. The judge should mention in his decision on what grounds the case was returned and specifically what investigative action should be taken during the additional investigation.

3. When returning the case for additional investigation, the judge must decide on the application of a preventive measure against the accused.

Article 265. Suspension of criminal proceedings

1. The court, the judge shall suspend the proceeding of the criminal case in the following cases:

- when the accused is in hiding and his whereabouts are unknown;
- when the defendant is seriously ill, as confirmed by the doctor of the state institution;
- when presenting the court, the judge to the Constitutional Court of the Republic of Tajikistan about the constitutionality of the law applied in this case;
- when appointing expertise.

2. The judge makes a decision to suspend the proceedings.

3. When the prosecution of the case is suspended on the grounds provided for in the first paragraph of part 1 of this article, the criminal case shall be returned to the prosecutor for the search of the accused. If the reasons for suspending the case have disappeared, it will be started anew (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 266. Proceeding of the criminal case according to the jurisdiction of the court

If the judge resolves the issue of setting a court hearing and determines that the criminal case does not have jurisdiction over this court, he will refer it to jurisdiction by his decision in accordance with the requirements of Chapter 30 of this Code.

Article 267. Measures for securing a civil claim, execution of punishment in the form of a fine, collection of other property payments and confiscation of property
(*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516*)

In the event that the investigator, investigator and prosecutor do not take measures that ensure compensation for the damage caused by the crime, the execution of punishment in the form of a fine, the collection of other property payments and the possibility of confiscation of property, the judge by his decision obliges the investigative authorities to take the necessary measures. take care (*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516*).

Article 268. Termination of criminal proceedings

1. The judge issues a decision to terminate the case when there are grounds indicated in the third-ninth paragraphs of part 1 of article 27 of this Code. The judge decides to close the case, changes the preventive measure, civil suit, confiscation of property and decides the issue of physical evidence. A copy of the judge's decision on the termination of the case is handed over to the prosecutor, as well as to the person held criminally responsible and to the victim.

2. The judge may terminate the case at the request of the prosecutor and with the consent of the victim if there are grounds specified in Article 28 of this Code.

3. It is possible to appeal and object to the decision to terminate the criminal proceedings.

Article 269. Preparation of the court hearing

After the judge issues a decision on the appointment of a court meeting, the secretary of the court meeting:

- sends to the defendant and the victim a copy of the preventive measure decision against the defendant, provided that it has been changed by the judge;
- summons to the court meeting the persons whose invitation is indicated by the judge in the decision to appoint the court meeting;
- takes other measures to prepare the court hearing.

Article 270. Providing the parties with the opportunity to familiarize themselves with the case materials

After the appointment of the court session, the judge provides conditions for the parties, based on their justified request, to familiarize themselves with all the materials of the criminal case, including copying the necessary information from it, allows the copying of documents using technical means, except for information containing state secrets, commercial or other secrets protected by law (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 271. Time limit for starting the hearing of a criminal case in a court session

The consideration of the criminal case should be started within fourteen days from the moment of issuing the decision of the judge on the appointment of the court meeting, and in exceptional cases, within thirty days of the court meeting.

CHAPTER 32. GENERAL TERMS OF JUDICIAL PROCEEDINGS

Article 272. Direct and oral court hearing

1. In the court hearing, all the facts of the case must be subjected to direct examination. The court, the judge must listen to the evidence of the defendant, victim, witness, expert opinion, examine the physical evidence, announce the protocol and other documents, and perform other judicial actions related to the verification of the evidence.

2. The announcement of the evidence given during the investigation or preliminary investigation is allowed only in the cases provided for by this Code.

3. The judgment of the court, the judge is justified only by those facts that were examined in the court meeting.

Article 273. Open court hearing

1. The court, the judge must ensure the openness of the judicial hearing of the case, except in cases where it leads to the disclosure of state secrets and other secrets protected by law.

2. Closed court hearing, as well as with a justified court order (judge's decision) on criminal cases of persons under the age of sixteen, against sexual harassment and inviolability and other crimes, in order to prevent the disclosure of information about intimate aspects of the persons participating in the case or information, which degrades their dignity, can also be conducted in cases where it is required by the interests of ensuring the safety of trial participants and witnesses or their close relatives (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

3. The case will be considered in a closed meeting of the court in compliance with all the rules of court proceedings. The appointment of the court (judge's decision) can be issued regarding the consideration of the case in a closed meeting on the whole hearing or its separate parts.

4. In order to maintain the confidentiality of correspondence and telegraphic communications, it is allowed to examine private correspondence and personal information of citizens in an open court meeting only with the permission of the persons between whom such correspondence or telegraphic information took place. Otherwise, such correspondence and telegraphic information will be announced and examined in closed session of the court. The mentioned rules also apply when checking audio and video recordings that are of a personal nature.

5. The participants of the open court session have the right to record the proceedings on paper and tape. Photographing and video recording is possible only with the permission of the chairman and the consent of the parties (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

6. Minors under the age of sixteen, unless they are defendants, victims or witnesses in the case, are not allowed in the courtroom.

7. The judgment of the court shall be announced publicly. In the case of hearing the case in closed meetings according to the reasoned order (decision) of the court, the judge, only the introduction and conclusion of the sentence will be announced.

Article 274. Immutability of the court panel during the hearing of the criminal case

1. During collective consideration of the case, it should be considered by the same court panel.

2. In case of impossibility of one of the judges to participate in the court session, except for the cases provided by Article 275 of this Code, he will be replaced by another judge and the hearing of the case will be restarted.

Article 275. Reserve people's adviser

In the case of a criminal case that requires a long period of time for a court hearing, a backup public counsel may be involved. The reserve public adviser, who has been participating in the courtroom since the beginning of the hearing of the case, will replace him if one of the public advisers leaves, and the hearing of the case will continue.

Article 276. Chairman of the court meeting

The presiding judge directs the court meeting and takes all the measures provided for by this Code to ensure the discussion and equality of the parties, that the court proceeds truthfully and impartially, and provides the necessary conditions for the parties to thoroughly and fully investigate the circumstances of the case. The presiding judge also ensures the observance of the order of

the court meeting and explains to all the participants of the court hearing their rights and obligations and the procedure for their implementation. If one of the participants in the court hearing expresses dissatisfaction with the actions of the presiding officer, this dissatisfaction will be reflected in the protocol of the court meeting.

Article 277. Equality of the parties in the judicial hearing

The accuser, the defendant, the defender, as well as the victim, the civil plaintiff, the civil defendant and their representatives to express objections and requests, provide evidence, participate in the investigation, appear in court negotiations, and submit recommendations to the court on all issues in paragraphs one to six of part 1 of Article 335 of this Code, they also have the equal right to participate in consideration of all other issues that arise during the judicial hearing of the case.

Article 278. Clerk of the court meeting

1. The secretary of the court meeting checks the attendance of the persons who must participate in the court meeting and performs other actions provided for by this Code at the request of the presiding judge.

2. The secretary of the court meeting prepares the minutes of the court meeting. He is obliged to fully and accurately reflect in the protocol the actions and decisions of the court, as well as the actions of the trial participants who took place during the meeting.

Article 279. Participation of the public prosecutor in the court hearing

1. The participation of the public prosecutor in court proceedings is mandatory, except for criminal cases of private prosecution, in which the prosecution is supported by the victim.

2. The prosecutor, as a public prosecutor, supports the public prosecution in court with criminal cases of general and private-public prosecution.

3. Regarding complex and multi-moment cases, prosecution can be supported by several public prosecutors.

4. If it is impossible for the public prosecutor to participate in the entire trial, he can be replaced.

5. The entry of the public prosecutor into the consideration of the case does not lead to a repetition of the actions that have been carried out in the court until this moment, but at his request, the court allocates time for him to familiarize himself with the case materials and the evidence considered in the court investigation.

6. The public prosecutor, who supports the prosecution, acts according to the requirements of the law and his inner conviction.

7. The public prosecutor participates in the examination of evidence and expresses his opinion to the court about the essence of the accusation and other issues that arose during the court hearing, as well as expresses his own opinion to the court about the application of the criminal law and the imposition of punishment on the defendant. it seems

8. In accordance with the requirements of this Code, the public prosecutor submits or supports the civil claim of the victim, provided that it is required to protect the interests of the state or society or the rights of citizens.

9. The public prosecutor has the right to propose a reduction of the charges, to withdraw the charges in whole or in part.

10. The public prosecutor's refusal to charge, provided that the victim has also refused to charge, can be the basis for the court to make an order (decision) to close the case.

11. If the victim has not given up the accusation, the court will continue the hearing of the case and decide the issue of guilt or innocence of the defendant in the general procedure.

Article 280. Participation of the defendant in the court hearing

1. The hearing of the case at the meeting of the court of first instance takes place with the mandatory participation of the defendant, except for the cases provided for in parts 3 and 4 of this article. In the absence of the defendant, the consideration of the case should be postponed.

2. The court, the judge has the right to forcefully bring the defendant who did not appear without good reason, apply a preventive measure against him or change it.

3. When the defendant under arrest refuses to appear at the court session, the judge has the right to consider the case in his absence and with the mandatory participation of the defender.

4. In exceptional cases, the court may consider the case of serious and especially serious crimes without the participation of the defendant who is outside the territory of the Republic of Tajikistan and refuses to appear at the court hearing, if this person is convicted of the same crime in the territory of a foreign state. criminal liability has not been brought (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

5. In the event of the disappearance of the exceptional circumstances provided for in part 4 of this article, the sentence or court order passed in absentia shall be annulled at the request of the convicted person or his defender in accordance with the requirements of Chapter 42 of this Code. In this case, the court hearing will be conducted according to the general procedure (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

Article 281. Participation of the defender in the court hearing

1. The defense attorney of the defendant participates in the examination of the facts and informs the court about the essence of the accusation and its proof, about the circumstances that lighten the responsibility of the defendant or exonerate him, about the punishment measure and other issues that arose during the court hearing. , expresses his opinion.

2. When the defense attorney does not appear and it is impossible to replace him, the hearing of the case is postponed. If it is not possible for the appointed defense counsel to attend the court meeting within at least five days, the court or judge has the right to invite the defendant to another defense counsel or to take measures to appoint a defense counsel.

3. The defender, who has just joined the trial, will be given the necessary time to prepare for the trial.

Article 282. Participation of the victim in the court hearing

1. The hearing of the case is conducted at the meeting of the court of first instance with the mandatory participation of the victim or his representative.

2. When the victim does not appear, the court decides the issue of hearing the case or postponing it, depending on whether it is possible to completely clarify all the circumstances of the case and protect his legal rights and interests in the absence of the victim. If the representative of the victim appears at the court meeting, the court will decide this issue according to the opinion of the representative.

3. According to the request of the victim, the judge may exempt him from participating in the court session and oblige him to appear within a certain period to give evidence.

4. Regarding private prosecution cases, failure of the victim to appear at the court of first instance without good reason may lead to the termination of the case, but at the request of the defendant, it is possible to consider the case in the absence of the victim.

Article 283. Participation of a civil plaintiff or a civil defendant in a court hearing

1. The civil plaintiff, civil defendant or their representatives participate in the court hearing.

2. When a civil claimant or his representative does not appear before the court of first instance, the civil claim may be left unconsidered.

3. The court, the judge has the right to consider the civil claim in the absence of the civil claimant at the request of the civil claimant or his representative.

4. The court, the judge, regardless of the appearance of the civil claimant or his representative, on the condition that the claim is supported by the prosecutor or the court, the judge considers it necessary, considers the civil claim.

5. Failure of the civil defendant or his representative to appear in court cannot stop consideration of the civil claim.

Article 284. Participation of an expert in a court hearing

The specialist invited to the court participates in the court hearing in accordance with the procedure provided by Articles 57 and 179 of this Code.

Article 285. Limitation of judicial hearing

1. The case will be heard in court only against the defendants and only against the same charge that was announced to him in the manner provided by this Code.

2. Charges can be changed in court, provided that the defendant's condition does not deteriorate and his right to defense is respected.

Article 286. Adjournment and suspension of court proceedings

1. If the hearing of the case becomes impossible as a result of the failure of one of the invited persons to appear at the court meeting, or at the request of the parties, it is necessary to request new evidence, the court, the judge issues an order (decision) on postponing the hearing of the case. At the same time, measures are taken to invite or forcibly bring absent persons, to satisfy requests.

2. The discussion of the case after its postponement and suspension shall continue from the moment of postponement and suspension, and the parties shall be acquainted with the new facts obtained.

3. If the defendant is in hiding, as well as suffering from a mental illness or other serious illness, which makes it impossible for him to appear at the court session, the court shall suspend the proceeding of the case against this defendant until he is searched or recovered, or until an expert opinion is obtained, and against the defendants will continue to proceed with the case. If a separate hearing makes it difficult to properly resolve the case, the proceeding of the case will be completely suspended. The search of the hidden defendant is announced by the order (decision) of the court (*Law of the Republic of Tajikistan dated 29.01.2021 [No. 1755](#)*).

Article 287. Returning the case for additional investigation

1. If in the course of the court hearing, new previously unknown circumstances important to the case were discovered, which cannot be examined in the court session without additional investigation, the court, the judge may, on his own initiative or at the request of the parties, return the case for additional investigation.

2. The court, the judge returned the case for additional investigation, and at the same time is obliged to decide the issue of preventive measures against the defendant.

3. When the case is brought to the court after an additional investigation, the issue of appointment of the court meeting will be resolved in the general procedure.

Article 288. Termination of the case at the court session

1. If during the court hearing the circumstances specified in the third and ninth paragraphs of part 1 of article 27 of this Code are determined, as well as when the state prosecutor refuses to prosecute in accordance with the rules of part 10 of article 279 of this Code, the criminal case must be closed at the court session.

2. The court, the judge has the right to terminate the criminal case in the court session on the grounds mentioned in Article 28 of this Code.

Article 289. Solving the issue of preventive measure

1. The court, the judge has the right to choose, change or cancel the preventive measure during the trial of the defendant.

2. The term of the preventive measure in the form of keeping the defendant in custody cannot exceed six months from the moment the case is brought to the court until the moment the verdict is issued.

3. In cases of serious and especially serious crimes, after the expiration of the period indicated in part 2 of this article, the judge has the right to extend the period of detention up to twelve months by his appointment (decision).

4. After the expiration of the term of detention specified in parts 2 and 3 of this article, the court, the judge must replace the preventive measure against the defendant with another preventive measure.

Article 290. Procedure for issuing orders and decisions at the court meeting

1. Regarding all the issues that are decided by the court during the court hearing, the court and the judge make an appointment (decision), which should be announced at the court meeting.

2. Appointments (decisions) on sending the case for additional investigation, closing the case, changing, applying or canceling the prevention measure on denials, appointment of expertise, as well as private appointments in the consulting room are made in the form of separate documents.

3. All other appointments (decisions) are made at the discretion of the court, judge or according to the procedure established by part 2 of this article or in the court meeting hall by including the appointment (decision) in the protocol of the court meeting.

Article 291. Procedure of the court meeting

1. The trial will be held in conditions that are favorable for the smooth operation of the court and the safety of the participants in the trial (Law of the Republic of Tajikistan [No. 755 of 2.08.2011](#)).

2. When entering the court meeting hall, the judge called the secretary of the court meeting "The court is coming, please stand up!" all those present stand up.

3. All participants in the court hearing stand up and address the court with the words "Dear Court", give evidence and make statements. Ignoring these rules is possible only with the permission of the chairman (*Law of the Republic of Tajikistan dated 2.08.2011* [No. 755](#)).

4. All participants in the court hearing, as well as all citizens present in the court meeting hall, must follow the presiding judge's order regarding the observance of the order in the court meeting (*Law of the Republic of Tajikistan dated 2.08.2011* [No. 755](#)).

Article 292. Measures to influence non-compliance

procedure in the court meeting

1. When disobeying the rules in the court meeting room, disobeying the order of the presiding judge, the participant of the trial is informed that in case of repeated disobedience of the rules, he will be expelled from the court meeting room or fined up to two indicators for calculations. Any participant in the trial, except the prosecutor and the defense, may be expelled from the courtroom. Penalty shall not apply to the defendant, defense counsel and public prosecutor.

2. If the defendant was taken out of the court meeting hall, the sentence should be announced to him immediately in his presence or after its acceptance.

3. An appointment (decision) will be issued to expel the trial participant from the court meeting hall and fine him.

4. Persons who are present in the meeting hall of the court, but are not participants in the proceedings, will be expelled from the meeting hall by order of the presiding judge, if they do not follow the procedure. In addition, the court can impose a fine of up to two indicators for calculations.

5. If an administrative violation is committed by the participants of the court hearing or a person present in the court meeting hall and shows disrespect to the court and to the rules established by the court, the court shall interrogate the offender and examine his evidence, and has the right to punish him in the same court hearing. issue an appointment (decision) to apply one of the administrative penalties provided for by the Code of Administrative Offenses of the Republic of Tajikistan.

6. If there are signs of a crime in an act that violates the order of the court meeting, the court will send relevant materials to the prosecutor to resolve the issue of starting a criminal case.

Article 293. Minutes of the court meeting

1. At the meeting of the court of first instance, a protocol is drawn up.

2. The protocol can be handwritten or printed.

3. The following information shall be recorded in the protocol of the court meeting:

- its start and end time;
- names of court members, clerks, translators, accusers, defenders, defendants, as well as victims, civil plaintiffs, civil defendants and their representatives, other persons summoned by the court;
- the case under consideration;
- information about the defendant's identity and preventive measure;
- the action of the court in the order in which it was carried out;
- indications, objections and requests of persons participating in the case;
- court order (judge's decision) issued without going to the consultation room;
- indication of making an appointment (decision) in the consultation room;
- explaining their rights and obligations to the participants in the case;
- the full text of the indication;
- questions asked to the expert and his answer;
- the results of examination and other acts of evidence verification, which were carried out at the court meeting;
- reference to the evidence requested by the participants in the case to be confirmed in the protocol;
- the main content of the speech of the parties in court negotiations;
- the defendant's last words;
- about placing the judgment on the website of the relevant court when there is consent of the participants in the court proceedings (*Law of the Republic of Tajikistan dated 18.03.2022 No. 1853*);
- indication of the announcement of the sentence and explanation of the procedure and deadline for appeal or objection to it.

4. Evidence of disrespect towards the court, if such action exists, is also reflected in the protocol, reference to the identity of the violator of the order and measures of influence taken by the court against the violator.

5. The protocol must be drawn up by the presiding officer and the secretary and signed no later than five days after the end of the court session.

6. The presiding officer is obliged to provide the parties with an opportunity to fully familiarize themselves with the protocol of the court meeting in connection with the preparation of the protocol.

Article 294. Comments to the protocol of the court meeting

The parties have the right to submit their comments on the protocol within five days after signing the protocol of the court meeting. This term can be extended by the presiding officer up to ten days at the request of the parties.

Article 295. Consideration of comments on the protocol of the court meeting

1. Comments to the minutes of the court meeting are reviewed by the presiding judge and the persons who submitted the comments are called for clarification. The comments of the prosecutor and the defender are discussed with their participation. Absence of these persons does not prevent consideration of comments.

2. The chairman issues a reasoned decision on the results of the review of the comments regarding their admissibility or not. The comments and decision of the judge are attached to the protocol of the court meeting.

CHAPTER 33. PART OF THE PREPARATION OF THE COURT MEETING

Article 296. Beginning of court session

The presiding judge opens the court meeting at the appointed time and announces which criminal case will be discussed.

Article 297. Determination of appearance in court

The secretary shall provide information on the appearance of the prosecutor, defendant, defender, victim, civil plaintiff, civil defendant and their representatives, translators, witnesses, experts and specialists and on the reasons for non-appearance of other participants.

Article 298. Explaining the translator's rights and obligations

1. The chairman explains to the interpreter the following obligations:

- to accurately and completely translate to the court the testimony and statements of the persons participating in the case who do not know the language of the proceedings and to these persons the content of the testimony, statements and documents announced in the court;
- to translate the order of the presiding judge and the decision of the court, the judge.

2. The following rights should also be explained to the translator:

- asking questions to the participants of the case in order to clarify the translation;
- getting acquainted with the protocol of the court meeting and commenting on the correctness of the recording of its translation.

3. The translator is informed by the presiding judge about the criminal responsibility for deliberately wrong translation, a letter is taken from him and it is attached to the protocol of the court meeting.

4. It is explained to the translator that he will be prosecuted for refusing to fulfill his obligations according to the procedure established by the legislation of the Republic of Tajikistan.

Article 299. Removal of witnesses from the court meeting hall

Present witnesses will be removed from the courtroom before the interrogation. The presiding officer shall take measures so that the witnesses not questioned by the court do not talk with the witnesses questioned, as well as with other persons present in the court meeting hall.

Article 300. Determining the identity of the defendant and timely handing him a copy of the indictment

The presiding judge shall state the defendant's identity, name, patronymic, surname, year, month, day and place of birth, knowledge of the language in which the case is conducted, as well as place of residence, occupation, education, marital status and other information related to his identity. is asked and determined. Then the presiding judge determines whether the defendant and, in the cases specified in part 4 of Article 280 of this Code, the defense attorney was given a copy of the indictment or the decision of the investigative body on the initiation of a criminal case, and when this was done. The trial cannot be started within three days from the date of submission of the indictment or the decision of the investigative body to initiate a criminal case (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*) (*Law of the Republic of Tajikistan dated 23.07.2016 No. 1333*).

Article 301. Announcement of the court panel, other trial participants and explanation of the right to refuse

(*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*)

1. The presiding judge announces the composition of the court and makes it clear which of the participants are the accuser, the defender, the victim and his representative, the civil plaintiff, the civil defendant and their representative, as well as the secretary of the court meeting, an expert, a specialist and a translator. The chairman shall explain to the parties their right to object to the court panel, one of the judges, as well as to each person participating in the proceedings mentioned in this article in accordance with the rules of Chapter 8 of this Code (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. If a reserve counsel attends the court session, the presiding officer will announce this. It is also possible to refuse the backup counsel.

Article 302. Explaining the defendant's rights

In the court hearing, the presiding judge explains to the defendant his rights, which are provided for in Article 47 of this Code.

Article 303. Explaining their rights to the victim, civil plaintiff and civil defendant

The chairman shall explain to the victim, civil claimant, civil defendant and their representatives their rights, which are provided in accordance with Articles 42, 44, 54 and 55 of this Code. In cases of private and private-general accusations, as well as in cases of minor and moderate crimes, the victim will be informed of his rights to reconcile with the defendant.

Article 304. Explaining his rights and obligations to an expert

The presiding officer shall explain to the expert his rights and obligations, which are provided for in Article 58 of this Code, inform him of the criminal responsibility for giving a false opinion, and receive a written statement from him, which will be included in the minutes of the court meeting.

Article 305. Explaining his rights and obligations to a specialist

The presiding officer shall explain to the specialist his rights and duties as stipulated by Article 57 of this Code, inform him of the criminal responsibility for refusing or refusing to fulfill the obligations provided for by this Code, and receive a written statement from him, which shall be included in the minutes of the court meeting.

Article 306. Statement of request and its consideration

1. The chairman will ask the parties whether they have requests to call witnesses, experts, new specialists and request physical evidence or documents, as well as to exclude evidence submitted in violation of the requirements of this Code. The person who submitted the request must justify it (*Law of the Republic of Tajikistan dated 24.12.2022 No. 1926*).

2. After listening to the opinion of other participants in the court hearing, the court, the judge must consider each expressed request and satisfy them or make a reasonable determination (decision) on the rejection of the request (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

3. The court, the judge does not have the right to refuse to satisfy the request of questioning the witnesses at the court meeting, who appeared at the initiative of the parties.

4. The person whose request was rejected by the court, the judge, has the right to submit a request to the court.

Article 307. Resolution of the issue of the possibility of consideration of a criminal case in the absence of one of the participants in the court hearing

(*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*)

1. When one of the participants in the court hearing, including a witness, an expert or a specialist, does not appear, the court hears the opinions of the parties regarding the possibility of hearing the criminal case, and makes a reasonable determination (decision) regarding the continuation of the hearing or its postponement (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. To postpone the hearing of the case until the issue is resolved, the judge can start a judicial investigation and question the present witnesses, expert or specialist, victim, civil plaintiff, civil defendant, their representatives, and then make an appointment (decision) on postponing the hearing. If after this the case is considered by the same court panel, the questioned persons will be invited to the court meeting again only in necessary cases.

CHAPTER 34. JUDICIAL INVESTIGATION

Article 308. Initiation of judicial investigation

1. The judicial investigation begins with the presentation of the essence of the proposed accusation against the defendant by the public prosecutor, and in cases of private prosecution, with the presentation of the complaint by the private prosecutor or his representative.

2. The presiding judge asks the defendant whether he understands the nature of the accusation, whether he considers himself guilty or not, whether he wishes to express his attitude to the accusation. When the charge is unclear, its essence will be explained to the defendant.

Article 309. Establishing the procedure for investigation of facts

1. After fulfilling the requirements of Article 308 of this Code, the presiding judge, with the agreement of the parties, determines the procedure for investigating the facts. The court, the judge issues an order (decision) in this regard. The order of presentation of evidence shall be determined by the parties. Changing the order of evidence investigation by the court, the judge, can be carried out with the agreement of the parties and by issuing the relevant appointment (decision).

2. With the permission of the presiding judge, the defendant has the right to testify at any moment of the judicial investigation.

Article 310. Simplified procedure of judicial investigation

1. In the event that the defendant confesses his guilt, which is not disputed by the parties and does not put the court in doubt, the court, the judge with the agreement of the parties, after determining from the defendant whether his confession is not forced, has the right, only by

investigating to limit the facts mentioned by the parties or to declare the judicial investigation completed and proceed to judicial negotiations.

2. The presiding officer must explain to the parties that refusing to examine the evidence will make it impossible to file an appeal or protest against the verdict.

3. The rules mentioned in part 1 of this article apply to cases of juvenile crimes, serious and especially serious crimes, as well as in cases where at least one of the defendants does not confess his guilt, and it is impossible to separate the case against him for separate proceedings. , are not applicable.

4. A request to conduct a trial in a simplified procedure of judicial investigation is submitted only by the defendant with the consent of the public or private prosecutor and the victim.

5. In case of rejection of the request of the defendant or the dissatisfaction of the public or private accuser or the victim to conduct the trial in a simplified procedure, the trial will be conducted on general grounds.

6. If the court, the judge determines that the guilt admitted by the defendant is justified and is confirmed by the collected facts of the case, he shall issue a verdict of indictment and impose a punishment on the defendant. In addition, the punishment imposed by the court cannot exceed two-thirds of the term or the maximum punishment provided for the committed crimes.

7. Conducting a trial with a simplified procedure of judicial investigation in the cases provided for by this Code does not exclude the termination of the case (*Law of the Republic of Tajikistan dated 16.04.2012 No. 809*).

8. After the announcement of the judgment or decision, the judge shall explain to the parties the right and the procedure for filing appeals and objections against the decision or decision in accordance with the requirements of Chapter 38 of this Code (*Law of the Republic of Tajikistan dated 16.04.2012 No. 809*).

9. It is not possible to appeal and protest against the sentence issued in accordance with the requirements of this article on the grounds provided for in the first and second paragraphs of Article 372 of this Code.

Article 311. Interrogation of the defendant

1. The presiding judge shall explain to the defendant his right to give or not to give testimony in relation to the charge against him and other circumstances of the case, as well as inform him that all his statements may be used against him. When the defendant agrees to testify, he is first questioned by the defense attorney and trial participants from the defense side, and then by the public prosecutor and trial participants from the prosecution side. The presiding judge removes the guiding questions and those not related to the case.

2. The court, the judge, after questioning the defendant by the parties, asks him questions, but clarifying questions can be asked at any moment of his questioning.

3. If the defendant fully admits his guilt and wants to testify about the declared charge, the court, the judge will hear his words without interruption, except in cases where his testimony is not related to the case.

4. Questioning of the defendant in the absence of the other defendant is allowed only at the initiative of the court, judge or at the request of the parties. In this regard, the court, the judge issues an appointment (decision). In this case, after the defendant returns to the court meeting hall, the presiding judge informs him of the content of the evidence given in his absence and allows him to ask questions to the defendant who was questioned in his absence.

Article 312. Announcement of the testimony of the defendant

1. To announce in court the evidence or statement of the defendant given during the investigation or preliminary investigation, as well as to listen to the recording of his testimony or watch the video recording attached to the protocol, only at the request of the parties and at the initiative of the court, the judge in the following cases may allow:

- existence of significant discrepancies between the testimony of the defendant during preliminary investigation or investigation in court;
- refusal of the defendant to testify in court;
- consideration of the case in the absence of the defendant.

2. The rules stipulated by part 1 of this article are also applied to the cases of announcing the evidence of the defendant, which was previously given in court.

3. It is not allowed to listen to the voice recording or show the video recording without prior announcement of the evidence contained in the relevant protocol of the interrogation or the protocol of the court session. The hearing or viewing of the recording will be noted in the protocol of the court meeting.

Article 313. Questioning of the victim

1. The victim is interrogated in accordance with the rules of questioning witnesses, which are provided for in parts 2-5 of Article 314 of this Code.

2. The victim can testify at any moment of the judicial investigation with the permission of the presiding judge.

Article 314. Questioning of a witness

1. The witness is interrogated separately and in the absence of witnesses who have not yet been questioned.

2. Before the questioning, the presiding judge determines the identity of the witness, clarifies his relationship to the defendant and the victim, explains his civil debt and obligation to give an honest testimony regarding the case, responsibility for refusing to give testimony and knowingly giving false testimony. Persons who are exempted from giving evidence in accordance with the law, in case of voluntarily giving evidence, their liability is explained only for knowingly giving false evidence. A statement is taken from the witnesses that their obligations and responsibilities have been explained. The transcript is attached to the protocol of the court meeting.

3. The witness is interrogated by the accuser, the victim, the civil plaintiff, the civil defendant and their representatives, the defendant and his defense counsel. The question is asked first by the party at whose request the witness was called to the court session.

4. The chairman does not allow to ask guiding questions and other questions that are not related to the case. The court, the judge will also question the witness after questioning the parties.

5. The questioned witnesses remain in the court meeting hall and do not leave the hall until the end of the court investigation without the permission of the presiding judge and the consent of the parties.

6. Questioning of a witness, whose name is listed only, without revealing his identity, without confronting him with other participants in the court proceedings. In this regard, the court, the judge makes the relevant appointment (decision).

Article 315. Use of written records and documents by the victim and witness

1. Victims and witnesses can use written records. These records must be produced at the request of the court.

2. The victim and the witness are allowed to read the documents in their hands, which are relevant to their evidence, to present them to the court, according to the order (decision) of the court, they can be attached to the file.

Article 316. Features of interrogation of the victim and minor witness

1. When questioning a witness or a victim under the age of sixteen, as well as a minor witness or victim who, due to his physical or mental condition, does not have the opportunity to

independently defend his rights and legal interests, the participation of a teacher or a psychologist is mandatory. A teacher or a psychologist participates in the questioning of a witness and a victim over the age of sixteen at the discretion of the court, judge or at the request of the public prosecutor or defense counsel. During the questioning of a witness or a minor victim, the participation of their legal representatives is mandatory. With the permission of the presiding officer, the mentioned persons can ask questions to the victim and witness (*Law of the Republic of Tajikistan dated 15.03.2016 No. 1275, dated 23.12.2021 No. 1811*).

2. Before interrogating the victim and the witness who has not reached the age of sixteen, the presiding judge explains to them the importance of giving complete and correct testimony regarding the case. They will not be warned or reprimanded for knowingly giving false information.

3. Interrogation of a minor victim or a witness is carried out at the request of the parties or at the initiative of the court, the judge in the absence of the defendant, and the court, the judge issues an appointment (decision) in this regard. After the defendant returns to the courtroom, it is necessary to inform him about the testimony of these persons and to provide an opportunity to ask them questions.

4. Victims and witnesses under the age of sixteen will be removed from the courtroom after the interrogation, except in cases where the court deems it necessary to continue their presence.

5. Interrogation of a witness or a minor victim under the age of seven cannot last more than 30 minutes per day without a break and more than one hour in total, from seven to fourteen years old per day without a break for more than one hour and more than two hours in total, from fourteen up to sixteen years of age lasts more than one hour and 30 minutes per day without a break and more than three hours in total, and from sixteen to eighteen years of age lasts more than two hours per day without a break and more than four hours in total. The duration of questioning of a minor witness or victim who, due to his physical or mental condition, does not have the opportunity to independently defend his rights and legal interests, shall be determined by the court, judge based on the recommendation of a teacher or psychologist, but it shall not exceed the standard stipulated in this part. (*Law of the Republic of Tajikistan dated 23.12.2021 No. 1811*).

Article 317. Announcement of testimony of the victim and witness

1. At the request of the parties and at the initiative of the court, it may be allowed in the court to announce the testimony of the victim and the witness given during the investigation or preliminary investigation, as well as to listen to the voice recording or watch the video recording of the interrogation in the following cases:

- existence of serious discrepancies between this testimony and the testimony given in court;
- absence of the victim or witness at the court meeting due to reasons that exclude their possibility to appear in court.

2. The rules mentioned in part 1 of this article are also applied to the cases of announcing the testimony of the victim and the witness, which they previously gave in court.

3. The testimony of the victim and the witness who were questioned by the court in accordance with the provisions of Part 2 of Article 307 of this Code may also be announced at the court meeting.

4. Voice recording of the victim and witness, video recording of their questioning can be heard or watched according to the rules established by part 3 of article 312 of this Code.

Article 318. Examination in court

1. The court, the judge, at the request of the parties, as well as on his own initiative, has the right to appoint an expert at the court meeting. Expertise is carried out by the experts who gave their opinion in the preliminary investigation or other experts appointed by the court.

2. Examination in court is conducted according to the rules mentioned in Chapter 24 of this Code.

3. The presiding officer announces the appointment (decision) on the appointment of expertise, and the rights of the parties to refuse an expert, to submit a request for a panel of experts, to additionally include a person designated by the party, to conduct an examination by representatives of another expert institution, to conduct Expertise with the participation of the parties explains.

4. At the court meeting, the expert has the right to ask questions to the questioned persons, get acquainted with the written evidence, protocols of investigative actions, conclusions of other experts, participate in examination and testing (experiment) and other judicial actions related to the subject of expertise.

5. When it is necessary to leave the samples to the expert for comparative research, the rules of Article 215 of this Code shall be used.

6. After determining all the circumstances relevant to the conclusion, the chairman offers the parties to submit their questions to the expert in writing. The questions should be announced and the opinion of the participants of the court hearing should be heard. The court, the judge considers these issues, rejects the questions that are not related to the case or are not under the authority of the expert, and prepares new questions, after which the expert begins conducting an examination and drawing up a conclusion. .

7. The expert's conclusion is given in writing, announced by him at the court meeting, and added to the case together with the questions.

8. If an expert has been summoned to the court and he has given an opinion in the preliminary investigation, the court may not appoint an expert after the announcement of the opinion, provided that it is not contested by the parties, and may be satisfied only with the questioning of the expert.

Article 319. Questioning by an expert

1. After the expert gives his opinion, he can be asked questions to clarify or complete his opinion.

2. Parties ask questions to the expert, first of all, the party at whose request the expert was appointed. The court, the judge has the right to ask questions to the expert at any moment of the questioning.

Article 320. Conducting additional or repeated examination

1. In the cases provided for by Article 220 of this Code, the court and judge may appoint an additional or repeated examination and issue a decision (decision) on this matter.

2. Additional or repeated examination shall be conducted in accordance with the rules defined by Articles 208-210, 215, 217-219 of this Code.

Article 321. Examination of physical evidence

1. The physical evidence added to the case during the investigation and preliminary investigation, as well as the newly presented physical evidence, must be reviewed by the court and presented to the parties.

2. Physical evidence can be examined at the request of the parties or at the initiative of the court, the judge at any moment of the judicial investigation.

3. Physical evidence can be presented to witnesses, experts, specialists for review.

4. Persons who have been presented with physical evidence can attract the attention of the court, the judge with the circumstances related to the examination.

5. The result of the inspection will be recorded in the protocol of the court meeting.

6. Physical evidence will be reviewed by the court in accordance with the rules established by part 1 of this article.

Article 322. Announcement of the protocol of investigation and documents

1. The protocol of investigative actions, which includes circumstances and evidence during the inspection, testimony, finding, search, seizure of property, arrest, presentation for identification, investigative testing, listening to telephone conversations and other conversations of the accused, the defendant or other accomplices of the crime, as well as confirm the documents attached to the case or submitted to the court meeting, provided that the circumstances relevant to the case are reflected or confirmed in them, they should be fully or partially announced by the presiding judge.

2. The documents submitted to the court session may be attached to the case by the order (decision) of the court or judge.

Article 323. Inspection of the area and building

1. The court, the judge recognizes the need to inspect any building or locality and inspects it with the participation of the parties. If necessary, the object is conducted with the participation of witnesses, experts and specialists. The judge issues an appointment (decision) to inspect the building.

2. Upon arrival at the place of examination, the presiding judge announces the continuation of the court session, the court and the judge begin the examination and may ask the victim, witness, expert, specialist and defendant questions related to the examination.

3. The result of the examination will be recorded in the protocol of the court meeting.

Article 324. Conducting an investigative test (experiment).

1. If it is necessary to check or clarify the information, situation or other circumstances of a certain event and to conduct a trial, the court or judge has the right to conduct a trial.

2. The trial is conducted by the court, the judge with the participation of the parties. In necessary cases, witnesses and experts are involved to participate in the trial.

3. The court, the judge conducts the test in compliance with the rules provided by Article 188 of this Code.

Article 325. Marking for identification

In necessary cases, showing a person or object to the court for recognition shall be done in accordance with the rules established by Articles 205 and 206 of this Code.

Article 326. Witnessing

1. Testimony at the court meeting in the cases provided for by part 1 of article 186 of this Code shall be conducted according to the order (decision) of the court.

2. Certification, which is related to the nakedness of a person, is performed in a separate building by a doctor or other specialist, and after the completion of the work, a document of certification is drawn up and signed. Then these persons return to the court meeting hall, in the presence of the parties and the testified person, they inform the court about the traces and signs on his body, provided that such signs have been revealed, and answer the questions of the parties and the court, the judge. The act of attestation is attached to the case.

Article 327. Completion of judicial investigation

1. After completing the examination of all the facts, the presiding judge asks the parties if they wish to complete the judicial investigation and with what evidence. They are considered by the court during the filing of a request for completion of the judicial investigation.

2. After solving the requests and performing the necessary judicial action, the presiding judge announces the completion of the judicial investigation.

CHAPTER 35. JUDICIAL NEGOTIATION AND THE LAST SPEECH OF THE LITIGANT

Article 328. Content and procedure of judicial negotiation

1. The court, the judge, after the completion of the judicial investigation, proceeds to the judicial negotiation, which consists of the speech of the accuser, the victim or his representative, the civil plaintiff, the civil defendant or their representatives, the defendant in case of refusal of the defender and the defender. The order of speech of the participants of the court negotiation is determined by the court, but in any case, the public or private prosecutor, who, according to the results of the judicial investigation, must substantiate the conclusion about the guilt of the defendant, evaluate his actions, give his opinion about the punishment must be given, state or have the right to withdraw from the accusation, they will be the first to speak (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. The participants in the court hearing do not have the right to justify their speech with the facts that were not discussed in the court meeting. When necessary, they can request to submit new facts to the court for re-starting the judicial investigation (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

3. The court and the judge do not have the right to limit the duration of the negotiation of the parties to a certain time, but the chairman has the right to stop the speech of the participants in the negotiation if they include situations that are not related to the case under consideration.

4. After the speech of the participants in the court negotiation, each of them can speak once again in response to the speech of the representatives of the parties with comments (retort, rebuttal). The right to express the last comment belongs to the defendant or his defense.

5. Each participant in the judicial negotiation can submit to the court in writing the recommendation of his proposed decision on the issues indicated in the first-sixth paragraphs of part 1 of article 335 of this Code. The proposed recommendation is not binding for the court, the judge (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

Article 329. The defendant's last words

1. After the end of court negotiations, the presiding officer gives the last word to the defendant. It is forbidden to ask the defendant any questions during the last speech.

2. The court, the judge cannot limit the duration of the defendant's last speech by a certain time, but the presiding judge has the right to stop him from speaking if the defendant intervenes in situations that are not related to the case under consideration.

Article 330. Resumption of judicial investigation

If the participants in the court negotiations or the defendant in the last speech provide information on new circumstances that are important for the case or refer to previously unexamined facts relevant to the case, the court, the judge, at the request of the parties or on his own initiative, restarts the judicial investigation. After completing the restarted judicial investigation, the judge reopens the court hearing and gives the last word to the defendant (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

Article 331. Entering the court room, the judge

1. After hearing the last words of the defendant, the court and the judge immediately enter the consultation room to pronounce the sentence, and the presiding judge announces this at the court meeting.

2. The chairman announces the time of reading the judgment to the participants of the court proceedings before entering the consultation room.

CHAPTER 36. ISSUE OF SENTENCE

Article 332. Issuing judgment on behalf of the Republic of Tajikistan

The court issues the verdict on behalf of the Republic of Tajikistan.

Article 333. Demands submitted in relation to the sentence

1. The judgment of the court must be legal, reasonable and fair.
2. The sentence is recognized as legal when it is issued in compliance with the requirements of the law and on the basis of the law.
3. The sentence is recognized as justified when it was issued on the basis of a comprehensive, complete and objective investigation of the evidence presented to the court and discussed at the court meeting.
4. The judgment of the court is considered fair on the condition that the punishment assigned to the offender is determined in accordance with the article of the Criminal Code of the Republic of Tajikistan, which provides for criminal responsibility for committing a crime, taking into account the identity of the offender, aggravating and mitigating circumstances.
5. Every innocent person should be acquitted.

Article 334. Confidentiality of judges' consultation

1. The verdict is issued by the court, the judge in the consultation room. During the sentencing, only the members of the court that considered the same case can be present in the consultation room.
2. The court and the judge have the right to announce a break for rest at nightfall, when necessary, as well as during the day. Judges do not have the right to disclose their opinions during the hearing and sentencing.

Article 335. Issues that the court resolves when issuing a sentence

1. The court decides the following issues in the consultation room when issuing a verdict:
 - whether the act the defendant is accused of has taken place or not;
 - has it been proven that the defendant committed the act;
 - whether this act is a crime or not and what article of the criminal law it is provided for;
 - whether or not the defendant is guilty of committing this crime and whether or not there are mitigating and aggravating circumstances;
 - whether the defendant should be punished for the crime he committed or not;
 - what punishment should be assigned to the defendant;
 - in what type and system of the correctional institution should the person deprived of liberty serve the term of punishment.
 - whether or not the civil claim is admissible, in whose interest, and if the civil claim has not been filed, whether or not compensation for property damage will be collected;
 - what should be done with the property that has been seized (*Law of the Republic of Tajikistan dated 17.05.2018 No. 1516*);
 - what should be done with physical evidence;
 - to what extent the procedural costs should be imposed on whom;
 - to deprive the defendant of special titles or military ranks, as well as orders, medals and honorary titles or not;
 - implementation of coercive measures of a medical nature, in the cases provided for in part 2 of article 98 of the Criminal Code of the Republic of Tajikistan;
 - regarding the preventive measure against the defendant.

2. If the defendant is accused of committing several crimes, the court will decide the issues mentioned in the first-sixth paragraphs of part 1 of this article for each crime separately.

3. If several defendants are accused of committing a crime, the court will resolve these issues by determining the role and degree of their participation in the committed act for each defendant separately.

Article 336. Resolution of the defendant's appeal

1. The court is obliged to discuss the issue of the defendant's defense when passing the sentence.

2. By recognizing that the defendant was in a state of insanity during the commission of the act or suffered from a mental illness after the commission of the crime, which deprived him of the opportunity to truly understand the essence of the committed act, its harm, or manage it, the court has the right consider the criminal case in accordance with the requirements of Chapter 45 of this Code and make a decision.

Article 337. The procedure of consultation of judges during collective consideration of the case

1. During the collective consideration of the case, before the decision is issued, the judges consult. The chairman presents issues for resolution in accordance with the procedure specified in Article 335 of this Code.

2. During the resolution of any issue, none of the judges has the right to abstain from voting, except for the cases provided for in part 3 of this article. All issues are decided by majority vote. The chairperson then votes.

3. The judge in the minority has the right to express his opinion on the issued sentence in writing, which is attached to the sentence and should not be announced in the court meeting hall.

Article 338. Types of sentences

1. The verdict of the court can be accusatory or acquittal.

2. An indictment may be issued:

- by assigning the criminal punishment that the convict must serve;
- by imposing a criminal penalty and releasing it from serving it;
- without imposing a criminal penalty.

Article 339. Grounds for accepting an indictment

1. An indictment is issued only if the defendant's guilt in committing a crime is confirmed by the set of researched evidence during the court hearing. An indictment cannot be based on guesswork.

2. The court shall issue the indictment sentence with the punishment that the defendant must serve, and must clearly determine the type, size and beginning of the calculation of the term of serving the punishment.

3. The court issues an incriminating sentence with the imposition of punishment and exemption from serving it in cases where, before the sentence is issued:

- the act of amnesty is accepted, which releases the convicted person from the punishment imposed by this sentence;
- the term of detention of the defendant in this case in accordance with the rules of pre-trial detention established by Article 70 of the Criminal Code of the Republic of Tajikistan, shall include the punishment imposed by the court.

4. The court issues an indictment without imposing a penalty in cases where at the time of its adoption:

- the term of criminal prosecution of a person for this crime has passed;
- the defendant is dead.

Article 340. Grounds for acquittal

1. An acquittal sentence is issued if:

- there is no crime incident;
- there is no element of crime in the action of the defendant;
- participation of the defendant in the commission of the crime has not been proven.

2. Acquittal, depending on each of the listed grounds, means recognition of the defendant's innocence and leads to his complete acquittal.

3. If at the time of issuing an acquittal sentence due to the lack of proof of the participation of the defendant in the commission of the crime and the person who committed the crime was not identified, the court, as soon as the verdict becomes legally valid, will refer the case to the prosecutor to take measures to identify the person who the accused must be involved, sends.

Article 341. Compilation of sentence

1. After resolving the issues mentioned in Article 335 of this Code, the court proceeds to the drafting of the verdict. It is prepared in the language in which the court hearing took place and consists of an introduction, explanation and justification, and a conclusion.

2. The sentence must be written by one of the judges who took part in issuing it or prepared with the help of technical means and signed by all the judges.

3. Amendments to the verdict must be entered, commented and approved by the signatures of all judges before announcing it in the consultation room.

Article 342. Introductory part of the sentence

The following are reflected in the introductory part of the sentence:

- passing judgment on behalf of the Republic of Tajikistan;
- time and place of issuing the sentence;
- the name of the court that issued the sentence, the court panel, the secretary of the court meeting, the prosecutor, the defense attorney;
- surname, name and father's name of the defendant, year, month, day and place of his birth, place of residence, place of work, employment, education, marital status and other information about the defendant that is important for the case (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);
- the criminal law that provides responsibility for the crime that the defendant is found guilty of committing.

Article 343. Part of explanation and justification of the indictment

1. In the explanation and justification part, the description of the criminal act, which the court recognized as proven, should be reflected, indicating the location, time, manner of its commission, type of sin, cause, purpose and consequences of the crime. In the verdict, the facts, which were justified by the court's conclusion, and the circumstances according to which the court rejected the other facts are given. In it, the mitigating and aggravating circumstances of the punishment and in case of recognition of the groundlessness of part of the charge or determination of the wrongness of the crime, the grounds and reasons for changing the charge are mentioned.

2. The court is also obliged to reflect the grounds for solving all issues related to the imposition of criminal punishment, release from punishment or from serving it, implementation of other measures of influence.

3. The explanation and justification part includes the justification of the decisions made on the issues mentioned in Article 335 of this Code.

Article 344. The concluding part of the indictment

1. The following must be indicated in the concluding part of the indictment:

- surname, name and name of the defendant's father (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);
- the decision to find the defendant guilty of committing a crime;
- parts and clauses of the article of the criminal law, according to which the defendant was found guilty;
- the type and size of the punishment imposed on the defendant for each crime for which he was found guilty, the final measure of punishment that must be served on the basis of Articles 67, 68 of the Criminal Code of the Republic of Tajikistan, the type and system of the correctional institution, in which the convicted must serve the sentence;
- the duration of the probationary period in case of conditional non-application of the punishment and obligations imposed on the convicted person;
- a decision on imposing an additional punishment;
- the decision to calculate the term of pre-trial detention, provided that the defendant is detained until the verdict is issued, or preventive measures in the form of arrest, house arrest are applied to him, or he is placed in psychiatric institutions.
- a decision on preventive measures against the defendant until the judgment becomes legal.

2. If the defendant has been charged with several articles of the criminal law, the concluding part of the sentence should clearly indicate which of them the defendant was acquitted of and which of them he was convicted of.

3. If the defendant is released from serving the sentence or the sentence is passed without imposing a sentence, this will be indicated in the final part of the sentence.

Article 345. Part of explanation and justification of acquittal sentence

The following are mentioned in the statement and justification of the acquittal sentence:

- the nature of the proposed charge, the circumstances of the case determined by the court;
- the facts that are the basis for the acquittal of the defendant;
- the grounds according to which the evidence presented by the prosecution is rejected;
- the basis of the decision regarding the civil claim.

Article 346. The final part of the acquittal sentence

The following should be mentioned in the final part of the acquittal sentence:

- surname, name and name of the defendant's father (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);
- the decision to recognize the defendant as innocent and acquit him;
- justification grounds;
- the decision to cancel preventive measures, if it has been applied;
- the decision to cancel the provision of confiscation of property, provided that such measures have been taken.

Article 347. Other issues to be resolved in the final part of the sentence

In the concluding part of both the indictment and the acquittal sentence, in addition to the issues listed respectively in Articles 344 and 346 of this Code, the following should be reflected:

- the decision of the filed civil claim;
- solving issues of physical evidence;
- a decision on the distribution of procedural costs;
- explaining the procedure and deadline for filing an appeal or cassational objection to the judgment.

Article 348. Announcement of sentence

1. After signing the court verdict, the judge returns to the court meeting hall and the presiding judge or the judge announces the verdict. All those present in the court meeting hall stand up and listen to the verdict.

2. The presiding judge explains to the defendant and other parties the content of the sentence, the procedure and the deadline for appealing it. If the defendant is sentenced to death, he will also be informed of his right to request pardon.

3. When announcing the introductory and concluding part of the sentence, the presiding judge explains to the participants of the court proceedings the procedure for getting acquainted with its full text (*Law of the Republic of Tajikistan dated 27.11.2014 No. 1134*).

4. After announcing the verdict, the presiding judge, with the consent of the participants in the court proceedings, decides the issue of placing the verdict on the website of the relevant court after it becomes legally effective. In this regard, it is noted in the protocol of the court meeting (*Law of the Republic of Tajikistan dated 18.03.2022 No. 1853*).

Article 349. Release of the defendant from arrest

Upon the acquittal of the defendant, as well as upon the passing of a sentence with release from serving the sentence or without the imposition of a sentence, or with a conditional sentence, or with a sentence with a sentence that is not related to the deprivation of liberty, the defendant taken into custody must be immediately present in the courtroom. to be released.

Article 350. Delivery of a copy of the court verdict

Not later than five days after the announcement of the court verdict, a copy of it must be delivered to the convicted or acquitted person. At the same time, a copy of the verdict is delivered to the public prosecutor and, except for cases that are considered in a closed court session, to the defender, the victim, the civil plaintiff, the civil defendant and their representatives at the request of the mentioned persons (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*, dated 27.11.2014 No. 1134).

Article 351. Issues that the court decides simultaneously with issuing a verdict

1. If a person sentenced to deprivation of liberty has minor children, other dependents, or elderly parents who are left without guardians, the court, at the same time as issuing a sentence of conviction, shall consider handing over these persons to their close relatives or other persons, or placing them in children's institutions or social welfare issues a decision or appointment. If the convicted person has property or housing that is left without guardians, the court will also take measures to protect them.

2. If the defense is involved in the case in accordance with the order, the court will make an order (decision) at the same time as issuing a verdict on the amount of remuneration that the defendant must pay to the legal consultancy.

3. All procedural decisions listed in this article must be announced in the courtroom after the verdict is announced.

Article 352. Providing the opportunity to meet with the convict

Until the execution of the court's sentence, the presiding judge or the head of the court must give the close relatives of the convicted person in custody the opportunity to meet him at their request.

CHAPTER 37. ADVANCEMENT OF THE CASE OF PRIVATE ACCUSED

Article 353. Jurisdiction of the case of private prosecution

The case of private prosecution, provided for in part 2 of article 24 of this Code, is considered by the judge of the city and district court.

Article 354. Initiation of private prosecution case

1. The case of private prosecution is initiated by the victim or his legal representative by submitting an application to the court to bring a person to criminal responsibility.

2. The case of private prosecution is initiated by the prosecutor in accordance with the requirements of part 4 of article 24 of this Code.

3. The application must include:

- the name of the court to which the application is submitted;
- description of the crime incident;
- the location and time of the crime with evidence;
- request to the court to accept the case for promotion;
- information about a person who is criminally liable;
- the list of witnesses who need to be summoned to the court;
- signature of the applicant.

4. The application shall be submitted to the court with copies equal to the number of persons against whom a private prosecution case will be initiated.

5. From the moment the application is accepted by the court, the person who presented it is considered a private accuser, and the rights provided by Article 43 of this Code must be explained to him.

Article 355. Powers of the court in the case of private prosecution

the start of the trial

1. In the event that the submitted application does not meet the requirements of parts 3 and 4 of Article 354 of this Code, the judge, by his decision, obliges the applicant to provide evidence, eliminate deficiencies and sets a deadline for it. In the case of non-execution of the decision, the judge rejects the application for consideration by his decision and informs the interested person about it.

2. Non-appearance of the private accuser or his representative at the court meeting without valid reasons specified in part 2 of article 224 of this Code will result in termination of the case.

3. At the request of the private prosecutor, the judge must assist him in gathering evidence.

4. When there are grounds for scheduling a court meeting, the judge is obliged to invite the person against whom a complaint has been filed, to acquaint him with the case materials, and the rights of the defendant at the court meeting within seven days from the date of receipt of the application to the court. , provided by Article 47 of this Code, explain and determine who can be summoned to the court as witnesses and defenders.

5. The judge is obliged to explain to the parties the possibility of reconciliation. By the way, the parties have the right to submit an application for reconciliation before the judge goes to the consultation room (*Law of the Republic of Tajikistan dated 04.07.2020 No. 1702*).

6. If the parties receive an application for reconciliation, the proceeding of the case based on the fifth paragraph of part 1 of article 27 of this Code shall be terminated by the judge's decision.

7. If the parties do not reconcile with each other, the judge, after fulfilling the requirements of parts 3 and 4 of this article, will appoint a hearing in accordance with the rules of article 262 of this Code.

Article 356. Consideration of the case at the court meeting

1. The case will be considered by the judge in the court session according to the general rules of the court hearing, with the exception of the procedure established by this article.

2. The court hearing should be started within fourteen days from the moment the application arrives at the court.

3. The review of the application on the case of private prosecution can be carried out together with the review of the mutual application. Consolidation is allowed at the discretion of a judge pending a judicial review. When applications are combined in one application, the persons who filed it participate in the proceedings simultaneously as private plaintiffs and defendants. In order to prepare for the defense and in connection with the filing of the counter-application and the consolidation of the promotion, at the request of the person against whom the counter-application was filed, the case can be postponed for a period of no more than three days.

4. Interrogation of these persons regarding the situations reflected in their applications is carried out according to the rules of interrogation of the victim, and regarding the situations reflected in mutual applications, according to the rules of interrogation of the defendant.

5. Accusation is reinforced at the court session by the private accuser or his representative.

6. Judicial investigation begins with the mention of the application by the applicant or his representative.

SECTION IX. REVIEW OF JUDGMENTS, APPOINTMENTS AND DECISIONS THAT HAVE NOT BEEN VALID BY LAW

CHAPTER 38. COMPLAINTS AND APPEALS AGAINST A COURT DECISION THAT IS NOT VALID BY LAW

Article 357. The right to file an appeal and cassational objection against the sentence

1. In accordance with the rules provided for in this chapter, the parties may appeal and object to the court's verdict, which has not gained legal force, according to the cassation procedure.

2. According to the cassation procedure, appeals and objections to the judgments of the court of first instance that have not gained legal force are considered.

3. Convicted, acquitted, their defenders and their legal representatives, the victim and his representative have the right to appeal the verdict.

4. The civil claimant, the civil defendant or their representatives have the right to appeal the judgment in the part related to the civil claim, as well as other persons whose property rights and interests have been disturbed by the judgment, in the part of the disturbed property rights and interests (*Law of the Republic of Kazakhstan dated 28.12.2012 No. 932*).

5. The right to challenge the verdict belongs to the prosecutor who acted as a public prosecutor in court. The Prosecutor General of the Republic of Tajikistan, the prosecutors of Badakhshan Mountain Autonomous Region, the city of Dushanbe, regions, cities, districts,

prosecutors equal to them and their deputies have the right to challenge the verdict, regardless of their participation in the court proceedings of the criminal case.

Article 358. Procedures for appealing and protesting judgments

1. In the cassation procedure, appeals and objections are filed against:
 - judgments of city and district courts to the Badakhshan Mountain Autonomous Regional Court, regional courts and judgments of the district courts of Dushanbe to the Dushanbe City Court;
 - judgments of courts of districts and cities subordinate to the Supreme Court of the Republic of Tajikistan;
 - judgments of the Badakhshan Mountain Autonomous Region Court, the regional court and the Dushanbe City Court to the Supreme Court of the Republic of Tajikistan;
 - judgments of military courts of garrisons to the Military Collegium of the Supreme Court of the Republic of Tajikistan;
 - judgments of the judicial panels of the Supreme Court of the Republic of Tajikistan to the Supreme Court of the Republic of Tajikistan.
2. Cassation appeals and objections are submitted through the court that issued the judgment, but bringing a complaint or objection directly to the cassation stage does not prevent consideration of the appeal or objection.
3. It is possible to file an appeal and protest against the sentence issued during the re-examination of the case in the general procedure.

Article 359. Deadlines for filing appeals and objections to judgments

1. The parties may appeal or object to the court's verdict within ten days from the moment of its announcement, if the convicted person is in custody, during this period from the moment the copy of the verdict is delivered to him.
2. It is not possible to request the case from the court during the period for appealing the verdict.
3. Complaints and objections filed after the deadline will not be considered.

Article 360. Procedure for restoring the deadline for filing complaints and filing objections

1. In the event that the time limit for filing an appeal and objection has been extended due to a valid reason, persons who have the right to file an appeal and objection may submit a request to the ruling court to restore the time limit. The judge has the right to invite the person who submitted the request to give a statement or conclusion.
2. It is possible to appeal and protest against the decision of the court regarding the refusal to restore the expired period to the higher court, which has the right to restore the expired period and consider the case according to appeal or protest.

Article 361. Notifying the parties of the submitted complaint and objection

1. Regarding appeals and objections included, the judge who passed the verdict, the convicted or acquitted, the defender, the accuser, the victim or his representative, as well as the civil plaintiff, the civil defendant and their representatives, provided that the objection or appeal intervenes in their interest, informs and explains that they have the right to familiarize themselves with the complaint or protest and submit their comments to the complaint or protest in writing.
2. At their request, the court will hand over to them a copy of the objection or complaint filed by the other party.
3. The comments received in relation to the protest or complaint are included in the file.

Article 362. Consequences of complaining and protesting

1. Filing a complaint and objection does not stop the execution of the sentence.
2. After the expiry of the period for appeal or protest of the verdict, the judge who issued the verdict sends the case to the court of cassation with the appeal, protest and comments received and informs the parties about it.
3. A person who has appealed the sentence and filed an objection has the right to withdraw it before the beginning of the session of the court of cassation.
4. A person who has appealed the verdict and filed an objection has the right to change it or supplement his appeal or objection with new facts. In addition, in the additional objection of the prosecutor or in the appeal of a person to change the appeal, as well as in the additional appeal of the victim, private prosecutor or their representatives, which was submitted after the expiry of the deadline for bringing an appeal or objection to the verdict, on the condition that the convicted person worsened, provided If such a demand is not included in the previous complaint or objection, it cannot be raised.

Article 363. Complaining and protesting the order (decision) of the court of first instance

1. Individuals mentioned in Article 357 of this Code may file a private appeal or a private protest against the order (decision) of the court of first instance, with the exception of the provisions of Part 3 of this Article.
2. In accordance with the rules of this article, an appeal or protest is made against the order (decision) issued during the court hearing on the investigation of facts, the request of the trial participants, as well as the observance of the procedure in the court meeting hall, except for the order (decision) issued regarding the collection of fines. does not happen Objections to the above-mentioned decisions can be submitted by means of a cassational appeal or protest against the judgment (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755 , dated 14.03.2014 No. 1067*).
3. Private complaints or objections to the order (decision) of the court of first instance shall be submitted by the parties within ten days from the date of their issuance and shall be considered in accordance with the requirements of Chapter 39 of this Code.
4. In case of appeal and objection to the appointment (decision) that ended with the verdict in the course of the court hearing, the case will be sent to the higher court only after the deadline for appealing the verdict has passed. By the way, if a cassational appeal has been brought to the judgment, the examination of the private appeal or private protest will be carried out by the court stage that considers the case in the cassation procedure.
5. The right to appeal against the court order and the judge's decision also belongs to the persons who were not involved in this case as a party, but the order or decision interferes in their interest.

CHAPTER 39. REVIEW OF A CRIMINAL CASE THROUGH CASSATION

Article 364. Subject of the court hearing at the cassation stage

The court of cassation examines the legality, reasonableness and fairness of the sentence and other court decisions based on cassation appeals and objections.

Article 365. The panel of the court during the consideration of the case which was appealed and to which a cassational objection was brought

A criminal case is reviewed by a court of three judges by way of cassation.

Article 366. Time limits for consideration of the case in the court of cassation

1. The Badakhshan Mountain Autonomous Region Court, regional courts and Dushanbe city court must review the case received on the basis of appeal or cassation objection within fourteen

days from the date of receipt. When the case is particularly complicated or in other exceptional cases, the president of the relevant court can extend this period up to fourteen days by his decision.

2. The Supreme Court of the Republic of Tajikistan shall consider the case received on the basis of appeal or cassation objection within a period not later than one month from the date of its receipt. In exceptional cases, the President of the Supreme Court of the Republic of Tajikistan or his deputy can extend this period by one month.

3. In case of extension of the term of consideration of the case at the cassation stage, the participants of the case should be notified in advance.

Article 367. Complaint or cassational objection

A cassation appeal or objection must include:

- the name of the court against which the complaint or objection was filed;
- information about the person who brought the complaint or protest (his/her legal status), his/her place of residence and place of stay;
- the judgment or other decision against which an appeal or objection was brought and the court that issued this decision;
- the features of the person who filed a complaint or protest, what is the wrongness of the judgment or other decision and what is his wish.
- the list of materials attached to the complaint or protest;
- signature of the person who filed the complaint or protest.

Article 368. Appointment of the meeting of the court of cassation

1. When a case is filed with a cassation appeal or objection, the chairman of the cassation court or his deputy on the case appoints the cassation panel and the reporting judge, and at the same time determines the presiding judge, the place and time of the hearing of the case.

2. The parties must be informed about the place and time of the hearing of the case at the cassation stage. The issue of summoning a convicted person under arrest is decided by the court. A convicted person under arrest, who wishes to participate in the consideration of his appeal or protest against his interests brought by the prosecutor, must be brought to the court session of the cassation stage.

3. Non-attendance of persons who have been informed about the place and time of the cassation meeting cannot be an obstacle to the consideration of the case.

4. Persons who have been given the right to appeal the sentence in accordance with part 3 of article 357 of this Code, as well as the defender of the convicted (acquitted) or the victim's representative, who accepted their assignment after the sentence was issued, are admitted to the cassation meeting in all cases. . At their request, they will be given the opportunity to justify their complaint or objection or comment.

Article 369. Procedure for consideration of the case by the court of cassation

1. The presiding judge opens the court session and announces which case and based on whose appeal or cassation objection will be reviewed. After that, the presiding judge determines who has appeared in the case, and then the court decides on the possibility of hearing the case. Then the presiding judge announces the composition of the court, surnames, names and father's names of the persons present as parties in the court meeting and the translator, explains to them the declaration of refusal and asks them whether they have applications for refusal or not. The court issues an order regarding the reported refusal (*Law of the Republic of Tajikistan dated 20.04.2021 No. 1777*).

2. The presiding judge will ask the present persons about their request and the court will make a decision based on the consideration of the request.

3. The consideration of the case begins with the information of the reporting judge, who explains the essence of the case and the aspects of the complaint or objection. After the presentation, those who have filed complaints or objections justify their arguments. If additional materials are presented, the presiding judge or the reporting judge will announce them and give them to the prosecutor and the persons specified in Article 368 of this Code for identification, provided that they participate in the trial. After this, the convicted or acquitted, their defenders and their legal representatives, the civil claimant and the civil defendant or their representatives, provided that they participated in the trial, make statements. After giving the statement, the court hears the conclusion of the prosecutor and goes to the consultation room to make a decision.

4. The additional material presented should not have been obtained by conducting investigative actions.

5. The order of the court meeting and the measures to be taken against the violators are determined according to the requirements of Articles 291 and 292 of this Code.

6. The court of cassation considers the case in an open court session, except for the cases mentioned in Article 273 of this Code.

7. Until the beginning of the court session, the person who has filed an appeal or objection against the verdict has the right to withdraw his appeal or objection. The higher prosecutor has the right to withdraw the objection brought by the lower prosecutor.

Article 370. Limitation of consideration of the case in the court of cassation

The court will examine the case in its entirety against all the defendants, including those who did not file a cassational appeal or objection, regardless of the circumstances presented in the cassational appeal or objection.

Article 371. Decision adopted by the court of cassation

When reviewing the case by cassation procedure, the court makes one of the following decisions:

- leave the sentence unchanged and leave the complaint or protest unsatisfied;
- annuls the sentence and closes the case;
- changes the sentence;
- cancels the sentence and sends the case for a new investigation or a new trial.

Article 372. Grounds for canceling or changing the judgment in the court of cassation

The following grounds can be used for annulment or change of sentence by cassation procedure:

- one-sided or incomplete investigation, preliminary or judicial investigation;
- inconsistency of the court's conclusion expressed in the judgment with the actual circumstances of the case;
- serious violation of the criminal procedure law;
- incorrect application of the criminal law;
- incompatibility of the imposed punishment with the severity of the crime and the personality of the convicted person.

Article 373. One-sided or incomplete investigation, preliminary or judicial investigation

1. Investigation, preliminary or judicial investigation is considered one-sided or incomplete, provided that during its completion the circumstances of serious importance for issuing a verdict were not determined.

2. Investigation, preliminary or judicial investigation shall be recognized as one-sided or incomplete in any case, provided that in relation to the case:

- persons whose testimony is of serious importance for the case were left unexamined, or an examination was not carried out, which is mandatory according to the law, at the same time, documents were requested or physical evidence that was not found and was not included in the case, which is of serious importance ;

- cases that have not been investigated, which were indicated in the court order to send the criminal case to a new investigation or a new court hearing;

- information on the defendant's identity has not been fully determined.

Article 374. Incompatibility of the court's conclusion expressed in the sentence with the actual circumstances of the case

The sentence is recognized as inappropriate to the actual circumstances of the case, provided that:

- the conclusion of the court is not confirmed by the facts investigated at the court meeting;

- the court did not take into account the circumstances that could have a serious impact on its conclusion;

- there are conflicting evidences that are of serious importance for the court's conclusion, and the judgment does not indicate on what grounds the court accepted some of these evidences and rejected other evidences;

- the conclusion of the court, expressed in the sentence, have differences and affect or could influence the decision of the guilt or innocence of the convicted person, or the acquitted person, the correctness of the application of the criminal law or the determination of the punishment measure.

Article 375. Serious violation of criminal procedure law

1. A serious violation of the criminal procedural law is recognized as a violation of the principles and other general provisions of this Code when conducting a case, by depriving or limiting the rights guaranteed to the persons participating in the case, by not observing the formalities of judicial proceedings, or by others have hindered the comprehensive and objective investigation of the circumstances of the case and have influenced or could have influenced the rendering of a fair court verdict.

2. The judgment should be annulled:

- when the one-sidedness or incompleteness of the judicial investigation is the result of the sahvans exclusion of possible facts from consideration or unjustified rejection of the party's proposal in the investigation of facts that could be important for the case;

- non-investigation of facts that must be investigated (absence of an expert's opinion, when it is mandatory, non-fulfillment of the order of the court that sent the case from the preliminary hearing for additional investigation, etc.).

3. The sentence must be annulled in any case, provided that:

- when the grounds provided by Article 288 of this Code are present, the criminal case has not been terminated by the court;

- the verdict was issued by an illegal court panel;

- the case was considered in the absence of the defendant, except for the cases provided for by parts 3 and 4 of article 280 of this Code;

- the case was considered without the participation of a defense attorney, when his participation is mandatory by law or the right of the accused to have a defense lawyer was violated in another way;

- the right of the accused (defendant) to use the native language or the services of an interpreter was violated in the court;
- the defendant was not offered the right to participate in court negotiations;
- the defendant was not given the last word;
- the confidentiality of the deliberations of the judges was violated when the verdict was issued;
- the judgment is not signed by the judge or one of the judges;
- there is no protocol of the court meeting in the case.

Article 376. Incorrect application of the criminal law

A criminal law is considered wrongly applied if:

- the court did not apply the law that should have been applied;
- the court applied the law, which was not required to be applied;
- the court misinterpreted the law, which contradicts the precise content of the law.

Article 377. Incompatibility of punishment imposed by the court

Such a punishment is considered inappropriate to the severity of the crime and the personality of the convicted person, even if it does not go beyond the scope of the criminal law, but it is clearly unfair in terms of its type and size, both in terms of lightness and in terms of severity.

Article 378. Inadmissibility of increasing the punishment of a convicted person or applying the law on a more serious crime to him at the cassation stage

1. During the cassation review of the case, the court may reduce the punishment imposed by the first-instance court or apply the law on a lesser crime, but it does not have the right to increase the punishment and also apply the law on a more serious crime. (*Law of the Republic of Tajikistan dated 24.02.2017 No. 1381*).

2. The sentence can be annulled due to the need to apply the law on a more serious crime or on account of the lightness of the punishment, only in those cases where the prosecutor raised an objection or the victim complained on these grounds.

Article 379. Annulment of the conviction and termination of the case

The court shall review the case in the cassation procedure and, if there are grounds provided by the fifth-ninth paragraphs of part 1 of article 27 and article 28 of this Code, cancel the conviction and close the case.

Article 380. Cancellation of acquittal

1. The verdict of acquittal issued by the judge alone or by the court can be annulled at the cassation stage only on the basis of the objection of the prosecutor or the complaint of the victim, the private prosecutor or their representatives, as well as the complaint of the person acquitted by the court who does not agree with the grounds for the acquittal. .

2. An acquittal sentence, an order to terminate the case or another decision issued in favor of the defendant cannot be annulled due to a serious violation of the criminal procedural law, except for the cases provided for by the second, ninth and tenth paragraphs of part 3 of article 375 of this Code. be done

Article 381. Consequences of canceling the sentence

1. When canceling the verdict and sending the case to a new trial, the court shall indicate in the appointment that the proceeding of the case should start from a new investigation or investigation or from a trial.

2. In case of annulment of the sentence due to the need to announce a more serious charge or a charge that is seriously different from the originally announced charge based on the actual circumstances, the case will be sent to the prosecutor for a new investigation through the court that issued the sentence.

3. In case of annulment of the sentence due to violation of the law during the consideration of the case in the court, the case shall be sent for a new consideration to the same court that issued the sentence, in a new panel or to another court.

Article 382. Change of sentence

1. If during the review of the case by cassation it is determined that the court of first instance applied the criminal law incorrectly or the punishment imposed does not correspond to the gravity of the crime and the personality of the convicted person, the court of cassation may not re-examine the case, in accordance with the provisions of Article 378 of this Code amend the sentence, provided that the amended punishment does not exceed the originally imposed punishment, or a relatively severe criminal law has not been applied.

2. The court of cassation does not have the right to make changes to the judgment based on circumstances not specified in the judgment of the court of first instance or based on facts rejected by it.

Article 383. Content of the cassation order

1. The following must be mentioned in the cassation order:

- time and place of appointment;
- the name of the court and the member of the cassation board that made the decision;
- persons who participated in the cassation stage during the consideration of the case;
- persons who filed a cassation appeal or protest;
- essence of complaint or protest;
- the content of the final part of the judgment, which was appealed or objected to;
- grounds for decision-making at the cassation stage;
- the decision of the cassation court on appeal or protest.

2. The part of the statement of appointment includes a summary of the facts of the person who filed a complaint or objection, the comments of other participants of the cassation stage, as well as the grounds for making the decision. If the appeal or objection is not satisfied, the reasons according to which the appeal or objection was considered groundless or insignificant are indicated. When canceling or changing the sentence, it is mentioned which requirements of the criminal law or criminal procedure were violated and what these violations consist of; the grounds according to which the punishment imposed by the court of first instance was recognized as unjust. If the case is sent for a new investigation and a new trial, it will be indicated which violations of the law should be eliminated. At the moment, the court of cassation has no right to determine whether the charge is proven or not, the truth or falsity of this or that evidence and the superiority of one evidence over another, on the application of the criminal law on punishment by the court of first instance, on Punishment to resolve issues in advance.

3. The appointment is issued in the consultation room, signed by all members of the court, and announced immediately after the return of the court members from the consultation room.

Article 384. Limitation of the rights of the court of cassation

The court of cassation has the right, if necessary, to appoint a judicial expert on the case, to suspend the consideration of the case, to examine the additional materials presented, to appoint the type of order, provided that it is not appointed by the sentence, as well as to make other changes to the court's decision, which do not worsen the situation of the convicted person.

Article 385. Execution of orders of the court of cassation

1. The appointment of the court of cassation is sent together with the case to the court that issued the sentence for execution no later than seven days after its issuance.

2. The appointment according to which the convicted person should be released from custody in this part is executed immediately, provided that the convicted person participated in the meeting of the court of cassation. In other cases, a copy of the final part of the order is immediately sent to the administration of the place of detention for the execution of the decision to release the convict from custody.

CHAPTER 40. EXECUTION OF JUDGMENTS, APPOINTMENTS AND DECISIONS

Article 386. Legal validity of the sentence and its execution

1. The judgment of the first-instance court after the expiration of the term for filing a cassational appeal or objection, provided that no appeal or objection has been filed against it, becomes legally valid and must be executed. In the event of an appeal or objection by way of cassation, the sentence, unless it has been annulled, becomes legally effective on the day of issuing the order.

2. The judgment shall be executed by the court of first instance no later than three days from the day it becomes legally valid or the case is returned from the court of cassation.

3. If the indictment has not been executed within the time limit established by Article 81 of the Criminal Code of the Republic of Tajikistan, the person convicted of the crime shall be released from serving the sentence.

4. If the sentence was appealed or protested against only one of the convicts, it will not become legally valid until the entire sentence is considered in the court of cassation.

Article 387. Legal validity of court order (decision) and its execution

1. The appointment (decision) of the first-instance court after the expiration of the appeal or objection period, but in the case of a private appeal or objection, after the consideration of the case by the higher court, becomes legally valid and executed.

2. The appointment (decision) of the court, which cannot be appealed or objected to, becomes legally valid immediately after its issuance and is executed.

3. The appointment (decision) of the court on stopping the proceeding of the case when resolving the issue of appointment of the court meeting or at the court meeting in the part related to the release of the accused or the litigant from custody should be implemented immediately.

4. The appointment of the court of cassation takes legal effect from the moment of its announcement and can be revised only in accordance with the procedure provided for in Chapters 42 and 43 of this Code.

5. The appointment of the court of cassation, as well as the appointment or decision of the court of control shall be carried out in accordance with the procedure provided for in Article 388 of this Code.

Article 388. Procedures for the execution of judgments, orders and decisions of the court

1. Judgments, orders and decisions of the court, which have become legally valid, are binding for all enterprises, organizations and institutions, officials and citizens, and must be implemented throughout the territory of the Republic of Tajikistan.

2. The execution of the sentence, order and decision is entrusted to the court that considered the case at the first stage. The order of the execution of the sentence is sent by the judge together with the copy of the sentence to the authorities that are entrusted with the execution of the sentence according to the legislation on the execution of the criminal punishment. In the case of a cassation review of the case, the decision of the court of first instance is changed, a copy of the decision of the court of cassation is attached to the copy of the judgment.

3. The excerpt from the court ruling related to the deprivation of the right to occupy certain positions or to engage in certain activities, which has gained legal validity, is sent to the body that completes the state registration of legal entities and individual entrepreneurs (*Law of the Republic of Tajikistan dated 14.05.2016 No. 1306*).

4. The body executing the sentence immediately informs the court that issued the sentence about its execution. The administration of the correctional institution must inform the court that issued the sentence about the place where the convicted person will serve his sentence.

5. Non-fulfillment of the judgment, order and decision of the court shall result in criminal liability provided for in Article 363 of the Criminal Code of the Republic of Tajikistan.

Article 389. Notifying the close relatives of the convicted person and the civil plaintiff about the execution of the sentence

1. After the sentence, according to which the convict under pre-trial detention is deprived of liberty, becomes legally effective, the administration of the place of serving the punishment is obliged to inform one of the close relatives of the convicted, where he will be sent to serve the sentence.

2. An opportunity will be given to meet with the convict who is under pre-trial detention until the execution of the sentence according to the provisions of Article 352 of this Code.

3. If the civil claim is satisfied, the civil claimant will be informed about the execution of the sentence.

CHAPTER 41. PROGRESS ON THE REVIEW AND RESOLUTION OF ISSUES RELATED TO THE EXECUTION OF SENTENCES

Article 390. Postponement of sentence execution

1. The execution of the judgment on sentencing a person to restriction of liberty or deprivation of liberty may be postponed if one of the following grounds exists:

- serious illness of the convicted person, which prevents him from serving his sentence until he recovers;

- pregnancy of the convicted person or having minor children of the convicted wife, except for those convicted of particularly serious crimes, - until the youngest child reaches the age of eight;

- when the immediate serving of punishment for the convict or his family members due to fire or other natural disasters, serious illness, death of the only able-bodied member of the family or other exceptional circumstances may cause serious consequences, - for the term determined by the court, but not more than six months

2. If it is not possible to pay the fine immediately for the convicted person, its payment can be extended for a period of up to six months or divided into periods.

3. The issue of postponing the execution of the sentence is decided by the court at the request of the convicted person, his legal representative, close relatives, defense counsel or at the proposal of the prosecutor.

Article 391. Exemption from serving punishment due to serious illness

1. If the convict suffered from a mental illness or other serious illness during the serving of the sentence, which interferes with the serving of the sentence, the court has the right to exclude the

convicted from further serving the sentence, based on the opinion of the medical commission, on the proposal of the head of the body that carries out the punishment. to release

2. The court has the right to apply coercive measures of a medical nature to the convicted person with a mental illness at the same time as releasing him from further punishment, or entrust him to the care of health authorities or close relatives.

3. When resolving the issue of release from further serving of punishment of persons suffering from a serious illness and it hinders the serving of punishment, in addition to those suffering from mental illness, the judge takes into account the gravity of the committed crime, the identity of the convicted person and other circumstances. .

4. The court, the judge has the right to release the convicted person from further punishment due to illness, not only from the main punishment, but also from the additional punishment.

Article 392. Conditional early release from serving the sentence

1. Conditional early release from serving the sentence in the cases provided for by Article 76 of the Criminal Code of the Republic of Tajikistan shall be applied by the local court where the convicted person is serving the sentence, at the joint proposal of the enforcement authorities and the supervisory commission (commission on the rights of the child). . In relation to those who are serving the sentence in the military disciplinary unit, such measures are applied by the court at the proposal of the command of the disciplinary unit.

2. Conditional early release from serving the sentence of persons who have committed a crime under the age of eighteen, in the cases provided for by Article 91 of the Criminal Code of the Republic of Tajikistan, is applied with the joint proposal of the enforcement authorities and the commission on the rights of the child or the supervisory commission.

3. If the court refuses conditional early release from serving the sentence, it is possible to reconsider the proposal on the same issue after three months from the day of issuing the decision on rejection.

4. As soon as the court applies conditional early release from serving the sentence, the court may impose the following obligations on the convicted person:

- not to change the place of residence without permission;
- not going to certain places;
- passing a course of treatment for alcoholism, drug addiction, toxicomania, or tuberculosis or genital diseases (*Law of the Republic of Tajikistan dated 23.11.2015 No. 1229*) ;
- providing material support to the family;
- performing other duties that contribute to his correction.

5. Control of the behavior of a person who has been conditionally released from punishment before the term of serving the sentence is entrusted to the authorized state bodies, and the behavior of military personnel is entrusted to the command of military units and institutions.

6. If the convicted person violates public order during the term of the suspended part of the sentence, for which an administrative penalty was imposed on him, or if he fails to fulfill the obligation imposed by the court during the conditional early release from serving the sentence. refuses, the court, upon the proposal of the authorities mentioned in part 5 of this article, makes a decision on the cancellation of the conditional early release from serving the sentence and the implementation of the suspended part of the sentence.

Article 393. Cancellation of conditional conviction

1. If before the expiration of the probationary period, the person sentenced to probation has proven that he has reformed his behavior, the court, upon the proposal of the authority that supervises the behavior of the probationer, can make a decision to cancel the probationary sentence and lift the criminal charges against the convicted person.

2. In the cases provided by part 7 of article 71 of the Criminal Code of the Republic of Tajikistan, the court, upon the proposal of the authorities mentioned in part 1 of this article, makes a decision to cancel the conditional conviction and send the convicted person to serve the punishment imposed in accordance with the sentence.

Article 394. Replacing the term of the punishment with a lighter punishment

1. According to Articles 77 and 92 of the Criminal Code of the Republic of Tajikistan, the court may change the part of the sentence to a lighter one according to his behavior during the sentence (*Law of the Republic of Tajikistan dated 21.07.2010 No. 618*).

2. The replacement of the part of the sentence that has not been served with a lighter punishment may be applied after the convicted person has actually served the term stipulated in part 3 of article 77 of the Criminal Code of the Republic of Tajikistan. In this case, the convict may be fully or partially released from additional punishment at the same time.

Article 395. Replacement of corrective actions and fines with other punishment measures

1. In case of serious refusal of the convicted person from correctional work, the court shall change it to restriction of liberty or deprivation of liberty within the time limits provided by part 3 of article 52 of the Criminal Code of the Republic of Tajikistan. Currently, the time during which the convict has worked is taken into account when determining the term of restriction of liberty or deprivation of liberty.

2. In case of serious refusal of the convicted person to pay the fine, the court replaces it with correctional works or restriction of freedom within the time limits provided by part 5 of article 49 of the Criminal Code of the Republic of Tajikistan, or with deprivation of liberty in accordance with the procedure provided for by part 9 of article 49 of the Criminal Code of the Republic of Tajikistan. can do (*Law of the Republic of Tajikistan dated 21.07.2010 No. 618*).

Article 396. Termination of coercive measures of a medical nature

Termination of coercive measures of a medical nature, which is accompanied by the serving of a sentence, is carried out by the court at the proposal of the enforcement body, based on the conclusion of the commission of psychiatrists or tuberculosis (*Law of the Republic of Tajikistan dated 23.11.2015 No. 1229*, *dated 23.07.2016 No. 1332*).

Article 397. Transfer of a convicted person from one type of correctional institution to another type of correctional institution

In the cases provided by part 5 of article 80 of the Criminal Code of the Republic of Tajikistan, the transfer of a convicted person from one type of correctional institution to another type of correctional institution is carried out by the court according to the application of the convicted person or at the suggestion of the head of the correctional institution.

Article 398. Calculation of the period spent in a treatment institution for the term of punishment

If a person who is serving a sentence of deprivation of liberty is placed in a treatment facility, the period of the convict's stay there is counted towards the term of serving the sentence.

Article 399. Execution of sentence in case of other unexecuted sentences

1. If the convicted person has several unexecuted sentences and the court that issued the last sentence has not resolved this issue, the court that issued the last sentence or the court of the same name in the place of execution of the sentence is obliged to apply the punishments to the convicted person according to all the mentioned sentences. make an appointment (decision) based on Article 68 of the Criminal Code of the Republic of Tajikistan.

2. If the total term of punishment is more than five years of imprisonment, the issue will be considered by the collective panel of the court.

Article 400. Courts that resolve issues related to the execution of the sentence

1. Issues of postponing the execution of the sentence in accordance with Article 390 of this Code, on release from serving the sentence due to the expiration of the term of the indictment in accordance with Article 81 of the Criminal Code of the Republic of Tajikistan and part 3 of Article 386 of this Code, on the replacement of restriction of liberty and fines with other punishment measures in accordance with articles 49, 54 of the Criminal Code of the Republic of Tajikistan and article 395 of this Code, as well as all suspicions and ambiguities that arise during the execution of the sentence will be resolved by the court that issued the sentence.

2. If the sentence is executed outside the jurisdiction of the court that issued the sentence, these issues will be resolved by the court of the same name, and if there is no court of the same name in the district where the sentence is executed, by the higher court. In this case, a copy of the decision to execute the sentence is sent to the court that issued the sentence.

3. Issues of release from serving a sentence due to serious illness in accordance with Articles 79 of the Criminal Code of the Republic of Tajikistan and 391 of this Code, regarding conditional early release from serving a sentence in accordance with Articles 76 of the Criminal Code of the Republic of Tajikistan and 392 of this Code, regarding the replacement of part non-served punishment with a lighter punishment - in accordance with articles 77 of the Criminal Code of the Republic of Tajikistan and 394 of this Code, on the termination of the implementation of coercive measures of a medical nature attached to serving the sentence - in accordance with articles 100 of the Criminal Code of the Republic of Tajikistan and 396 of this Code, on transfer from one type of correctional institution to another type of correctional institution in accordance with the relevant articles of the Criminal Code of the Republic of Tajikistan and Article 397 of this Code shall be decided by the district court of the place of punishment, regardless of which court issued the sentence.

4. Issues of conditional cancellation of non-application of punishment - in accordance with articles 71 of the Criminal Code of the Republic of Tajikistan and 393 of this Code, on conditional early release from serving a sentence - in accordance with articles 76 of the Criminal Code of the Republic of Tajikistan and 392 of this Code by the local district court The life of the convicts will be resolved.

Article 401. Procedure for solving issues related to the execution of the sentence

1. The application of coercive measures of a medical nature with exemption from punishment in the cases provided for in part 2 of article 391 of this Code shall be carried out collectively by the court. All other issues related to the execution of the sentence are decided by the judge in the court session alone.

2. The prosecutor and the convicted person will be informed about the time of consideration of the issue related to the execution of the sentence. The court, the judge, decides the issue of summoning the convict who is kept in custody. If the matter is related to the execution of the judgment in the part of the civil claim, the civil claimant is called. The non-appearance of the mentioned persons does not prevent the consideration of the case.

3. During the consideration by the court of issues of parole, early release from serving the sentence, replacement of the unserved part of the sentence with a lighter punishment, regarding the transfer of the convict from one type of correctional institution to another type of correctional institution, the representative of the punishment enforcement body is invited.

4. Proposals on the issues provided for in part 3 of this article will be considered within one month from the date of their receipt (*Law of the Republic of Tajikistan dated 24.12.2022 No. 1927*).

5. In cases where the case is considered by the court at the joint proposal of the law enforcement authorities, the commission on the rights of the child, or the supervisory commission,

or at the request of the law enforcement authorities agreed with these commissions, the judge shall inform these authorities of the time and place report the review of the proposal.

6. During the consideration by the court of the issue of canceling the conditionally non-applicability of punishment to the convicted person, the representatives of the authorities that control the behavior of the convicted person are invited to the court meeting.

7. The hearing of the case begins with the report of the judge (or the chairman in the case of a joint hearing), and then the statements of the persons present at the meeting are heard.

8. According to the results of the consideration of the issue related to the execution of the sentence, the court issues an appointment and a decision, which must be announced in the court meeting hall. A copy of the order (decision) will be sent within five days to the convicted person, the prosecutor, the authorities that submitted the issue related to the execution of the sentence, as well as to the civil claimant, provided that the issue of the execution of the sentence is related to a civil claim. (*Law of the Republic of Tajikistan dated 24.12.2022 No. 1927*).

Article 402. Consideration of a request to withdraw a judicial complaint

1. The issue of judicial review in accordance with part 6 of article 84 of the Criminal Code of the Republic of Tajikistan shall be resolved by the district or city court of the place of residence of the person who served the sentence at his request.

2. It is mandatory for the person against whom the request to withdraw the legal complaint is being considered to be present in the court.

3. The review of the request to withdraw the judicial complaint begins with the judge's report, then he listens to the statements of the invited persons.

4. In the case of refusal to raise a legal complaint, a repeated request can be submitted to the court no earlier than one year after the date of the decision to refuse it.

SECTION X. REVIEW OF FINAL JUDGMENTS, APPOINTMENTS AND DECISIONS (SUPERIOR ADVANCEMENT)

CHAPTER 42. PROCEEDINGS IN THE SUPERVISORY COURT

Article 403. Objecting or filing a complaint in a supervisory manner against a sentence, order, decision of the court that has become legally valid

1. Objection or complaint about the re-examination of the sentence, order and decision of the court that have become legally valid, except for the decisions of the Supreme Court of the Republic of Tajikistan, to the supervisory court by the prosecutor, convicted, acquitted, defenders and their representatives, the victim, the civil plaintiff, the civil defendant or their legal representatives, as well as other persons whose property rights and interests have been violated by the judgment, will be presented in accordance with the provisions of this chapter (*Law of the Republic of Tajikistan dated 28.12.2012 No. 932*).

2. The Prosecutor General of the Republic of Tajikistan, his deputies, the Chief Military Prosecutor, the prosecutor of Badakhshan Mountainous Autonomous Province, regions, the city of Dushanbe, the prosecutor of transport of Tajikistan may object to court documents that have become legally valid, in accordance with the requirements of part 2 of article 404 of this Code.

3. The chairman of the Supreme Court of the Republic of Tajikistan, in order to ensure uniform judicial experience, has the right to directly appeal to the supervisory court for reconsideration of the legally valid acts of the court in a supervisory manner.

4. The person who protested or complained has the right to withdraw it. Withdrawal of objection or appeal is possible before the beginning of the court session where the objection or appeal is to be considered. The higher prosecutor has the right to withdraw the protest brought by the lower prosecutor (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

Article 404. The procedure for submitting a control protest or appeal

1. Objection or supervisory complaint is submitted directly to the supervisory court, which has the right to review the legal acts that have become legally valid.

2. Objection or supervisory appeal is submitted to the following judicial documents:

- on the appointment of the court of cassation stage of the Badakhshan Mountainous Autonomous Region court, regional courts, Dushanbe city court, on judgments, appointments and legally binding decisions of the city and district courts, according to the presidency of the Badakhshan Mountainous Autonomous Region court, regional courts, Dushanbe city court;

- on the sentence, order or decision of the courts of subordinate cities and districts of the republic, on the sentence, order or decision of the Badakhshan Mountainous Autonomous Region court, regional courts and Dushanbe city court, which have accepted as the court of first instance, on the condition that this sentence, order or decision has not been subject to cassation review in the Supreme Court of the Republic of Tajikistan, on the decision of the chairmanship of the Badakhshan Mountain Autonomous Region Court, regional courts and Dushanbe city court, on the legally valid sentence, order or decision found by the Supreme Court of the Republic of Tajikistan, provided that they have not been reviewed by way of cassation, to the judicial collegium on criminal cases of the Supreme Court of the Republic of Tajikistan;

- to the military collegium of the Supreme Court of the Republic of Tajikistan regarding judgments, appointments and legally binding decisions of military courts of garrisons;

- on the appointment of the judicial collegium on criminal cases of the Supreme Court of the Republic of Tajikistan, on the appointment of the military collegium of the Supreme Court of the Republic of Tajikistan - to the chairmanship of the Supreme Court of the Republic of Tajikistan.

Article 405. Period of review of judgment, appointment and decision of the court by way of supervision

Supervisory review of the indictment, order and decision of the court based on the need to apply the law on a more serious crime, leniency of the punishment or on other grounds that worsen the situation of the convicted person, as well as review of the acquittal or order, the decision of the court to stop the criminal proceedings is possible within one year from the date of their legal effect (*Law of the Republic of Tajikistan No. 755 dated 2.08.2011*).

Article 406. Content of protest or control complaint

1. The control protest or complaint must include the following information:

- the name of the court to which the complaint or control objection is sent;

- the name, father's name and surname of the person who submitted a complaint or control objection, place of residence or place of stay and his/her procedural position in the case (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);

- mention of the courts that considered the case as a court of first instance or a cassation or control stage and the content of the judicial acts adopted by them;

- mention of judicial documents that are subject to protest or control appeal;

- reference to the violation of the law during the proceedings;

- the request of the person who filed a protest or complaint.

2. If the control objection or appeal was previously submitted to the control stage, it should refer to the decision made by the court.

3. The supervisory complaint must be signed by the person who submitted it or his representative. A power of attorney or other document confirming the authority of the representative is attached to the control complaint submitted by the representative. The supervisory objection must be signed by the prosecutor who submitted the objection.

4. A copy of the documents adopted by the court and other procedural documents confirming the facts stated in the complaint or objection shall be attached to the objection or supervisory complaint (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

5. The additional material presented should not have been obtained by conducting investigative actions.

Article 407. Returning objection or control complaint without consideration

The objection or control appeal will be returned by the judge within one month from the date of entry to the court of control stage without consideration in the following cases:

- the objection or complaint does not meet the requirements stipulated in Article 406 of this Code;
- the objection or complaint was submitted by a person who does not have the right to appeal to the supervisory court;
- the deadline for submitting an objection or complaint against court documents has been passed by the control procedure;
- a request for their return or withdrawal has been submitted before accepting the objection or complaint for its substantive consideration;
- objection or complaint has been submitted contrary to the procedure established by Article 404 of this Code.

Article 408. Actions on objection or submitted control appeal

1. After entering the relevant court, the opposition or control complaint is submitted by the Chairman or his deputy to the judge of this court for consideration. Objection or supervisory appeal must be considered within 30 days.

2. The judge who examines the complaint or protest requests the relevant criminal cases from the lower courts.

3. The judge examines the control objection or complaint and makes one of the following decisions:

- about the dissatisfaction of the objection or control complaint;
- on the initiation of supervisory proceedings and the submission of objections or supervisory appeals to the consideration of the judicial supervisory stage.

4. The judge's decision should include the following information:

- date and place of decision making;
- name of the court, surname, name and father's name of the judge who made the decision (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*) ;
- surname, first name and father's name of the person who submitted a complaint or control objection (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*) ;
- referring to the judicial documents that have been appealed and protested;
- decision-making bases.

5. The chairman of the Supreme Court of the Republic of Tajikistan and his deputies, the chairmen of the Badakhshan Mountain Autonomous Region court, the regional courts and the Dushanbe city court have the right to disagree with the judge's decision to dismiss the protest or control appeal. In this case, the mentioned persons cancel the judge's decision and issue a decision in accordance with the second paragraph of part 3 of this article. The objection of the Prosecutor General of the Republic of Tajikistan and the Chairman of the Supreme Court of the Republic of Tajikistan will be considered directly in the supervisory court (*Law of the Republic of Tajikistan dated 19.07.2022 No. 1900*).

6. The decision is attached to the criminal case, and a copy of it is sent to the protesting and complaining person (*Law of the Republic of Tajikistan dated 27.11.2014 No. 1134*).

Article 409. Requesting a criminal case

1. The Prosecutor General of the Republic of Tajikistan, his deputies, the prosecutor of Badakhshan Mountainous Autonomous Region, regions, the city of Dushanbe, the prosecutor of transport of Tajikistan, the Chief Military Prosecutor may review the criminal case, on which the judicial act adopted has become legally valid, for the purpose of studying the justification of court decisions from request the relevant court (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*).

2. City and district prosecutors and prosecutors equivalent to them have the right to request criminal cases from city and district courts, military courts of garrisons, and, in necessary cases, submit objections to the higher prosecutor in order to bring them under control.

Article 410. Composition and procedure for consideration of a criminal case based on objection or complaint

1. The case will be considered in a supervisory manner in the collegiums of the Supreme Court of the Republic of Tajikistan in the composition of three judges, in the presidium of the Badakhshan Mountain Autonomous Region Court, the regions, Dushanbe city court and the Supreme Court of the Republic of Tajikistan in the composition of at least two-thirds of the members of the board.

2. The following take part in the review of the criminal case in a supervisory manner:

- in the Department of the Supreme Court of the Republic of Tajikistan - the Prosecutor General of the Republic of Tajikistan or his deputies;

- in the Judicial Collegium on criminal cases of the Supreme Court of the Republic of Tajikistan - a prosecutor authorized by the Prosecutor General of the Republic of Tajikistan;

- in the Military Collegium of the Supreme Court of the Republic of Tajikistan - the Chief Military Prosecutor of the Republic of Tajikistan or a prosecutor authorized by the Chief Military Prosecutor of the Republic of Tajikistan (*Law of the Republic of Tajikistan No. 755 of 2.08.2011*);

- in the presidium of the courts of the Badakhshan Mountainous Autonomous Region, regional and Dushanbe city courts - respectively, the prosecutor of the Badakhshan Mountainous Autonomous Region, regions, Dushanbe city, the transport prosecutor of Tajikistan or their deputies;

3. The court that examines the criminal case in a supervisory manner has the right, or if it deems it necessary, to invite the convicted person to the court meeting.

4. The criminal case must be reviewed within a period of no later than one month from the moment of submission to the supervisory court.

5. In necessary cases, the convicted, acquitted, their defenders, legal representatives, victims, civil plaintiffs, their representatives are invited to the court meeting, where the criminal case is considered in a supervised manner. The persons invited to the court meeting will be given the opportunity to familiarize themselves with the objection.

6. The criminal case is presented by the chairman of the court or by his order, one of the members of the board or a judge who has not previously participated in the consideration of this case. The speaker describes the circumstances of the case, the content of the verdict, order, decision, protest or complaint. The speaker may be asked questions by the judges considering the case, as well as by the prosecutor. The participants in the court proceedings have the right to express their opinion regarding the control complaint after the judge's report (*Law of the Republic of Tajikistan dated 29.01.2021 No. 1755*).

7. After the speech of the speaker, the parties will hear the conclusion of the prosecutor on the protest or control appeal, and then leave the court meeting hall.

8. Only the members of the courts of Badakhshan Mountain Autonomous Region, regions, Dushanbe City Court, and the Supreme Court of the Republic of Tajikistan participate in the hearing of the protest or complaint. Boards of the Badakhshan Mountainous Autonomous Region court, regional courts, Dushanbe city court and the Board of the Supreme Court of the Republic of Tajikistan issue decisions, which are adopted by two-thirds of the votes of the members of the board who participated in the meeting. When the votes for and against are equal, the protest or appeal is considered and rejected in the Department of the Court of Badakhshan Mountainous Autonomous Region, regional courts, Dushanbe city court and the Department of the Supreme Court of the Republic of Tajikistan.

9. The judicial collegium on criminal cases and the military collegium of the Supreme Court of the Republic of Tajikistan issue an appointment in the consultation room, and it is accepted by a majority of votes.

10. The final part of the issued order will be announced at the court meeting by the presiding judge or one of the judges.

Article 411. Appointment and decision of the court that considers the protest or appeal

1. The court may:

- reject objection or complaint;
- to cancel the sentence and all subsequent orders and decisions and stop the proceeding of the case or send it to a new investigation or for a new judicial review;
- cancel the cassation order, as well as subsequent orders and decisions of the court, if they have been issued, and send the case for re-consideration by cassation;
- to annul the orders and decisions issued by means of control and to leave the court verdict and cassation orders unchanged or to change them;
- to make changes to the sentence, order or decision of the court.

2. The court, which examines the case in a supervisory manner, issues a private order (decision) when there are grounds provided for in Article 35 of this Code.

Article 412. Grounds for annulment or change of judgments, decrees and legally valid decisions of the court

1. During the review of the case in a supervisory manner, the circumstances specified in Article 372 of this Code may be grounds for annulment or change of sentence.

2. The appointment of the court of first instance, the judge's decision, the appointment of the court of cassation, the appointment and the decision of the control stage must be annulled in cases where the court reviewing the objection recognizes that with this appointment or decision of the court of first instance it has issued an illegal or unreasonable decision, or the superior court has unreasonably left unchanged, annulled or changed the appointment, decision or sentence that existed before on the same case, or if during the consideration of the case in the superior court such violations of the law have occurred that they are not correct affected or could be affected by the order or decision issued by this court.

Article 413. Limitation of the rights of the supervisory court

1. The court does not depend on the aspects of the objection or complaint during the supervisory review of the case and is obliged to examine all the materials of the case in their entirety. If, according to the case, several people have been convicted, but an objection or complaint has been made against only one person or some of the convicted, the court is obliged to examine the case against all the convicted.

2. During the supervisory review of the case, the court may reduce the punishment imposed on the convicted person or apply the law on a lesser crime, change the system of serving the punishment, take into account the actual beginning of the term of serving the punishment and other

issues to decide another related to changing the sentence, but has no right to increase the punishment or apply the law on a more serious crime.

3. If the supervisory court recognizes that the defendant was wrongly acquitted in the court of first instance or the criminal case was terminated wrongly in the court of cassation, the punishment imposed on the convicted person is also incompatible with the committed act due to its lightness. , in that case, has the right to cancel the sentence or order in compliance with the conditions established in Article 378 of this Code and refer the criminal case to the court of first instance or to the cassation stage for a new consideration.

4. If an unjustified termination of the criminal case or an illegal reduction of the sentence of the convicted person occurred during the supervisory review of the case, the higher supervisory stage has the right to cancel the appointment or the decision of the lower supervisory stage and the judgment of the court of first instance or the appointment of the lower stage of supervision. does not change the cassation. 5. In cases where several defendants have been convicted or acquitted in the case, the court does not have the right to cancel the sentence, order or decision in respect of those convicted or acquitted persons against whom no objection has been raised, provided that that the annulment of the sentence, appointment or decision worsens their situation.

Article 414. Obligation of the instructions of the court that reviewed the case in a supervisory manner

1. The instructions of the supervisory court are mandatory for the lower courts during the re-examination of this case.

2. The court, which examines the case in a supervisory manner, does not have the right to determine the circumstances that were not specified in the verdict or that were rejected, or that they are considered proven, and it also does not have the right to determine the issues of proven or unproven guilt, validity or the invalidity of this or that evidence and the superiority of some evidence over others, the application of this or that criminal law by the first-instance court, and the issue of punitive measures.

3. Also, when the court examines the case in a supervisory manner and cancels the cassation order, it has no right to predict the conclusions that the cassation stage may make during the second consideration of the case.

Article 415. Content of appointment or decision

1. The decision made by the Department of the Supreme Court of the Republic of Tajikistan, the Department of the Court of Badakhshan Mountain Autonomous Region, regional courts, the court of Dushanbe city, or the decision made by the judicial collegium on criminal cases or the military collegium of the Supreme Court of the Republic of Tajikistan control should be in accordance with the requirements of Article 383 of this Code.

2. The appointment is signed by all members of the court, the decision is signed by the chairman of the meeting of the Board.

3. The appointment or decision of the court shall be attached to the case together with the protest or appeal.

Article 416. Review of the case after the annulment of the first judgment or decision of the court of cassation

1. After the annulment of the first sentence or the decision of the court of cassation, the criminal case shall be considered according to the general procedure.

2. Aggravation of the punishment or self-imposition of the law on a more serious crime during the re-examination of the case by the court of first instance is possible only if the sentence is controlled by way of lightness of the punishment or due to the necessity of application of the law on the crime more seriously canceled.

CHAPTER 43. RESUME OF CRIMINAL PROCEDURE DUE TO NEWLY DISCOVERED CIRCUMSTANCES

Article 417. Grounds for restarting criminal proceedings

1. The sentence, court order and judge's decision, which have become legally valid, can be canceled and the promotion of the case can be restarted due to newly discovered circumstances.

2. Grounds for resumption of promotion in the criminal case due to newly discovered circumstances include:

- deliberately false testimony of the victim or witness, expert's opinion, as well as falsification of physical evidence, protocols of investigation and court proceedings and other documents, or deliberately false translation, which led to the adoption of an illegal or groundless sentence, appointment or decision, and with a valid sentence legally established by the court;

- criminal actions of the investigator, investigator or prosecutor, which led to the adoption of an illegal and unjustified sentence, appointment or decision, and were established by a legally valid judgment of the court;

- criminal acts of judges committed during the consideration of this case and established by a legally valid sentence of the court;

- recognition by the constitutional court of the law that was applied by the court during the consideration of a specific criminal case against the Constitution of the Republic of Tajikistan (Law of the Republic of Tajikistan [No. 755 dated 2.08.2011](#) , [No. 1381 dated 24.02.2017](#)) ;

- other circumstances that are brought to the court during the sentencing, determination, which by itself or in combination with the previously established circumstances about the innocence of the convicted person or about the fact that he committed a crime of a more serious degree than the crime for which he was convicted, and or they testify about the guilt of the acquitted person or the person against whom the proceedings have been terminated, and they are established as a result of the inspection and investigation in accordance with the procedure provided for by Article 419 of this Code and stated in the conclusion of the prosecutor.

3. The cases mentioned in the first - third paragraphs of part 2 of this article can be, in addition to the sentence, a court order by the decision of a judge, prosecutor, investigator or investigator on the termination of the criminal case due to the expiration of the term, due to the application of the act of amnesty or remission of punishment, due to the death of the accused or his lack of age to be charged.

Article 418. Deadlines for restarting promotion

1. The re-examination of the indictment sentence due to newly discovered circumstances in favor of the convicted person shall not be limited by any time limit.

2. The death of the condemned does not prevent the resumption of the trial due to newly discovered circumstances for the purpose of his acquittal.

3. Reconsideration of the acquittal sentence, appointment, decision to close the case, as well as revision of the indictment sentence due to the lightness of the punishment or the need to apply the law on a more serious crime to the convicted person only during the term of criminal prosecution, which are established in Article 75 of the Criminal Code of the Republic of Tajikistan and no later than one year from the date of discovery of new cases.

4. The day of discovery of new cases is calculated:

- the date of entry into legal effect of the decision of the Constitutional Court of the Republic of Tajikistan regarding recognition of the violation of the Constitution of the Republic of Tajikistan, which was applied by the court during the consideration of a specific criminal case (Law of the Republic of Tajikistan [No. 755 dated 2.08.2011](#) , [No. 1381 dated 24.02.2017](#)) ;

- in the cases provided for by the first-third paragraphs of part 2 of article 417 of this Code, the date of legal effect of the judgment (appointment, decision) against the persons involved in

giving false testimony, presenting false evidence, wrong translation or criminal acts committed during the investigation or review the case has been committed, they are guilty;

- in the case provided for by the fourth paragraph of part 2 of article 417 of this Code, the day the prosecutor signs the conclusion of the resumption of the promotion due to newly discovered circumstances.

Article 419. Resumption of promotion

1. The prosecutor has the right to restart the prosecution due to the discovery of new circumstances, except for the case provided for in part 5 of this article.

2. Petitions of citizens, reports of officials of institutions, organizations and enterprises, as well as information revealed during the investigation and consideration of other criminal cases become the reasons for resuming the promotion due to the discovery of new circumstances.

3. If there is a reference to the existence of a court verdict in the application or information received, which was issued in connection with the circumstances mentioned in the first-third paragraphs of part 2 of Article 417 of this Code, the prosecutor shall restart the proceedings by his own decision due to the newly discovered circumstances. , conducts an appropriate inspection and requests a copy of the judgment and a court certificate on its legal validity.

4. If in the application or report, other circumstances are mentioned in the fourth paragraph of part 2 of Article 417 of this Code, the prosecutor, within his competence, makes a decision to resume the promotion due to the newly discovered circumstances and investigates these circumstances or, in this regard, to the investigator gives an order. During such investigation of newly discovered cases, in accordance with the rules of this Code, inquiries, examinations, examinations, finding of objects and other investigative actions may be carried out.

5. Re-examination of the sentence, order or decision of the court due to the revealed circumstances of the fourth paragraph of part 1 of article 421 of this Code at the proposal of the Chairman of the Supreme Court of the Republic of Tajikistan by the Department of the Supreme Court of the Republic of Tajikistan within a period not later than one month from the moment of receipt of the proposal will be discussed.

Article 420. Actions of the prosecutor after the investigation or investigation

1. After the completion of the investigation or investigation of the newly discovered cases, if there are grounds for restarting the case, the prosecutor shall close the case with his conclusion, a copy of the sentence in the cases provided for by the first-third paragraphs of part 2 of article 417 of this Code and the material the investigation is sent to the relevant court and based on Part 1 of Article 417 of this Code.

2. If there are no grounds for restarting the case, the prosecutor will terminate the case-based prosecution by his reasoned decision due to the newly discovered circumstances.

3. The decision on termination of the promotion is communicated to the interested parties and it is explained that they have the right to appeal the decision to the court, and the court has the authority to resume the promotion in this case due to new circumstances in accordance with Article 413 of this Code. to solve the revealed.

Article 421. Decision by the court on the issue of restarting the promotion of the case

1. The proposal of the Chairman of the Supreme Court of the Republic of Tajikistan or the conclusion of the prosecutor on the need to restart the case due to newly discovered circumstances shall be considered in the following manner:

- about the sentence, appointment and decision of the district (city) court by the court of Badakhshan Mountain Autonomous Region, regional and Dushanbe courts;

- on the verdict, appointment and decision of the Badakhshan Mountainous Autonomous Region court, regional courts, Dushanbe city court, courts of subordinate cities and districts of the

republic by the Judicial Collegium on criminal cases of the Supreme Court of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);

- on the sentence, appointment and decision of the Military Courts of Garrisons by the Military Collegium of the Supreme Court of the Republic of Tajikistan;

- about the verdict, orders issued at the first stage and decisions of the Supreme Court of the Republic of Tajikistan by the Department of the Supreme Court of the Republic of Tajikistan.

2. The previous consideration of the criminal case by way of cassation or supervision does not prevent its consideration at the same judicial stage in order to resume the promotion due to newly discovered circumstances.

3. The proposal of the Chairman of the Supreme Court of the Republic of Tajikistan or the conclusion of the prosecutor on resuming the promotion of the case due to newly discovered circumstances will be considered at the court meeting in accordance with the rules established by Article 410 of this Code.

Article 422. Appointment (decision) of the court that considers the proposal of the chairman of the Supreme Court of the Republic of Tajikistan or the opinion of the prosecutor

The court will consider the proposal of the Chairman of the Supreme Court of the Republic of Tajikistan or the conclusion of the prosecutor on resuming the promotion of the case due to the newly discovered circumstances and issue one of the following orders:

- regarding the annulment of the sentence, court order or judge's decision and sending the case for conducting an additional investigation and investigation or a new trial;

- on the annulment of the verdict, order or decision of the court and on the termination of the case, when additional research and investigation or a new trial is not required to make a final decision on the case;

- regarding rejection of the proposal of the Chairman of the Supreme Court of the Republic of Tajikistan or the opinion of the prosecutor.

Article 423. Proceeding of the case after annulment of court decisions

Conducting investigations and court proceedings on the case after annulment of court decisions on it due to newly discovered circumstances, as well as appeals against newly issued court decisions or objections to them are carried out in the general procedure.

CHAPTER XI. CHARACTERISTICS OF PROCEEDING CRIMINAL CASES OF CERTAIN CATEGORIES

CHAPTER 44. PROCEDURE FOR THE PROCEDURE OF CASES REGARDING JUVENILE CRIMES

Article 424. Proceedings of cases on juvenile crimes

1. The provisions of this chapter apply to the case related to a person who has not reached the age of eighteen at the time of committing a crime.

2. The procedure for conducting cases on crimes committed by minors is determined by the general rules of this Code, as well as taking into account the articles of this chapter.

Article 425. Circumstances to be established

When conducting a preliminary investigation and court proceedings in criminal cases against minors, along with proving the circumstances mentioned in Article 85 of this Code, it is necessary to determine:

- minor's age (date, month, year of birth);
- conditions of life and education, level of mental development, will and spirit, character and client, demand and interest and other situations provided for in Article 25 of the Criminal Code of the Republic of Tajikistan (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);
- influence of adults and other minors.

Article 426. Separation of a criminal case against a minor

The case against a minor who participated in the commission of a crime together with an adult is separated into a separate investigation at the preliminary investigation stage. If the separate investigation of a case against a minor can create a serious obstacle to a comprehensive and objective investigation of the circumstances of the case, the rules of this chapter should be applied to the accused minor who is prosecuted in the same case as an adult.

Article 427. Application of prevention and arrest measures against the suspect, accused, minor defendant

1. During the implementation of preventive measures against minors, in each case, the possibility of choosing a preventive measure provided for in Article 108 of this Code should be discussed.

2. Arresting the suspect, the accused, as well as arresting him as a preventive measure in the presence of the grounds mentioned in Articles 92, 93, 101, 111 of this Code can be applied only in exceptional cases when committing a serious and especially serious crime.

3. The term of detention of the minor accused as a preventive measure during the preliminary investigation period can be extended for up to six months in accordance with the procedure established by Article 112 of this Code.

4. His legal representatives shall be notified of the arrest, arrest or extension of the term of detention of the minor defendant.

Article 428. Procedure for summoning the suspect, the accused and the minor defendant

A minor suspect, accused or defendant who is not in custody is summoned to the investigator or to the court through his parents or other legal representatives, and if the minor is in a special institution for children, through the administration of this institution.

Article 429. Interrogation of a suspect, a minor accused

The questioning of a suspect, a minor accused, cannot last more than two hours in one day without a break, and more than four hours in total.

Article 430. Participation of a teacher and a psychologist (psychologist)

1. During the questioning of the suspect, the accused who has not reached the age of sixteen, who has also reached this age and is considered mentally retarded, the participation of a teacher and a psychologist is mandatory. A teacher or a psychologist participates in the questioning of a suspect, an accused older than sixteen years of age at the discretion of the investigator, prosecutor or at the request of the defense attorney.

2. With the permission of the investigator, the teacher and the psychologist have the right to ask questions to the suspect, the accused, and after the end of the interrogation, get acquainted with the protocol of the interrogation and write their comments on the correctness and completeness of its records. The investigator explains this right to the teacher or psychologist before questioning the minor. This will be recorded in the survey protocol.

3. The participation of a teacher or a psychologist during the questioning of a minor defendant in court is determined by the rules of parts 1 and 2 of this article.

Article 431. Participation of the legal representative of the suspect, the minor defendant in the preliminary investigation

1. The legal representative is allowed to participate in the case by the decision of the investigator from the moment of the first questioning of the suspect, the minor defendant. When allowing the legal representative to participate in the case, the right in part 2 of this article is explained.

2. The legal representative has the right to:

- to know what crime the minor is suspected or accused of;
- to be present during the announcement of the charge, during the questioning of the minor, and with the permission of the investigator, to participate in other investigative activities that take place with the participation of the suspect, the accused minor and his defense attorney;
- get acquainted with the protocol of the investigative actions in which he participated and write his comments on the correctness and completeness of those records;
- request and refuse;
- submit a complaint on the actions and decisions of the investigator and prosecutor;
- provide evidence;
- after the investigation, get acquainted with all the materials of the case, write any information from it to the desired extent.

3. After the investigation, the investigator has the right to decide not to provide the minor with material that could have a negative impact on him, and introduce the minor's legal representative with this material.

4. If there are reasons that the participation of the legal representative harms the interests of the minor or prevents the impartial investigation of the case, the legal representative shall be excluded from participating in the proceedings. The investigator makes a reasoned decision in this regard. Another legal representative of the minor may be allowed to participate in the case.

Article 432. Termination of a criminal case with the use of coercive measures of an educational nature

1. If during the preliminary investigation of a case of a minor or medium crime, it is established that the minor has committed this crime for the first time and it is possible to correct him without bringing him to criminal responsibility, the prosecutor, as well as the investigator with the consent of the prosecutor, have the right to terminate the case against the minor by applying coercive measures of an educational nature provided for in part 2 of article 89 of the Criminal Code of the Republic of Tajikistan. Such a decision can be made only if the accused minor and his legal representative agree to it. A copy of the decision on termination of the case against a minor with the implementation of the mentioned measures is sent to the commission on the rights of the child.

2. In the event that the minor does not regularly fulfill the requirements stipulated by the coercive measures of an educational nature assigned to him, the prosecutor shall cancel the decision on the termination of the case upon the proposal of the commission on the rights of the child, and after the end of the investigation in accordance with the rules General will be sent to the court with the idea of indictment. Such a decision can be issued up to one year from the date of the decision to close the case.

Article 433. Participation of the legal representative of the minor defendant in the court hearing

1. The legal representatives of the minor defendant must be invited to the court meeting. They have the right to participate in the investigation of facts in the judicial investigation, to testify, to present evidence, to express requests and objections, to complain about the actions and decisions of the court, to participate in the meeting of the court that considers the case in the cassation procedure, and to file complaints. explain themselves. This right should be explained to them in

the preparatory part of the court proceedings. Legal representatives are present in the courtroom during the entire court proceedings. With the consent of the legal representatives, the court can question them as witnesses.

2. The legal representative may be removed from participation in the court proceedings by a reasonable order (decision) of the court, the judge, if there is a reason that his actions harm the interests of the minor defendant or create an obstacle for the impartial consideration of the case. In this case, another legal representative of the minor defendant is admitted to the court proceedings.

3. The failure of the legal representative of the minor defendant to appear, unless the court deems his participation mandatory, does not lead to suspension of the proceedings.

4. If the legal representative of the minor defendant is involved in the case as a defender or a civil defendant, he will have the rights and obligations of the mentioned participants in the trial (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

Article 434. Expulsion of the minor defendant from the court meeting hall

1. At the request of the defender or legal representative or the proposal of the prosecutor, as well as on its own initiative, the court has the right, based on the opinions of the parties, to remove him from the court meeting hall during the investigation of circumstances that may have a negative impact on the minor defendant.

2. After bringing the minor back, the presiding officer informs him of the content of the actions that took place in his absence and allows the minor to ask questions to the persons questioned in his absence.

Article 435. Issues that the court resolves when passing a sentence against a minor defendant

1. When issuing a sentence against a minor defendant, the court, in addition to the issues mentioned in Article 335 of this Code, is obliged to consider the issue of conditional deprivation of liberty, the imposition of a punishment that is not related to deprivation of liberty, as well as exemption from punishment in the cases provided for by Article 90. Discuss the Criminal Code of the Republic of Tajikistan.

2. In cases of conditional deprivation of liberty, the imposition of a punishment measure that is not related to deprivation of liberty, placement in a special educational or therapeutic and educational institution, or the application of coercive measures of an educational nature, the court shall refer to the commission on the rights of the child in this regard. informs and controls the behavior of the convict.

Article 436. Exemption of a minor from criminal responsibility by applying coercive measures of an educational nature.

If during the review of the case on a minor or medium crime, it is recognized that the minor who committed this crime can be corrected without applying criminal punishment measures, the court has the right to close the case and apply coercive measures of an educational nature to the minor in accordance with Part 2 of Article 89 of the Criminal Code. apply the criminal code of the Republic of Tajikistan. A copy of the decision will be sent to the child rights commission and the prosecutor.

Article 437. Release of a minor from punishment by the court by sending him to a special educational or therapeutic and educational institution

1. If, during the consideration of the criminal case, it is determined that it is possible to correct a minor who has committed a minor or moderate crime for the first time by applying coercive measures of an educational or therapeutic nature, the court has the right to issue an inculpatory sentence and release him from serving the sentence. and send to one of the special educational or therapeutic and educational institutions.

2. A minor's stay in a special educational or treatment-educational institution may be terminated until reaching the age of majority, provided that due to the minor's correction, there is no need for the further implementation of these measures of influence. Extending the period of stay in special educational or medical and educational institutions after reaching the age of eighteen is allowed only until the completion of general education or professional training. The issue of terminating or extending the period of stay of a person in a special educational or therapeutic and educational institution is considered and decided only by the judge of the court that issued the sentence or the court of the place of residence of the convicted minor within ten days from the date of receipt of the proposal by the commission on the rights of the child. .

3. The convicted minor, his legal representative, defense attorney, prosecutor, and representative of the Commission on Children's Rights are invited to the court meeting. The non-appearance of these persons does not prevent the consideration of the case.

4. At the court meeting, the proposal of the commission on the rights of the child will be investigated and the opinions of the participants in the case will be heard (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

5. Based on the results of the case review, the judge makes a decision in the consultation room, which should be announced at the court meeting.

6. A copy of the decision is sent within five days to the legal representative of the convicted minor, the commission on the rights of the child, the prosecutor and the court that issued the sentence.

7. It is not possible to complain or object to the decision.

CHAPTER 45. ADVANCEMENT OF CASES REGARDING THE APPLICATION OF COMPULSORY MEASURES OF A MEDICAL CHARACTERISTICS

Article 438. Grounds for proceeding with cases regarding the implementation of coercive measures of a medical nature

1. Proceeding of cases on the implementation of coercive measures of a medical nature, provided for in part 1 of article 97 of the Criminal Code of the Republic of Tajikistan, against persons who have committed a dangerous public act in a state of indiscipline or suffered from a mental illness after committing a crime, who are appointed or makes execution of the punishment impossible.

2. Coercive measures of a medical nature are prescribed only in cases where the mental illness poses a risk to the person himself or to other persons, or there is a risk of serious harm caused by him.

3. Proceedings of cases on the implementation of coercive measures of a medical nature shall be carried out in accordance with the general rules of this Code and taking into account the provisions of this chapter.

Article 439. Circumstances that must be proven

When conducting a preliminary investigation, the following circumstances must be proven:

- time, place, manner and other circumstances of the committed act;
- the person has committed an act prohibited by the criminal law;
- the nature and extent of the damage caused as a result of the committed act;
- a person's behavior before committing a crime and after it;
- prior mental illness of the person, degree and nature of mental illness at the time of committing the crime and conducting preliminary investigation;
- the risk of mental illness for the person himself or others, or the risk of causing serious harm by him.

Article 440. Placing in a specialized institution for mental illnesses

1. When establishing the reality of mental illness of a person against whom detention has been applied as a preventive measure, on the basis of the request of the prosecutor, with the permission of the court, he will be transferred to a specialized institution suitable for the detention of detainees.

2. Placing a person who has not been arrested in a mental institution is allowed by the court.

Article 441. Separation of the criminal case

During the investigation of the criminal case of a group of persons, if it is established that one of them committed a crime in a state of recklessness or suffered from a mental illness after committing the crime, the criminal case against him is separated for a separate investigation.

Article 442. The right of a person against whom a case on the implementation of coercive measures of a medical nature is being conducted

A person against whom a case for the implementation of coercive measures of a medical nature is initiated, if, according to the conclusion of the forensic and psychiatric examination, the nature and severity of his illness does not prevent this, he can use the rights provided for in Article 47 of this Code.

Article 443. Participation of legal representative

1. The close relatives of the person against whom the case regarding the implementation of coercive measures of a medical nature is being carried out, by the decision of the investigator or prosecutor or the appointment of the court, is considered the legal representative of this person and is involved in the case.

2. The legal representative has the right to:

- to know that the person he represents is guilty of committing an act prohibited by the criminal law;

- express requests and objections;

- provide evidence;

- with the permission of the investigator, participate in the investigative actions conducted at his or the defense's request;

- get acquainted with the protocols of the investigative actions in which he participated and express his comments on the correctness and completeness of their records in writing;

- after the end of the preliminary investigation, get acquainted with all the materials of the case, write down any information from it;

- receive a copy of the decision to terminate the case or send the case to the court for the implementation of coercive measures of a medical nature;

- participate in court proceedings;

- to complain about the actions of the investigator, prosecutor and the court;

- file an appeal against the court order and receive a copy of the appealed decision;

- to know the complaints and objections brought about the case and to present his displeasure about them;

- participate in the judicial consideration of complaints and objections.

3. Explaining his rights to the legal representative is noted in the protocol.

Article 444. Participation of the defender

1. The participation of the defender in the proceedings of the application of coercive measures of a medical nature is mandatory from the moment of establishing the evidence of insanity or mental illness of the person who is being investigated, if the defender did not participate in the case earlier due to reasons.

2. The defender has the right to a face-to-face meeting with the defendant from the moment he joins the case, provided that the state of health of the defendant does not prevent this, he also has the right to use all other rights provided for in Article 53 of this Code (*Law of the Republic of Tajikistan dated 24.02.2017 No. 1381*).

Article 445. Completion of preliminary investigation

1. After completing the preliminary investigation, the investigator makes one of the following decisions:

- on the termination of the case - in the cases provided for by Article 27 and the second paragraph of Part 1 of Article 234 of this Code, as well as when mental illnesses are not dangerous to the person himself or other persons or do not have the possibility of causing serious harm;

- about sending the case to the court for implementation of coercive measures of a medical nature.

2. The investigator informs the person against whom a preliminary investigation has been conducted, provided that he is able to participate in investigative actions due to his mental state, his legal representative and defender, as well as the victim, on the termination of proceeding with the case or sending the case to court. . The investigator shall explain the right of the said participants of the proceedings to get acquainted with the case materials and inform where and when they can use this right. The order of familiarization with the case, applications and resolution of the request for completion of the investigation is determined on the basis of articles 240-243 of this Code (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

3. The decision to terminate the proceedings is issued in accordance with Article 235 of this Code.

4. The decision to refer the case to the court for the implementation of coercive measures of a medical nature states:

- the circumstances specified in Article 439 of this Code and the facts established in the case;
- grounds for the implementation of coercive measures of a medical nature;
- defense counsel and other persons who have disputed the grounds for the application of coercive measures of a medical nature, provided that they have been stated.

5. Appendices to the decision to send the case to court are drawn up according to the rules of Article 245 of this Code.

6. The investigator hands over the case to the prosecutor with a decision to send it to court, who studies the case and makes one of the following decisions:

- approves the investigator's decision and sends the case to the court;
- returns the case to the investigator for additional investigation;
- closes the case on the grounds mentioned in the first paragraph of part 1 of this article.

7. A copy of the decision to refer the case to the court for the implementation of coercive measures of a medical nature is handed over to the legal representative.

Article 446. Appointment of court meeting

After entering the court of the case regarding the implementation of coercive measures of a medical nature, the judge appoints its review at the court meeting in accordance with the rules provided by Chapter 31 of this Code.

Article 447. Judicial hearing

1. Consideration of the case on the implementation of coercive measures of a medical nature is carried out with the mandatory participation of the prosecutor and the defender.

2. The judicial investigation by the prosecutor begins with the statement of the evidence of the need to apply coercive measures of a medical nature to a person who is considered mentally ill or mentally ill. The verification of evidence and arguments of the parties is carried out according to the rules provided for in this Code.

Article 448. Issues to be resolved by the court when making a decision on the case

1. During the court proceedings, the following issues should be investigated and resolved:

- whether there was an act provided for by the criminal law;
- whether the person against whom the case is being considered committed the act;
- whether the person, against whom the case is being considered, committed the act in a state of unconsciousness;
- whether this person suffered from a mental illness after committing the crime, which makes it impossible to impose or execute the punishment;
- whether a person's mental illness is a danger to him or other people, or there is a possibility of inflicting other serious harm on them;
- whether it is necessary to apply a coercive measure of a medical nature and exactly which of them.

2. The court also resolves the issues mentioned in the tenth, eleventh and thirteenth paragraphs of part 1 of article 335 of this Code.

Article 449. Court decision

1. The court recognizes that the crime was committed by this person in a state of unconsciousness or that this person suffered from a mental illness after committing the crime, which made it impossible to impose or execute the punishment, in accordance with Articles 24 and 98 of the Criminal Code of the Republic of Tajikistan to release this person from criminal responsibility or from punishment, and to apply compulsory measures of a medical nature to him, and what kind of measures to take.

2. If the person mentioned in part 1 of this article is not dangerous according to his mental state, or if he has committed a minor act, the court shall issue a decision to stop the proceedings and not to apply coercive measures of a medical nature.

3. If the court admits that the participation of this person in the commission of the act has not been proven, as well as in the case of establishing the circumstances provided for in Articles 27 and 28 of this Code, the court shall terminate the proceedings on the grounds established by it, regardless of determines the existence of a disease or the nature of a person's disease.

4. In the case of termination of the case on the grounds mentioned in parts 2 and 3 of this article, a copy of the court's decision within five days to the health authorities to resolve the issue of treatment or to send the persons in need of psychiatric help to a psychiatric institution of social welfare. is sent.

5. If it is proven that the mental illness of the person against whom the case is being considered has not been established or the illness of the person who committed the crime does not prevent the application of punishment measures against him, the court by its decision will return the case for additional investigation. .

6. In the decision of the court, the issues mentioned in Article 347 of this Code are resolved.

Article 450. Appeals and objections to court orders

The defense counsel, the victim and his representative, the legal representative or the close relative of the person against whom the case was considered can appeal against the decision of

the court, as well as the prosecutor can raise an objection through the cassation procedure in accordance with the rules stated in Chapter 38 of this Code.

Article 451. The procedure for extending the term, changing and terminating the implementation of coercive measures of a medical nature

1. The court, on the proposal of the administration of the institution that provides psychiatric care and the conclusion of the psychiatric commission, terminates the implementation of coercive measures of a medical nature, changes or extends its term for another six months.

2. Issues of termination, change or extension of the period of application of coercive measures of a medical nature shall be considered collectively by the court that decided on the application of coercive measures of a medical nature or by the court of the place of application of this measure.

3. The court informs the legal representative of the person against whom a coercive measure of a medical nature has been applied, the administration of the medical institution, the defense attorney, and the prosecutor, on the appointment of the case for consideration at the court meeting. The participation of the defense attorney and the prosecutor in the court session is mandatory, and the absence of other persons does not prevent the consideration of the case.

4. At the meeting of the court, the proposal of the medical institution, the opinion of the psychiatric commission will be investigated, and the opinion of the participants of the meeting will be heard. If the conclusion of the psychiatric commission is questioned, the court, at the request of the participants in the meeting or on its own initiative, may appoint a forensic and psychiatric examination, request additional documents, as well as the person against whom the issue of termination, change or extension of the term application of coercive measures of a medical nature is considered, provided that it is possible to interrogate him based on his mental state (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

5. The court terminates or changes the coercive measure of a medical nature in case of such a mental state of the person that there is no need to apply the previously prescribed measure or the need to prescribe another measure of a medical nature arises. The court extends the term of compulsory treatment in the absence of grounds for termination or change of the compulsory measure of a medical nature.

6. The court issues an order in the consultation room on the termination, change or extension, as well as on the refusal to terminate, change or extend the period of implementation of the coercive measure of a medical nature and announces it at the court meeting.

Article 452. Reopening of the case against the person against whom the coercive measure of a medical nature has been applied

1. If a person who has been subjected to a medical coercive measure due to mental illness after committing a crime, is recognized by the psychiatric commission as cured, the court, based on the conclusion of the medical institution, in accordance with the procedure provided for in Article 400 of this Code on terminates the application of coercive measures of a medical nature and resolves the issue of conducting a preliminary investigation or investigation, involving this person as an accused and bringing the case to court in the general procedure.

2. The time spent in a treatment facility is counted towards the term of punishment.

CHAPTER 46. RAPID PROGRESS

Article 453. Procedure for accelerated promotion

1. When there are signs of crimes under part 1 of article 111, part 1 of article 125, part 1 of article 126, part 1 of article 131, part 4 of article 195, part 4 of article 196, part 1 of article 230, part 1 of article 232, part 1 Article 234, Part 1 Article 237, Part 1 Article 247, Part 1 Article 253, Part 1 Article 254, Part 1 Article 255, Part 1 Article 294, Article 334 and Article 339 of the Criminal Code of the Republic of Tajikistan, in cases where the reality of the crime is obvious If the suspect is known to have committed a crime and he does not deny his involvement in the commission of a

crime, the investigative body immediately begins to speed up the investigation (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755, dated 29.01.2021 No. 1755*).

2. The procedure for accelerated promotion is determined by the general rules of this Code, taking into account the provisions of the articles of this chapter.

3. In the course of speedy investigation, until the initiation of a criminal case, within seven days from the person who committed the crime, witnesses and other persons will receive statements about the circumstances of the crime, information about the presence or absence of a criminal record of the person who committed the crime, information about the identity of the person who committed the crime. and other information that is important for consideration of the case at the court meeting.

4. A person who has committed a crime is obliged to appear before the investigation and court authorities upon summons, to inform about the change of residence. In case of non-appearance, the person will be forcibly brought to the investigative body or to the court meeting.

Article 454. Term of accelerated promotion

Accelerated progress should be completed no later than ten days from the date of receipt of the application or information about the crime to the investigative body until the case is sent to the prosecutor.

Article 455. Completion of accelerated promotion

1. The investigative body recognizes the collected material as sufficient for starting a criminal case and sending it to court, makes a decision to start a criminal case, accepts it for its own promotion, and arrests the person who committed the crime in accordance with the procedure established by Articles 221-228 of the Code. draws the defendant as a defendant, resolves the issue of preventive measures against the defendant in accordance with Articles 101-111 of this Code, also makes a decision on recognizing a person as a victim, civil plaintiff, civil defendant.

2. The investigation body performs the operations mentioned in part 1 of this article and completes the expedited proceedings based on the grounds and in the order provided by Articles 239-246 of this Code.

Article 456. Action of the prosecutor on the criminal case

When a criminal case is received from the investigative body, which was carried out by the procedure of speedy promotion, the prosecutor or his deputy is obliged to examine the case within no more than 24 hours and make a decision on it with the grounds and in the manner provided for in Articles 247-250 of this Code. to accept

Article 457. Investigation

1. The investigation of criminal cases on the crimes listed in Article 453 of this Code is carried out by investigative bodies according to the general rules of this Code in the following cases:

- when the head of the investigative body initiates a criminal case, provided that it is impossible to determine the important circumstances of the commission of the crime within seven days;

- when the prosecutor returns the criminal case completed by the procedure of accelerated investigation for the purpose of investigation;

- when it is impossible to perform the procedural actions provided for in Article 453 of this Code within three days.

2. In the cases stipulated by this Code, the investigation should be completed no later than twenty days from the day of initiation of the criminal case or its return.

Article 458. Conduct of preliminary investigation

1. Regarding the crimes provided for in Article 453 of this Code, provided that they are committed by minors, as well as regarding acts dangerous to the society provided for by the criminal law by criminals or persons who suffered from mental illness after committing a crime, a preliminary check is done.

2. The preliminary investigation should be completed no later than one month from the date of initiation of the criminal case.

Article 459. Jurisdiction of the judge regarding the criminal case brought to the court

1. Regarding the criminal case brought to the court by the prosecutor, the judge conducts preparatory operations and makes a decision in accordance with the rules of Chapter 31 of this Code.

2. Regarding the criminal case, the judge should make a decision no later than five days from the day of its entry into the court.

Article 460. Consideration of a criminal case in a court session

The consideration of the criminal case in the court session is carried out by the judge in accordance with the general rules of the court hearing.

CHAPTER 47. ADVANCEMENT REGARDING THE RECOVERY OF DAMAGE OCCURRED AS A RESULT OF THE ILLEGAL ACTION OF THE COURT AND THE AUTHORITY EXECUTING THE PROCEDURE OF THE CRIMINAL CASE

Article 461. Grounds and conditions for the emergence of the right to compensation for damages

1. Compensation for damage caused to a person as a result of illegal arrest, detention and house arrest, temporary removal from office, placement in a medical institution, conviction, application of coercive measures of a medical nature, by the state regardless of the guilt of the researcher, investigative body, investigator, prosecutor and the court, it is fully developed.

2. The right to claim damages arises in the following cases:

- in case of release of arrested or detained person due to non-confirmation of suspicion of committing a crime;

- termination of the criminal case on the grounds provided for in the first and second paragraphs of part 1 of article 27 and the second paragraph of part 1 of article 234 of this Code;

- issuance of an acquittal sentence;

- changing the classification of the act on the basis of that article of the law, which provides for a relatively lighter crime by imposing a relatively lighter punishment in accordance with this article or removing the part of the accusation from the sentence and therefore reducing the punishment;

- annulment of the illegal decision of the court on the implementation of coercive measures of a medical nature.

3. In the event of the death of a citizen, the right to receive compensation for damages in accordance with the established procedure is transferred to his heirs, and in the part of receiving pensions and allowances whose payment has been suspended, to those members of his family who are among the persons in the event of the death of the sponsor with a pension related to the loss Sponsorship is dependent.

4. Damage compensation shall not be provided in the event that the citizen, during the investigation, preliminary investigation and court proceedings, by self-incrimination contributed to the occurrence of the consequences mentioned in part 1 of this article. However, self-incrimination caused by the use of violence, threats and other illegal measures against a citizen does not prevent

compensation for damages. At the same time, the evidence of the application of illegal measures must be established by the investigative body, prosecutor or court.

5. The rules of this article do not apply to cases where coercive procedural measures applied to a person or an indictment sentence are canceled or due to the adoption of an amnesty act, expiration of the statute of limitations, lack of age, or the adoption of a law that eliminates criminal responsibility or mitigates punishment. have been changed.

Article 462. Compensation for damages to be paid

If there are grounds and conditions specified in parts 1 and 2 of article 464 of this Code, a person has the right to:

- payment of compensation for property damage (salary, pension, allowance and other funds that were lost as a result of illegal actions, illegal confiscation of property or on the basis of judgments or decisions of the court including property for the benefit of the state, fines and procedural costs collected for the execution of an illegal judgment of the court, the amount paid for the provision of legal assistance and other expenses) (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*);
- eliminating the consequences of moral damage;
- restoration of labor, pension, housing rights, etc.

Article 463. Recognition of the right to compensation for damages

Courts, prosecutors, investigators, investigative bodies should make a decision on full or partial acquittal of a person and recognize his right to receive compensation. A copy of the acquittal sentence or order (decision) to terminate the criminal case, cancel or change other illegal decisions is delivered to the interested person or sent by mail. At the same time, a notification will be sent to him explaining the procedure for compensation for property damage and restoration of his other rights.

Article 464. Determining the amount of property damage and the procedure for its compensation

1. A person has the right, within six months from the moment of receiving a copy of the documents specified in Article 463 of this Code with a notification of the procedure for the compensation of damages, to the authorities that issued an acquittal, on the termination of the case, cancellation or change of other illegal decisions (decision) to file a claim for property damage. If the case was closed by the higher court or the sentence was changed, the application for compensation of damages is sent to the court that issued the sentence.

2. The judge, prosecutor, investigator, investigative body shall determine the amount of damage no later than one month after the date of filing of the application and, in necessary cases, request calculations from the financial and social welfare authorities and make payments for the development of compensation for damage. they make a decision.

3. The application for compensation for property damage shall be decided by the judge in accordance with the procedure established by Article 401 of this Code.

4. The certified copy of the decision shall be handed over or sent to the person and, in case of his death, to the persons mentioned in part 3 of article 461 of this Code for presentation to the authorities who are obliged to make the payment.

Article 465. Complaints against decisions to make payments

It is possible to appeal against the decisions of the judge, prosecutor, investigator, investigative body on making payments in accordance with the procedure established by this Code.

Article 466. Elimination of the consequences of moral damage and other damages

1. Claims for monetary compensation for damages are filed in accordance with the procedure of civil court proceedings.

2. If the information about the arrest, detention, temporary suspension, placement in a medical institution, conviction and other illegal actions applied to a person was published in the press, broadcasted on radio, television and other mass media, at the request of this person and in the case of his death at the request of his relatives or the order of the court, the prosecutor, investigator or investigative body, the relevant mass media are obliged to publish the necessary news in this regard within a month.

3. At the request of a person and in case of his death, at the request of his relatives, the judge, prosecutor, investigator, investigative bodies are obliged to cancel the illegal decisions of the law enforcement bodies regarding his place of work, education or residence in writing within fourteen days. to inform

Article 467. Restoration of other rights

1. If the application for restoration of labor, pension and housing rights, making payments, as well as for the return of property or its value is not satisfied, or the person does not agree with the decision, he has the right to go to court according to the procedure of civil proceedings. apply.

2. Persons who have been deprived of military ranks and other titles, qualification degrees, as well as orders and medals, will be restored their ranks and titles, qualification degrees, and their orders and medals will be returned in accordance with the established procedure.

Article 468. Deadline for submitting an application

1. An application to make monetary payments in exchange for compensation for property damage can be submitted within three years from the moment when the persons specified in part 3 of Article 461 of this Code receive an appointment or decision to make such payments.

2. An application for the restoration of other rights may be submitted by a person within one year from the moment of receiving a notification explaining the procedure for the restoration of rights.

3. In the event that the mentioned deadlines are exceeded due to good reasons, these deadlines can be restored by the investigator, prosecutor or court upon the application of the interested parties.

Article 469. Compensation for damages to legal entities

Compensation for damages caused to legal entities as a result of illegal actions of the court, prosecutor, investigator, investigative bodies shall be fully paid by the state and within the time limits established by this chapter.

SECTION XII. MAIN PROVISIONS OF THE PROCEDURE FOR MUTUAL COOPERATION OF COURTS, PROSECUTORS, INVESTIGATORS AND INVESTIGATION AUTHORITIES WITH THE AUTHORITIES AND OFFICIALS OF FOREIGN COUNTRIES REGARDING CRIMINAL CASES

CHAPTER 48. MUTUAL COOPERATION OF COURTS, PROSECUTORS, INVESTIGATORS AND INVESTIGATION AUTHORITIES WITH AUTHORITIES AND PERSONS OF RELEVANT FOREIGN COUNTRIES IN PROVIDING LEGAL ASSISTANCE IN CRIMINAL CASES

(Law of the Republic of Tajikistan dated 2.08.2011 No. 755)

Article 470. Execution of an order regarding the conduct of procedural operations

1. Courts, prosecutors, investigators, investigative bodies, when it is necessary to carry out interrogation, examination, finding, search, examination and other separate procedural operations provided for by this Code in the territory of a foreign state, transfer them to the relevant authorities of a foreign state with which to provide assistance if there is an international contract or agreement for legal reciprocity, he gives an order (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

2. The task of conducting a separate investigative action is sent through the Prosecutor General of the Republic of Tajikistan and conducting court action through the Chairman of the Supreme Court of the Republic of Tajikistan or, accordingly, through their deputies, who, in necessary cases, apply to the Ministry of Foreign Affairs of the Republic of Tajikistan for assistance (*Law of the Republic of Tajikistan dated 24.02.2017 No. 1381*).

3. During formalization of the assignment, unless otherwise stipulated in the international agreement, the language of the country to which the assignment is sent shall be applied.

Article 471. Content of the order to conduct procedural operations

The order to carry out separate investigative and judicial actions must be made in writing, signed by the official who sends the order and confirmed with the stamp of the authorities, and contain the following information:

- the name of the authority that sends the order;
- name and address of the authority to which the order is sent;
- name of the case and specifications of the task;
- information about the persons to whom the order is issued, their citizenship, occupation, place of residence or place of stay, and for legal entities - their name and location;
- statement of the circumstances to be determined, as well as the list of documents, physical evidence and other requested evidence;
- information on the actual circumstances of the committed crime and its classification with the attachment of a copy of the text of the relevant article of the Criminal Code of the Republic of Tajikistan, if necessary, information on the amount of damage caused as a result of the committed action.

Article 472. Summoning and questioning witnesses, victims, experts, civil plaintiffs, civil defendants, their representatives who are outside the territory of the Republic of Tajikistan

1. If the witness, victim, civil plaintiff, civil defendant, their representatives and experts are citizens of a foreign state, they may be invited to the territory of the Republic of Tajikistan by an official who investigates a criminal case with their consent to conduct investigative or judicial actions.

2. The request to invite a person shall be sent in accordance with the procedure provided for in this Code.

3. Investigative and judicial actions with the participation of witnesses, victims, other participants of the proceedings, which are mentioned in part 1 of this article, are conducted according to the rules of this Code (*Law of the Republic of Tajikistan dated 2.08.2011 No. 755*).

4. The persons specified in part 1 of this article, who appeared at the summons, cannot be held criminally responsible, arrested or their other personal rights restricted within the territory of the Republic of Tajikistan, provided that the judgment of the court reaches the territory of the Republic of Tajikistan. the entry of these persons has been excluded. Immunity ceases on the condition that the person present with the summons has the opportunity to leave the territory of the Republic of Tajikistan and does not leave the territory of the Republic of Tajikistan within 15 days from the moment when the need for his presence disappears, or returns to the Republic of Tajikistan after leaving the territory of the Republic of Tajikistan.

Article 473. Execution of the order to conduct procedural actions in the Republic of Tajikistan

1. The court, the prosecutor, the investigator, the investigation bodies shall carry out the tasks given to them by the relevant authorities and officials of foreign countries in accordance with the general rules of this Code.

2. During the execution of the assignment, the procedural norms of a foreign state may be used, provided that this action is provided for in an international agreement with that state.

3. In the cases stipulated by the international agreement, a representative of the relevant body of the foreign state may participate in the execution of the task.

4. If it is not possible to execute the order, the submitted documents will be returned to the foreign authority from which the order came through the Prosecutor General of the Republic of Tajikistan or the Supreme Court of the Republic of Tajikistan, indicating the reasons that prevented its execution. If the execution of the task can harm the independence or security of the Republic of Tajikistan or is contrary to the legislation of the Republic of Tajikistan, it will be returned without execution (*Law of the Republic of Tajikistan dated 24.02.2017 No. 1381*).

Article 474. Transfer of case materials to continue criminal prosecution

In the case of a crime committed in the territory of the Republic of Tajikistan by a citizen of a foreign state who has left the territory of the Republic of Tajikistan, all the materials of the initiated and investigated case will be handed over to the Prosecutor General's Office of the Republic of Tajikistan in order to decide on the issue of sending the materials to the relevant authorities of the foreign state for further investigation. to decide the criminal prosecution.

Article 475. Execution of a request to continue criminal prosecution or to initiate a criminal case in the Republic of Tajikistan

1. The appeal of the relevant authorities of a foreign state regarding the filing of a criminal case against a citizen of the Republic of Tajikistan who committed a crime in the territory of a foreign state and returned to the Republic of Tajikistan will be considered for further investigation by the Prosecutor General's Office. Preliminary investigation, investigation and court proceedings in such cases are carried out in accordance with the procedure provided by this Code.

2. The evidence obtained during the investigation of the case in the territory of a foreign state by an authorized official within the scope of his authority and in accordance with the established procedure, during the continuation of the investigation in the Republic of Tajikistan, along with other evidence collected in the criminal case, have legal validity.

3. In the event that a citizen of the Republic of Tajikistan commits a crime on the territory of a foreign state and returns to the Republic of Tajikistan before the initiation of criminal prosecution against him at the place of the crime, a criminal case may be opened by the competent authorities of the Republic of Tajikistan on the basis of the materials provided by the state authorities. submitted by a foreigner to the General Prosecutor's Office of the Republic of Tajikistan, to be initiated and investigated.

CHAPTER 49. DELIVERY OF A PERSON FOR CRIMINAL RESPONSIBILITY OR EXECUTION OF SENTENCE

Article 476. Processing of a request for the extradition of a person who is in the territory of a foreign state

1. The General Prosecutor's Office of the Republic of Tajikistan, in the circumstances and in the manner provided by the legislation of the Republic of Tajikistan and international treaties of the Republic of Tajikistan, applies to the relevant authorities of a foreign state with a request to extradite a person who has committed a crime within the territory of the Republic of Tajikistan,

provided that that an indictment or a decision to prosecute as an accused has been made regarding this person.

2. The application must include the following information:

- surname, name and name of the father of the convicted (accused), year of birth, information about citizenship, appearance, photos (*Law of the Republic of Tajikistan dated 14.03.2014 No. 1067*);

- statement of the actual circumstances of the committed crime with reference to the text of the law that provides responsibility for this crime and mandatory mention of punishment;

- information on the place and time of issuing a judgment that has become legally binding or a decision to be involved as an accused with the attachment of certified copies of the relevant documents.

Article 477. Limit of criminal liability of a person transferred to the Republic of Tajikistan

1. A person extradited to the Republic of Tajikistan by a foreign state, without the consent of the extraditing state, cannot be criminally prosecuted and punished for another crime unrelated to his extradition, as well as extradited to a third country. .

2. The rule of part 1 of this article does not apply in the case of a person committing a crime after his surrender.

Article 478. Execution of a request for the surrender of a person residing in the Republic of Tajikistan

1. The request for the extradition of a citizen of a foreign state, who is accused of committing a crime or convicted in the territory of a foreign state, is considered by the Prosecutor General of the Republic of Tajikistan or his deputy. If there is a request from several countries to hand over a person, the decision to which country to hand over a person will be taken by the Prosecutor General of the Republic of Tajikistan.

2. The terms and procedure of handover are defined by this Code and the mutual agreement of the Republic of Tajikistan with a foreign state.

3. If a request for the extradition of a citizen of a foreign state who is serving a sentence for another crime in the territory of the Republic of Tajikistan is received, the extradition may be postponed until the end of the sentence or release from punishment according to any legal basis. If a citizen has been charged with a crime, the term of his handover may be postponed until the verdict, the end of the sentence, or the release from criminal liability or punishment according to any legal basis. If the postponement of the deadline for handing over the guilty leads to the expiration of the term of criminal prosecution or hinders the investigation of the crime, the person whose handover is required on the basis of the request can be temporarily handed over.

Article 479. Refusal to surrender a person

The extradition of a person shall be refused in the following cases, if:

- a person has been granted political asylum by the Republic of Tajikistan;

- the act that is the basis of the extradition request is not recognized as a crime by the Republic of Tajikistan;

- a sentence has already been passed against the person for the same crime, which has become legally valid, or the investigation of the case has been terminated;

- there is information about a person being subjected to torture in the surrendering state (*Law of the Republic of Tajikistan dated 27.11.2014 No. 1134*);

- according to the legislation of the Republic of Tajikistan, a criminal case cannot be initiated or a sentence executed due to the expiration of the term or on other legal grounds.

Article 480. Surrender of persons with dual citizenship and stateless persons

1. The procedure for handing over persons with dual citizenship and stateless persons is determined by the rules of Article 478 of this Code.

2. Surrender of a citizen of the Republic of Tajikistan who has dual citizenship is possible only in cases that are specifically provided for in a contract or mutual agreement.

Article 481. Arrest for surrender

1. Upon receipt of a duly formalized request from the relevant authorities of a foreign state, and if there are legal grounds for surrender, he may be arrested and preventive measures in the form of arrest may be applied to him in accordance with the procedure established by Chapter 12 of this Code. will be

2. The authorities of the foreign state that sent the request for extradition shall be immediately informed about the arrest of the person, together with the time and place of extradition.

3. If the handover is not fulfilled within thirty days, the person kept in custody must be released by court decision. Re-incarceration is possible only after consideration of a new request for extradition in accordance with part 1 of this article.

Article 482. Delivery of objects

1. When a citizen is handed over to the authorities of a foreign state, objects that are instruments of crime and have traces of crime or were obtained by criminal means are also handed over. This item is given on the basis of a request and in the event that the delivery of a person cannot be carried out due to his death or for other reasons.

2. If the items mentioned in part 1 of this article are necessary for the investigation of another criminal case, they may be kept temporarily.

3. In order to ensure the legal rights of third parties, the delivery of the items mentioned in part 1 of this article shall be carried out only if there are guarantees of the foreign state authorities regarding the return of the items after the completion of the investigation of the case.

CHAPTER 50. DELIVERY OF A PERSON SENTENCED TO DEPRIVATION OF LIBERTY TO SERVE THE SENTENCE TO THE COUNTRY OF WHICH HE IS A CITIZEN

Article 483. Grounds for handing over a person sentenced to deprivation of liberty to serve the sentence to the state of which he is a citizen

An international agreement between the Republic of Tajikistan and a relevant foreign state or a written agreement with mutual terms signed by the Prosecutor General of the Republic of Tajikistan with competent authorities and officials of a foreign state for the transfer of a person sentenced to deprivation of liberty by a court of the Republic of Tajikistan to serve a sentence in a state, that he is a citizen of that state, is also considered a basis for handing over a citizen of the Republic of Tajikistan, who was convicted by a court of a foreign state, to serve a sentence in the Republic of Tajikistan.

Article 484. Conditions and procedures for handing over a convicted person to serve a sentence to the state of which he is a citizen

1. Transfer of a person convicted in the Republic of Tajikistan to the state of which he is a citizen until the completion of his sentence by deprivation of liberty on the basis of the request of the convicted person, his legal representative or his close relatives, as well as on the basis of the request of the competent authorities of the relevant state is possible with the consent of the convicted person.

2. A person can be extradited only after the sentence becomes legal by the decision of the Prosecutor General of the Republic of Tajikistan or his deputy, and they inform the court that issued the sentence about the extradition.

Article 485. Refusal to transfer a person sentenced to deprivation of liberty to a foreign state to serve a sentence

The extradition of a person sentenced to deprivation of liberty to serve a sentence to the state of which he is a citizen shall be refused in the following cases, provided that:

- the act for which the person was convicted is not recognized as a crime by the legislation of the state of which he is a citizen;
- the punishment cannot be served in a foreign country due to the expiration of the term or on other grounds provided by the legislation of this country;
- guarantees of execution of the sentence have not been received from the convicted person or from a foreign state in the part of the civil claim;
- no agreement has been reached on the transfer of the convicted person on the basis of the conditions stipulated by the international agreement;
- the convicted person has a permanent place of residence in the Republic of Tajikistan.

Article 486. Consideration of a request to serve a sentence in the Republic of Tajikistan

A citizen of the Republic of Tajikistan who has been sentenced to deprivation of liberty by a court of a foreign state, his legal representative or close relatives, as well as competent authorities of a foreign state with the consent of the convicted person, can apply to the Prosecutor General of the Republic of Tajikistan with a request to serve the sentence in the Republic of Tajikistan. to represent