

NATIONAL ASSEMBLY

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SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

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Law No.: 101/2015/QH13

Hanoi, November 27, 2015

## CODE CRIMINAL PROCEEDINGS

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

*The National Assembly promulgates the Criminal Procedure Code,*

### PART ONE

## GENERAL PROVISIONS

### Chapter I

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

### Article 1. Scope of regulation

The Criminal Procedure Code prescribes the order and procedures for receiving and handling information about crimes, initiating, investigating, prosecuting, trying and some procedures for executing criminal sentences; the tasks, powers and relationships between competent agencies conducting proceedings; the tasks, powers and responsibilities of competent persons conducting proceedings; the rights and obligations of participants in proceedings, agencies, organizations and individuals; and international cooperation in criminal proceedings.

### Article 2. Tasks of the Criminal Procedure Code

The Criminal Procedure Code has the task of ensuring accurate detection and fair and timely handling of all criminal acts, preventing and stopping crimes, not letting criminals escape, not wrongfully convicting innocent people; contributing to protecting justice, protecting human rights, civil rights, protecting the socialist regime, protecting the interests of the State, the legitimate rights and interests of organizations and individuals, educating people to be aware of obeying the law, and fighting to prevent and combat crimes.

### Article 3. Effect of the Criminal Procedure Code

1. The Criminal Procedure Code is effective for all criminal proceedings within the territory of the Socialist Republic of Vietnam.
2. Criminal proceedings against foreigners who commit crimes in the territory of the Socialist Republic of Vietnam shall be conducted in accordance with the provisions of international treaties to which the Socialist Republic of Vietnam is a member or on the principle of reciprocity.

In case a foreigner is entitled to diplomatic or consular immunity under Vietnamese law, an international treaty to which the Socialist Republic of Vietnam is a member or international practice, the matter shall be resolved in accordance with the provisions of such international treaty or international practice; in case such international treaty does not provide or there is no international practice, the matter shall be resolved through diplomatic channels.

### Article 4. Interpretation of terms

1. In this Code, the following terms are construed as follows:

- a) *The competent authority to conduct proceedings* includes the prosecution agency and the agency assigned to conduct certain investigative activities.
- b) *The person with authority to conduct proceedings* includes the person conducting the proceedings and the person assigned to conduct certain investigative activities.
- c) *Litigants* are individuals, agencies and organizations participating in litigation activities according to the provisions of this Code.
- d) *Sources of information about crimes* include denunciations, reports of crimes, recommendations for prosecution from agencies, organizations, individuals, statements of self-confessed criminals, and information about crimes directly discovered by competent prosecution agencies.
- d) *The accused person* includes the arrested person, the detained person, the defendant.
- e) *Relatives of a litigant or a person with authority to conduct proceedings* are those who have a relationship with a litigant or a person with authority to conduct proceedings, including wife, husband, biological father, biological mother, father-in-law, mother-in-law, father-in-law, mother-in-law, adoptive father, adoptive mother, biological and adopted children; paternal grandfather, paternal grandmother, maternal grandfather, maternal grandmother, biological brother, biological sister, biological sibling; paternal great-grandfather, maternal great-grandfather, biological uncle, biological aunt, biological aunt, biological niece or nephew.
- g) *Parties* include civil plaintiffs, civil defendants, and persons with rights and obligations related to criminal cases.

- h) *Confession* is when a criminal voluntarily reports to an agency or organization about his or her criminal behavior before the crime or the criminal is discovered.
- i) *Surrender* is when a criminal, after being discovered, voluntarily presents himself and reports his crime to the competent authority.
- k) *Escort* is the act of a competent authority forcing a person being detained in an emergency, arrested, detained, accused or defendant to go to the place of investigation, prosecution or trial.
- l) *Escort* is the act of a competent authority forcing a witness, a person accused or a person proposed for prosecution to come to the place of investigation, prosecution, trial or a victim who refuses to be examined.
- m) *A personal statement* is a record of summary information about the suspect's background, identity, three-position photos, and fingerprints of two index fingers, established and kept by a competent authority.
- n) *Fingerprint sheet* is a record of summary information about the suspect's background and fingerprints of all fingers, established and kept by a competent authority.
- o) *A serious violation of procedural law* is when an agency or person with the authority to conduct proceedings during the process of initiating, investigating, prosecuting, or trying a case fails to implement or improperly or incompletely implements the procedures prescribed by this Code, seriously infringing upon the rights and legitimate interests of the participants in the proceedings or affecting the determination of the objective and comprehensive truth of the case.

2. In this Code, the following terms are referred to as follows:

- a) The investigation agencies of the district, county, town, city police under a province, city under a centrally-run city are hereinafter referred to as the district-level investigation agencies.
- b) The investigation agency of the Public Security of a province or centrally-run city is hereinafter referred to as the provincial-level investigation agency.
- c) Military investigation agencies of military regions and equivalent hereinafter referred to as military investigation agencies at military region level.
- d) The People's Procuracy of districts, towns, provincial cities, and centrally run cities is hereinafter referred to as the District-level People's Procuracy.
- d) The People's Procuracy of a province or centrally-run city is hereinafter referred to as the Provincial People's Procuracy.
- e) Military Procuracy of military region and equivalent hereinafter referred to as Military Procuracy at military region level.
- g) People's Courts of districts, towns, cities under provinces, and cities under centrally run cities are hereinafter referred to as district-level People's Courts.
- h) People's Courts of provinces and centrally run cities hereinafter referred to as provincial People's Courts.
- i) Military courts of military regions and equivalent hereinafter referred to as military courts of military regions.

#### **Article 5. Responsibilities of state agencies, organizations and individuals in the fight against crime**

1. Within the scope of their responsibilities, state agencies must apply crime prevention measures and coordinate with competent authorities in conducting proceedings in the fight against crime.

State agencies must regularly inspect and examine the performance of assigned functions and tasks; promptly detect violations of the law for handling and immediately notify the Investigation Agency and the Procuracy of any crimes occurring within the agency and within its management area; make recommendations and send relevant documents to the Investigation Agency and the Procuracy for consideration and prosecution of those who commit crimes.

The head of a state agency shall be responsible for failing to notify or providing false information about crimes occurring within the agency and within the area of his or her management to the Investigation Agency and the Procuracy.

2. Organizations and individuals have the right and obligation to detect, denounce and report crimes; and participate in the fight against crime.

3. The competent authority conducting the proceedings is responsible for creating conditions for state agencies, organizations and individuals to participate in the fight against crime.

4. State agencies, organizations and individuals are responsible for implementing requests and creating conditions for competent agencies and persons conducting proceedings to perform their duties.

5. State inspection and audit agencies shall be responsible for coordinating with competent agencies in conducting proceedings in detecting and handling crimes. When detecting a case with signs of crime, they must immediately transfer relevant documents and objects and recommend that the Investigation Agency and the Procuracy consider and initiate criminal proceedings.

6. All acts of obstructing the activities of competent agencies and persons conducting proceedings in performing their duties are strictly prohibited.

#### **Article 6. Detection and correction of causes and conditions for committing crimes**

1. During the criminal proceedings, the competent prosecution authority is responsible for discovering the causes and conditions of the crime, requesting and recommending relevant agencies and organizations to apply remedial and preventive measures.

2. Relevant agencies and organizations must comply with requests and recommendations of competent agencies conducting proceedings. Within 15 days from the date of receipt of requests and recommendations, relevant agencies and organizations must respond in writing regarding the implementation of requests and recommendations of competent agencies conducting proceedings.

## Chapter II

# THE BASIC PRINCIPLES

### Article 7. Ensuring socialist legality in criminal proceedings

All criminal proceedings must be carried out in accordance with the provisions of this Code. Information on crimes, prosecution, investigation, indictment, and trial may not be handled outside the grounds, order, and procedures prescribed by this Code.

### Article 8. Respect and protection of human rights, rights and legitimate interests of individuals

When conducting proceedings, within the scope of their duties and powers, competent agencies and persons conducting proceedings must respect and protect human rights and the legitimate rights and interests of individuals; regularly examine the legality and necessity of applied measures, and promptly cancel or change such measures if they are deemed to violate the law or are no longer necessary.

### Article 9. Ensuring equality before the law

Criminal proceedings are conducted on the principle that all people are equal before the law, regardless of ethnicity, gender, belief, religion, social class and status. Anyone who commits a crime will be prosecuted according to the law.

All legal entities are equal before the law, regardless of ownership form and economic sector.

### Article 10. Guarantee of the right to physical inviolability

Everyone has the right to physical inviolability. No one may be arrested without a court decision or a decision or approval of the Procuracy, except in cases of flagrante delicto.

The detention of people in emergency cases, the arrest, temporary detention and temporary imprisonment of people must comply with the provisions of this Code. Torture, forced confession, physical abuse or any other form of treatment that violates the body, life and health of people is strictly prohibited.

### Article 11. Protection of life, health, honor, dignity and property of individuals; honor, reputation and property of legal entities

Everyone has the right to be protected by law regarding life, health, honor, dignity and property.

Any illegal act of infringing upon the life, health, honor, dignity, and property of an individual; or infringing upon the honor, reputation, and property of a legal entity shall be handled according to the law.

Vietnamese citizens cannot be expelled or handed over to another state.

### Article 12. Guarantee of the inviolability of residence, private life, personal secrets, family secrets, safety and confidentiality of personal correspondence, telephone and telegrams

No one may illegally infringe upon the residence, privacy, personal secrets, family secrets, safety and confidentiality of correspondence, telephone, telegram and other forms of private information exchange of individuals.

Searches of residences; searches, detentions and seizures of correspondence, telephones, telegrams, electronic data and other forms of private information exchange must be carried out in accordance with the provisions of this Code.

### Article 13. Presumption of innocence

A person accused of a crime is considered innocent until proven guilty in accordance with the procedures prescribed by this Code and a court judgment of conviction has come into legal effect.

When there is insufficient and it is impossible to clarify the basis for accusation and conviction according to the order and procedures prescribed by this Code, the competent agency or person conducting the proceedings must conclude that the accused person is not guilty.

### Article 14. No one shall be convicted twice for the same crime.

It is not allowed to initiate, investigate, prosecute, or try a person whose actions have been subject to a court verdict that has come into legal effect, except in cases where they commit other socially dangerous acts that are defined as crimes by the Penal Code.

### Article 15. Determining the facts of the case

The burden of proving guilt rests with the competent prosecution authority. The accused has the right but is not obliged to prove his innocence.

Within the scope of their duties and powers, competent authorities conducting proceedings must apply legal measures to determine the truth of the case in an objective, comprehensive and complete manner, clarify evidence of guilt and evidence of innocence, aggravating and mitigating circumstances of the criminal responsibility of the accused.

### Article 16. Ensuring the right to defense of the accused, protecting the rights and legitimate interests of the victim and the litigant

The accused has the right to defend himself, have a lawyer or another person defend him.

The competent authority and person conducting the proceedings shall be responsible for informing, explaining and ensuring that the accused, the victim and the litigant fully exercise their right to defense and their legitimate rights and interests as prescribed by this Code.

#### **Article 17. Responsibilities of competent agencies and persons conducting proceedings**

During the proceedings, the competent authorities and individuals conducting the proceedings must strictly comply with the provisions of the law and be responsible for their actions and decisions.

Those who violate the law in detaining people in emergency cases, arresting, detaining, holding, prosecuting, investigating, prosecuting, trying, or executing sentences shall, depending on the nature and seriousness of the violation, be subject to disciplinary action or criminal prosecution in accordance with the provisions of law.

#### **Article 18. Responsibility for initiating and handling criminal cases**

Upon detecting an act with signs of crime, within the scope of its duties and powers, the competent authority conducting the proceedings shall be responsible for initiating a case, applying measures prescribed by this Code to determine the crime and handle the offender and the legal entity committing the crime.

No case may be prosecuted other than on the grounds, order and procedures prescribed by this Code.

#### **Article 19. Compliance with the law in investigation activities**

Investigation agencies and agencies assigned to conduct certain investigation activities must comply with the law when conducting investigation activities according to the provisions of this Code.

All investigative activities must respect the truth, be conducted objectively, comprehensively and completely; quickly and accurately detect all criminal acts, clarify evidence of guilt and innocence, aggravating and mitigating circumstances of criminal responsibility, causes and conditions of crime and other circumstances that are significant to the resolution of the case.

#### **Article 20. Responsibility for exercising the right to prosecute and supervise compliance with the law in criminal proceedings**

The Procuracy exercises the right to prosecute and supervise compliance with the law in criminal proceedings, decides on charges, detects violations of the law to ensure that all criminal acts, criminals, and legal entities that commit crimes and violate the law must be detected and handled promptly and strictly. The prosecution, investigation, prosecution, trial, and execution of sentences must be carried out on the right people, for the right crimes, and in accordance with the law, without letting criminals, criminals, and legal entities escape, and without wrongfully convicting innocent people.

#### **Article 21. Ensuring the impartiality of persons with authority to conduct proceedings and participants in proceedings**

Persons with authority to conduct proceedings, interpreters, translators, appraisers, property valuers, and witnesses shall not participate in proceedings if there is reason to believe that they may not be impartial in the performance of their duties.

#### **Article 22. Implementation of the trial regime with the participation of Jurors**

The first-instance trial of the Court has the participation of the Jury, except in cases of trial under the summary procedure prescribed by this Code.

#### **Article 23. Judges and jurors conduct trials independently and only obey the law.**

Judges and Juries conduct trials independently and only obey the law; agencies, organizations and individuals are strictly prohibited from interfering in the trials of Judges and Juries.

Any agency, organization or individual that intervenes in the trial of a Judge or Jury in any form shall, depending on the nature and severity of the violation, be subject to disciplinary action, administrative sanctions or criminal prosecution in accordance with the provisions of law.

#### **Article 24. Collective trial by the court**

The court shall try cases collectively and decide by majority, except in cases of trials under summary procedures as prescribed by this Code.

#### **Article 25. Courts conduct timely, fair and public trials.**

The court shall conduct trials promptly within the time limit prescribed by law, ensuring fairness.

The court shall conduct trials in public, and everyone has the right to attend the trial, except in cases prescribed by this Code. In special cases where it is necessary to keep state secrets, preserve national traditions and customs, protect persons under 18 years of age, or to keep private life confidential at the legitimate request of the parties, the court may conduct trials in private but must pronounce the verdict publicly.

#### **Article 26. Litigation in trials is guaranteed.**

During the process of prosecution, investigation, indictment, and trial, the investigator, prosecutor, other persons with authority to conduct proceedings, the accused, the defense attorney, and other participants in the proceedings all have equal rights to present evidence, evaluate evidence, and make requests to clarify the objective truth of the case.

Documents and evidence in the case file transferred by the Procuracy to the Court for trial must be complete and legal. The trial of a criminal case must have the presence of all persons as prescribed by this Code; absence must be due to force majeure or objective obstacles or other circumstances as prescribed by this Code. The Court has the responsibility to create conditions for the Procurator, the defendant, the defense counsel, and other participants in the proceedings to fully exercise their rights and obligations and to litigate democratically and equally before the Court.

All evidence determining guilt, evidence determining innocence, aggravating circumstances, mitigating circumstances of criminal responsibility, application of points, clauses, articles of the Penal Code to determine the crime, decide on punishment, level of compensation for damages for the defendant, handling of evidence and other circumstances that are meaningful to resolving the case must be presented, debated and clarified at the trial.

The Court's judgment and decision must be based on the results of examination, evaluation of evidence and results of debate at the trial.

#### **Article 27. The first-instance and appellate trial regime is guaranteed.**

1. The first instance and appeal trial regime is guaranteed.

The judgment and decision of the Court of first instance may be appealed or protested in accordance with the provisions of this Code. If the judgment and decision of first instance is not appealed or protested within the time limit prescribed by this Code, it shall have legal effect.

If a first instance judgment or decision is appealed or protested, the case must be tried at the appellate level. The appellate judgment or decision of the Court has legal effect.

2. If a judgment or decision of the Court that has come into legal effect is found to have a serious violation of the law or new circumstances as prescribed in this Code, it shall be reviewed according to the procedures of cassation or retrial.

#### **Article 28. Ensuring the validity of court judgments and decisions**

1. Court judgments and decisions that have come into legal effect must be respected by agencies, organizations and individuals. Relevant agencies, organizations and individuals must strictly comply.

2. Within the scope of their tasks, powers and obligations, agencies, organizations and individuals are responsible for coordinating, facilitating and implementing the requests of agencies, organizations and individuals tasked with enforcing court judgments and decisions.

#### **Article 29. Language and writing used in criminal proceedings**

The language and script used in criminal proceedings is Vietnamese. Participants in the proceedings have the right to use the language and script of their own ethnic group; in this case, an interpreter is required.

#### **Article 30. Settlement of civil issues in criminal cases**

The settlement of civil issues in criminal cases is carried out together with the settlement of criminal cases. In cases where a criminal case has to settle the issue of compensation for damages or reimbursement without any conditions for proof and without affecting the settlement of the criminal case, the civil issue can be separated and settled according to civil procedure.

#### **Article 31. Guaranteeing the right to compensation of victims in criminal proceedings**

1. People detained in emergency cases, arrested, detained, imprisoned, prosecuted, investigated, prosecuted, tried, or sentenced unjustly or illegally have the right to compensation for material and mental damages and to have their honor restored.

The State has the responsibility to compensate for damages and restore honor and rights to people detained in emergency cases, people arrested, detained, temporarily detained, prosecuted, investigated, prosecuted, tried, or sentenced unjustly or illegally by competent agencies and individuals conducting proceedings.

2. Other people who suffer damage caused by competent agencies or persons conducting proceedings have the right to receive compensation from the State.

#### **Article 32. Guaranteeing the right to complain and denounce in criminal proceedings**

Individuals, agencies and organizations have the right to complain, individuals have the right to denounce violations of the law in criminal proceedings by agencies, persons with authority to conduct proceedings or by any individual belonging to those agencies.

Competent agencies and individuals must receive, consider and resolve complaints and denunciations promptly and in accordance with the law; send written results of the resolution to the complainant, denouncer, the complaining agency or organization and take remedial measures.

The order, procedures and authority for handling complaints and denunciations are prescribed by this Code.

It is strictly forbidden to retaliate against complainants or denouncers or to take advantage of the right to complain and denounce to slander others.

#### **Article 33. Inspection and supervision in criminal proceedings**

1. Agencies and persons with authority to conduct proceedings must regularly inspect the conduct of proceedings under their authority; and exercise control among agencies in receiving and handling information about crimes, initiating prosecution, investigating, prosecuting, trying, and executing judgments.

2. State agencies, the Vietnam Fatherland Front Committee and its member organizations, and elected representatives have the right to supervise the activities of agencies and persons with authority to conduct proceedings; supervise the handling of complaints and denunciations by agencies and persons with authority to conduct proceedings.

If an illegal act by a competent agency or person conducting proceedings is discovered, the State agency or elected representative has the right to request, and the Vietnam Fatherland Front Committee and its member organizations have the right to make recommendations to the competent agency conducting proceedings for consideration and resolution in accordance with the provisions of this Code. The competent agency conducting proceedings must consider, resolve and respond to such recommendations and requests in accordance with the provisions of law.

### Chapter III

## COMPETENT AUTHORITY TO CONDUCT PROCEEDINGS, PERSONS COMPETENT TO CONDUCT PROCEEDINGS

### Article 34. Prosecution agencies and prosecutors

1. The prosecuting agencies include:

- a) Investigation agency;
- b) Procuracy;
- c) Court.

2. The litigants include:

- a) Head, Deputy Head of Investigation Agency, Investigator, Investigation Officer;
- b) Chief Prosecutor, Deputy Chief Prosecutor, Prosecutor, Inspector;
- c) Chief Justice, Deputy Chief Justice, Judges, Jurors, Court Clerks, Examiners.

### Article 35. Agencies and persons assigned to conduct certain investigative activities

1. The agency assigned to conduct a number of investigative activities includes:

- a) Border Guard agencies;
- b) Customs agencies;
- c) Forestry agencies;
- d) Agencies of the Coast Guard;
- d) Fisheries Surveillance agencies;
- e) The People's Public Security agencies are assigned to conduct certain investigative activities;
- g) Other agencies in the People's Army are assigned to conduct certain investigative activities.

The specific agencies assigned to conduct certain investigative activities specified in this clause are specified in the Law on Organization of Criminal Investigation Agencies.

2. Persons assigned to conduct certain investigative activities include:

- a) Persons assigned to conduct certain investigative activities of the Border Guard include the Director and Deputy Director of the Border Reconnaissance Department; the Director and Deputy Director of the Drug and Crime Prevention and Control Department; the Head and Deputy Head of the Drug and Crime Prevention and Control Task Force; the Commander and Deputy Commander of the Border Guard of a province or centrally-run city; the Head and Deputy Head of the Border Guard Station; the Commander and Deputy Commander of the Port Border Guard;
- b) Persons assigned to conduct certain Customs investigation activities include the Director and Deputy Director of the Anti-Smuggling Investigation Department; the Director and Deputy Director of the Post-Clearance Inspection Department; the Director and Deputy Director of the Provincial, Inter-Provincial, and Central City Customs Departments; the Director and Deputy Director of the Border Gate Customs Sub-Department;
- c) Persons assigned to conduct certain investigation activities of the Forest Rangers include the Director and Deputy Director of the Forest Rangers Department; the Director and Deputy Director of the Forest Rangers Sub-Department; the Chief and Deputy Chief of the Forest Rangers Sub-Department;
- d) Persons assigned to conduct certain investigation activities of the Coast Guard force include Commanders and Deputy Commanders of the Coast Guard; Regional Commanders and Deputy Regional Commanders of the Coast Guard; Director and Deputy Director of the Department of Professional Affairs and Law; Head and Deputy Head of the Drug Crime Prevention and Control Task Force; Commander and Deputy Commander of the Navy; Squadron Commander and Deputy Commander of the Navy; Captain and Deputy Commander of the Navy; Captain and Deputy Captain of the Coast Guard Professional Team;
- d) Persons assigned to conduct certain investigation activities of the Fisheries Surveillance include the Director and Deputy Director of the Fisheries Surveillance Department; the Director and Deputy Director of the Regional Fisheries Surveillance Sub-Department;

- e) Persons assigned to conduct certain investigation activities of other agencies in the People's Public Security include the Director and Deputy Director of the Fire Prevention and Fighting Police; Directors, Deputy Directors, Heads of Departments, Deputy Heads of Departments of agencies assigned to conduct certain investigation activities of the People's Public Security, Warden and Deputy Warden of Prisons according to the provisions of the Law on Organization of Criminal Investigation Agencies;
- g) Persons assigned to conduct certain investigation activities of other agencies in the People's Army include Warden, Deputy Warden of Prisons; Head of independent units at regimental level and equivalent.
- h) Investigators of the agencies specified in Clause 1 of this Article.

### **Article 36. Duties, powers and responsibilities of the Head and Deputy Head of the Investigation Agency**

1. The Head of the Investigation Agency has the following duties and powers:

- a) Directly organize and direct the handling and handling of criminal information, prosecution and investigation by the Investigation Agency;
- b) Decide to assign or change the Deputy Head of the Investigation Agency, accept and handle information about crimes, inspect the prosecution and investigation of criminal cases by the Deputy Head of the Investigation Agency; decide to change or cancel unfounded and illegal decisions of the Deputy Head of the Investigation Agency.
- c) Decide to assign or change Investigators and Investigation Officers; inspect the activities of receiving and handling information about crimes, prosecuting and investigating criminal cases by Investigators and Investigation Officers; decide to change or cancel unfounded and illegal decisions of Investigators.
- d) Resolve complaints and denunciations within the authority of the Investigation Agency.

In his absence, the Head of the Investigation Agency shall authorize a Deputy Head of the Investigation Agency to perform the duties and powers of the Head of the Investigation Agency. The Deputy Head shall be responsible to the Head for the delegated duties.

2. When conducting criminal proceedings, the Head of the Investigation Agency has the following duties and powers:

- a) Decision to temporarily suspend the handling of denunciations, reports of crimes, and recommendations for prosecution; decision to prosecute, not to prosecute, supplement or change the decision to prosecute a case; decision to prosecute, supplement or change the decision to prosecute a defendant; decision to merge or separate cases; decision to entrust investigation;
- b) Decide to apply, change, or cancel preventive measures, coercive measures, and special investigative measures according to the provisions of this Code;
- c) Decisions on wanted persons, suspension of wanted persons, search, seizure, temporary detention, and handling of evidence;
- d) Decision to request an appraisal, additional appraisal or re-appraisal, exhumation, investigative experiment, change or request change of appraiser. Request for valuation, re-valuation of assets, request for change of asset appraiser.
- d) Directly inspect and verify sources of information about crimes and conduct investigative measures;
- e) Conclusion of case investigation;
- g) Decision to temporarily suspend investigation, suspend investigation, resume investigation of case, accused;
- h) Issue orders, decisions and conduct other procedural activities within the authority of the Investigation Agency.

3. When assigned to initiate and investigate criminal cases, the Deputy Head of the Investigation Agency shall have the duties and powers specified in Clauses 1 and 2 of this Article, except for the provisions in Point b, Clause 1 of this Article. The Deputy Head of the Investigation Agency shall not resolve complaints or denunciations about his/her actions or decisions.

4. The Head and Deputy Head of the Investigation Agency shall be responsible before the law for their actions and decisions. The Head and Deputy Head of the Investigation Agency shall not authorize the Investigator to perform his/her duties and powers.

### **Article 37. Duties, powers and responsibilities of the Investigator**

1. Investigators assigned to conduct criminal prosecution and investigation have the following duties and powers:

- a) Directly check, verify and establish records to resolve information about crimes;
- b) Prepare criminal case files;
- c) Request or propose to appoint or change a defense attorney; request to appoint or change an interpreter or translator;
- d) Summon and question suspects; summon and take statements from denouncers, crime reporters, denounced persons, persons recommended for prosecution, legal representatives of legal entities; take statements from persons detained in emergency cases, arrested persons, persons temporarily detained; summon and take statements from witnesses, victims, and litigants;
- d) Decision to escort a person detained in an emergency, an arrested person, a person in temporary custody, a defendant; decision to escort a witness, a person accused, a person recommended for prosecution, a victim; decision to hand over a person under 18 years old to an agency, organization, or individual responsible for supervision; decision to change the supervisor of a person under 18 years old who commits a crime;

- e) Execute orders to detain people in emergency cases, orders or decisions to arrest, temporarily detain, temporarily imprison, search, seize, temporarily hold, attach assets, freeze accounts, and handle evidence;
- g) Conduct crime scene investigation, exhumation, autopsy, examination of body traces, confrontation, identification, and investigative experiments;
- h) Perform other procedural tasks and powers under the authority of the Investigation Agency as assigned by the Head of the Investigation Agency in accordance with the provisions of this Code.

2. Investigators must be responsible before the law and before the Head and Deputy Head of the Investigation Agency for their actions and decisions.

#### **Article 38. Duties, powers and responsibilities of Investigation Officers of Investigation Agencies**

1. The investigator shall perform the following duties and powers as assigned by the Investigator:

- a) Record the minutes of taking statements, record the minutes of interrogation and record other minutes when the Investigator conducts inspection, verification of information sources about crimes and investigates criminal cases;
- b) Deliver, transfer, and send orders, decisions, and other procedural documents as prescribed by this Code;
- c) Assist the Investigator in preparing files to handle criminal information sources, case files and carry out other procedural activities.

2. Investigators must be responsible before the law and before the Head, Deputy Head of the Investigation Agency, and Investigators for their actions.

#### **Article 39. Duties, powers and responsibilities of heads, deputy heads and investigation officers of agencies of the Border Guard, Customs, Forest Rangers, Coast Guard and Fisheries Surveillance assigned to conduct certain investigation activities**

1. Heads of agencies assigned to conduct a number of investigative activities specified in Points a, b, c, d and dd, Clause 2, Article 35 of this Code have the following duties and powers:

- a) Directly direct the activities of receiving and handling information about crimes, prosecuting and investigating criminal cases according to authority;
- b) Decide to assign or change deputy level and investigation officers in receiving and handling information about crimes, prosecuting and investigating criminal cases;
- c) Inspect the activities of receiving and handling information about crimes, prosecuting and investigating criminal cases by deputies and investigating officers;
- d) Decide to change or cancel unfounded and illegal decisions of deputies and investigators;
- d) Decide to hand over the accused person who is under 18 years old to their representative for supervision .

In the absence of the chief, a deputy is authorized to perform the duties and powers of the chief. The deputy is responsible to the chief for the delegated duties. The chief and deputy are not authorized to authorize an investigator to perform their duties and powers.

2. When conducting criminal proceedings for less serious crimes in cases of flagrante delicto, where the evidence and criminal record are clear, the persons specified in Points a, b, c, d and dd, Clause 2, Article 35 of this Code have the following duties and powers:

- a) Collect evidence, documents, and objects from relevant persons to check and verify information about the crime;
- b) Decision to temporarily suspend the handling of denunciations, reports of crimes, and recommendations for prosecution; decision to prosecute, not to prosecute, change or supplement the decision to prosecute a case; decision to prosecute, change or supplement the decision to prosecute a defendant;
- c) Directly organize and direct the scene investigation;
- d) Decision to request appraisal, request asset valuation; decision to search, seize, temporarily detain and preserve evidence and documents directly related to the case;
- d) Summon and question suspects; summon and take statements from victims and litigants; summon and take statements from denouncers, informants of crimes, denounced persons, and persons recommended for prosecution; summon and take statements from witnesses; take statements from detainees in emergency cases;
- e) Decide to apply preventive measures and coercive measures according to the provisions of this Code;
- g) Investigation conclusion, proposal for prosecution or investigation conclusion and decision to suspend investigation; decision to temporarily suspend investigation; decision to resume investigation.

3. When conducting criminal proceedings against serious, very serious, especially serious crimes or less serious but complicated crimes, the persons specified in Points a, b, c, d and dd, Clause 2, Article 35 of this Code have the following duties and powers:

- a) Collect evidence, documents, and objects from relevant persons to check and verify information about the crime;

- b) Decision to temporarily suspend the handling of denunciations, reports of crimes, and recommendations for prosecution; decision to prosecute, not to prosecute, change or supplement the decision to prosecute a case;
- c) Decision to search, seize, temporarily detain and preserve evidence and documents directly related to the case;
- d) Summon and take statements from witnesses, victims and litigants.

4. Investigators have the following duties and powers:

- a) Prepare a file to handle information about crimes; take statements from relevant persons to check and verify information about crimes;
- b) Prepare criminal case files;
- c) Interrogate suspects; take statements from denouncers, informants of crimes, denounced persons, persons recommended for prosecution, persons detained in emergency cases, arrested persons, persons temporarily detained, witnesses, victims, and litigants;
- d) Conduct crime scene investigation; execute search warrants, seize, detain and preserve evidence and documents directly related to the case.

5. Within the scope of their responsibilities, the heads, deputy heads, and investigation officers of the Border Guard, Customs, Forest Rangers, Coast Guard, and Fisheries Surveillance agencies assigned to conduct certain investigation activities shall be responsible before the law for their actions and decisions. The heads and deputy heads shall not authorize investigation officers to perform their duties and exercise their powers.

**Article 40. Duties, powers and responsibilities of heads, deputy heads and investigation officers of other agencies of the People's Public Security and People's Army assigned to conduct certain investigation activities**

1. Heads of agencies assigned to conduct certain investigative activities specified in Points e and g, Clause 2, Article 35 of this Code have the following duties and powers:

- a) Directly direct the prosecution and investigation of criminal cases according to authority;
- b) Decide to assign or change deputy and investigation officers in the prosecution and investigation of criminal cases;
- c) Inspect the activities of receiving and handling information about crimes, prosecuting and investigating criminal cases by deputies and investigating officers;
- d) Decide to change or cancel unfounded and illegal decisions of deputies and investigators.

In the absence of the chief, a deputy is authorized to perform the duties and powers of the chief and is responsible to the chief for the authorized tasks.

2. When conducting criminal proceedings, the persons specified in Point e and Point g, Clause 2, Article 35 of this Code have the following duties and powers:

- a) Collect evidence, documents, and objects from relevant persons to check and verify information about the crime;
- b) Decision to temporarily suspend the handling of criminal information sources; decision to prosecute, not to prosecute, change or supplement the decision to prosecute a case;
- c) Directly organize and direct the scene investigation;
- d) Decision to search, seize, temporarily detain and preserve evidence and documents directly related to the case;
- d) Summon and take statements from the denouncer, the person reporting the crime, the person being denounced, the person being proposed for prosecution, the witness, the victim, and the parties.

3. Investigators have the following duties and powers:

- a) Prepare a file to handle information about crimes; take statements from relevant persons to check and verify information about crimes;
- b) Prepare criminal case files;
- c) Taking statements from the denouncer, the person reporting the crime, the denounced person, the person proposed for prosecution, the witness, the victim, and the litigant;
- d) Conduct crime scene investigation; execute search warrants, seize, detain and preserve evidence and documents directly related to the case;
- d) Deliver and send orders, decisions and other procedural documents as prescribed by this Code.

4. Within the scope of their responsibilities, the heads, deputies, and investigation officers of the People's Public Security and People's Army agencies assigned to conduct certain investigation activities shall be responsible before the law for their actions and decisions. The heads and deputies shall not authorize investigation officers to perform their duties and exercise their powers.

**Article 41. Duties, powers and responsibilities of the Chief Prosecutor and Deputy Chief Prosecutor of the Procuracy**

1. The Chief Prosecutor has the following duties and powers:

- a) Directly organize and direct the practice of the right to prosecute and supervise compliance with the law in criminal proceedings;
- b) Decide to assign or change the Deputy Chief Prosecutor; inspect the practice of the right to prosecute and supervise the compliance with the law in criminal proceedings by the Deputy Chief Prosecutor; decide to change or cancel the groundless and illegal decisions of the Deputy Chief Prosecutor;
- c) Decide to assign or change Prosecutors and Inspectors; inspect the activities of practicing the right to prosecute and inspect compliance with the law in criminal proceedings by Prosecutors and Inspectors; decide to change or cancel unfounded and illegal decisions of Prosecutors;
- d) Decision to withdraw, suspend or cancel groundless and illegal decisions of the lower-level Procuracy;
- d) Resolving complaints and denunciations under the authority of the Procuracy.

In his absence, the Chief Prosecutor shall authorize a Deputy Chief Prosecutor to perform the duties and powers of the Chief Prosecutor and shall be responsible to the Chief Prosecutor for the authorized duties.

2. When exercising the right to prosecute and supervise compliance with the law in criminal proceedings, the Chief Prosecutor has the following duties and powers:

- a) Request the Investigation Agency and the agency assigned to conduct certain investigation activities to receive and handle information about crimes, initiate or change or supplement decisions to initiate criminal cases and prosecute defendants; decide to initiate, not to initiate, change or supplement decisions to initiate criminal cases and prosecute defendants according to the provisions of this Code;
- b) Decision to temporarily suspend the handling of criminal information sources; decision to prosecute, not to prosecute, supplement or change the decision to prosecute a case; decision to prosecute, supplement or change the decision to prosecute a defendant; decision to merge or separate cases;
- c) Decide to apply, change, or cancel preventive measures, coercive measures, and special investigative measures; decide to extend the time limit for checking and verifying sources of information about crimes, extend detention, extend investigation, extend temporary detention, and extend prosecution;
- d) Decision to search, seize, temporarily detain and handle evidence;
- d) Decision to request appraisal, additional appraisal or re-appraisal, investigative experiment; change or request change of appraiser. Request for valuation, re-valuation of assets, request for change of asset appraiser;
- e) Request the Head of the Investigation Agency and the head of the agency assigned to conduct certain investigation activities to change the Investigator and Investigation Officer;
- g) Approve or disapprove decisions and orders of the Investigation Agency and agencies assigned to conduct certain investigation activities;
- h) Decide to annul unfounded and illegal decisions and orders of the Investigation Agency and agencies assigned to conduct certain investigation activities;
- i) Resolve disputes over jurisdiction to handle information sources about crimes, prosecute, investigate; decide to transfer cases;
- k) Decision to apply or suspend compulsory medical treatment measures;
- l) Decision to apply the simplified procedure or cancel the decision to apply the simplified procedure;
- m) Decision to prosecute the accused, return the case file for further investigation or re-investigation;
- n) Request to resume investigation; decision to temporarily suspend or discontinue the case, suspend or temporarily suspend the case against the accused; decision to cancel the decision to temporarily suspend the handling of information about the crime; decision to resume investigation of the case, resume investigation against the accused, resume the case, resume the case against the accused;
- o) Protest according to the appellate, supervisory and retrial procedures against the judgments and decisions of the Court according to the provisions of this Code;
- p) Exercise the right to petition according to the provisions of law;
- q) Issue decisions, orders and conduct other procedural activities within the authority of the Procuracy.

3. When assigned to exercise the right to prosecute and supervise compliance with the law in criminal proceedings, the Deputy Chief Prosecutor has the duties and powers specified in Clauses 1 and 2 of this Article, except for the provisions in Point b, Clause 1 of this Article. The Deputy Chief Prosecutor is not allowed to resolve complaints or denunciations about his/her actions and decisions.

4. The Chief Prosecutor and Deputy Chief Prosecutor shall be responsible before the law for their actions and decisions. The Chief Prosecutor and Deputy Chief Prosecutor shall not authorize a Prosecutor to perform his/her duties and powers.

#### **Article 42. Duties, powers and responsibilities of Prosecutors**

1. Prosecutors assigned to exercise the right to prosecute and supervise compliance with the law in criminal proceedings have the following duties and powers:

- a) Supervise the reception and handling of information about crimes by competent agencies and individuals;
  - b) Directly handle and prepare documents to handle information about crimes;
  - c) Supervise the acceptance and handling of information about crimes, prosecution, application of preventive measures and coercive measures; supervise the preparation of files for handling information about crimes, and the preparation of case files by competent investigation agencies and persons; supervise the prosecution and investigation activities of investigation agencies and agencies assigned to conduct certain investigation activities;
  - d) Directly supervise the scene investigation, autopsy, confrontation, identification, voice recognition, investigative experiments, and searches;
  - d) Supervise the temporary suspension and restoration of the handling of criminal information sources; the temporary suspension, suspension of investigation, restoration of investigation, and conclusion of investigation;
  - e) Propose investigation requests; request the Investigation Agency to search for or suspend wanted suspects;
  - g) Summon and question suspects; summon and take statements from denouncers, informants of crimes, denounced persons, persons recommended for prosecution, legal representatives of legal entities, witnesses, victims, and litigants; take statements from detainees in emergency cases;
  - h) Decision to escort arrested persons and defendants; decision to escort witnesses, denounced persons, persons proposed for prosecution, and victims; decision to hand over persons under 18 years of age to agencies, organizations, and individuals responsible for supervision; decision to change the supervisor of persons under 18 years of age who commit crimes;
  - i) Directly conduct a number of investigative activities as prescribed by this Code;
  - k) Request to change the person with authority to conduct the proceedings; request or propose to appoint or change the defense attorney; request to appoint or propose to change the interpreter or translator;
  - l) Conduct proceedings at court; announce indictments or decisions to prosecute under summary procedures, other decisions of the Procuracy on charging the defendant; question, present evidence, documents, objects, impeach, debate, express opinions on the settlement of the case at court sessions and meetings;
  - m) Supervise compliance with the law during the trial stage by the Court and the participants in the proceedings; supervise judgments, decisions and other procedural documents of the Court;
  - n) Supervising the enforcement of court judgments and decisions;
  - o) Exercise the right to request and make recommendations in accordance with the provisions of law;
  - p) Perform other procedural tasks and powers under the authority of the Procuracy as assigned by the Chief Procurator in accordance with the provisions of this Code.
2. Prosecutors must be responsible before the law and before the Chief Prosecutor and Deputy Chief Prosecutor for their actions and decisions.

#### **Article 43. Duties, powers and responsibilities of Inspectors**

1. Inspectors perform the following duties and powers as assigned by the Prosecutor:
- a) Record minutes of taking statements, record minutes of interrogation and record other minutes in criminal proceedings;
  - b) Deliver, transfer, and send orders, decisions, and other procedural documents as prescribed by this Code;
  - c) Assist the Prosecutor in preparing prosecution records, records of handling criminal information sources and conducting other procedural activities.
2. Inspectors shall be responsible before the law and before the Chief Prosecutor, Deputy Chief Prosecutor and Prosecutors for their actions.

#### **Article 44. Duties, powers and responsibilities of the Chief Justice and Deputy Chief Justice of the Court**

1. The Chief Justice of the Court has the following duties and powers:
- a) Directly organize the trial of criminal cases; decide to resolve disputes over jurisdiction;
  - b) Decision to assign Deputy Chief Justice of the Court, Judges, and Jurors to resolve and try criminal cases; decision to assign Court Clerks to conduct proceedings for criminal cases; decision to assign Examiners to examine criminal case files;
  - c) Decide to change Judge, Jury, Court Secretary before opening the trial;
  - d) Issue a decision to execute a criminal sentence;
  - d) Decision to postpone the execution of prison sentence;
  - e) Decision to temporarily suspend the execution of a prison sentence;
  - g) Decision to erase criminal record;
  - h) Resolve complaints and denunciations under the jurisdiction of the Court.

In his absence, the Chief Justice of the Court shall authorize a Deputy Chief Justice of the Court to perform the duties and powers of the Chief Justice. The Deputy Chief Justice of the Court shall be responsible to the Chief Justice of the Court for the delegated duties.

2. When handling a criminal case, the Chief Justice of the Court has the following duties and powers:

- a) Decision to apply, change or cancel temporary detention measures and handle evidence;
- b) Decision to apply or suspend compulsory medical treatment measures;
- c) Decision to apply the simplified procedure or cancel the decision to apply the simplified procedure;
- d) Petition and protest according to the procedure of cassation review of judgments and decisions of the Court that have come into legal effect;
- d) Decide and conduct other litigation activities within the jurisdiction of the Court;
- e) Conduct other litigation activities as prescribed by this Code.

3. When assigned to resolve and try criminal cases, the Deputy Chief Justice of the Court shall have the duties and powers specified in Clauses 1 and 2 of this Article, except for the provisions in Point b, Clause 1 of this Article. The Deputy Chief Justice of the Court shall not resolve complaints or denunciations about his/her actions or decisions.

4. The Chief Justice and Deputy Chief Justice of the Court shall be responsible before the law for their actions and decisions. The Chief Justice and Deputy Chief Justice of the Court shall not authorize Judges to perform their duties and powers.

#### **Article 45. Duties, powers and responsibilities of Judges**

1. Judges assigned to resolve and try criminal cases have the following duties and powers:

- a) Study the case file before opening the trial;
- b) Conduct trial of the case;
- c) Conduct litigation activities and vote on matters within the jurisdiction of the Trial Council;
- d) Conduct other litigation activities within the jurisdiction of the Court as assigned by the Chief Justice of the Court.

2. The judge presiding over the trial has the duties and powers specified in Clause 1 of this Article and the following duties and powers:

- a) Decision to apply, change, or cancel preventive measures and coercive measures, except for temporary detention;
- b) Decision to return the file for further investigation;
- c) Decision to bring the case to trial; decision to suspend or temporarily suspend the case;
- d) Conducting the trial and debate at court;
- d) Decision to request appraisal, additional appraisal or re-appraisal, investigative experiment; change or request change of appraiser; request asset valuation, request change of asset valuer;
- e) Request or propose to appoint or change a defense attorney; change the supervisor of a person under 18 years of age who commits a crime; request to appoint or change an interpreter or translator;
- g) Decide to summon those who need to be questioned to court;
- h) Perform other procedural tasks and powers within the jurisdiction of the Court as assigned by the Chief Justice of the Court in accordance with the provisions of this Code.

3. Judges are responsible before the law for their actions and decisions.

#### **Article 46. Duties, powers and responsibilities of the Jury**

1. The jury assigned to try a criminal case at first instance has the following duties and powers:

- a) Study the case file before opening the trial;
- b) Conduct trial of the case;
- c) Conduct litigation activities and vote on matters within the jurisdiction of the Trial Council.

2. The jury must be responsible before the law for their actions and decisions.

#### **Article 47. Duties, powers and responsibilities of the Court Secretary**

1. The Court Secretary assigned to conduct criminal proceedings has the following duties and powers:

- a) Check the presence of those summoned by the Court; if anyone is absent, the reason must be stated ;
- b) Disseminate court rules;
- c) Report to the Trial Panel the list of those summoned to the trial and those absent;
- d ) Record the court minutes ;

d) Conduct other litigation activities within the jurisdiction of the Court as assigned by the Chief Justice of the Court.

2. The Court Secretary shall be responsible before the law and before the Chief Justice of the Court for his/her actions.

#### **Article 48. Duties, powers and responsibilities of the Examiner**

1. The examiner assigned to conduct criminal proceedings has the following duties and powers:

a) Examine case files whose judgments and decisions have come into legal effect as assigned by the Chief Justice or Deputy Chief Justice of the Court;

b) Conclude the examination and report the examination results to the Chief Justice or Deputy Chief Justice of the Court;

c) The examiner assists the Chief Justice of the Court in performing tasks related to the enforcement of judgments within the jurisdiction of the Court and other tasks assigned by the Chief Justice or Deputy Chief Justice of the Court.

2. The examiner shall be responsible before the law and before the Chief Justice and Deputy Chief Justice of the Court for his/her actions.

#### **Article 49. Cases where it is necessary to refuse or change the person with authority to conduct proceedings**

The person with authority to conduct proceedings must refuse to conduct proceedings or be replaced in one of the following cases:

1. At the same time being a victim, a party; being a representative, a relative of a victim, a party or of a suspect, a defendant;

2. Participated as a defender, witness, expert, property valuer, interpreter, translator in that case;

3. There are other clear grounds to believe that they may not have been impartial in the performance of their duties.

#### **Article 50. Persons entitled to request a change of the person with authority to conduct proceedings**

1. Prosecutor.

2. Detainees, suspects, defendants, victims, civil plaintiffs, civil defendants and their representatives.

3. Defender, person protecting the rights and legitimate interests of the victim, civil plaintiff, civil defendant.

#### **Article 51. Change of Investigator and Investigation Officer**

1. Investigators and Investigation Officers must refuse to conduct proceedings or be replaced in one of the following cases:

a) Cases specified in Article 49 of this Code ;

b) Has conducted proceedings in that case as a Prosecutor, Inspector, Judge, Juror, Investigator or Court Clerk.

2. The change of Investigator or Investigation Officer is decided by the Head or Deputy Head of the Investigation Agency.

If the replaced investigator is the Head of the Investigation Agency in one of the cases specified in Clause 1 of this Article, the investigation of the case shall be directly conducted by the superior Investigation Agency.

#### **Article 52. Change of Prosecutors and Inspectors**

1. Prosecutors and Inspectors must refuse to conduct proceedings or be replaced in one of the following cases:

a) Cases specified in Article 49 of this Code ;

b) Has conducted proceedings in that case as an Investigator, Investigation Officer, Judge, Juror, Examiner or Court Clerk.

2. The change of Prosecutor before the opening of the trial shall be decided by the Chief Prosecutor or Deputy Chief Prosecutor of the same level People's Procuracy assigned to handle the case.

If the prosecutor to be replaced is the Chief Prosecutor, the decision shall be made directly by the Chief Prosecutor of the immediate superior People's Procuracy.

In case the Prosecutor must be changed at the trial, the Trial Panel shall decide to postpone the trial.

#### **Article 53. Change of Judges and Jurors**

1. Judges and jurors must refuse to participate in the trial or be replaced in one of the following cases:

a) Cases specified in Article 49 of this Code ;

b) They are on the same Trial Panel and are relatives;

c) Participated in the first-instance or appeal trial or conducted the proceedings of that case as an Investigator, Investigation Officer, Prosecutor, Inspector, Examiner, or Court Clerk.

2. The change of Judges and Jurors before the opening of the trial shall be decided by the Chief Judge or Deputy Chief Judge of the Court assigned to resolve the case.

The judge to be replaced is the Chief Justice of the Court, which is decided by the Chief Justice of the Court at a higher level.

The change of Judges and Jurors at the trial is decided by the Trial Panel before the beginning of the questioning by voting in the deliberation room. When considering the change of a member, that member is allowed to present his/her opinion, and the Panel decides by majority.

In case the Judge or Jury must be changed at the trial, the Trial Panel shall decide to postpone the trial.

#### **Article 54. Change of Court Secretary**

1. The Court Secretary must refuse to conduct proceedings or be replaced in one of the following cases:

- a) Cases specified in Article 49 of this Code ;
- b) Has conducted the proceedings of that case as a Prosecutor, Inspector, Investigator, Investigation Officer, Judge, Juror, Examiner, or Court Clerk.

2. The change of Court Secretary before the opening of the trial shall be decided by the Chief Justice or Deputy Chief Justice of the Court assigned to handle the case.

The change of Court Secretary at the trial is decided by the Trial Panel.

In case the Court Secretary must be changed during the trial, the Trial Panel shall decide to suspend the trial.

#### **Chapter IV**

### **LITIGANT**

#### **Article 55. Litigation participants**

1. Person reporting, reporting crime, recommending prosecution.
2. The accused person, the person proposed for prosecution.
3. Person detained in emergency cases.
4. The person arrested.
5. Detainee.
6. Defendant.
7. Defendant.
8. Victim.
9. Civil Plaintiff.
10. Civil defendant.
11. People with rights and obligations related to the case.
12. Witness.
13. Witness.
14. The appraiser.
15. Property valuer.
16. Interpreter, translator.
17. The defender.
18. Person protecting the legitimate rights and interests of victims and litigants.
19. The person who protects the legitimate rights and interests of the person being denounced or proposed for prosecution.
20. Legal representative of a legal entity committing a crime, other representatives as prescribed by this Code.

#### **Article 56. Persons reporting crimes, informing about crimes, and recommending prosecution**

1. Individuals who have denounced or reported crimes; agencies and organizations that have reported crimes or proposed prosecution have the right to:

- a) Request competent authorities to keep secret the denunciation, reporting of crimes, recommendations for prosecution, protection of life, health, honor, dignity, reputation, property, other legitimate rights and interests of them and their relatives when threatened;
- b) Be informed of the results of handling denunciations, crime reports, and recommendations for prosecution;
- c) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings in receiving and handling denunciations and reports of crimes and recommendations for prosecution.

2. Individuals, agencies and organizations specified in Clause 1 of this Article must be present at the request of the competent authority handling information about the crime, and honestly present the details they know about the incident.

#### **Article 57. Persons accused and persons proposed for prosecution**

1. The accused person and the person against whom prosecution is proposed have the right to:

- a) Be informed of the acts being denounced or proposed for prosecution;

- b) Be informed and explained about the rights and obligations stipulated in this Article;
- c) Presenting statements and opinions;
- d) Provide evidence, documents, objects, requests;
- d) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- e) Self-protect or have someone protect your legitimate rights and interests;
- g) Be informed of the results of handling denunciations and recommendations for prosecution;
- h) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings.

2. The accused person or the person against whom the prosecution is proposed must be present at the request of the competent authority handling the accusation or proposal for prosecution.

#### **Article 58. Persons detained in emergency cases and persons arrested**

1. Persons detained in emergency cases, persons arrested in flagrante delicto and persons arrested pursuant to wanted notices have the right to:

- a) To hear and receive orders to detain people in emergency cases, orders to arrest people in emergency cases, decisions approving orders to arrest people in emergency cases, and decisions on wanted persons;
- b) To know the reason for being detained or arrested;
- c) Be informed and explained about the rights and obligations stipulated in this Article;
- d) Present statements and opinions, without being forced to testify against oneself or forced to admit guilt;
- d) Provide evidence, documents, objects, requests;
- e) Present opinions on relevant evidence, documents, and objects and request competent litigation authorities to examine and evaluate;
- g) Self-defense or having someone defend you;
- h) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings in detaining and arresting people.

2. A person detained in an emergency or arrested has the obligation to comply with the detention order, arrest order and request of the agency or person with authority to detain or arrest a person according to the provisions of this Code.

#### **Article 59. Detainees**

1. A detainee is a person detained in an emergency, arrested in a case of flagrante delicto, arrested pursuant to a wanted notice, or a person who confesses or surrenders himself/herself and for whom a detention decision has been issued.

2. Detainees have the right to:

- a) To know the reason for his/her detention; to receive the decision on detention, the decision to extend detention, the decision approving the decision to extend detention and other procedural decisions as prescribed in this Code;
- b) Be informed and explained about the rights and obligations stipulated in this Article;
- c) Present statements, express opinions, not be forced to testify against oneself or be forced to admit guilt;
- d) Self-defense or having someone defend you;
- d) Provide evidence, documents, objects, requests;
- e) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- g) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings regarding temporary detention.

3. Detainees are obliged to comply with the provisions of this Code and the Law on the Enforcement of Detention and Temporary Imprisonment.

#### **Article 60. Defendant**

1. The accused is a person or legal entity prosecuted for a criminal offense. The rights and obligations of a legal entity accused are exercised through the legal representative of the legal entity in accordance with the provisions of this Code.

2. The accused has the right to:

- a) To know the reason for being prosecuted;
- b) Be informed and explained about the rights and obligations stipulated in this Article;

- c) Receive decisions to prosecute the accused; decisions to change or supplement decisions to prosecute the accused, decisions to approve decisions to prosecute the accused, decisions to approve decisions to change or supplement decisions to prosecute the accused; decisions to apply, change or cancel preventive measures or coercive measures; investigation conclusions; decisions to suspend or temporarily suspend investigations; decisions to suspend or temporarily suspend cases; indictments, prosecution decisions and other procedural decisions as prescribed by this Code;
- d) Present statements and opinions, without being forced to testify against oneself or forced to admit guilt;
- d) Provide evidence, documents, objects, requests;
- e) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- g) Request for appraisal and valuation of assets; request for change of competent person conducting proceedings, appraiser, property valuer, interpreter, translator;
- h) Self-defense or having someone defend you;
- i) Read, take notes of copies of documents or digitized documents related to the indictment, exoneration or other copies of documents related to the defense since the end of the investigation when requested;
- k) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings.

3. The accused has the obligation:

- a) Appear in response to the summons of the competent person conducting the proceedings. In case of absence without force majeure or objective obstacles, the person may be escorted; if he/she escapes, he/she will be wanted;
- b) Comply with decisions and requests of competent authorities and persons conducting proceedings.

4. The Minister of Public Security shall preside over and coordinate with the Chief Justice of the Supreme People's Procuracy, the Chief Justice of the Supreme People's Court and the Minister of National Defense to specify in detail the order, procedures, time limit and location for the accused to read and take notes of copies of documents or digitized documents related to the accusation, exoneration or copies of other documents related to the defense when the accused requests as prescribed in Point i, Clause 2 of this Article.

#### **Article 61. Defendant**

1. The defendant is a person or legal entity that has been decided by the Court to be brought to trial. The rights and obligations of the defendant as a legal entity are exercised through the legal representative of the legal entity according to the provisions of this Code.

2. The defendant has the right to:

- a) Receive decisions to bring cases to trial; decisions to apply, change, or cancel preventive measures or coercive measures; decisions to suspend cases; judgments and decisions of the Court and other procedural decisions as prescribed by this Code;
- b) Participate in court;
- c) Be informed and explained about the rights and obligations stipulated in this Article;
- d) Request for appraisal and valuation of assets; request for change of competent person conducting proceedings, appraiser, property valuer, interpreter, translator; request to summon witnesses, victims, persons with rights and obligations related to the case, appraiser, property valuer, other participants in the proceedings and competent person conducting proceedings to attend the court session;
- d) Provide evidence, documents, objects, requests;
- e) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- g) Self-defense or having someone defend you;
- h) Present statements and opinions, without being forced to testify against oneself or forced to admit guilt;
- i) Request the presiding judge to ask questions or personally ask the trial participants if the presiding judge agrees; debate in court;
- k) Have the last word before the deliberation;
- l) Review the court minutes and request amendments and additions to the court minutes;
- m) Appeal against court judgments and decisions;
- n) Complaints about decisions and procedural actions of competent agencies and individuals conducting proceedings;
- o) Other rights as prescribed by law.

3. The defendant has the obligation:

- a) Appear in response to the Court's summons. In case of absence without force majeure or objective obstacles, he/she may be escorted; if he/she escapes, he/she will be wanted;

b) Comply with the decisions and requests of the Court.

#### **Article 62. Victims**

1. A victim is an individual who directly suffers physical, mental or property damage, or an agency or organization whose property or reputation is damaged due to a crime or threat of damage.

2. The victim or their representative has the right to:

- a) Be informed and explained of the rights and obligations prescribed in this Article;
- b) Provide evidence, documents, objects, requests;
- c) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- d) Request for appraisal and valuation of assets according to the provisions of law;
- d) Be informed of the results of investigation and case resolution;
- e) Request to change the person with authority to conduct the proceedings, the appraiser, the property valuer, the interpreter, the translator;
- g) Proposed penalties, level of compensation for damages, and measures to ensure compensation;
- h) Participate in court sessions; present opinions, request the presiding judge to question the defendant and other participants in the court sessions; debate in court to protect one's legitimate rights and interests; read the court minutes;
- i) Self-protection, asking others to protect one's legitimate rights and interests;
- k) Participate in litigation activities as prescribed by this Code;
- l) Request competent authorities to conduct legal proceedings to protect the life, health, honor, dignity, property, rights and other legitimate interests of oneself and one's relatives when threatened;
- m) Appeal against court judgments and decisions;
- n) Complaints about decisions and procedural actions of competent agencies and individuals conducting proceedings;
- o) Other rights as prescribed by law.

3. In case the case is initiated at the request of the victim, the victim or their representative shall present the accusation at the trial.

4. The victim has the obligation to:

- a) Be present in response to the summons of the competent person conducting the proceedings; in case of intentional absence without force majeure or objective obstacles, he/she may be escorted;
- b) Comply with decisions and requests of competent authorities and persons conducting proceedings.

5. In case the victim dies, goes missing, loses or has limited civil capacity, the representative shall exercise the rights and obligations of the victim as prescribed in this Article.

In case an agency or organization is the victim of a division, separation, merger or consolidation, the legal representative or organization or individual inheriting the rights and obligations of that agency or organization shall have the rights and obligations as prescribed in this Article.

#### **Article 63. Civil plaintiff**

1. A civil plaintiff is an individual, agency or organization that has suffered damage caused by a crime and has a request for compensation for damages.

2. The civil plaintiff or his representative has the right to:

- a) Be informed and explained of the rights and obligations prescribed in this Article;
- b) Provide evidence, documents, objects, requests;
- c) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- d) Be informed of the results of investigation and case resolution;
- d) Request appraisal and valuation of assets according to the provisions of law;
- e) Request to change the person with authority to conduct the proceedings, the appraiser, the property valuer, the interpreter, the translator;
- g) Propose compensation level and compensation guarantee measures;
- h) Participate in court sessions; present opinions, request the presiding judge to question participants in the court sessions; debate in court to protect the plaintiff's legitimate rights and interests; read the court minutes;
- i) Self-protection, asking others to protect one's legitimate rights and interests;

- k) Complain about decisions and procedural actions of competent agencies and persons conducting proceedings;
- l) Appeal against the Court's judgment or decision on compensation for damages;
- m) Other rights as prescribed by law.

3. The civil plaintiff has the obligation:

- a) Appear in response to the summons of the competent person conducting the proceedings;
- b) Honestly present the details related to compensation for damages;
- c) Comply with decisions and requests of competent authorities and persons conducting proceedings.

#### **Article 64. Civil defendant**

1. A civil defendant is an individual, agency or organization that the law stipulates must be responsible for compensating for damages.

2. Civil defendants or their representatives have the right to:

- a) Be informed and explained of the rights and obligations prescribed in this Article;
- b) Accept or reject part or all of the civil plaintiff's claim;
- c) Provide evidence, documents, objects, requests;
- d) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- d) Request appraisal and valuation of assets according to the provisions of law;
- e) Be informed of the results of investigation and settlement of cases related to claims for compensation for damages;
- g) Request to change the person with authority to conduct the proceedings, the appraiser, the property valuer, the interpreter, the translator;
- h) Participate in court sessions; present opinions, request the presiding judge to question participants in the court sessions; debate in court to protect the defendant's legitimate rights and interests; read the court minutes;
- i) Self-protection, asking others to protect one's legitimate rights and interests;
- k) Complain about decisions and procedural actions of competent agencies and persons conducting proceedings;
- l) Appeal against the Court's judgment or decision on compensation for damages;
- m) Other rights as prescribed by law.

3. The civil defendant has the obligation:

- a) Appear in response to the summons of the competent person conducting the proceedings;
- b) Honestly present the details related to compensation for damages;
- c) Comply with decisions and requests of competent authorities and persons conducting proceedings.

#### **Article 65. Persons with rights and obligations related to the case**

1. A person with rights and obligations related to a case is an individual, agency or organization with rights and obligations related to a criminal case.

2. People with rights and obligations related to the case or their representatives have the right to:

- a) Be informed and explained of the rights and obligations prescribed in this Article;
- b) Provide evidence, documents, objects, requests;
- c) Request appraisal and valuation of assets according to the provisions of law;
- d) Participate in court sessions; express opinions, request the presiding judge to question the participants in the court sessions; debate in court to protect one's legitimate rights and interests; read the court minutes;
- d) Self-protection, asking others to protect one's legitimate rights and interests;
- e) Present opinions on relevant evidence, documents, and objects and request competent authorities to conduct examination and evaluation;
- g) Appeal against court judgments and decisions on issues directly related to one's rights and obligations;
- h) Complain about decisions and procedural actions of competent agencies and persons conducting proceedings;
- i) Other rights as prescribed by law.

3. People with rights and obligations related to the case have the obligation to:

- a) Appear in response to the summons of the competent person conducting the proceedings;

- b) Honestly present the details related to your rights and obligations;
- c) Comply with decisions and requests of competent authorities and persons conducting proceedings.

**Article 66. Witnesses**

1. A witness is a person who knows the details related to the source of information about the crime, about the case and is summoned by the competent authority conducting the proceedings to testify.

2. The following persons may not testify:

- a) The defendant's defense attorney;
- b) A person who, due to mental or physical disabilities, is unable to perceive details related to information about a crime or a case, or is unable to make accurate statements.

3. Witnesses have the right to:

- a) Be informed and explained of the rights and obligations prescribed in this Article;
- b) Request the summoning agency to protect the life, health, honor, dignity, property and other legitimate rights and interests of oneself and one's relatives when threatened;
- c) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings related to their participation in testifying;
- d) Be paid travel expenses and other expenses by the summoning agency as prescribed by law.

4. Witnesses have the obligation to:

- a) Appear in response to the summons of the competent authority conducting the proceedings. In case of intentional absence without force majeure or objective obstacles and their absence hinders the handling of information about crimes, prosecution, investigation, prosecution, and trial, they may be escorted;
- b) Honestly present the details you know related to the source of information about the crime, the case and the reason for knowing those details.

5. A witness who gives false testimony or refuses to give testimony or avoids giving testimony without reason of force majeure or objective obstacles shall bear criminal responsibility according to the provisions of the Penal Code.

6. The agency or organization where the witness works or studies is responsible for creating conditions for them to participate in the proceedings.

**Article 67. Witnesses**

1. A witness is a person requested by a competent authority to witness the conduct of proceedings according to the provisions of this Code.

2. The following persons may not be witnesses:

- a) Relatives of the accused, persons with authority to conduct proceedings;
- b) A person who, due to mental or physical disabilities, is unable to perceive things correctly;
- c) Persons under 18 years old;
- d) There is another reason to believe that the person is not objective.

3. Witnesses have the right to:

- a) Be informed and explained of the rights and obligations prescribed in this Article;
- b) Request competent authorities to conduct proceedings in compliance with legal provisions, protect the life, health, honor, dignity, property and other legitimate rights and interests of oneself and one's relatives when threatened;
- c) Review the minutes of the proceedings and make comments on the proceedings that you witnessed;
- d) Complain about decisions and procedural actions of competent agencies and persons conducting proceedings related to the matters they participated in witnessing;
- d) Be paid expenses by the summoning agency according to the provisions of law.

4. Witnesses have the obligation to:

- a) Be present at the request of the competent authority conducting the proceedings;
- b) Fully witness the requested proceedings;
- c) Sign a record of the activities you witness;
- d) Keep secret the investigative activities that you witness;
- d) Honestly present the details that you witnessed at the request of the competent authority conducting the proceedings.

**Article 68. Appraiser**

1. An expert is a person with specialized knowledge in the field requiring appraisal, requested by a competent authority conducting the proceedings, or requested by a participant in the proceedings according to the provisions of law.
2. The appraiser has the right to:
  - a) Study case documents related to the subject of appraisal;
  - b) Request the requesting agency and the litigant requesting the appraisal to provide necessary documents for the conclusion;
  - c) Participate in questioning, taking statements and asking questions about issues related to the subject of appraisal;
  - d) Refuse to conduct an appraisal in cases where there is not enough time to conduct the appraisal, the documents provided are insufficient or not valuable for conclusion, or the content of the appraisal request exceeds the scope of one's professional knowledge;
  - d) Record your own opinion in the general conclusion if you do not agree with the general conclusion in case the appraisal is conducted by a collective appraisal team;
  - e) Other rights as prescribed by the Law on Judicial Expertise.
3. The appraiser has the obligation to:
  - a) Appear in response to the summons of the competent authority conducting the proceedings;
  - b) Keep confidential the investigation information that you know when performing the appraisal;
  - c) Other obligations as prescribed by the Law on Judicial Expertise .
4. An expert who makes a false conclusion or refuses to make an expert conclusion without a reason of force majeure or objective obstacles shall bear criminal responsibility according to the provisions of the Penal Code .
5. The expert must refuse to participate in the proceedings or be replaced in one of the following cases:
  - a) At the same time being a victim, a party; being a representative, a relative of a victim, a party or of a suspect or defendant;
  - b) Participated as a defender, witness, interpreter, translator, or property valuator in that case;
  - c) Proceedings have been conducted in that case.
6. The change of appraiser is decided by the agency requesting the appraisal.

**Article 69. Property valuer**

1. A property valuer is a person with specialized knowledge in the field of prices, requested by competent authorities conducting proceedings or participants in proceedings to value assets according to the provisions of law.
2. The property valuer has the right to:
  - a) Study the case documents related to the subject to be appraised;
  - b) Request the agency requesting the valuation and the litigation participant requesting the valuation to provide documents necessary for the valuation;
  - c) Refuse to conduct valuation in cases where there is not enough time to conduct valuation, the documents provided are insufficient or have no value for valuation, or the valuation request exceeds the scope of one's professional knowledge;
  - d) Record your conclusion in the general conclusion if you do not agree with the conclusion of the Asset Valuation Council;
  - d) Other rights as prescribed by law.
3. The property valuer has the obligation to:
  - a) Appear in response to the summons of the competent authority conducting the proceedings;
  - b) Keep confidential the investigation information that he/she knows when conducting asset valuation;
  - c) Other obligations as prescribed by law.
4. A property valuer who makes a false conclusion or refuses to participate in the valuation without a reason of force majeure or objective obstacles shall be held criminally responsible according to the provisions of the Penal Code .
5. The property valuer must refuse to participate in the proceedings or be replaced in one of the following cases:
  - a) At the same time being a victim, a party; being a representative, a relative of a victim, a party or of a suspect or defendant;
  - b) Participated as a defender, witness, expert, interpreter, or translator in that case;
  - c) Proceedings have been conducted in that case.
6. The change of property valuer is decided by the agency requesting the property valuation.

**Article 70. Interpreters and translators**

1. An interpreter or translator is a person who is capable of interpreting and translating and is requested by the competent authority conducting the proceedings in cases where a participant in the proceedings cannot use Vietnamese or has procedural documents that are not presented in Vietnamese.
2. Interpreters and translators have the right to:
  - a) Be informed and explained of the rights and obligations prescribed in this Article;
  - b) Request the agency to request protection of the life, health, honor, dignity, property and other legitimate rights and interests of oneself and one's relatives when threatened;
  - c) Complain about decisions and procedural actions of competent agencies and persons conducting proceedings related to interpretation and translation;
  - d) Be paid by the requesting agency for interpretation and translation fees and other benefits according to the provisions of law.
3. Interpreters and translators have the following obligations:
  - a) Appear in response to the summons of the competent authority conducting the proceedings;
  - b) Interpreting and translating honestly. If the interpretation or translation is fraudulent, the interpreter or translator shall bear criminal responsibility according to the provisions of the Penal Code ;
  - c) Keep confidential the investigation that you know when interpreting or translating;
  - d) Must commit to the requesting agency to fulfill his/her obligations.
4. Interpreters and translators must refuse to participate in the proceedings or be replaced in one of the following cases:
  - a) At the same time being a victim, a party; being a representative, a relative of a victim, a party or of a suspect or defendant;
  - b) Participated as a defender, witness, expert, or property valuer in that case;
  - c) Proceedings have been conducted in that case.
5. The change of interpreter or translator is decided by the agency requesting the interpretation or translation.
6. The provisions of this Article also apply to people who know the gestures and behaviors of the mute, the deaf, and the writing of the blind.

#### **Article 71. Responsibility to notify, explain and ensure the implementation of rights and obligations of participants in the proceedings**

1. The competent authority and person conducting the proceedings shall be responsible for informing, explaining and ensuring the implementation of the rights and obligations of the participants in the proceedings according to the provisions of this Code.

In cases where the accused or the victim is eligible for legal aid under the provisions of the Law on Legal Aid , the competent authority or person conducting the proceedings shall be responsible for explaining to them their right to legal aid; if they request legal aid, the competent authority or person conducting the proceedings shall notify the State Legal Aid Center.

2. Notification and explanation must be recorded in the minutes.

### **Chapter V**

## **DEFENDING, PROTECTING THE LEGAL RIGHTS AND INTERESTS OF VICTIMS AND PARTIES**

#### **Article 72. Defense counsel**

1. A defense attorney is a person who is asked by the accused to defend him or by a competent authority conducting the proceedings and whose registration for defense is accepted by the competent authority or person conducting the proceedings.

2. The defender may be:

- a) Lawyer;
- b) Representative of the accused;
- c) People's defender;
- d) Legal aid officer in case the accused is eligible for legal aid.

3. A people's defender is a Vietnamese citizen aged 18 or older, loyal to the Fatherland, of good moral character, with legal knowledge, and in good health to ensure the completion of assigned tasks, and is assigned by the Vietnam Fatherland Front Committee or a member organization of the Front to participate in defending an accused person who is a member of their organization.

4. The following persons may not defend:

- a) The person who has prosecuted the case; relatives of the person who has prosecuted or is prosecuting the case;
- b) A person participating in the case as a witness, expert, property valuer, interpreter, or translator;

c) Persons who are being prosecuted for criminal liability, persons who have been convicted but have not had their criminal records expunged, persons who are being subject to administrative measures of being sent to compulsory drug rehabilitation facilities or compulsory education facilities.

5. A defender may defend multiple defendants in the same case if their rights and interests are not in conflict.

Multiple defense attorneys may defend one accused person.

### **Article 73. Rights and obligations of defense counsel**

1. The defense attorney has the right to:

- a) Meet and question the accused;
- b) Be present when taking statements from arrested or detained persons, when questioning suspects, and if the competent person conducting the taking of statements or questioning agrees, to question the arrested or detained person or suspect. After each time the competent person finishes taking statements or questioning, the defense attorney may question the arrested or detained person or suspect;
- c) Be present during confrontation, identification, voice recognition and other investigative activities as prescribed by this Code;
- d) Be notified in advance by the competent authority conducting the proceedings of the time and place for taking statements, interrogation, and the time and place for conducting other investigative activities as prescribed by this Code;
- d) Review the minutes of the proceedings in which he/she participated and the procedural decisions related to the person he/she defends;
- e) Request to change the person with authority to conduct the proceedings, the appraiser, the property valuer, the interpreter, the translator; request to change or cancel preventive measures or coercive measures;
- g) Request to conduct litigation activities according to the provisions of this Code; request to summon witnesses, other litigation participants, and persons with authority to conduct litigation;
- h) Collect, present evidence, documents, objects, requests;
- i) Examine, evaluate and present opinions on relevant evidence, documents and objects and request competent authorities to conduct examination and evaluation ;
- k) Request competent authorities to conduct proceedings to collect evidence, conduct additional appraisals, re-appraisals, and re-evaluate assets;
- l) Read, take notes and photocopy documents in the case file related to the defense from the end of the investigation;
- m) Participate in questioning and debating at court;
- n) Complaints about decisions and procedural actions of competent agencies and individuals conducting proceedings;
- o) Appeal against the judgment or decision of the Court if the defendant is under 18 years old or has a mental or physical disability as prescribed by this Code.

2. The defense attorney has the obligation to:

- a) Use all measures prescribed by law to clarify the circumstances that determine the innocence of the accused and the mitigating circumstances of the criminal responsibility of the accused;
- b) Provide legal assistance to the accused to protect their legitimate rights and interests;
- c) Not to refuse to defend the accused person whom one has undertaken to defend unless due to force majeure or objective obstacles;
- d) Respect the truth; do not bribe, coerce or incite others to make false statements or provide false documents;
- d) Be present upon summons from the Court; in case a defense attorney is appointed as prescribed in Clause 1, Article 76 of this Code , he/she must be present upon request of the Investigation Agency or the Procuracy;
- e) Not to disclose investigative secrets that one knows when conducting defense; not to use recorded or photocopied documents in case files for the purpose of infringing upon the interests of the State, public interests, and the legitimate rights and interests of agencies, organizations, and individuals;
- g) Not to disclose information about the case or the accused that one knows when defending, unless the accused agrees in writing, and not to use that information for the purpose of infringing upon the interests of the State, public interests, rights and legitimate interests of agencies, organizations and individuals.

3. Depending on the nature and severity of the violation, a defense attorney who violates the law will have his/her defense registration revoked, be subject to disciplinary action, administrative sanctions, or criminal prosecution; if causing damage, compensation must be paid in accordance with the provisions of the law.

### **Article 74. Time for defense counsel to participate in proceedings**

The defense attorney participates in the proceedings from the time of prosecution.

In case of arrest or detention, the defense attorney participates in the proceedings from the time the arrested person appears at the headquarters of the Investigation Agency, the agency assigned to conduct certain investigation activities, or from the time of the decision to detain.

In cases where it is necessary to keep the investigation secret for crimes against national security, the Chief Prosecutor has the authority to decide to allow the defense attorney to participate in the proceedings from the end of the investigation.

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

1. The defense attorney is chosen by the accused, their representative or their relatives.
2. Within 12 hours of receiving the request for a defense attorney from an arrested or detained person, the competent authority managing the arrested or detained person shall be responsible for forwarding this request to the defense attorney, representative or relative of the person. In case the arrested or detained person does not name a defense attorney, the competent authority managing the arrested or detained person shall forward this request to the representative or relative of the person so that these persons may request a defense attorney.

Within 24 hours of receiving a request for a defense attorney from a detainee, the competent authority managing the detainee shall forward the request to the detainee's defense attorney, representative or relative. In case the detainee does not name a defense attorney, the competent authority managing the detainee shall forward the request to the detainee's representative or relative so that they can seek a defense attorney.

3. In case the representative or relative of an arrested person, a detained person or a person in temporary detention has a request for a defense attorney, the competent authority shall be responsible for immediately notifying the arrested person, the detained person or the person in temporary detention to get their opinion on the request for a defense attorney.

4. The accused person, their representative or relatives shall request the Vietnam Fatherland Front Committee and its member organizations from districts, towns, provincial cities, cities under centrally run cities and above to appoint people's defenders to defend the accused person who is a member of their organization.

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

1. In the following cases, if the accused, their representative or relatives do not invite a defense attorney, the competent authority conducting the proceedings must appoint a defense attorney for them:

- a) The accused or defendant in a crime for which the Penal Code prescribes the maximum penalty of 20 years in prison, life imprisonment, or death penalty;
- b) The accused has a physical disability that prevents him/her from defending himself/herself; has a mental disability or is under 18 years of age.

2. The competent authority conducting the proceedings must request or propose the following organizations to send defense attorneys for the cases specified in Clause 1 of this Article:

- a) The Bar Association assigns the law practice organization to send a defense attorney;
- b) The State Legal Aid Center assigns Legal Aid Officers and defense lawyers to people eligible for legal aid;
- c) The Vietnam Fatherland Front Committee and its member organizations shall appoint people's defenders to defend accused persons who are members of their organizations.

#### **Article 77. Changing or refusing defense counsel**

1. The following persons have the right to refuse or request a change of defense attorney:

- a) The accused;
- b) Representative of the accused;
- c) Relatives of the accused.

Any change or refusal of a defense attorney must have the consent of the accused and must be recorded in the case file, except in the case specified in Point b, Clause 1, Article 76 of this Code .

2. In case an arrested person, a detained person, or a person in temporary detention during the investigation phase requests to refuse a defense attorney requested by their relatives, the Investigator must directly meet the arrested person, the detained person, or the person in temporary detention with that defense attorney to confirm the refusal.

3. In case of appointing a defense attorney as prescribed in Clause 1, Article 76 of this Code , the accused and their representatives or relatives still have the right to request a change or refuse the defense attorney.

In case of change of defense counsel, the appointment of another defense counsel shall be carried out in accordance with the provisions of Clause 2, Article 76 of this Code .

In case of refusal of a defense attorney, the competent authority conducting the proceedings shall draw up a record of the refusal of the defense attorney by the accused person or the representative or relative of the accused person as prescribed in Point b, Clause 1, Article 76 of this Code and terminate the appointment of the defense attorney.

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

1. In all cases of participation in litigation, the defense attorney must register to defend.
2. When registering to defend, the defender must present the following documents:
  - a) The lawyer presents the Lawyer Card with a certified copy and the lawyer's request form of the accused person or the representative or relative of the accused person;
  - b) The representative of the accused person presents the Identity Card or Citizen Identification Card with a certified copy and documents confirmed by the competent authority regarding their relationship with the accused person;
  - c) The people's defender presents his/her identity card or citizen identification card with a certified copy and the document appointing the people's defender from the Vietnam Fatherland Front Committee and member organizations of the Front;
  - d) Legal aid officers and lawyers providing legal aid must present the document appointing a person to provide legal aid from the legal aid organization and the Legal Aid Officer Card or Lawyer Card with a certified copy attached.
3. In case of appointing a defense attorney as prescribed in Article 76 of this Code , the defense attorney shall present the following documents:
  - a) The lawyer must present a Lawyer Card with a certified copy and a lawyer appointment document from the law practice organization where the lawyer practices or a lawyer assignment document from the Bar Association for individual practicing lawyers;
  - b) The people's defender presents his/her identity card or citizen identification card with a certified copy and the document appointing the people's defender from the Vietnam Fatherland Front Committee and member organizations of the Front;
  - c) Legal aid officers and lawyers providing legal aid must present their Legal Aid Officer Card or Lawyer Card with a certified copy and a document appointing a person to provide legal aid from the State Legal Aid Center.
4. Within 24 hours of receiving all documents specified in Clause 2 or Clause 3 of this Article, the competent authority conducting the proceedings must examine the documents and find that they do not fall under the case of refusing to register for defense as specified in Clause 5 of this Article, then enter the defense registration book, immediately send a written notice of the defense attorney to the person registering for defense, the detention facility and keep documents related to the defense registration in the case file; if it is found that the conditions are not met, it must refuse to register for defense and must clearly state the reasons in writing.
5. The competent authority conducting the proceedings shall refuse to register for defense in one of the following cases:
  - a) Cases specified in Clause 4, Article 72 of this Code ;
  - b) The accused person who is in a case of appointing a defense attorney refuses the defense attorney.
6. The notice of defense attorney is valid throughout the litigation process, except in the following cases:
  - a) The accused refuses or requests to change the defense attorney;
  - b) The representative or relative of the accused person specified in Point b, Clause 1, Article 76 of this Code refuses or requests to change the defense attorney.
7. The competent authority conducting the proceedings shall cancel the defense registration and notify the defense attorney and the detention facility in one of the following cases:
  - a) When discovering that the defense attorney falls under the case specified in Clause 4, Article 72 of this Code ;
  - b) Violating the law when conducting defense.

#### **Article 79. Responsibility to notify the defense attorney**

1. The competent authority conducting the proceedings must notify the defense attorney in reasonable advance of the time and place of the proceedings in which they have the right to participate according to the provisions of this Code.
2. In case the defense attorney has been notified in advance by the competent authority conducting the proceedings but is not present, the proceedings shall still be conducted, except in the case prescribed in Article 291 of this Code .

#### **Article 80. Meeting with arrested persons, detainees, suspects and defendants under temporary detention**

1. To meet an arrested person, a detainee, a suspect or a defendant in temporary detention, the defense attorney must present a defense attorney notification, a Lawyer Card or a Legal Assistant Card or an Identity Card or a Citizen Identification Card.
2. The agency managing the arrested, detained, accused, and defendants in temporary detention must disseminate the rules and regulations of the detention facility and require the defense attorney to strictly comply. In case the defense attorney is found to be violating the regulations on meetings, the meeting must be immediately stopped, a record must be made, and a report must be reported to the competent authority for handling in accordance with the provisions of law.

#### **Article 81. Collection and delivery of evidence, documents and objects related to defense**

1. The defense attorney collects evidence, documents, objects, and details related to the defense as prescribed in Clause 2, Article 88 of this Code .
2. Depending on each stage of the proceedings, when collecting evidence, documents, and objects related to the defense, the defense attorney must promptly hand them over to the competent authority conducting the proceedings to include in the case file.

The delivery and receipt of evidence, documents, and objects must be recorded in accordance with the provisions of Article 133 of this Code .

3. In case it is not possible to collect evidence, documents, or objects related to the defense, the defense attorney may request the competent authority to conduct the proceedings to collect them.

#### **Article 82. Reading, taking notes, and photocopying documents in case files**

1. After the investigation is completed, if there is a request to read, take notes, or photocopy documents in the case file related to the defense, the competent authority conducting the proceedings is responsible for arranging a time and place for the defense attorney to read, take notes, or photocopy documents in the case file.

2. After reading, taking notes, and photocopying documents, the defense attorney must hand over the case file in its original condition to the agency that provided the file. If documents or case files are lost, misplaced, or damaged, they will be handled according to the provisions of law, depending on the nature and severity of the violation.

#### **Article 83. Person protecting the legitimate rights and interests of the accused and the person against whom prosecution is proposed**

1. The person protecting the legal rights and interests of the accused or the person proposed for prosecution is the person asked by the accused or the person proposed for prosecution to protect the legal rights and interests.

2. The person protecting the legal rights and interests of the accused person or the person against whom prosecution is proposed may be:

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

3. The person protecting the legal rights and interests of the accused or the person against whom prosecution is proposed has the right to:

- a) Provide evidence, documents, objects, requests;
  - b) Examine, evaluate and present opinions on relevant evidence, documents and objects and request competent authorities to conduct examination and evaluation ;
  - c) Be present when taking statements of the accused or the person proposed for prosecution and, if agreed by the Investigator or Prosecutor, to question the accused or the person proposed for prosecution. After each time the competent person finishes taking statements, the person protecting the legitimate rights and interests of the accused or the person proposed for prosecution has the right to question the accused or the person proposed for prosecution;
  - d) Be present during the confrontation, identification, and voice recognition of the accused or the person against whom prosecution is proposed;
  - d) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings.
4. The person protecting the legal rights and interests of the accused or the person against whom prosecution is proposed has the following obligations:
- a) Use measures prescribed by law to contribute to clarifying the objective truth of the case;
  - b) Assist the accused and the person against whom legal proceedings are recommended to be initiated to protect their legitimate rights and interests.

#### **Article 84. Person protecting the legitimate rights and interests of victims and litigants**

1. The person protecting the legitimate rights and interests of the victim or litigant is the person the victim or litigant asks to protect their legitimate rights and interests.

2. The person protecting the legitimate rights and interests of the victim or party may be:

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

3. The person protecting the legitimate rights and interests of the victim or party has the right to:

- a) Provide evidence, documents, objects, requests;
- b) Examine, evaluate and present opinions on relevant evidence, documents and objects and request competent authorities to conduct examination and evaluation;
- c) Request for property appraisal and valuation;

- d) Be present when competent authorities conduct proceedings to take statements, confront, identify, and recognize the voice of the person they are protecting; read, take notes, and photocopy documents in the case file related to the protection of the rights of the victim and the parties after the investigation is completed;
  - d) Participate in questioning and debating at court; read the court minutes;
  - e) Complaints about decisions and procedural actions of competent agencies and individuals conducting proceedings;
  - g) Request to change the person with authority to conduct the proceedings, the appraiser, the property valuer, the interpreter, the translator;
  - h) Appeal against the part of the Court's judgment or decision related to the rights and obligations of the person being protected who is under 18 years old or has mental or physical disabilities.
4. The person protecting the legitimate rights and interests of the victim and the party concerned has the obligation to:
- a) Use measures prescribed by law to contribute to clarifying the objective truth of the case;
  - b) Provide legal assistance to victims and litigants to protect their legitimate rights and interests.

## Chapter VI

# PROOF AND EVIDENCE

## Article 85. Matters to be proven in criminal cases

When investigating, prosecuting and trying criminal cases, the competent authority conducting the proceedings must prove:

1. Whether a crime has occurred, the time, location and other circumstances of the crime;
2. Who committed the crime; was it at fault or not, intentional or unintentional; did it have criminal capacity or not; purpose and motive of the crime;
3. Mitigating and aggravating circumstances of the criminal responsibility of the accused and the personal characteristics of the accused;
4. The nature and extent of damage caused by the crime;
5. Causes and conditions of crime;
6. Other circumstances related to the exclusion of criminal liability, exemption from criminal liability, and exemption from punishment.

## Article 86. Evidence

Evidence is what is real, collected according to the order and procedures prescribed by this Code, used as the basis to determine whether or not there is a crime, the person who committed the crime and other details that are meaningful in resolving the case.

## Article 87. Sources of evidence

1. Evidence is collected and identified from the following sources:
  - a) Evidence;
  - b) Statement, presentation;
  - c) Electronic data;
  - d) Conclusion of asset appraisal and valuation;
  - d) Minutes of prosecution, investigation, indictment, trial and execution of judgment;
  - e) Results of implementation of judicial entrustment and other international cooperation;
  - g) Other documents and objects.
2. Anything that is real but not collected in accordance with the order and procedures prescribed by this Code has no legal value and cannot be used as a basis for resolving criminal cases.

## Article 88. Collection of evidence

1. To collect evidence, competent authorities conducting proceedings have the right to conduct evidence collection activities according to the provisions of this Code; request agencies, organizations and individuals to provide evidence, documents, objects, electronic data, and present details to clarify the case.
2. To collect evidence, the defense attorney has the right to meet the person he/she is defending, the victim, witnesses and other people with knowledge of the case to ask questions and listen to their presentations on issues related to the case; request agencies, organizations and individuals to provide documents, objects and electronic data related to the defense.
3. Other participants in the proceedings, agencies, organizations or any individual may present evidence, documents, objects, electronic data and present issues related to the case.
4. Upon receiving evidence, documents, objects, and electronic data related to the case provided by the persons specified in Clauses 2 and 3 of this Article, the competent authority conducting the proceedings must make a record of delivery and receipt and

inspect and evaluate them in accordance with the provisions of this Code.

5. Within 05 days from the date of making a record of the investigation, collection and receipt of documents related to the case that the Prosecutor does not directly supervise according to the provisions of this Code, the Investigation Agency or the agency assigned to conduct some investigation activities shall be responsible for transferring these records and documents to the Procuracy for supervision of the preparation of the case file. In case of objective obstacles, this period may be extended but not more than 15 days. Within 03 days, the Procuracy shall stamp the record and make copies of the records and documents for the prosecution file and hand over the original state of such records and documents to the Investigation Agency or the agency assigned to conduct some investigation activities. The handover and receipt of documents and records shall be recorded according to the provisions of Article 133 of this Code.

#### **Article 89. Physical evidence**

Physical evidence is an object used as a tool or means to commit a crime, an object bearing traces of a crime, an object that is the subject of a crime, money or other objects that have value in proving the crime and the criminal or that are significant in solving the case.

#### **Article 90. Preservation of evidence**

1. Evidence must be preserved intact, without loss, confusion or damage. Preservation of evidence is carried out as follows:

a) Evidence that needs to be sealed must be sealed immediately after collection. A record of the sealing and unsealing shall be made and included in the case file. The sealing and unsealing of evidence shall be carried out in accordance with Government regulations;

b) Evidence in the form of money, gold, silver, precious metals, precious stones, antiques, explosives, flammable substances, toxic substances, radioactive substances, and military weapons must be appraised immediately after collection and must be immediately transferred for preservation at the State Treasury or other specialized agencies. If the evidence is money, gold, silver, precious metals, precious stones, or antiques that bear traces of crime, it must be sealed in accordance with the provisions of Point a of this Clause; evidence in the form of harmful bacteria, human body parts, tissue samples, blood samples, and other human body specimens must be preserved at specialized agencies in accordance with the provisions of law;

c) If the evidence cannot be brought to the competent prosecution authority for preservation, the competent prosecution authority shall hand over the evidence to the owner, legal manager of the object or property or their relatives or to the local authority, agency or organization where the evidence is preserved;

d) For evidence that is perishable or difficult to preserve, the competent authority within its authority shall decide to sell it in accordance with the provisions of law and transfer the money to the temporary account of the competent authority at the State Treasury for management;

d) When evidence is brought to the competent authority for preservation, the People's Public Security, the People's Army, and the agency assigned to conduct certain investigative activities are responsible for preserving the evidence during the investigation and prosecution stages; the civil judgment enforcement agency is responsible for preserving the evidence during the trial and judgment enforcement stages.

2. A person responsible for preserving evidence who loses, damages, destroys seals, illegally consumes, uses, transfers, swaps, conceals, or destroys evidence of a case shall, depending on the nature and severity of the violation, be subject to disciplinary action or criminal prosecution in accordance with the provisions of law.

In case of adding, subtracting, modifying, swapping, destroying, or damaging evidence of a case with the aim of distorting the case file, criminal liability shall be incurred; if damage is caused, compensation shall be paid according to the provisions of law.

#### **Article 91. Witness testimony**

1. Witnesses present what they know about the crime, the case, the identity of the accused, the victim, their relationship with the accused, the victim, other witnesses and answer questions.

2. Details presented by witnesses cannot be used as evidence if they cannot clearly state how they know those details.

#### **Article 92. Statement of the victim**

1. The victim presents details about the source of information about the crime, the case, their relationship with the accused and answers the questions posed.

2. Details presented by the victim cannot be used as evidence if they cannot clearly state how they know those details.

#### **Article 93. Statements of civil plaintiffs and civil defendants**

1. The civil plaintiff and civil defendant present the details related to compensation for damages caused by the crime.

2. Details presented by civil plaintiffs and civil defendants may not be used as evidence if they cannot clearly state how they know those details.

#### **Article 94. Statement of persons with rights and obligations related to the case**

1. People with rights and obligations related to the case present details directly related to their rights and obligations.

2. Details presented by persons with rights and obligations related to the case may not be used as evidence if they cannot clearly state why they know those details.

**Article 95. Statements of persons detained in emergency cases, denounced persons, persons recommended for prosecution, offenders who confess or surrender, arrested persons, and persons temporarily detained**

Persons detained in emergency cases, denounced persons, persons recommended for prosecution, offenders who confess or surrender, arrested or detained persons shall present details related to their suspected crime.

**Article 96. Statements of the person reporting or reporting on a crime**

The person reporting the crime presents the details related to their reporting the crime.

**Article 97. Witness testimony**

Witnesses present the details they witnessed in the proceedings.

**Article 98. Statements of suspects and defendants**

1. The suspect and defendant present the details of the case.
2. The confession of the accused can only be considered as evidence if it is consistent with other evidence of the case.

The confession of the accused shall not be used as the sole evidence to charge or convict.

**Article 99. Electronic data**

1. Electronic data is a symbol, writing, number, image, sound or similar form created, stored, transmitted or received by electronic means.
2. Electronic data is collected from electronic means, computer networks, telecommunications networks, transmission lines and other electronic sources.
3. The evidentiary value of electronic data is determined based on the method of creation, storage or transmission of electronic data; the method of ensuring and maintaining the integrity of electronic data; the method of identifying the originator and other relevant factors.

**Article 100. Conclusion of appraisal**

1. An appraisal conclusion is a document prepared by an individual or an appraisal agency or organization to provide professional conclusions on issues requested for appraisal.
2. Agencies, organizations and individuals conclude on the issues requested for appraisal and must be responsible for that conclusion.

If the appraisal is conducted by a group of appraisers, all members must sign the conclusion. In case of different opinions, each person must write down his or her conclusion in the conclusion.

3. In case the competent authority conducting the proceedings does not agree with the expert conclusion, it must clearly state the reasons. If the conclusion is unclear or incomplete, it must decide to conduct additional or re-examination according to the general procedures prescribed in this Code .
4. The expert conclusion of the person requested for expert appraisal that must be refused or changed has no legal value and cannot be used as a basis for resolving the case.

**Article 101. Conclusion of asset valuation**

1. The asset valuation conclusion is a document prepared by the Asset Valuation Council to conclude on the price of the requested asset.

The property valuation council concludes the value of the property and is responsible for that conclusion.

2. The asset valuation conclusion must be signed by all members of the Asset Valuation Council. In case of disagreement with the asset price decided by the Council, the Council members shall record their conclusion in the conclusion.
3. In case the competent authority conducting the proceedings does not agree with the conclusion of the asset valuation, it must clearly state the reasons; if the conclusion is unclear, it must decide to re-evaluate according to the general procedures prescribed in this Code .
4. The valuation conclusion of the Property Valuation Council that violates the provisions of this Code or other provisions of law on valuation has no legal value and cannot be used as a basis for resolving the case.

**Article 102. Minutes of activities of checking and verifying sources of information about crimes, indictment, investigation, prosecution and trial**

The details recorded in the minutes of the activities of checking, verifying information about crimes, initiating, investigating, prosecuting, and trying crimes established in accordance with the provisions of this Code may be considered as evidence.

**Article 103. Results of implementation of judicial entrustment and other international cooperation**

The results of the implementation of judicial commissions and other international cooperation provided by competent foreign authorities may be considered as evidence if consistent with other evidence of the case.

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

Details related to the case recorded in documents and objects provided by agencies, organizations and individuals may be considered evidence. In case these documents and objects have the characteristics specified in Article 89 of this Code, they shall be considered material evidence.

#### **Article 105. Collection of evidence**

Evidence must be collected promptly, fully, and accurately described in the minutes and included in the case file. In cases where evidence cannot be included in the case file, it must be photographed or videotaped to be included in the case file. Evidence must be sealed and preserved in accordance with the provisions of law.

#### **Article 106. Handling of evidence**

1. The handling of evidence shall be decided by the Investigation Agency or the agency assigned to conduct certain investigative activities if the case is suspended at the investigation stage; by the Procuracy if the case is suspended at the prosecution stage; by the Chief Justice of the Court if the case is suspended at the trial preparation stage; by the Trial Panel if the case has been brought to trial. The execution of the decision on the handling of evidence shall be recorded in the minutes.

2. Evidence is handled as follows:

a) Evidence that is a tool or means of committing a crime, or prohibited items for storage or circulation shall be confiscated, turned over to the state budget or destroyed;

b) Evidence in the form of money or property obtained through crime shall be confiscated and turned over to the state budget;

c) Evidence that is worthless or unusable shall be confiscated and destroyed.

3. During the investigation, prosecution and trial, the competent authority and person specified in Clause 1 of this Article shall have the right to:

a) Immediately return seized or temporarily detained property that is not evidence to the owner or legal manager of that property;

b) Immediately return the evidence to the owner or legal manager if it is deemed not to affect the handling of the case and execution of the judgment;

c) Evidence that is perishable or difficult to preserve may be sold in accordance with the provisions of law; if it cannot be sold, it shall be destroyed;

d) Evidence of wild animals and exotic plants must be handed over to the competent specialized management agency for handling in accordance with the provisions of law immediately after the appraisal conclusion is available.

4. In case of dispute over ownership of evidence, it shall be resolved according to the provisions of the law on civil procedure.

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

1. Electronic media must be promptly and completely seized, accurately described in their actual condition, and sealed immediately after seizure. Sealing and unsealing must be carried out in accordance with the provisions of law.

In case it is not possible to seize the electronic data storage device, the competent authority conducting the proceedings shall back up the electronic data to the electronic device and preserve it as evidence, and at the same time request the relevant agency, organization or individual to store and preserve the integrity of the electronic data that the competent authority conducting the proceedings has backed up, and such agency, organization or individual shall be responsible before the law.

2. When collecting, intercepting, or backing up electronic data from electronic devices, computer networks, telecommunications networks, or transmission lines, the competent authority conducting the proceedings must make a record and include it in the case file.

3. Upon receiving a decision requesting an appraisal from a competent authority conducting proceedings, individuals and organizations are responsible for recovering, searching for, and appraising electronic data.

4. The recovery, search and appraisal of electronic data shall only be performed on copies; the results of the recovery, search and appraisal shall be converted into a readable, audible or visible form.

5. Electronic media and electronic data shall be preserved as evidence in accordance with the provisions of this Code. When presenting evidence in the form of electronic data, the data storage media or a copy of the electronic data must be accompanied.

#### **Article 108. Examination and evaluation of evidence**

1. Each piece of evidence must be examined and evaluated to determine its legality, authenticity and relevance to the case. The determination of the evidence collected must ensure that it is sufficient to resolve the criminal case.

2. The person with authority to conduct proceedings within the scope of his/her duties and powers must examine and evaluate fully, objectively and comprehensively all evidence collected about the case.

### **Chapter VII**

## PREVENTIVE MEASURES, COMPULSORY MEASURES

### Section I. PREVENTIVE MEASURES

#### Article 109. Preventive measures

1. In order to promptly prevent crimes or when there is evidence that the accused will cause difficulties for the investigation, prosecution, trial or will continue to commit crimes or to ensure the execution of the judgment, the competent authority or person conducting the proceedings within the scope of its authority may apply measures of detention in emergency cases, arrest, temporary detention, temporary detention, bail, deposit of money as security, prohibition from leaving the place of residence, and temporary suspension of exit.

2. Cases of arrest include arrest of a person detained in an emergency, arrest of a person caught red-handed committing a crime, arrest of a wanted person, arrest of a suspect or defendant for temporary detention, and arrest of a person requested for extradition.

#### Article 110. Detention in emergency cases

1. In one of the following emergency cases, a person may be detained:

a) There is sufficient basis to determine that the person is preparing to commit a very serious crime or an especially serious crime;

b) The person who committed the crime together or the victim or the person present at the scene of the crime saw with their own eyes and confirmed that it was the person who committed the crime and it is deemed necessary to immediately prevent that person from escaping;

c) There are traces of a crime on the person or at the residence or workplace or on the vehicle of the person suspected of committing the crime and it is deemed necessary to immediately prevent that person from escaping or destroying evidence.

2. The following persons have the right to order detention in emergency cases:

a) Heads and Deputy Heads of Investigation Agencies at all levels;

b) Heads of independent units at the regimental level and equivalent, Heads of Border Guard Stations, Commanders of Border Guards at Ports, Commanders of Border Guards of provinces and centrally-run cities, Director of the Border Reconnaissance Department of the Border Guard, Director of the Department of Drug and Crime Prevention and Control of the Border Guard, Head of the Special Task Force for Drug and Crime Prevention and Control of the Border Guard; Commanders of Coast Guard regions, Director of the Department of Professional Affairs and Law of the Coast Guard, Head of the Special Task Force for Drug Crime Prevention and Control of the Coast Guard; Heads of Regional Fisheries Control Sub-Departments;

c) The commander of an aircraft or ship when the aircraft or ship has left the airport or port.

3. The order to detain a person in an emergency must clearly state the full name and address of the person being detained, the reason and basis for the detention as prescribed in Clause 1 of this Article and the contents prescribed in Clause 2, Article 132 of this Code . The execution of the order to detain a person in an emergency must comply with the provisions of Clause 2, Article 113 of this Code .

4. Within 12 hours of detaining a person in an emergency or receiving a person detained in an emergency, the Investigation Agency or the agency assigned to conduct certain investigative activities must immediately take statements and the persons specified in Points a and b, Clause 2 of this Article must issue a decision to temporarily detain, issue an arrest warrant or immediately release the person. The arrest warrant for a person detained in an emergency must be immediately sent to the People's Procuracy at the same level or the competent People's Procuracy together with documents related to the detention for approval.

After detaining a person in an emergency, the persons specified in Point c, Clause 2 of this Article must immediately take the detainee along with documents related to the detention in an emergency to the Investigation Agency at the airport or port where the ship first returns. Within 12 hours of receiving the detainee, the Investigation Agency must immediately take a statement and the persons specified in Point a, Clause 2 of this Article must issue a decision to temporarily detain, issue an arrest warrant for the detainee in an emergency or immediately release that person. The arrest warrant for the detainee in an emergency must be immediately sent to the People's Procuracy at the same level along with documents related to the detention for approval.

The warrant for arrest of a person detained in an emergency must clearly state the full name and address of the person detained, the reason and basis for detention as prescribed in Clause 1 of this Article and the contents prescribed in Clause 2, Article 132 of this Code .

5. The dossier requesting the Procuracy to approve the arrest warrant in an emergency includes:

a) Document requesting the Procuracy to approve the arrest warrant in an emergency;

b) Emergency detention order, emergency arrest order, temporary detention decision;

c) Minutes of detention in emergency cases;

d) Minutes of the statement of the person detained in an emergency;

d) Evidence, documents, and objects related to the detention of people in emergency cases.

6. The Procuracy must strictly supervise the grounds for detention as prescribed in Clause 1 of this Article. If necessary, the Procurator must directly meet and question the person detained in an emergency before considering and deciding to approve or not

to approve the arrest warrant for the person detained in an emergency. The minutes of the statement of the person detained in an emergency made by the Procurator must be included in the case file.

Within 12 hours of receiving the request for approval of the emergency arrest warrant, the Procuracy must issue a decision to approve or disapprove. In case the Procuracy decides not to approve the emergency arrest warrant, the person who issued the emergency arrest warrant and the Investigation Agency that received the emergency arrest warrant must immediately release the arrest warrant.

#### **Article 111. Arrest of a person red-handed committing a crime**

1. Any person who is discovered or chased while committing a crime or immediately after committing a crime has the right to arrest and immediately take the arrested person to the nearest police agency, the Procuracy or the People's Committee. These agencies must make a record of receipt and immediately take the arrested person or immediately notify the competent investigation agency.
2. When arresting a person red-handed, anyone has the right to disarm the arrested person.
3. In case the Commune, Ward, Town Police or Police Station discovers, arrests or receives a person caught red-handed committing a crime, they shall confiscate and temporarily detain weapons and dangerous weapons, preserve related documents and objects, make a record of the arrest, take initial statements, protect the scene according to the provisions of law; immediately release the arrested person or immediately report to the competent Investigation Agency.

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

1. Any person has the right to arrest and immediately take the arrested person to the nearest police station, the People's Procuracy or the People's Committee. These agencies must make a record of receipt and immediately take the arrested person or immediately notify the competent investigation agency.
2. When arresting a wanted person, anyone has the right to disarm the arrested person.
3. In case the Commune, Ward, Town Police or Police Station discovers, arrests or receives a wanted person, they shall seize and temporarily detain weapons and dangerous weapons, preserve related documents and objects, make a record of the arrest, take initial statements; immediately release the arrested person or immediately report to the competent Investigation Agency.

#### **Article 113. Arrest of suspects and defendants for temporary detention**

1. The following persons have the right to order and decide to arrest suspects and defendants for temporary detention:
  - a) Heads and Deputy Heads of Investigation Agencies at all levels. In this case, the arrest warrant must be approved by the same-level Procuracy before execution;
  - b) Chief Prosecutor, Deputy Chief Prosecutor of People's Procuracy and Chief Prosecutor, Deputy Chief Prosecutor of Military Procuracy at all levels;
  - c) Chief Justice, Deputy Chief Justice of the People's Court and Chief Justice, Deputy Chief Justice of Military Courts at all levels; Trial Panel.
2. The arrest warrant, decision approving the warrant, and decision on arrest must clearly state the full name and address of the person arrested; the reason for the arrest and the contents specified in Clause 2, Article 132 of this Code .

The person executing the warrant or decision must read the warrant or decision; explain the warrant or decision, the rights and obligations of the arrested person and must make a record of the arrest; and deliver the warrant or decision to the arrested person.

When arresting a person at the place where the person resides, there must be a representative of the commune, ward or town government and other witnesses. When arresting a person at the place where the person works or studies, there must be a representative of the agency or organization where the person works or studies. When arresting a person at another place, there must be a representative of the commune, ward or town government where the arrest is made.

3. No arrest shall be made at night, except in cases of flagrante delicto or arrest of a wanted person.

#### **Article 114. Things to do immediately after detaining a person in an emergency, arresting a person or receiving a detained or arrested person**

1. After detaining a person in an emergency, arresting a person or receiving a detained or arrested person, the Investigation Agency or the agency assigned to conduct certain investigative activities must immediately take statements and within 12 hours must issue a decision to temporarily detain or release the arrested person.
2. After taking the statement of the person arrested under the wanted decision, the investigating agency receiving the arrested person must immediately notify the agency that issued the wanted decision to receive the arrested person. After receiving the arrested person, the agency that issued the wanted decision must immediately issue a decision to stop the wanted person.

In case the agency that issued the wanted decision cannot immediately come to receive the arrested person, after taking the statement, the Investigation Agency receiving the arrested person must immediately issue a temporary detention decision and immediately notify the agency that issued the wanted decision; if the temporary detention period has expired and the agency that issued the wanted decision has not yet come to receive the arrested person, the Investigation Agency receiving the arrested person shall extend the temporary detention and immediately send the decision to extend the temporary detention together with relevant documents to the People's Procuracy at the same level for approval.

In case it is not possible to immediately receive the arrested person, the agency that issued the wanted notice and has the authority to arrest and detain the person must immediately issue a detention order and send the detention order approved by the People's Procuracy at the same level to the Investigation Agency receiving the arrested person. After receiving the detention order, the Investigation Agency receiving the arrested person must immediately take that person to the nearest Detention Center.

3. In case the arrested person has multiple wanted notices, the Investigation Agency receiving the arrested person shall transfer the arrested person to the nearest agency that issued the wanted notice.

#### **Article 115. Minutes of detention in emergency cases, minutes of arrest**

1. The person executing the detention order in an emergency, executing the arrest warrant or decision in all cases must make a record.

The minutes must clearly state the hour, day, month, year, place of detention, arrest, place of making the minutes; the actions taken, developments during the execution of the detention order, arrest warrant or decision, documents, objects temporarily seized, health status and opinions, complaints of the detainee, arrestee and the contents specified in Article 133 of this Code .

The minutes are read to the detainee, the arrestee and the witnesses. The detainee, the arrestee, the person executing the detention order, arrest warrant or decision and the witnesses sign the minutes. If anyone has a different opinion or disagrees with the content of the minutes, they have the right to write it in the minutes and sign.

The temporary detention of documents and objects of detainees and arrestees must be conducted in accordance with the provisions of this Code.

2. When handing over or receiving a detained or arrested person, a record must be made.

In addition to the contents specified in Clause 1 of this Article, the handover record must also clearly state the handover of the statement-taking record, documents, collected objects, health status of the detainee, arrestee and circumstances that occurred during the handover.

#### **Article 116. Notice of detention in emergency cases and arrest**

After detaining or arresting a person, the person issuing the detention order, arrest order or decision must immediately notify the family of the detained or arrested person, the authorities of the commune, ward or town where that person resides or the agency or organization where that person works or studies.

Within 24 hours of receiving the detained or arrested person, the Investigation Agency receiving the detained or arrested person must notify the family of the detained or arrested person, the local authorities of the commune, ward or town where that person resides or the agency or organization where that person works or studies; in case the detained or arrested person is a foreign citizen, it must notify the diplomatic agency of Vietnam to notify the diplomatic representative agency of the country whose citizen is detained or arrested.

If the notification hinders the arrest of another subject or hinders the investigation, after the hindrance is no longer there, the person issuing the detention order, arrest warrant or decision, the Investigation Agency receiving the detained person, and the arrested person must immediately notify.

#### **Article 117. Detention**

1. Detention may be applied to persons detained in emergency cases, persons arrested in flagrante delicto, persons who confess or surrender, or persons arrested pursuant to a wanted notice.

2. Those with the authority to issue detention orders as prescribed in Clause 2, Article 110 of this Code have the right to issue temporary detention decisions.

The decision on temporary detention must clearly state the full name and address of the person being detained, the reason for the detention, the time and date of commencement and the time and date of expiry of the detention period, and the contents specified in Clause 2, Article 132 of this Code . The decision on temporary detention must be delivered to the person being detained.

3. The person executing the decision on temporary detention must notify and explain the rights and obligations of the person being temporarily detained as prescribed in Article 59 of this Code .

4. Within 12 hours of issuing the decision on temporary detention, the person issuing the decision on temporary detention must send the decision on temporary detention together with the documents as the basis for temporary detention to the People's Procuracy at the same level or the competent People's Procuracy. If the detention is deemed unfounded or unnecessary, the People's Procuracy shall issue a decision to cancel the decision on temporary detention and the person issuing the decision on temporary detention must immediately release the detainee.

#### **Article 118. Detention period**

1. The period of temporary detention shall not exceed 03 days from the date the Investigation Agency or the agency assigned to conduct certain investigation activities receives the detainee or arrestee or escorts the detainee or arrestee to its headquarters or from the date the Investigation Agency issues a decision to temporarily detain the confessing or surrendering offender.

2. If necessary, the person issuing the detention decision may extend the detention period but not more than 03 days. In special cases, the person issuing the detention decision may extend the detention period a second time but not more than 03 days.

Any extension of detention must be approved by the Procuracy of the same level or by a competent Procuracy. Within 12 hours of receiving the application for extension of detention, the Procuracy must issue a decision to approve or disapprove.

3. During detention, if there is insufficient basis to prosecute the accused, the Investigation Agency or the agency assigned to conduct certain investigative activities must immediately release the detainee; in case the detention period has been extended, the Procuracy must immediately release the detainee.

4. The time of detention is deducted from the period of temporary detention. One day of detention is counted as one day of temporary detention.

#### **Article 119. Temporary detention**

1. Detention may be applied to suspects and defendants of particularly serious crimes or very serious crimes.

2. Detention may be applied to suspects and defendants for serious or less serious crimes for which the Penal Code prescribes a prison sentence of more than 02 years when there is basis to determine that the person falls into one of the following cases:

- a) Having been subject to other preventive measures but violating;
- b) The defendant has no clear place of residence or cannot determine his/her background;
- c) Escape and be arrested according to a wanted decision or show signs of escape;
- d) Continuing to commit crimes or showing signs of continuing to commit crimes;
- d) Bribing, coercing, inciting others to make false statements, providing false documents; destroying, forging evidence, documents, objects of the case, dispersing assets related to the case; threatening, controlling, taking revenge on witnesses, victims, people reporting crimes and relatives of these people.

3. Detention may be applied to suspects and defendants of less serious crimes for which the Penal Code prescribes a prison sentence of up to 02 years if they continue to commit crimes or escape and are arrested pursuant to a wanted decision.

4. For defendants and accused persons who are pregnant women or women raising children under 36 months old, elderly people, or seriously ill people with clear residence and background, detention shall not be applied but other preventive measures shall be applied, except in the following cases:

- a) Escape and arrest according to wanted decision;
- b) Continued crime;
- c) Bribing, coercing, inciting others to make false statements, provide false documents; destroying, forging evidence, documents, objects of the case, dispersing assets related to the case; threatening, controlling, taking revenge on witnesses, victims, people reporting crimes or relatives of these people;
- d) The accused or defendant is charged with a crime against national security and there is sufficient basis to determine that if they are not detained, it will endanger national security.

5. The competent persons specified in Clause 1, Article 113 of this Code have the right to issue orders and decisions on temporary detention. The temporary detention orders of the persons specified in Point a, Clause 1, Article 113 of this Code must be approved by the People's Procuracy at the same level before being implemented. Within 03 days from the date of receipt of the temporary detention order, the request for approval and the records related to the temporary detention, the People's Procuracy must issue a decision to approve or not approve. The People's Procuracy must return the records to the Investigation Agency immediately after completing the approval.

6. The investigation agency must check the identity of the detainee and immediately notify the detainee's family, the commune, ward or town authorities where the detainee resides or the agency or organization where the detainee works or studies.

#### **Article 120. Care for relatives and preservation of property of persons under temporary detention or imprisonment**

1. In case a person being detained or temporarily detained has a relative who is disabled, elderly, or mentally handicapped and has no one to take care of him/her, the agency issuing the temporary detention decision, warrant or decision shall assign that person to another relative for care; in case there is no relative, the agency issuing the temporary detention decision, warrant or decision shall assign that person to the local authority of the commune, ward or town where he/she resides for care. The care and upbringing of children of a person being detained or temporarily detained shall be carried out in accordance with the provisions of the Law on the Enforcement of Temporary Detention and Temporary Detention .

2. In case a person under temporary detention or custody has a house or other property without a custodian, the agency issuing the temporary detention decision, warrant or decision must apply preservation measures.

3. The agency issuing the temporary detention decision, order or decision shall notify the person being temporarily detained or imprisoned of the care and maintenance of their relatives and the preservation of their property. The notification shall be made in writing and included in the case file.

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

1. Bail is an alternative preventive measure to detention. Based on the nature and level of danger to society of the act and the personal background of the suspect or defendant, the Investigation Agency, the Procuracy, and the Court may decide to grant them bail.

2. Agencies and organizations may provide bail for suspects and defendants who are members of their agencies and organizations. Agencies and organizations providing bail must have a written commitment and confirmation from the head of the agency or organization.

An individual who is 18 years of age or older, has a good character, strictly abides by the law, has a stable income and is able to manage the person being bailed can guarantee for the suspect or defendant who is their relative and in this case there must be at least 2 people. The individual accepting the bail must make a written commitment confirmed by the local authorities of the commune, ward or town where that person resides or the agency or organization where that person works or studies.

In the guarantee, the agency, organization or individual accepting the bail must guarantee that the suspect or defendant will not violate the obligations specified in Clause 3 of this Article. The agency, organization or individual accepting the bail shall be informed of the details of the case related to the acceptance of the bail.

3. The accused or defendant on bail must make a written commitment to fulfill the following obligations:

- a) Be present in response to the summons, except in cases of force majeure or objective obstacles;
- b) Not to flee or continue to commit crimes;
- c) Do not bribe, coerce, or incite others to make false statements or provide false documents; do not destroy or forge evidence, documents, or objects of the case, or disperse assets related to the case; do not threaten, control, or retaliate against witnesses, victims, whistleblowers, or relatives of these people.

In case the suspect or defendant violates the guarantee obligation prescribed in this clause, he/she shall be detained.

4. The competent persons specified in Clause 1, Article 113 of this Code and the presiding judge of the trial have the right to issue bail decisions. The decisions of the persons specified in Point a, Clause 1, Article 113 of this Code must be approved by the People's Procuracy at the same level before being implemented.

5. The bail period shall not exceed the period of investigation, prosecution or trial as prescribed in this Code. The bail period for a person sentenced to imprisonment shall not exceed the period from the date of sentencing until the time the person begins serving the prison sentence.

6. Any agency, organization or individual who accepts bail and allows the suspect or defendant to violate the obligations he or she has pledged shall, depending on the nature and severity of the violation, be fined according to the provisions of law.

#### **Article 122. Deposit as security**

1. Depositing money as security is an alternative preventive measure to detention. Based on the nature and level of danger to society of the act, the personal background and property status of the suspect or defendant, the Investigation Agency, the Procuracy, and the Court may decide to allow them or their relatives to deposit money as security.

2. The suspect or defendant who is given bail must make a written commitment to fulfill the following obligations:

- a) Be present in response to the summons, except in cases of force majeure or objective obstacles;
- b) Not to flee or continue to commit crimes;
- c) Do not bribe, coerce, or incite others to make false statements or provide false documents; do not destroy or forge evidence, documents, or objects of the case, or disperse assets related to the case; do not threaten, control, or retaliate against witnesses, victims, whistleblowers, or relatives of these people.

In case the suspect or defendant violates the guarantee obligation prescribed in this clause, he/she shall be detained and the deposited money shall be confiscated and paid to the state budget.

3. The competent persons specified in Clause 1, Article 113 of this Code and the presiding judge of the trial have the right to decide on the deposit of money as security. The decisions of the persons specified in Point a, Clause 1, Article 113 of this Code must be approved by the People's Procuracy at the same level before being enforced.

4. The deposit period shall not exceed the period of investigation, prosecution or trial as prescribed in this Code. The deposit period for a person sentenced to imprisonment shall not exceed the period from the date of sentencing to the date the person begins serving the prison sentence. If the suspect or defendant fully fulfills the obligations he or she has pledged, the Procuracy or Court shall be responsible for returning to him or her the deposit.

5. Relatives of the accused or defendant who are accepted by the Investigation Agency, the Procuracy or the Court to deposit money as security must make a written guarantee not to let the accused or defendant violate the obligations specified in Clause 2 of this Article. If they violate, the deposited money will be confiscated and paid into the state budget. When making the guarantee, this person will be informed of the details of the case related to the accused or defendant.

6. The Minister of Public Security shall preside over and coordinate with the Chief Justice of the Supreme People's Procuracy, the Chief Justice of the Supreme People's Court and the Minister of National Defense to specify in detail the procedures, deposit amounts, temporary detention, refund, confiscation and payment to the state budget of the amount deposited as security.

#### **Article 123. Prohibition of leaving the place of residence**

1. Prohibition from leaving the place of residence is a preventive measure that can be applied to suspects and defendants with a clear place of residence and background to ensure their presence upon summons from the Investigation Agency, the Procuracy, or the Court.

2. Suspects and defendants who are prohibited from leaving their place of residence must make a written commitment to fulfill the following obligations:

- a) Not to leave the place of residence without permission from the agency that issued the order prohibiting leaving the place of residence;
- b) Be present in response to the summons, except in cases of force majeure or objective obstacles;
- c) Not to flee or continue to commit crimes;
- d) Do not bribe, coerce, or incite others to make false statements or provide false documents; do not destroy or forge evidence, documents, or objects of the case, or disperse assets related to the case; do not threaten, control, or retaliate against witnesses, victims, whistleblowers, or relatives of these people.

In case the suspect or defendant violates the guarantee obligation prescribed in this clause, he/she shall be detained.

3. The competent persons specified in Clause 1, Article 113 of this Code, the presiding judge of the court session, and the Chief of the Border Guard Station have the right to issue an order prohibiting leaving the place of residence.

4. The period of prohibition from leaving the place of residence shall not exceed the period of investigation, prosecution or trial as prescribed in this Code. The period of prohibition from leaving the place of residence for a person sentenced to imprisonment shall not exceed the period from the date of sentencing until the time the person begins serving the prison sentence.

5. The person who orders the prohibition of leaving the place of residence must notify the application of this measure to the commune, ward or town authorities where the suspect or defendant resides, the military unit that is managing the suspect or defendant, and hand the suspect or defendant over to the commune, ward or town authorities or that military unit for management and monitoring.

In case a suspect or defendant, due to force majeure or objective obstacles, must temporarily leave his or her place of residence, he or she must have the consent of the commune, ward or town authorities where he or she resides or the military unit that manages him or her, and must have a written permission from the person who ordered the prohibition on leaving the place of residence.

6. If the suspect or defendant violates the guarantee obligation, the local authorities of the commune, ward or town where the suspect or defendant resides, or the military unit that is managing the suspect or defendant, must immediately notify the agency that issued the order prohibiting him or her from leaving the place of residence for handling according to their authority.

#### **Article 124. Suspension of exit**

1. The following persons may be temporarily suspended from leaving the country when there are grounds to determine that their exit shows signs of absconding:

- a) The person being denounced or the person being recommended for prosecution, through examination and verification, has sufficient grounds to determine that the person is suspected of committing a crime and it is deemed necessary to immediately prevent that person from escaping or destroying evidence;
- b) Defendant.

2. The competent persons specified in Clause 1, Article 113 of this Code and the presiding judge of the trial have the right to decide to temporarily suspend exit. The decision to temporarily suspend exit of the persons specified in Point a, Clause 1, Article 113 of this Code must be immediately notified to the People's Procuracy at the same level before implementation.

3. The period of temporary suspension of exit from the country must not exceed the period of handling information about crimes, initiating prosecution, investigating, prosecuting, and trying according to the provisions of this Code. The period of temporary suspension of exit from the country for a person sentenced to imprisonment must not exceed the period from the date of sentencing until the time the person goes to serve the prison sentence.

#### **Article 125. Cancellation or replacement of preventive measures**

1. Any preventive measures currently in place must be revoked in one of the following cases:

- a) Decision not to initiate criminal proceedings;
- b) Suspend investigation, suspend case;
- c) Suspend investigation of the accused, suspend the case of the accused;
- d) The defendant is declared not guilty by the Court, exempted from criminal liability or exempted from punishment, imprisonment but is given a suspended sentence or warning, fine, or non-custodial reform.

2. The investigation agency, the Procuracy, and the Court shall cancel preventive measures when they are no longer necessary or can be replaced by other preventive measures.

For preventive measures approved by the Procuracy during the investigation stage, the cancellation or replacement with another preventive measure must be decided by the Procuracy; within 10 days before the expiration of the period of application of the preventive measure, except for the temporary detention measure approved by the Procuracy, the agency that proposed the application of this preventive measure must notify the Procuracy to decide to cancel or replace the preventive measure with another one.

### **Section II. COMPULSORY MEASURES**

**Article 126. Coercive measures**

To ensure the activities of prosecution, investigation, prosecution, trial, and execution of judgments, within the scope of their authority, competent agencies and individuals conducting proceedings may apply measures of escort, escort, property seizure, and account freezing.

**Article 127. Escort and escort**

1. Escort may be applied to persons detained in emergency cases or persons accused of crimes.
2. The explanation may apply to:
  - a) Witnesses in case they are not present according to the summons without force majeure or objective obstacles;
  - b) The victim in case they refuse the appraisal according to the decision requested by the competent authority conducting the proceedings without reason of force majeure or without objective obstacles;
  - c) The accused person or the person recommended for prosecution, who through examination and verification has sufficient grounds to determine that he/she is related to the criminal act for which the case is prosecuted, has been summoned but is still absent without force majeure or objective obstacles.
3. Investigators, heads of agencies assigned to conduct certain investigative activities, prosecutors, presiding judges, and trial panels have the right to decide on escort and escort.
4. The decision to escort or escort must clearly state the full name, date of birth, and place of residence of the person being escorted or escorted; the time and place where the person being escorted or escorted must be present, and the contents specified in Clause 2, Article 132 of this Code .
5. The person executing the decision on escort and escort must read, explain the decision and make a record of the escort and escort according to the provisions of Article 133 of this Code .

The competent People's Public Security and People's Army agencies are responsible for organizing the implementation of the decision to escort and escort.

6. It is not allowed to start escorting or escorting people at night; it is not allowed to escort or escort elderly or seriously ill people with confirmation from a medical facility.

**Article 128. Asset seizure**

1. Asset seizure only applies to suspects and defendants for crimes for which the Penal Code prescribes a fine or may result in confiscation of assets or to ensure compensation for damages.
2. The competent persons specified in Clause 1, Article 113 of this Code and the presiding judge of the trial have the right to order the seizure of property. The seizure order of the persons specified in Point a, Clause 1, Article 113 of this Code must be immediately notified to the People's Procuracy at the same level before execution.
3. Only the portion of property corresponding to the amount that can be fined, confiscated or compensated for damages shall be seized. The seized property shall be handed over to the owner of the property or the legal manager or their relatives for safekeeping. The person entrusted with safekeeping who consumes, transfers, swaps, conceals or destroys the seized property shall be held criminally liable under the provisions of the Penal Code .
4. When carrying out the property seizure, the following people must be present:
  - a) The accused, defendant or a person aged 18 years or older in the family or representative of the accused;
  - b) Representative of the commune, ward or town government where the property is seized;
  - c) Witness.

The person conducting the seizure must make a record, clearly stating the name and status of each property seized. The record shall be made in accordance with the provisions of Article 178 of this Code , read to those present and signed by them. The opinions and complaints of the persons specified in Point a of this Clause related to the seizure shall be recorded in the record, with their signatures and those of the person conducting the seizure.

The record of attachment shall be made in four copies, of which one copy shall be immediately delivered to the person specified in Point a of this Clause after the attachment is completed, one copy shall be immediately delivered to the local authority of the commune, ward or town where the attached property is located, one copy shall be sent to the People's Procuracy of the same level and one copy shall be included in the case file.

**Article 129. Account freezing**

1. Account freezing shall only be applied to a person accused of a crime for which the Penal Code prescribes a fine, confiscation of property or to ensure compensation for damages when there is a basis to determine that the person has an account at a credit institution or the State Treasury. Account freezing shall also be applied to another person's account if there is a basis to believe that the amount in that account is related to the criminal act of the accused person.
2. The competent persons specified in Clause 1, Article 113 of this Code and the presiding judge of the trial have the right to order the freezing of accounts. The order to freeze the accounts of the persons specified in Point a, Clause 1, Article 113 of this Code must be immediately notified to the People's Procuracy at the same level before execution.

3. Only freeze the amount of money in the account corresponding to the level that can be fined, confiscated property or compensated for damages. The person assigned to execute the freezing order, manage the frozen account but unfreezes the account shall be subject to criminal liability according to the provisions of the Penal Code .

4. When freezing an account, the competent prosecution agency must deliver the decision to freeze the account to the credit institution or the State Treasury that is managing the account of the accused person or the account of another person related to the criminal act of the accused person. The delivery and receipt of the account freezing order must be recorded in a record in accordance with the provisions of Article 178 of this Code .

Immediately after receiving the account freezing order, the credit institution or the State Treasury that is managing the account of the arrested, detained, accused, defendant or the account of another person related to the criminal act of the arrested, detained, accused, or defendant must immediately freeze the account and make a record of the account freezing.

The record of account freezing is made in five copies, of which one copy is immediately delivered to the accused person, one copy is delivered to another person related to the accused person, one copy is sent to the same-level Procuracy, one copy is included in the case file, and one copy is kept at the credit institution or the State Treasury.

#### **Article 130. Cancellation of measures to seize assets and freeze accounts**

1. The measures of asset seizure and account freezing currently applied must be canceled in one of the following cases:

- a) Suspend investigation, suspend case;
  - b) Suspend investigation of the accused, suspend the case of the accused;
  - c) The defendant was declared not guilty by the Court;
  - d) The defendant shall not be fined, have his property confiscated or pay compensation for damages.
2. The investigation agency, the Procuracy, and the Court shall cancel the measures of property seizure and account freezing when they are no longer necessary.

For measures of asset seizure and account freezing during the investigation and prosecution phase, the cancellation or replacement must be notified to the Procuracy before the decision.

### **Chapter VIII**

## **CASE FILE, LITIGATION DOCUMENTS, TIME LIMITS AND LITIGATION COSTS**

#### **Article 131. Case files**

1. When conducting proceedings during the prosecution and investigation stages, the Investigation Agency must establish a case file.

2. Case file includes:

- a) Orders, decisions and requests of the Investigation Agency and the Procuracy;
- b) Minutes of proceedings drawn up by the Investigation Agency and the Procuracy;
- c) Evidence and documents related to the case.

3. Evidence and documents collected by the Procuracy and Court during the prosecution and trial stages must be included in the case file.

4. The case file must have a list of documents attached. The list of documents must clearly state the name of the document, the number of records and the characteristics of the document (if any). In case of additional documents to the case file, there must be a list of additional documents. The case file must be managed, stored and used in accordance with the provisions of law.

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

1. Procedural documents including orders, decisions, requests, investigation conclusions, indictments, judgments and other procedural documents in procedural activities are prepared according to a unified form.

2. The procedural document clearly states:

- a) Number, date, month, year, place of issuance of procedural document;
- b) Basis for issuing procedural documents;
- c) Contents of procedural documents;
- d) Full name, position, signature of the person issuing the procedural document and seal.

#### **Article 133. Minutes**

1. When conducting litigation activities, minutes must be drawn up according to a unified form.

The minutes clearly state the location, hour, day, month, year of the proceedings, the starting time and ending time, the content of the proceedings, the person with authority to conduct the proceedings, the participants in the proceedings or the person related to the proceedings, their complaints, requests or proposals.

2. The minutes must be signed by the persons specified in this Code. Any corrections, additions, deletions or deletions in the minutes must be confirmed by their signatures.

In case the participant in the proceedings does not sign the minutes, the person making the minutes shall clearly state the reason and invite the witness to sign the minutes.

In case the litigant is illiterate, the person making the minutes shall read the minutes to him/her in the presence of the witness. The minutes must have the fingerprint of the litigant and the signature of the witness.

In case a participant in the proceedings has a mental or physical disability or for other reasons is unable to sign the minutes, the person making the minutes shall read the minutes to him/her in the presence of witnesses and other participants in the proceedings. The minutes must be signed by the witnesses.

#### **Article 134. Calculation of time limit**

1. The time limit prescribed by this Code is calculated by hour, day, month, year. Night is calculated from 22:00 to 06:00 the following day.

When calculating the time limit by days, the time limit will expire at 24:00 on the last day of the time limit.

When calculating a monthly period, the period expires on the same day of the following month; if that month does not have a similar day, the period expires on the last day of that month; if the period expires on a holiday, the first following working day is considered the last day of the period.

When calculating the period of temporary detention or temporary imprisonment, the period expires on the end date stated in the order or decision. If the period is calculated in months, 01 month is counted as 30 days.

2. In case of applications or documents sent by post, the time limit shall be calculated according to the postmark of the place of sending. In case of applications or documents sent by detention facilities, the time limit shall be calculated from the date the Head of the Detention House, Head of the Detention Cell of the Border Guard Station, Warden of the Detention Camp, or Warden of the Prison receives the application or documents.

#### **Article 135. Litigation costs**

1. Costs in criminal proceedings include court fees, charges and litigation expenses.

2. Court fees include first instance and criminal appeal court fees, first instance and civil appeal court fees in criminal cases.

3. Fees include fees for issuing copies of judgments, decisions, other documents of competent authorities conducting proceedings and other fees prescribed by law.

4. Litigation costs include:

- a) Expenses for witnesses, interpreters, translators, and defense attorneys in cases where defense attorneys are appointed;
- b) Cost of asset appraisal and valuation;
- c) Other expenses as prescribed by law.

#### **Article 136. Responsibility for payment of litigation costs and fees**

1. The costs specified in Clause 4, Article 135 of this Code shall be paid by the agencies or persons that have requested, requested, or designated the case; in case the State Legal Aid Center assigns a defense attorney, the costs shall be paid by the Center.

2. Court fees shall be borne by the convicted person or the State in accordance with the provisions of law. The convicted person shall pay court fees according to the Court's decision. The level of court fees and the basis for application shall be clearly stated in the Court's judgment or decision.

3. In case a case is initiated at the request of the victim, if the Court declares the defendant not guilty or the case is suspended when there are grounds prescribed in Clause 2, Article 155 of this Code, the victim must pay court fees.

4. For litigation activities requested by litigation participants, payment of fees and costs shall be in accordance with the provisions of law.

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

1. The issuance, delivery, transfer, posting or notification of procedural documents is carried out through the following methods:

- a) Direct issuance, delivery, transfer;
- b) Send by postal service;
- c) Public listing;
- d) Announcement via mass media.

2. The issuance, delivery, transfer, posting or notification of procedural documents must comply with the provisions of this Code.

#### **Article 138. Procedures for issuing, delivering and directly transferring procedural documents**

1. The person issuing, delivering or transferring procedural documents must directly deliver them to the recipient. The recipient must sign the minutes or delivery book. The time for calculating the procedural time limit is the date they sign the minutes or delivery

book.

2. In case the person receiving the procedural document is absent, the procedural document may be delivered to a relative with full civil capacity for signature and this person shall be required to commit to immediately delivering it to the recipient. The date of signature by the relative is the date the procedural document is issued and delivered.

In case it is not possible to deliver the procedural document to the recipient as prescribed in this clause, the document may be transferred to the commune, ward or town authority where the recipient resides or the agency or organization where the recipient works or studies to deliver it to the recipient. The agency or organization must immediately notify the competent authorities that have requested the issuance, delivery or sending of the procedural document of the result. The date of receipt by the agency or organization is the date the procedural document is issued or delivered.

3. In case the person receiving the procedural document is absent or has an unknown address, the person issuing or delivering the document must make a record of the failure to issue or deliver the document, with confirmation from the representative of the agency or organization where the person resides, works or studies.

In case the recipient of the procedural document refuses to receive the procedural document, the person issuing or delivering it must make a record of the refusal and have it confirmed by the local authority of the commune, ward or town where the person resides or the agency or organization where the person works or studies.

4. In case the person to whom the procedural document is issued or delivered is an agency or organization, the procedural document shall be delivered directly to the representative of that agency or organization and must be signed by that person. The time for calculating the procedural time limit is the date they sign the receipt in the minutes or delivery book.

#### **Article 139. Procedures for sending procedural documents via postal service**

The sending of procedural documents via postal service must be by registered mail and confirmed by the recipient of the procedural documents. The confirmed documents must be returned to the competent authority conducting the proceedings. The time for calculating the procedural time limit is the date they confirm receipt of the procedural documents.

#### **Article 140. Procedures for public posting of procedural documents**

1. Public posting of procedural documents is carried out when the address or whereabouts of the person to whom the document is issued or delivered is unknown.

2. The public posting of procedural documents shall be carried out at the headquarters of the People's Committee of the commune, ward or town where the person to whom the procedural document was issued or delivered last resided or at the agency or organization where that person last worked or studied.

Procedural documents must be publicly posted for at least 15 days from the date of posting. The public posting shall be recorded in a record stating the date, month, and year of posting.

The time for calculating the limitation period is the date of completion of the posting.

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

1. The announcement of procedural documents on mass media is carried out when public posting is ineffective or in other cases as prescribed by law.

2. The announcement on mass media is published in the central daily newspaper for 03 consecutive issues and broadcast on the central Radio or Television station three times in 03 consecutive days.

The time limit for calculating the litigation period is the date of completion of the notification.

#### **Article 142. Responsibility for issuing, delivering, transferring, sending, posting and announcing procedural documents**

1. Agencies and persons with authority to conduct proceedings must issue, deliver, transfer, send, post, and notify procedural documents to participants in the proceedings, relevant agencies, organizations, and individuals according to the provisions of this Code.

2. A person assigned the responsibility of issuing, delivering, transferring, sending, posting, or notifying procedural documents but failing to comply or not fully complying with the provisions of this Code shall, depending on the nature and severity of the violation, be subject to disciplinary action or administrative sanctions in accordance with the provisions of law.

### **PART TWO**

## **PROSECUTION AND INVESTIGATION OF CRIMINAL CASES**

### **Chapter IX**

## **CRIMINAL PROSECUTION**

#### **Article 143. Grounds for initiating criminal proceedings**

A case may only be prosecuted when it is determined that there are signs of a crime. Determining signs of a crime is based on the following grounds:

1. Individual denunciation;
2. Notifications from agencies, organizations and individuals;

3. News on mass media;
4. Prosecution recommendation of state agency;
5. The competent authority conducting the proceedings directly detects signs of crime;
6. The offender confessed.

**Article 144. Denunciation, information about crimes, and recommendations for prosecution**

1. Crime denunciation is when an individual discovers and denounces an act with signs of crime to a competent authority.
2. Crime report is information about an incident with signs of crime reported by an agency, organization or individual to a competent authority or information about a crime on the mass media.
3. A recommendation for prosecution is a written recommendation by a competent state agency, accompanied by evidence and relevant documents, to the competent Investigation Agency or Procuracy to consider and handle a case with signs of crime.
4. Crime reports and denunciations can be made orally or in writing.
5. Anyone who intentionally denounces or reports false information about a crime shall, depending on the nature and severity of the violation, be subject to disciplinary action, administrative sanctions or criminal prosecution in accordance with the provisions of law.

**Article 145. Responsibility for receiving and authority to handle denunciations, reports of crimes, and recommendations for prosecution**

1. All denunciations, reports of crimes, and recommendations for prosecution must be fully received and promptly resolved. Agencies and organizations responsible for receiving them must not refuse to receive denunciations, reports of crimes, or recommendations for prosecution.
2. Agencies and organizations responsible for receiving denunciations, reports of crimes, and recommendations for prosecution include:
  - a) Investigation agencies and the Procuracy receive denunciations and reports of crimes and recommendations for prosecution;
  - b) Other agencies and organizations receive denunciations and reports of crimes.
3. Authority to handle denunciations, reports of crimes, and recommendations for prosecution:
  - a) The investigation agency shall handle denunciations, reports of crimes, and recommendations for prosecution according to its investigative authority;
  - b) The agency assigned to conduct a number of investigative activities shall resolve denunciations and reports of crimes within its investigative authority;
  - c) The Procuracy shall resolve denunciations, reports of crimes, and recommendations for prosecution in cases where it discovers that the Investigation Agency or the agency assigned to conduct certain investigative activities has seriously violated the law in the inspection and verification of denunciations, reports of crimes, recommendations for prosecution, or there are signs of omission of crimes that the Procuracy has requested in writing but has not been remedied.
4. The competent authority handling denunciations, reports of crimes, and recommendations for prosecution shall be responsible for notifying the results of the handling to the individuals, agencies, and organizations that have denounced, reported crimes, or recommended prosecution.

**Article 146. Procedures for receiving denunciations, reports of crimes, and recommendations for prosecution**

1. When an agency, organization or individual directly denounces or reports a crime or recommends prosecution, the Investigation Agency, the Procuracy or the agency assigned to conduct certain investigative activities with the authority specified in Clause 2, Article 145 of this Code must make a record of receipt and record it in the receipt book; the reception may be recorded by audio or video.

In case of denunciation, crime report, and prosecution recommendation sent via postal service, telephone or other means of communication, it shall be recorded in the reception book.

2. In case of discovering that a denunciation, information about a crime, or a recommendation for prosecution is not within its jurisdiction, the Investigation Agency or the agency assigned to conduct certain investigation activities shall be responsible for immediately transferring the denunciation, information about a crime, or recommendation for prosecution, along with the relevant documents received, to the competent Investigation Agency.

The Procuracy shall be responsible for immediately transferring the denunciation, information about the crime, and recommendation for prosecution, along with the relevant documents received, to the competent Investigation Agency.

In the case specified in Point c, Clause 3, Article 145 of this Code, within 05 days from the date the Procuracy requests, the competent authority that is handling and resolving the denunciation, information about the crime, and recommendation for prosecution must transfer the relevant documents to the Procuracy for consideration and resolution.

3. Ward and town police and police stations are responsible for receiving denunciations and reports of crimes, making records of receipt, conducting preliminary inspection and verification, and immediately transferring denunciations and reports of crimes, along with related documents and objects, to competent investigation agencies.

The commune police are responsible for receiving denunciations and reports of crimes, making records of receipt, taking initial statements and immediately transferring denunciations and reports of crimes along with related documents and objects to the competent investigation agency.

4. Other agencies and organizations, upon receiving denunciations and reports of crimes, shall immediately forward them to the competent Investigation Agency. In urgent cases, they may report directly by phone or in other forms to the Investigation Agency, but must then be presented in writing.

5. Within 03 days from the date of receiving the denunciation, information about the crime, and recommendation for prosecution, the Investigation Agency or the agency assigned to conduct some investigation activities shall be responsible for notifying in writing about such receipt to the People's Procuracy at the same level or the competent People's Procuracy.

#### **Article 147. Time limit and procedures for handling denunciations, reports of crimes, and recommendations for prosecution**

1. Within 20 days from the date of receipt of a denunciation, information about a crime, or a request for prosecution, the Investigation Agency or the agency assigned to conduct certain investigative activities must inspect, verify, and issue one of the following decisions:

- a) Decision to initiate criminal proceedings;
- b) Decision not to initiate criminal proceedings;
- c) Decision to temporarily suspend the handling of denunciations, reports of crimes, and recommendations for prosecution.

2. In case the denunciation, crime report or prosecution recommendation has many complicated details or requires inspection and verification at many locations, the time limit for handling the denunciation, report or prosecution recommendation may be extended but not more than 02 months. In case the inspection and verification cannot be completed within the time limit prescribed in this clause, the Chief Prosecutor of the same-level Procuracy or the Chief Prosecutor of the competent Procuracy may extend the time limit once but not more than 02 months.

At least 05 days before the expiration of the inspection and verification period prescribed in this clause, the Investigation Agency or the agency assigned to conduct certain investigation activities must submit a written request to the People's Procuracy at the same level or the competent People's Procuracy to extend the inspection and verification period.

3. When handling denunciations, reports of crimes, and recommendations for prosecution, competent authorities have the right to conduct the following activities:

- a) Collect information, documents, and objects from relevant agencies, organizations, and individuals to check and verify information sources;
- b) Crime scene investigation;
- c) Autopsy;
- d) Request for appraisal and asset valuation.

4. The order, procedures and time limit for the Procuracy to handle denunciations, reports of crimes and recommendations for prosecution shall be implemented according to the provisions of this Article.

#### **Article 148. Temporary suspension of handling of denunciations, reports of crimes, and recommendations for prosecution**

1. After the time limit specified in Article 147 of this Code has expired, the competent authority shall decide to temporarily suspend the handling of denunciations, reports of crimes, and recommendations for prosecution in one of the following cases:

- a) Requested for appraisal, requested asset valuation, requested foreign judicial assistance but no results yet;
- b) Requesting agencies, organizations and individuals to provide important documents and objects that are decisive in initiating or not initiating a case but without results.

2. Within 24 hours from the time of issuing the decision to temporarily suspend the handling of denunciations, reports of crimes, and recommendations for prosecution, the Investigation Agency or the agency assigned to conduct certain investigation activities must send the decision to temporarily suspend, along with related documents, to the People's Procuracy at the same level or the competent People's Procuracy for inspection and send the decision to temporarily suspend to the agency, organization, or individual that has denounced, reported crimes, or recommended prosecution.

In case the decision to temporarily suspend is unfounded, the Procuracy shall issue a decision to cancel the decision to temporarily suspend in order to continue handling the case. Within 24 hours from the date of issuing the decision to cancel the decision to temporarily suspend, the Procuracy shall send that decision to the Investigation Agency, the agency assigned to conduct some investigation activities, the agency, organization, or individual that has denounced, reported the crime, or recommended prosecution. The time limit for handling denunciations, reports of crimes, or recommended prosecution shall not exceed 01 month from the date the Investigation Agency or the agency assigned to conduct some investigation activities receives the decision to cancel the decision to temporarily suspend.

3. In case of temporary suspension of handling of denunciations, reports of crimes, and recommendations for prosecution, the appraisal, valuation of assets, or judicial assistance shall continue until results are available.

#### **Article 149. Restoration of handling of denunciations, reports of crimes, and recommendations for prosecution**

1. When the reason for the temporary suspension of handling denunciations, reports of crimes, and recommendations for prosecution no longer exists, the Investigation Agency or the agency assigned to conduct certain investigation activities shall issue a decision to resume handling denunciations, reports of crimes, and recommendations for prosecution. The time limit for continuing to handle denunciations, reports of crimes, and recommendations for prosecution shall not exceed 01 month from the date of issuance of the decision to resume.
2. Within 03 days from the date of issuance of the decision to resume handling of denunciations, reports of crimes, and recommendations for prosecution, the Investigation Agency or the agency assigned to conduct certain investigation activities must send the decision to resume to the People's Procuracy at the same level or the competent People's Procuracy, the agency, organization, or individual that has made the denunciation, reported crimes, or recommendations for prosecution.

#### **Article 150. Settlement of disputes over jurisdiction to resolve denunciations, reports of crimes, and recommendations for prosecution**

1. Disputes over the authority to resolve denunciations, reports of crimes, and recommendations for prosecution shall be directly resolved by the superior People's Procuracy. Disputes over the authority to resolve denunciations, reports of crimes, and recommendations for prosecution by agencies assigned to conduct certain investigative activities shall be resolved by the competent People's Procuracy.
2. Disputes over the authority to resolve denunciations, reports of crimes, and recommendations for prosecution between provincial-level investigation agencies and between military investigation agencies at the military zone level shall be resolved by the Supreme People's Procuracy and the Central Military Procuracy. Disputes over the authority to resolve denunciations, reports of crimes, and recommendations for prosecution between district-level investigation agencies in different provinces and centrally-run cities, between regional military investigation agencies in different military zones shall be resolved by the provincial-level People's Procuracy and the military procuracy at the military zone level that first receives denunciations, reports of crimes, and recommendations for prosecution.
3. Disputes over the authority to resolve denunciations, reports of crimes, and recommendations for prosecution between the Investigation Agencies of the People's Public Security, the Investigation Agencies in the People's Army, and the Investigation Agency of the Supreme People's Procuracy shall be resolved by the Chief Procurator of the Supreme People's Procuracy.

#### **Article 151. Handling of cases with signs of crime directly discovered by competent prosecution agencies**

If the competent authority directly conducting the proceedings discovers signs of a crime, it shall decide to initiate a case according to its authority or transfer it to the competent investigation agency for settlement.

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

1. When a criminal comes to confess or surrender, the receiving agency or organization must make a record clearly stating the full name, age, occupation, residence and statement of the person confessing or surrendering. The agency or organization receiving the criminal who confesses or surrenders is responsible for immediately notifying the Investigation Agency or the Procuracy.
2. In case it is determined that the crime committed by the person who confessed or surrendered is not under its investigative authority, the Investigation Agency receiving the person who confessed or surrendered must immediately notify the competent Investigation Agency to receive and handle the case.
3. Within 24 hours of receiving a criminal who confesses or surrenders, the competent Investigation Agency must notify the same-level Procuracy in writing.

#### **Article 153. Authority to initiate criminal proceedings**

1. The investigation agency decides to initiate criminal proceedings in all cases showing signs of crime, except for cases that are being handled and resolved by the agency assigned to conduct certain investigation activities, the Procuracy, or the Trial Council as prescribed in Clauses 2, 3, and 4 of this Article.
2. The agency assigned to conduct certain investigative activities shall decide to initiate criminal proceedings in the cases specified in Article 164 of this Code .
3. The Procuracy shall decide to initiate criminal proceedings in the following cases:
  - a) The Procuracy cancels the decision not to prosecute a criminal case by the Investigation Agency, the agency assigned to conduct a number of investigation activities;
  - b) The Procuracy directly handles denunciations, reports of crimes, and recommendations for prosecution;
  - c) The Procuracy directly discovers signs of crime or upon request of the Trial Panel to initiate prosecution.
4. The Trial Panel shall decide to initiate prosecution or request the Procuracy to initiate criminal proceedings if, during the trial, it is discovered that a crime has been overlooked.

#### **Article 154. Decision to initiate criminal proceedings**

1. The decision to initiate criminal proceedings must clearly state the grounds for prosecution, applicable articles and clauses of the Penal Code , and the contents specified in Clause 2, Article 132 of this Code .
2. Within 24 hours of issuing a decision to initiate criminal proceedings, the Procuracy must send that decision to the competent Investigation Agency to conduct an investigation.

Within 24 hours from the date of issuing the decision to initiate criminal proceedings, the Investigation Agency or the agency assigned to conduct certain investigative activities must send the decision together with relevant documents to the competent Procuracy to supervise the initiation of proceedings.

Within 24 hours of issuing a decision to initiate criminal proceedings, the Court must send the decision together with relevant documents to the People's Procuracy of the same level.

#### **Article 155. Initiation of criminal proceedings at the request of the victim**

1. Criminal cases may only be initiated for crimes specified in Clause 1 of Articles 134, 135, 136, 138, 139, 141, 143, 155, 156 and 226 of the Penal Code upon request of the victim or the victim's representative who is under 18 years of age, has a mental or physical disability or is deceased.

2. In case the person who requested the prosecution withdraws the request, the case must be suspended, except in cases where there is a basis to determine that the person who requested the prosecution withdrew the request against their will due to coercion or duress. Even though the person who requested the prosecution withdrew the request, the Investigation Agency, the Procuracy, and the Court shall continue to conduct the proceedings for the case.

3. The victim or the victim's representative who has withdrawn the request for prosecution has no right to request again, except in cases where the request was withdrawn due to coercion or duress.

#### **Article 156. Changing or supplementing the decision to initiate criminal proceedings**

1. The investigation agency, the agency assigned to conduct certain investigation activities, and the Procuracy shall issue a decision to change the decision to initiate criminal proceedings when there is a basis to determine that the crime prosecuted is not consistent with the crime committed; issue a decision to supplement the decision to initiate criminal proceedings when there is a basis to determine that there are other crimes that have not been prosecuted.

2. Within 24 hours from the date of issuing the decision to change or supplement the decision to initiate criminal proceedings, the Investigation Agency or the agency assigned to conduct certain investigative activities must send the decision together with documents related to the change or supplement of the decision to initiate criminal proceedings to the People's Procuracy at the same level or the competent People's Procuracy to supervise the initiation of proceedings.

Within 24 hours from the date of the decision to change or supplement the decision to initiate criminal proceedings, the Procuracy must send it to the Investigation Agency to conduct an investigation.

#### **Article 157. Grounds for not initiating criminal proceedings**

Criminal proceedings shall not be instituted when one of the following grounds exists:

1. No crime;
2. The conduct does not constitute a crime;
3. A person who commits a socially dangerous act has not reached the age of criminal responsibility;
4. A person whose criminal act has been subject to a legally effective judgment or decision to suspend the case;
5. The statute of limitations for criminal prosecution has expired;
6. The crime has been pardoned;
7. The person who committed the socially dangerous act is dead, except in cases where a retrial is required for another person;
8. Crimes specified in Clause 1 of Articles 134, 135, 136, 138, 139, 141, 143, 155, 156 and 226 of the Penal Code for which the victim or the victim's representative does not request prosecution.

#### **Article 158. Decision not to initiate criminal proceedings, decision to cancel decision to initiate criminal proceedings**

1. When there is one of the grounds specified in Article 157 of this Code, the person with the right to initiate criminal proceedings shall issue a decision not to initiate criminal proceedings; if prosecution has been initiated, he/she must issue a decision to cancel the decision to initiate criminal proceedings and notify the agency, organization or individual that has denounced, reported the crime, or proposed to initiate prosecution of the reason; if it is deemed necessary to handle the case by other measures, the case file shall be transferred to the competent authority for settlement.

The decision not to initiate criminal proceedings, the decision to cancel the decision to initiate criminal proceedings and related documents must be sent to the People's Procuracy at the same level or the competent People's Procuracy within 24 hours from the date of decision issuance.

2. Agencies, organizations and individuals who have denounced or reported crimes have the right to appeal against the decision not to initiate criminal proceedings. The authority and procedures for handling complaints shall be implemented in accordance with the provisions of Chapter XXXIII of this Code.

#### **Article 159. Duties and powers of the Procuracy when exercising the right to prosecute in handling sources of information about crimes**

1. Approve or disapprove the arrest of detainees in emergency cases, extend temporary detention; approve or disapprove other measures restricting human rights and citizens' rights in handling information about crimes according to the provisions of this Code.

2. When necessary, make requests for inspection, verification and request competent authorities to handle information about crimes.
3. Decision to extend the time limit for handling denunciations, reports of crimes, and recommendations for prosecution; decision to initiate criminal proceedings.
4. Request the Investigation Agency and the agency assigned to conduct certain investigation activities to initiate criminal proceedings.
5. Directly handle denunciations, reports of crimes, and recommendations for prosecution in cases prescribed by this Code.
6. Cancel decisions on temporary detention, decisions on criminal prosecution, decisions not to prosecute criminal cases, decisions on temporary suspension of handling of criminal information sources and other illegal procedural decisions of the Investigation Agency and agencies assigned to conduct certain investigation activities.
7. Perform other duties and powers in exercising the right to prosecute as prescribed in this Code to prevent criminals from escaping and prevent the wrongful conviction of innocent people.

**Article 160. Duties and powers of the Procuracy in receiving and supervising the handling of information about crimes**

1. Fully receive denunciations, reports of crimes, and recommendations for prosecution sent by agencies, organizations, and individuals, receive self-confessed criminals, and immediately transfer them to the competent Investigation Agency for settlement.
2. Supervise the reception, directly supervise, supervise the inspection, verification and preparation of records for handling criminal information sources by the Investigation Agency and agencies assigned to conduct certain investigation activities; supervise the temporary suspension of handling criminal information sources; supervise the restoration of handling criminal information sources.
3. When detecting that the reception and handling of information about crimes is incomplete or violates the law, the Investigation Agency or the agency assigned to conduct certain investigation activities shall be required to perform the following activities:
  - a) Receive, check, verify, and make decisions to resolve information about crimes fully and legally;
  - b) Check the reception and handling of information about crimes and notify the results to the Procuracy;
  - c) Providing documents on violations of the law in receiving and handling information about crimes;
  - d) Correct violations of the law and strictly handle violators;
  - d) Request to change Investigator, Investigation Officer.
4. Resolve disputes over jurisdiction over sources of information about crimes.
5. Request the Investigation Agency and the agency assigned to conduct certain investigation activities to provide relevant documents to supervise the handling of information about crimes.
6. Perform other duties and powers in supervising the reception and handling of information about crimes according to the provisions of this Code.

**Article 161. Duties and powers of the Procuracy when exercising the right to prosecute and supervise the initiation of criminal cases**

1. When exercising the right to prosecute in initiating criminal cases, the Procuracy has the following duties and powers:
  - a) Request the Investigation Agency or the agency assigned to conduct certain investigation activities to initiate or change or supplement the decision to initiate criminal proceedings;
  - b) Cancel the decision to prosecute, the decision to change or supplement the decision to prosecute a criminal case, the decision not to prosecute a criminal case without basis and against the law;
  - c) In case the decision to initiate criminal proceedings by the Trial Panel is unfounded, the Procuracy shall appeal to a higher-level Court;
  - d) Initiate, change, or supplement decisions to initiate criminal proceedings in cases prescribed by this Code;
  - d) Perform other duties and powers to exercise the right to prosecute in initiating criminal cases according to the provisions of this Code.
2. When prosecuting criminal cases, the Procuracy has the following duties and powers:
  - a) Supervise compliance with the law in the prosecution of the Investigation Agency and the agency assigned to conduct a number of investigation activities, ensuring that all discovered crimes must be prosecuted, and that the prosecution of the case is well-founded and in accordance with the law;
  - b) Request the Investigation Agency and the agency assigned to conduct certain investigation activities to provide relevant documents to supervise the initiation of criminal cases;
  - c) Perform other duties and powers in supervising the prosecution of criminal cases according to the provisions of this Code.

**Article 162. Responsibilities of the Investigation Agency and the agency assigned to conduct certain investigation activities in implementing the requests and decisions of the Procuracy in initiating prosecution**

1. The investigation agency and the agency assigned to conduct certain investigation activities must comply with the requests and decisions of the Procuracy in initiating prosecution.
2. For the decisions specified in Clause 1 and Clause 6, Article 159, Point b, Clause 1, Article 161 of this Code, if there is disagreement, the Investigation Agency or the agency assigned to conduct certain investigation activities must still carry them out but has the right to make recommendations to the immediate superior People's Procuracy. Within 20 days from the date of receipt of the recommendation of the Investigation Agency or within 05 days from the date of receipt of the recommendation of the agency assigned to conduct certain investigation activities, the immediate superior People's Procuracy must consider, resolve and notify the resolution results to the agency that made the recommendation.

## Chapter X

# GENERAL PROVISIONS ON CRIMINAL INVESTIGATION

## Article 163. Investigation authority

1. The investigation agency of the People's Public Security investigates all crimes, except for crimes under the investigative jurisdiction of the investigation agency in the People's Army and the investigation agency of the Supreme People's Procuracy.
2. The investigation agency in the People's Army investigates crimes under the jurisdiction of the Military Court.
3. The investigation agency of the Supreme People's Procuracy and the investigation agency of the Central Military Procuracy investigate crimes infringing upon judicial activities, crimes related to corruption and positions prescribed in Chapter XXIII and Chapter XXIV of the Penal Code occurring in judicial activities where the offenders are cadres and civil servants of the investigation agency, court, procuracy, enforcement agency, or persons with authority to conduct judicial activities.
4. The competent investigation agency shall investigate criminal cases where the crime occurs within its territory. In cases where the crime is committed in many different places or the location of the crime cannot be determined, the investigation shall be under the jurisdiction of the investigation agency where the crime is discovered, where the accused resides or is arrested.
5. The delegation of investigative authority is as follows:
  - a) District-level investigation agencies and regional military investigation agencies investigate criminal cases of crimes under the jurisdiction of district-level People's Courts and regional military courts;
  - b) Provincial-level investigation agencies investigate criminal cases of crimes under the jurisdiction of provincial-level People's Courts or cases under the jurisdiction of district-level investigation agencies that occur in many districts, towns, cities of provinces, cities of centrally-run cities, organized crimes or crimes involving foreign elements if deemed necessary to directly investigate;Military investigation agencies at the military region level investigate criminal cases of crimes under the jurisdiction of the military court at the military region level or cases under the jurisdiction of the regional investigation agencies if deemed necessary to directly investigate;
- c) The Investigation Agency of the Ministry of Public Security and the Investigation Agency of the Ministry of National Defense investigate criminal cases of particularly serious crimes that have been annulled by the Council of Judges of the Supreme People's Court for reinvestigation; criminal cases of particularly serious and complicated crimes involving many provinces and centrally run cities; criminal cases of particularly serious and complicated crimes involving many countries if deemed necessary to directly investigate.

## Article 164. Duties and powers of agencies of the Border Guard, Customs, Forest Rangers, Coast Guard, Fisheries Surveillance and other agencies of the People's Public Security and People's Army assigned to conduct certain investigative activities

1. When detecting acts with signs of crime in their fields and areas of management, the agencies of the Border Guard, Customs, Forestry, Coast Guard, and Fisheries Surveillance assigned to conduct a number of investigative activities have the following duties and powers:
  - a) For less serious crimes in cases of flagrante delicto, where the evidence and criminal record are clear, a decision shall be made to initiate criminal proceedings, prosecute the accused, conduct an investigation and transfer the case file to the competent Procuracy within 01 month from the date of the decision to initiate criminal proceedings;
  - b) For serious crimes, very serious crimes, especially serious crimes or less serious but complicated crimes, decide to initiate criminal proceedings, conduct initial investigation activities and transfer the case file to the competent Investigation Agency within 07 days from the date of issuance of the decision to initiate criminal proceedings.
2. In the People's Public Security and the People's Army, in addition to the Investigation Agencies specified in Article 163 of this Code, other agencies assigned to conduct certain investigative activities while performing their duties, if discovering an incident with signs of crime, have the right to initiate criminal proceedings, conduct initial investigation activities and transfer the case file to the competent Investigation Agency within 07 days from the date of issuance of the decision to initiate criminal proceedings.
3. Agencies of the Border Guard, Customs, Forestry, Coast Guard, Fisheries Surveillance, and other agencies of the People's Public Security and the People's Army assigned to conduct certain investigative activities must properly perform the tasks and powers prescribed in Articles 39 and 40 of this Code and properly implement the principles, order, and procedural rules for investigative activities prescribed in this Code. The Procuracy is responsible for exercising the right to prosecute and supervise compliance with the law in the investigative activities of these agencies.

4. The specific investigative authority of the agencies of the Border Guard, Customs, Forestry, Coast Guard, Fisheries Surveillance and other agencies of the People's Public Security and the People's Army assigned to conduct certain investigative activities shall be implemented in accordance with the provisions of the Law on Organization of Criminal Investigation Agencies .

**Article 165. Duties and powers of the Procuracy when exercising the right to prosecute during the investigation stage of a criminal case**

1. Request the Investigation Agency, the agency assigned to conduct a number of investigation activities to initiate or change or supplement the decision to initiate criminal proceedings and prosecute the accused.
2. Approving or canceling the decision to prosecute, the decision to change or supplement the decision to prosecute the accused without basis and against the law.
3. Initiate, change, and supplement decisions on initiating criminal cases and prosecuting defendants in cases prescribed by this Code.
4. Approve or disapprove arrest warrants in emergency cases, extend temporary detention, temporary detention, bail, deposit of money as security, search, seizure, temporary detention of objects, letters, telegrams, parcels, postal items, apply special investigative measures; approve or disapprove other unfounded and illegal procedural decisions of the Investigation Agency, the agency assigned to conduct a number of investigative activities according to the provisions of this Code; cancel unfounded and illegal procedural decisions of the Investigation Agency, the agency assigned to conduct a number of investigative activities. In case of non-approval or cancellation, the decision on non-approval or cancellation must clearly state the reasons.
5. Decide to apply, change, or cancel preventive measures and coercive measures according to the provisions of this Code.
6. Propose investigation requirements and request the Investigation Agency and the agency assigned to conduct certain investigation activities to conduct investigations to clarify crimes and criminals; request the Investigation Agency to search for suspects and apply special investigative measures.
7. Directly conduct some investigative activities in cases of checking and supplementing documents and evidence when considering the approval of orders and decisions of the Investigation Agency or the agency assigned to conduct some investigative activities or in cases of discovering signs of injustice, mistakes, omission of crimes, and violations of the law that the Procuracy has requested in writing but has not been remedied or in cases of checking and supplementing documents and evidence when deciding on prosecution.
8. Initiate criminal proceedings when discovering that the actions of competent persons in handling denunciations, reports of crimes, recommendations for prosecution, and in prosecuting and investigating have signs of crime; request the Investigation Agency to initiate criminal proceedings when discovering that the actions of competent persons in handling denunciations, reports of crimes, recommendations for prosecution, and in prosecuting and investigating have signs of crime.
9. Decide to extend the investigation period, detention period; decide to transfer the case, apply simplified procedures, apply compulsory medical treatment measures; cancel the decision to separate or merge cases.
10. Perform other duties and powers in exercising the right to prosecute as prescribed in this Code.

**Article 166. Duties and powers of the Procuracy when prosecuting the investigation of criminal cases**

1. Supervise compliance with the law in the prosecution, investigation and preparation of case files by the Investigation Agency and the agency assigned to conduct certain investigative activities.
2. Supervise the criminal proceedings of participants in the proceedings; request and recommend competent agencies, organizations and individuals to strictly handle participants in the proceedings who violate the law.
3. Resolve disputes over investigative authority.
4. Request the Investigation Agency and the agency assigned to conduct certain investigation activities to provide relevant documents to supervise compliance with the law in prosecution and investigation when necessary.
5. When discovering that the investigation is incomplete or violates the law, the Procuracy shall request the Investigation Agency or the agency assigned to conduct certain investigation activities to perform the following activities:
  - a) Conduct investigative activities in accordance with the law;
  - b) Check the investigation and notify the results to the Procuracy;
  - c) Provide documents related to acts and procedural decisions that violate the law during the investigation.
6. Recommend and request the Investigation Agency and the agency assigned to conduct certain investigation activities to remedy violations in prosecution and investigation.
7. Request the Head of the Investigation Agency and the agency assigned to conduct a number of investigation activities to change Investigators and Investigation Officers and strictly handle Investigators and Investigation Officers who violate the law in litigation activities.
8. Recommend relevant agencies and organizations to apply measures to prevent crimes and violations of the law.
9. Perform other duties and powers in supervising the investigation of criminal cases according to the provisions of this Code.

**Article 167. Responsibilities of the Investigation Agency and the agency assigned to conduct certain investigation activities in implementing requests and decisions of the Procuracy during the investigation phase**

1. The investigation agency and the agency assigned to conduct certain investigation activities must comply with the requests and decisions of the Procuracy during the investigation phase.
2. For the decisions specified in Clauses 4 and 5, Article 165 of this Code , if there is disagreement, the Investigation Agency or the agency assigned to conduct certain investigation activities must still carry them out but has the right to make recommendations to the immediate superior People's Procuracy. Within 20 days from the date of receipt of the recommendation of the Investigation Agency or within 05 days from the date of receipt of the recommendation of the agency assigned to conduct certain investigation activities, the immediate superior People's Procuracy must consider, resolve and notify the resolution results to the agency that made the recommendation.

**Article 168. Responsibilities of agencies, organizations and individuals in implementing decisions and requests of the Investigation Agency, the agency assigned to conduct certain investigation activities, and the Procuracy**

Agencies, organizations and individuals must strictly comply with the decisions and requests of the Investigation Agency, the agency assigned to conduct certain investigation activities, and the Procuracy during the investigation phase of a criminal case; in case of non-compliance without force majeure or objective obstacles, they shall be handled according to the provisions of law.

**Article 169. Transfer of cases for investigation**

1. The same-level Procuracy shall decide to transfer a case for investigation in one of the following cases:
  - a) The investigation agency at the same level considers that the case is not under its investigation authority and proposes to transfer the case;
  - b) The superior investigation agency withdraws the case for investigation;
  - c) The investigator being replaced is the Head of the Investigation Agency;
  - d) The Procuracy requested to transfer the case but the Investigation Agency did not do so.
2. The transfer of a case outside the province, centrally-run city or outside the military region is decided by the provincial People's Procuracy or the military procuracy at the military region level.
3. Procedures for transferring cases for investigation according to authority:
  - a) Within 03 days from the date of receipt of the request of the Investigation Agency, the competent Procuracy must issue a decision to transfer the case;
  - b) Within 24 hours from the decision to transfer the case, the Procuracy must send that decision to the Investigation Agency investigating the case, the Investigation Agency with authority to continue investigating the case, the accused or the accused's representative, the defense attorney, the victim and the competent Procuracy.
4. Within 03 days from the date of receipt of the decision to transfer the case, the Investigation Agency investigating the case shall be responsible for transferring the case file to the competent Investigation Agency for further investigation.
5. The investigation period shall be calculated from the date the Investigation Agency receives the case file until the end of the investigation period as prescribed in this Code. In case the investigation period expires but the investigation cannot be completed, the competent Procuracy shall consider and decide to extend the investigation according to the general procedures prescribed in this Code.

**Article 170. Merging or separating criminal cases for investigation**

1. The investigation agency may merge to conduct an investigation under its authority in the same case when it falls under one of the following cases:
  - a) The defendant committed many crimes;
  - b) The defendant commits the crime multiple times;
  - c) Many defendants commit a crime together or together with the defendant there are other people who conceal the crime or fail to report the crime, or consume property obtained by the defendant's crime.
2. The investigation agency may only separate a case if necessary when it is not possible to promptly complete the investigation of all crimes and if such separation does not affect the determination of the objective and comprehensive truth of the case.
3. The decision to merge or separate cases must be sent to the People's Procuracy of the same level within 24 hours from the time of decision. In case of disagreement with the decision to merge or separate cases of the Investigation Agency, the People's Procuracy shall issue a decision to cancel and clearly state the reasons.

**Article 171. Investigation delegation**

1. When necessary, the Investigation Agency shall entrust another Investigation Agency to conduct certain investigation activities. The decision to entrust the investigation must clearly state the request and be sent to the entrusted Investigation Agency and the Procuracy at the same level as the entrusted Investigation Agency.

2. The entrusted investigation agency must fully perform the entrusted tasks within the time limit required by the entrusting investigation agency and be responsible before the law for the results of the entrusted investigation. In case of failure to carry out the entrusted task, a written document stating the reasons must be immediately sent to the entrusting investigation agency.
3. The People's Procuracy at the same level as the entrusted Investigation Agency shall be responsible for exercising the right to prosecute and supervise the investigation activities of the entrusted Investigation Agency and must immediately transfer the results of exercising the right to prosecute and supervise the entrusted investigation to the People's Procuracy that entrusted the exercise of the right to prosecute and supervise the investigation.

#### **Article 172. Investigation period**

1. The time limit for investigating a criminal case shall not exceed 02 months for less serious crimes, not exceed 03 months for serious crimes, not exceed 04 months for very serious crimes and especially serious crimes from the time of initiating the case until the end of the investigation.

2. In case it is necessary to extend the investigation due to the complexity of the case, at least 10 days before the end of the investigation period, the Investigation Agency must send a written request to the Procuracy to extend the investigation.

The extension of investigation is prescribed as follows:

- a) For less serious crimes, the investigation may be extended once for no more than 02 months;
- b) For serious crimes, the investigation period may be extended twice, the first time not exceeding 03 months and the second time not exceeding 02 months;
- c) For very serious crimes, the investigation period may be extended twice, each time for no more than 04 months;
- d) For particularly serious crimes, the investigation period may be extended three times, each time not exceeding 04 months.

3. For particularly serious crimes for which the extended investigation period has expired but due to the very complicated nature of the case the investigation cannot be completed, the Chief Justice of the Supreme People's Procuracy may extend the period once for no more than 04 months.

For crimes against national security, the Chief Justice of the Supreme People's Procuracy has the right to extend the term once for no more than 04 months.

4. In case of changing or supplementing the decision to initiate criminal proceedings or merging cases, the total investigation period shall not exceed the period prescribed in Clauses 1, 2 and 3 of this Article.

5. The authority of the Procuracy to extend the investigation:

- a) For less serious crimes, the district-level People's Procuracy or the regional military procuracy shall extend the investigation. In cases where the case is handled by a provincial-level investigation agency or a military region-level investigation agency, the provincial-level People's Procuracy or the military region-level military procuracy shall extend the investigation;
- b) For serious crimes, the District People's Procuracy and the Regional Military Procuracy shall extend the investigation for the first and second times. In cases where the investigation agency at the provincial level or the Military Region level accepts the case for investigation, the Provincial People's Procuracy and the Military Region level shall extend the investigation for the first and second times;
- c) For very serious crimes, the district-level People's Procuracy and the regional military procuracy shall extend the investigation for the first time; the provincial-level People's Procuracy and the military procuracy shall extend the investigation for the second time. In cases where the investigation agency at the provincial level or the military zone level accepts the case for investigation, the provincial-level People's Procuracy and the military procuracy shall extend the investigation for the first and second times;
- d) For particularly serious crimes, the provincial People's Procuracy and the military region-level military procuracy shall extend the investigation for the first and second times; the Supreme People's Procuracy and the Central Military Procuracy shall extend the investigation for the third time.

6. In case the case is handled for investigation by the Ministry of Public Security's Investigation Agency, the Ministry of National Defense's Investigation Agency, or the Supreme People's Procuracy's Investigation Agency, the extension of the investigation is under the authority of the Supreme People's Procuracy or the Central Military Procuracy.

#### **Article 173. Duration of detention for investigation**

1. The period of temporary detention of a suspect for investigation shall not exceed 02 months for less serious crimes, not exceed 03 months for serious crimes, not exceed 04 months for very serious crimes and especially serious crimes.

2. In cases where the case has many complicated details and requires a longer period of investigation and there is no basis to change or cancel the detention measure, at least 10 days before the end of the detention period, the Investigation Agency must send a written request to the Procuracy to extend the detention.

The extension of detention is regulated as follows:

- a) For less serious crimes, detention may be extended once for no more than 01 month;
- b) For serious crimes, detention may be extended once for no more than 02 months;
- c) For very serious crimes, detention may be extended once for no more than 03 months;

d) For particularly serious crimes, detention may be extended twice, each time for no more than 04 months.

### 3. The authority of the Procuracy to extend temporary detention:

a) The district-level People's Procuracy and the regional military procuracy have the right to extend the detention period for less serious crimes, serious crimes and very serious crimes. In cases where the case is handled by the provincial-level Investigation Agency or the military-regional Investigation Agency, the provincial-level People's Procuracy and the military procuracy have the right to extend the detention period for less serious crimes, serious crimes and very serious crimes and extend the detention period for the first time for especially serious crimes;

b) In case the first extension of detention period prescribed in Point a of this Clause has expired but the investigation cannot be completed and there is no basis to change or cancel the detention measure, the Provincial People's Procuracy or the Military Procuracy at the military region level may extend the detention period for the second time for particularly serious crimes.

4. In case the case is handled by the Investigation Agency of the Ministry of Public Security, the Investigation Agency of the Ministry of National Defense, or the Investigation Agency of the Supreme People's Procuracy, the extension of detention is under the authority of the Supreme People's Procuracy and the Central Military Procuracy.

5. In case of necessity for crimes against national security, the Chief Justice of the Supreme People's Procuracy has the right to extend the detention period once for no more than 04 months. In case the extended detention period prescribed in this clause has expired but the investigation cannot be completed and there is no basis to change or cancel the detention measure, the Chief Justice of the Supreme People's Procuracy has the right to extend the detention period once for no more than 01 month for serious crimes, no more than 02 months for very serious crimes, no more than 04 months for especially serious crimes. In special cases for especially serious crimes against national security where there is no basis to cancel the detention measure, the Chief Justice of the Supreme People's Procuracy shall decide on detention until the investigation is completed.

6. In case of necessity for particularly serious crimes that are not crimes against national security and there is no basis to change or cancel the detention measure, the Chief Justice of the Supreme People's Procuracy has the right to extend the detention measure once but not more than 04 months; in special cases where there is no basis to cancel the detention measure, the Chief Justice of the Supreme People's Procuracy decides to detain until the end of the investigation.

7. During the period of detention, if it is deemed unnecessary to continue the detention, the Investigation Agency must promptly request the Procuracy to cancel the detention to release the detainee or, if deemed necessary, apply other preventive measures.

When the detention period has expired, the detainee must be released. If deemed necessary, the competent authority conducting the proceedings shall apply other preventive measures.

### **Article 174. Time limit for investigation resumption, supplementary investigation, re-investigation**

1. In case of resuming investigation as prescribed in Article 235 of this Code, the period of continued investigation shall not exceed 02 months for less serious crimes, serious crimes and not exceed 03 months for very serious crimes, especially serious crimes from the date of decision to resume investigation until the end of investigation.

In case it is necessary to extend the investigation due to the complexity of the case, at least 10 days before the end of the investigation period, the Investigation Agency must send a written request to the Procuracy to extend the investigation.

The extension of investigation is prescribed as follows:

a) For less serious crimes, the investigation may be extended once for no more than 01 month;

b) For serious crimes and very serious crimes, the investigation may be extended once for no more than 02 months;

c) For particularly serious crimes, the investigation may be extended once for no more than 03 months.

Authority to extend investigation for each type of crime as prescribed in Clause 5, Article 172 of this Code.

2. In case the case is returned by the Procuracy for further investigation, the period for further investigation shall not exceed 02 months; in case the case is returned by the Court for further investigation, the period for further investigation shall not exceed 01 month. The Procuracy may only return the case file for further investigation twice. The presiding judge may only return the case file for further investigation once and the Trial Panel may only return the case file for further investigation once.

The time limit for additional investigation is calculated from the date the Investigation Agency receives the case file back and requests additional investigation.

3. In case the case is returned for re-investigation, the investigation period and extension of investigation shall be implemented according to the provisions of Article 172 of this Code.

The investigation period is calculated from when the Investigation Agency receives the file and requests re-investigation.

4. When resuming investigation, conducting supplementary investigation, or re-investigating, the Investigation Agency has the right to apply, change, or cancel preventive measures or coercive measures according to the provisions of this Code.

In cases where there is a basis under the provisions of this Code requiring temporary detention, the period of temporary detention for resuming investigation or conducting additional investigation must not exceed the period of resuming investigation or conducting additional investigation prescribed in Clause 1 and Clause 2 of this Article.

The period of detention and extension of detention in case the case is reinvestigated shall be implemented according to the provisions of Article 173 of this Code.

**Article 175. Settlement of requests and proposals of participants in the proceedings**

1. When a participant in the proceedings has a request or proposal regarding issues related to the case, the Investigation Agency, the agency assigned to conduct certain investigative activities, or the Procuracy, within the scope of its responsibilities, shall resolve such request or proposal and notify them of the results. In case the request or proposal is not accepted, the Investigation Agency, the agency assigned to conduct certain investigative activities, or the Procuracy must respond and state the reasons.

2. In case of disagreement with the settlement results of the Investigation Agency, the agency assigned to conduct certain investigation activities or the Procuracy, the participant in the proceedings has the right to complain. Complaints and settlement of complaints shall be carried out in accordance with the provisions of Chapter XXXIII of this Code.

**Article 176. Attendance of witnesses**

Witnesses are summoned to witness investigative activities in cases prescribed by this Code.

Witnesses are responsible for confirming the content and results of the work that the competent person conducting the proceedings has conducted while they are present and may express their personal opinions. These opinions are recorded in the minutes.

**Article 177. Investigation secrets must not be disclosed.**

In cases where investigation secrets need to be kept, the Investigator, Investigation Officer, Prosecutor, or Inspector must request the participants in the proceedings not to disclose investigation secrets. This request shall be recorded in the minutes.

Investigators, Investigation Officers, Prosecutors, Inspectors, and participants in the proceedings who disclose investigation secrets shall, depending on the nature and severity of the violation, be subject to disciplinary action, administrative sanctions, or criminal prosecution in accordance with the provisions of law.

**Article 178. Investigation records**

When conducting an investigation, the competent person conducting the proceedings must draw up a record in accordance with the provisions of Article 133 of this Code .

The investigator and the investigating officer who prepares the minutes must read the minutes to the participants in the proceedings and explain to them their right to add or comment on the minutes. Additional opinions and comments are recorded in the minutes; if the additions are not accepted, the reasons are clearly stated in the minutes. The participants in the proceedings, the investigator and the investigating officer must sign the minutes.

In case the Prosecutor or Inspector makes a record, the record shall be made in accordance with the provisions of this Article. The record shall be immediately forwarded to the Investigator for inclusion in the case file.

The making of minutes during the prosecution stage is carried out according to the provisions of this Article.

**Chapter XI****PROSECUTION AND INTERVIEW OF THE SUSPECTED****Article 179. Prosecution of the accused**

1. When there is sufficient basis to determine that an individual or legal entity has committed an act that the Penal Code defines as a crime, the Investigation Agency shall issue a decision to prosecute the accused.

2. The decision to prosecute the accused must clearly state the time and place of the decision; the full name and position of the person making the decision; the full name, date of birth, nationality, ethnicity, religion, gender, residence, and occupation of the accused; what crime the accused is being prosecuted for, under which article or clause of the Penal Code ; the time and place of the crime, and other details of the crime.

In case the accused is prosecuted for many different crimes, the decision to prosecute the accused must clearly state each crime and the applicable articles and clauses of the Penal Code .

3. Within 24 hours of issuing the decision to prosecute the accused, the Investigation Agency must send the decision to prosecute and documents related to the prosecution to the People's Procuracy at the same level for approval. Within 03 days of receiving the decision to prosecute the accused, the People's Procuracy must decide to approve or cancel the decision to prosecute the accused or request additional evidence and documents as a basis for the decision to approve and immediately send them to the Investigation Agency.

In case the Procuracy requests additional evidence and documents, within 03 days from the date of receipt of additional evidence and documents, the Procuracy must issue a decision to approve or cancel the decision to prosecute the accused.

4. In case of discovering that a person has committed an act which is defined as a crime by the Penal Code but has not been prosecuted, the Procuracy shall request the Investigation Agency to issue a decision to prosecute the accused or directly issue a decision to prosecute the accused if the request has been made but the Investigation Agency has not implemented it. Within 24 hours of issuing the decision to prosecute the accused, the Procuracy shall send it to the Investigation Agency to conduct the investigation.

After receiving the case file and investigation conclusion, if the Procuracy discovers that another person has committed an act that the Penal Code stipulates as a crime in the case that has not been prosecuted, the Procuracy shall issue a decision to prosecute the accused and return the case file to the Investigation Agency for further investigation.

5. After receiving the decision approving the decision to prosecute the accused or the decision to prosecute the accused from the Procuracy, the Investigation Agency must immediately deliver the decision to prosecute the accused, the decision approving the decision to prosecute the accused and explain the rights and obligations to the accused.

After receiving the decision approving the decision to prosecute the accused, the Investigation Agency must take photos, make a list of names and fingerprints of the accused and include them in the case file.

The delivery and receipt of the above decisions shall be recorded in accordance with the provisions of Article 133 of this Code .

#### **Article 180. Changing or supplementing the decision to prosecute the accused**

1. The investigation agency and the Procuracy change the decision to prosecute the accused in one of the following cases:

a) When conducting an investigation, if there is a basis to determine that the defendant's actions do not constitute the crime for which he/she has been prosecuted;

b) The decision to prosecute incorrectly records the full name, age, and personal information of the accused.

2. The investigation agency and the Procuracy must supplement the decision to prosecute the accused if there is basis to determine that the accused has committed other acts that the Penal Code stipulates as crimes.

3. Within 24 hours of issuing a decision to change or supplement the decision to prosecute a defendant, the Investigation Agency must send this decision and documents related to such change or supplement to the People's Procuracy at the same level for approval. Within 03 days of receiving the decision to change or supplement the decision to prosecute a defendant, the People's Procuracy must decide to approve or decide to cancel the decision to change or supplement the decision to prosecute a defendant or request additional evidence and documents as a basis for the decision to approve and immediately send them to the Investigation Agency.

In case the Procuracy requests additional evidence and documents, within 03 days from the date of receipt of additional evidence and documents, the Procuracy shall issue a decision to approve or cancel the decision to change or supplement the decision to prosecute the accused.

Within 24 hours from the time the Procuracy issues a decision to change or supplement the decision to prosecute the accused, the Procuracy must send it to the Investigation Agency to conduct an investigation.

4. After receiving the decision to approve or the decision to cancel the decision to change or supplement the decision to prosecute the accused, the decision to change or supplement the decision to prosecute the accused from the Procuracy, the Investigation Agency must immediately deliver this decision to the person who has been prosecuted.

The delivery and receipt of the above decisions shall be recorded in accordance with the provisions of Article 133 of this Code .

#### **Article 181. Temporary suspension of the accused from the position he is holding**

When it is found that the defendant's continued holding of a position causes difficulties for the investigation, the Investigation Agency, the agency assigned to conduct certain investigation activities, or the Procuracy has the right to recommend to the agency or organization with authority to manage the defendant to temporarily suspend the defendant from his or her position. Within 07 days from the date of receipt of the recommendation, this agency or organization must respond in writing to the Investigation Agency, the agency assigned to conduct certain investigation activities, or the Procuracy that made the recommendation.

#### **Article 182. Summoning of accused**

1. When summoning a suspect, the Investigator must send a summons. The summons must clearly state the suspect's full name and address; time, date, month, year, place of presence, working time, meeting with whom, and responsibility for absence not due to force majeure or objective obstacles.

2. The summons shall be sent to the local authorities of the commune, ward or town where the accused resides or to the agency or organization where the accused works or studies. The agency or organization that receives the summons shall be responsible for immediately forwarding the summons to the accused.

Upon receiving the summons, the accused must sign and clearly state the time and date of receipt. The person delivering the summons must forward the part of the summons signed by the accused to the agency that summoned the accused; if the accused does not sign, a record must be made of the matter and sent to the agency that summoned the accused; if the accused is absent, the summons may be delivered to a relative of the accused who has full civil capacity to sign and deliver to the accused.

3. The accused must appear in response to the summons. In case of absence not due to force majeure or objective obstacles or signs of evasion, the Investigator may issue a decision to escort.

4. If necessary, the Prosecutor may summon the accused. The summoning of the accused shall be conducted in accordance with the provisions of this Article.

#### **Article 183. Interrogation of accused**

1. The interrogation of the accused shall be conducted by the Investigator immediately after the decision to prosecute the accused is made. The accused may be interrogated at the place of investigation or at his/her residence. Before interrogating the accused, the Investigator must notify the Prosecutor and the defense attorney of the time and place of interrogation. When deemed necessary, the Prosecutor shall participate in the interrogation of the accused.

2. Before conducting the first interrogation, the Investigator must clearly explain to the suspect his rights and obligations as prescribed in Article 60 of this Code . This must be recorded in the minutes.

In case there are many defendants in the case, each person should be questioned separately and not allowed to contact each other. The defendant may be allowed to write his/her own statement.

3. Do not interrogate suspects at night, except in cases where delay is unavoidable, but the reason must be clearly stated in the minutes.

4. The prosecutor shall question the accused in cases where the accused claims innocence, complains about the investigation activities or has grounds to determine that the investigation violates the law or in other cases when deemed necessary. The prosecutor shall question the accused in accordance with the provisions of this Article.

5. Investigators, Investigation Officers, Prosecutors, and Inspectors who force confessions or use torture on suspects shall bear criminal responsibility according to the provisions of the Penal Code .

6. The interrogation of suspects at detention facilities or at the headquarters of the Investigation Agency or the agency assigned to conduct certain investigative activities must be recorded by audio or video.

The interrogation of a suspect at another location is recorded by audio or video at the request of the suspect or of the competent authority or person conducting the proceedings.

#### **Article 184. Minutes of questioning of accused**

1. Each time a suspect is questioned, a record must be made.

The minutes of the interrogation of the accused shall be drawn up in accordance with the provisions of Article 178 of this Code ; the accused's statements, questions and answers must be fully recorded. Investigators and Investigation Officers are strictly prohibited from adding, subtracting or correcting the accused's statements on their own.

2. After the interrogation, the Investigator or Investigation Officer must read the minutes to the suspect or let the suspect read them himself. In case of additions or corrections to the minutes, the Investigator, Investigation Officer and the suspect must sign to confirm. If the minutes have many pages, the suspect must sign each page of the minutes. In case the suspect writes a self-declaration, the Investigator, Investigation Officer and the suspect must sign to confirm that self-declaration.

3. In case the suspect is interrogated with an interpreter, the Investigator or Investigation Officer must explain the rights and obligations of the interpreter, and at the same time explain to the suspect the right to request a change of interpreter; the interpreter must sign each page of the interrogation record.

In case the defendant is interrogated in the presence of the defendant's defense counsel or representative, the Investigator or Investigation Officer must explain to these people their rights and obligations during the interrogation of the defendant. The defendant, the defense counsel, and the representative must sign the interrogation record. In case the defense counsel is allowed to question the defendant, the record must fully record the defense counsel's questions and the defendant's answers.

4. In case the Prosecutor questions the suspect, the record shall be made in accordance with the provisions of this Article. The record of the suspect's interrogation shall be immediately transferred to the Investigator for inclusion in the case file.

### **Chapter XII**

## **TAKING STATEMENTS OF WITNESSES, VICTIMS, CIVIL PLAINTIFFS, CIVIL DEFENDANTS, PERSONS WITH RIGHTS AND OBLIGATIONS RELATED TO THE CASE, CONFRONTATION AND IDENTIFICATION**

#### **Article 185. Summoning witnesses**

1. When summoning a witness to give testimony, the Investigator must send a summons.

2. The witness summons must clearly state the witness's full name, residence or place of work or study; time, date, month, year and place of presence; purpose and content of work, work time; who to meet and responsibility for absence not due to force majeure or objective obstacles.

3. The delivery of the summons is carried out as follows:

a) The summons shall be delivered directly to the witness or through the local authority of the commune, ward or town where the witness resides or the agency or organization where the witness works or studies. In all cases, the delivery of the summons must be signed for. The local authority of the commune, ward or town where the witness resides or the agency or organization where the witness works or studies shall be responsible for creating conditions for the witness to perform his/her obligations;

b) The summons for witnesses under 18 years of age shall be delivered to their parents or other representatives;

c) The delivery of a witness summons pursuant to a foreign judicial commission shall be carried out in accordance with the provisions of this clause and the Law on Judicial Assistance .

4. If necessary, the Prosecutor may summon witnesses to take statements. The summoning of witnesses shall be carried out in accordance with the provisions of this Article.

#### **Article 186. Taking witness statements**

1. Witness testimony is taken at the place of investigation, the person's place of residence, workplace or place of study.

2. If there are many witnesses in a case, each witness must be given separate testimony and not allowed to contact or communicate with each other during the testimony.
3. Before taking statements, the Investigator and Investigation Officer must explain to the witness their rights and obligations as prescribed in Article 66 of this Code . This must be recorded in the minutes.
4. Before asking about the content of the case, the investigator must ask about the relationship between the witness and the accused, the victim and other details about the witness's personal background. The investigator must ask the witness to honestly and voluntarily state or write what he or she knows about the case, then ask questions.
5. In case the taking of the Investigator's testimony is deemed to be not objective or to violate the law or if it is deemed necessary to clarify evidence and documents to decide whether to approve or not to approve the procedural decision of the Investigation Agency or to decide on prosecution, the Prosecutor may take the testimony of the witness. The taking of the testimony of the witness shall be conducted in accordance with the provisions of this Article.

#### **Article 187. Minutes of witness testimony**

Minutes of witness statements are made in accordance with the provisions of Article 178 of this Code .

Witness testimony can be recorded or videotaped with sound.

#### **Article 188. Summoning and taking statements from victims and parties**

Summoning and taking statements from victims and litigants shall be carried out in accordance with the provisions of Articles 185, 186 and 187 of this Code .

The taking of statements from victims and parties can be recorded by audio or video.

#### **Article 189. Confrontation**

1. In case there is a conflict in the statements of two or more people and other investigative measures have been taken but the conflict has not been resolved, the Investigator shall conduct a confrontation. Before conducting the confrontation, the Investigator shall notify the Procuracy at the same level to assign a Prosecutor to supervise the confrontation. The Prosecutor must be present to supervise the confrontation. If the Prosecutor is absent, this shall be clearly stated in the confrontation record.
2. If there are witnesses or victims involved, before the confrontation, the Investigator must explain to them their responsibility for refusing, avoiding testimony or intentionally giving false testimony. This must be recorded in the minutes.
3. At the beginning of the cross-examination, the Investigator asks about the relationship between the participants in the cross-examination, then asks them about the details that need to be clarified. After listening to the cross-examination, the Investigator can ask each person further questions.

During the confrontation, the Investigator may present relevant evidence, documents, and objects; may allow the participants in the confrontation to question each other; the questions and answers of these people must be recorded in the minutes.

Only after the participants in the cross-examination have finished testifying may their previous statements be repeated.

4. The minutes of the confrontation shall be drawn up in accordance with the provisions of Article 178 of this Code. The confrontation may be recorded in audio or video.
5. If necessary, the Prosecutor may conduct a confrontation. The confrontation shall be conducted in accordance with the provisions of this Article.

#### **Article 190. Identification**

1. When necessary, the Investigator may present persons, photos or objects to witnesses, victims or defendants for identification.

The number of people, photos or objects presented for identification must be at least three and must be similar in appearance, except in the case of post-mortem identification.

Before conducting identification, the Investigator must notify the Procuracy at the same level to assign a Procurator to supervise the identification. The Procurator must be present to supervise the identification. If the Procurator is absent, it must be clearly stated in the identification record.

2. The following persons must participate in the identification:

- a) Witness, victim or defendant;
- b) Witness.

3. If the witness or victim is the person making the identification, before proceeding, the Investigator must explain to them their responsibility for refusing, avoiding testimony or intentionally giving false testimony. This must be recorded in the minutes.

4. The investigator must ask the person making the identification in advance about the details, traces and characteristics by which they can make the identification.

During the identification process, the Investigator must not ask suggestive questions. After the person identifying has identified a person, an object or a photo among those presented for identification, the Investigator must ask them to explain what traces or characteristics they relied on to identify that person, object or photo.

5. The identification record is made in accordance with the provisions of Article 178 of this Code . The record clearly states the identity and health status of the identifying person and those presented for identification; characteristics of the objects and photos presented for identification; statements and presentations of the identifying person; and lighting conditions when performing the identification.

#### **Article 191. Voice recognition**

1. When necessary, the Investigator may allow the victim, witness, or arrested person, detainee, or defendant to identify the voice.

The number of voices presented for recognition must be at least three and must have similar tone and volume.

Before conducting voice identification, the Investigator must notify the Procuracy at the same level to assign a Prosecutor to supervise the voice identification. The Prosecutor must be present to supervise the voice identification. If the Prosecutor is absent, it must be clearly stated in the voice identification record.

2. The following people must participate in voice recognition:

- a) Sound expert;
- b) The person requested to recognize the voice;
- c) The person whose voice is to be identified, except where the identification is made by means of a recording;
- d) Witness.

3. If the witness or victim is asked to identify the voice, before proceeding, the Investigator must explain to them the responsibility for refusing, avoiding testimony or intentionally giving false testimony. This must be recorded in the minutes.

4. The investigator must ask the person asked to identify the voice in advance about the characteristics by which they can identify the voice.

During the process of voice recognition, the Investigator must not ask suggestive questions. After the person asked to identify a voice has identified a voice from among the voices presented, the Investigator must ask them to explain what characteristics they used to identify that voice.

5. The voice recognition record is made in accordance with the provisions of Article 178 of this Code . The record clearly states the identity and health status of the person requested to recognize the voice and of the people presented for voice recognition; characteristics of the voice presented for recognition, the statement of the person recognizing the voice; and the space conditions when performing the voice recognition.

#### **Chapter XIII**

### **SEARCH, SEIZURE, SEIZURE OF DOCUMENTS AND OBJECTS**

#### **Article 192. Grounds for searching persons, residences, workplaces, locations, vehicles, documents, objects, letters, telegrams, parcels, postal items, and electronic data**

1. Searches of persons, residences, workplaces, locations, and vehicles may only be conducted when there is a basis to determine that on the person, residence, workplace, location, or vehicle there are tools, means of committing crimes, documents, objects, property obtained from committing crimes, or other objects, electronic data, or documents related to the case.

Searches of residences, workplaces, locations, and vehicles are also conducted when it is necessary to detect wanted persons, search for and rescue victims.

2. When there is a basis to determine that in letters, telegrams, parcels, postal items, electronic data there are tools, means of committing crimes, documents, objects, and assets related to the case, letters, telegrams, parcels, postal items, and electronic data may be searched.

#### **Article 193. Authority to issue search warrants**

1. The competent persons specified in Clause 1, Article 113 of this Code have the right to issue search warrants. Search warrants issued by the persons specified in Clause 2, Article 35 and Point a, Clause 1, Article 113 of this Code must be approved by the competent Procuracy before being executed.

2. In case of emergency, the competent persons specified in Clause 2, Article 110 of this Code have the right to issue a search warrant. Within 24 hours from the completion of the search, the person issuing the search warrant must notify in writing the People's Procuracy at the same level or the People's Procuracy with the authority to exercise the right to prosecute and supervise the investigation of the case or case.

3. Before conducting a search, the Investigator must notify the Procuracy at the same level of the time and place of the search to assign a Procurator to supervise the search, except in cases of emergency searches. The Procurator must be present to supervise the search. If the Procurator is absent, this must be clearly stated in the search record.

4. All cases of search must be recorded in accordance with the provisions of Article 178 of this Code and included in the case file.

#### **Article 194. Search of persons**

1. When starting a search, the person executing the search warrant must read the warrant and have the person being searched read it; explain to the person being searched and those present their rights and obligations.

The person conducting the search must request the person being searched to provide documents and objects related to the case. If they refuse or do not provide complete documents and objects related to the case, the search shall proceed.

2. A search of a person must be carried out by a person of the same sex and witnessed by another person of the same sex. The search must not infringe upon the life, health, property, honor, or dignity of the person being searched.

3. A search may be conducted without a warrant in the event of an arrest or when there is reason to believe that the person present at the place of search is concealing on his person weapons, murder weapons, evidence, documents, or objects related to the case.

#### **Article 195. Search of residence, workplace, location, means of transport**

1. When searching a residence, the person or a person aged 18 or older living at the same place of residence must be present, along with a representative of the commune, ward or town government and a witness; in case the person or a person aged 18 or older living at the same place of residence is intentionally absent, flees or is not present for other reasons and the search cannot be delayed, the search can still be carried out but must be attended by a representative of the commune, ward or town government where the search is being carried out and two witnesses.

A search of a residence may not be initiated at night, except in an emergency, but the reason must be clearly stated in the minutes.

2. When searching a person's workplace, that person must be present, except in cases where delay is unavoidable, but the reason must be clearly stated in the minutes.

A search of the workplace must be witnessed by a representative of the agency or organization where the person works. In the absence of a representative of the agency or organization, the search may still be conducted but must be witnessed by a representative of the local government of the commune, ward or town where the search is being conducted and two witnesses.

3. When searching a location, there must be a representative of the commune, ward or town government where the search is being conducted and a witness.

4. The search of a vehicle must be conducted in the presence of the vehicle owner or manager and a witness. In case the vehicle owner or manager is absent, absconds, or is unavailable for other reasons and the search cannot be delayed, the search may still be conducted but must be conducted in the presence of two witnesses.

When searching a vehicle, a person with expertise related to the vehicle may be invited to participate.

5. When conducting a search of a residence, workplace, location, or vehicle, those present must not leave the place being searched without permission, and must not contact or communicate with each other or with other people until the search is completed.

#### **Article 196. Seizure of electronic devices and electronic data**

1. The seizure of electronic media and electronic data shall be carried out by competent persons conducting proceedings and may invite relevant experts to participate. In cases where seizure is not possible, it must be backed up to storage media and seized as with physical evidence.

2. When seizing electronic media, accompanying peripheral devices and related documents may be seized.

#### **Article 197. Seizure of letters, telegrams, parcels and postal items at postal and telecommunications agencies and organizations**

1. When it is necessary to seize letters, telegrams, parcels, and postal items at postal and telecommunications agencies and organizations, the Investigation Agency shall issue a seizure order. This order must be approved by the Procuracy of the same level before being executed.

2. In cases where it is impossible to delay the seizure of letters, telegrams, parcels, and postal items at postal and telecommunications agencies and organizations, the Investigation Agency may proceed with the seizure but must clearly state the reason in the minutes. After the seizure, it must immediately notify the Procuracy of the same level in writing, along with documents related to the seizure, for approval.

Within 24 hours of receiving the request for approval and documents related to the seizure of letters, telegrams, parcels, and postal items, the Procuracy must issue a decision to approve or not approve. If the Procuracy decides not to approve, the person who issued the seizure order must immediately return the letters, telegrams, parcels, and postal items to the postal or telecommunications agency or organization, and at the same time notify the person whose letters, telegrams, parcels, and postal items were seized.

3. The person executing the warrant must notify the person in charge of the relevant postal or telecommunications agency or organization before proceeding with the seizure. The manager of the relevant postal or telecommunications agency or organization must create conditions for the person executing the seizure warrant to complete his/her task.

When seizing letters, telegrams, parcels, and postal items, a representative of the postal or telecommunications agency or organization must witness and sign the record.

The authority ordering the seizure must notify the person whose correspondence, telegrams, parcels, or postal items are seized. If the notification hinders the investigation, the authority ordering the seizure must notify immediately after the hindrance is removed.

#### **Article 198. Temporary detention of documents and objects during search**

1. During the search, the Investigator may temporarily detain objects that are evidence and documents directly related to the case. Objects that are prohibited from being stored or circulated must be seized and immediately transferred to the competent

management agency. If sealing is necessary, it must be done in the presence of the owner of the object, the person in charge of the object, witnesses, family representatives, and representatives of the commune, ward, or town authorities where the search is being conducted.

2. The temporary detention of documents and objects during a search shall be recorded in accordance with the provisions of Article 133 of this Code . The temporary detention record shall be made in four copies, of which one copy shall be given to the owner of the documents and objects or the person managing the documents and objects, one copy shall be included in the case file, one copy shall be given to the People's Procuracy at the same level, and one copy shall be given to the agency managing the temporarily detained documents and objects.

#### **Article 199. Responsibility for preserving means, documents, objects, electronic data, letters, telegrams, parcels and postal items that are seized, temporarily detained or sealed**

1. Means, documents, objects, electronic data, letters, telegrams, parcels and postal items that are seized, temporarily detained or sealed must be preserved intact.

2. Anyone who destroys the seal, uses, transfers, swaps, conceals or destroys means, documents, objects, electronic data, letters, telegrams, parcels or postal items shall be subject to criminal liability according to the provisions of the Penal Code .

#### **Article 200. Responsibilities of the person issuing the order and the person executing the search, seizure and temporary detention order**

The person who orders or executes an illegal search, seizure, or temporary detention order shall, depending on the nature and severity of the violation, be subject to disciplinary action or criminal prosecution in accordance with the provisions of law.

### **Chapter XIV**

## **CRIME SCENE EXAMINATION, AUTOPSY, EXAMINATION OF TRACES ON THE BODY, INVESTIGATION EXPERIMENT**

#### **Article 201. Scene examination**

1. The investigator in charge conducts an examination of the scene of the crime or the place where the crime was discovered to detect traces of the crime, collect evidence, documents, objects, and other related electronic data, and clarify details that are significant to the resolution of the case.

2. Before conducting a crime scene investigation, the Investigator must notify the same-level Procuracy of the time and place of the investigation to assign a Prosecutor to supervise the crime scene investigation. The Prosecutor must be present to supervise the crime scene investigation.

When examining the scene, there must be witnesses; the accused, the defense attorney, the victim, and witnesses may participate and experts may be invited to attend the examination.

3. When examining a crime scene, it is necessary to take photos, draw diagrams, describe the scene, measure, build models; examine the scene and collect traces of the crime, documents, and objects related to the case; clearly record the results of the examination in the minutes. The minutes of the crime scene examination are made according to the provisions of Article 178 of this Code .

In cases where they cannot be examined immediately, the seized documents and objects must be preserved, kept intact or sealed and brought to the place of investigation.

#### **Article 202. Autopsy**

1. The autopsy shall be conducted by a forensic examiner under the supervision of the Investigator and must be witnessed.

Before conducting an autopsy, the Investigator must notify the same-level Procuracy of the time and place of the autopsy to assign a Prosecutor to supervise the autopsy. The Prosecutor must be present to supervise the autopsy.

2. A forensic technician may be invited to participate in an autopsy to detect and collect traces for examination.

3. When performing an autopsy, it is necessary to take photos and describe the traces left on the corpse; take photos, collect and preserve specimens for expert consultation; and clearly record the results of the autopsy in the minutes. The autopsy minutes are drawn up in accordance with the provisions of Article 178 of this Code .

4. In case of exhumation, there must be a decision from the Investigation Agency and the deceased's relatives must be notified before proceeding. In case the deceased has no relatives or cannot identify them, the representative of the commune, ward or town government where the corpse is buried must be notified.

#### **Article 203. Examination of traces on the body**

1. When necessary, the Investigator shall examine the traces of the crime or other traces that are significant to the settlement of the case on the body of the person detained in an emergency, the person arrested, the person in custody, the accused, the victim, or the witness. If necessary, the Investigation Agency shall request an expert examination.

2. Examination of body marks must be carried out by a person of the same sex and must be witnessed by a person of the same sex. If necessary, a doctor may be invited to participate.

It is strictly forbidden to violate the health, honor and dignity of the person whose body is being examined for traces.

When examining traces on the body, a record must be made describing the traces left on the body; if necessary, photographs must be taken and an expert examination must be requested. The record of examining traces on the body must be made in accordance with the provisions of Article 178 of this Code .

#### **Article 204. Investigation experiments**

1. To examine and verify documents and details that are significant to the resolution of a case, the Investigation Agency may conduct an investigation experiment by recreating the scene, reenacting the behavior, situation or other details of a certain incident and conducting necessary experimental activities. When conducting an investigation experiment, it is necessary to measure, take photos, record videos, draw diagrams, and clearly record the results of the investigation experiment in the minutes.

It is strictly forbidden to conduct investigative experiments that infringe upon the life, health, honor, dignity, and property of participants in investigative experiments and others.

2. Before conducting an investigative experiment, the Investigator must notify the Procuracy at the same level of the time and place of conducting the investigative experiment. The Prosecutor must be present to supervise the investigative experiment. If the Prosecutor is absent, it must be clearly stated in the minutes.

3. The investigator in charge conducts the investigative experiment and the investigative experiment must be witnessed.

When conducting an investigative experiment, the Investigation Agency may invite experts to participate. If necessary, detainees, defendants, defense attorneys, victims, and witnesses may participate.

4. If necessary, the Procuracy shall conduct investigative experiments. Investigative experiments shall be conducted in accordance with the provisions of this Article.

### **Chapter XV**

## **ASSET VALUATION AND ASSESSMENT**

#### **Article 205. Request for appraisal**

1. When falling under one of the cases specified in Article 206 of this Code or when deemed necessary, the competent authority conducting the proceedings shall issue a decision to request an expert examination.

2. The decision to request an appraisal shall include the following contents:

- a) Name of the agency requesting the appraisal; full name of the person authorized to request the appraisal;
- b) Name of organization; full name of person requested for appraisal;
- c) Name and characteristics of the object to be appraised;
- d) Name of relevant document or comparison sample attached (if any);
- d) Content of appraisal request;
- e) Date, month, year of request for appraisal and deadline for returning appraisal conclusion.

3. Within 24 hours from the time of issuing the decision to request an appraisal, the agency requesting the appraisal must deliver or send the decision to request an appraisal, the dossier, and the subject of the appraisal to the organization or individual conducting the appraisal; send the decision to request an appraisal to the competent Procuracy to exercise the right to prosecute and supervise the investigation.

#### **Article 206. Cases where expert appraisal is required**

Expertise is required when it is necessary to determine:

- 1. The mental state of the accused when there is doubt about their criminal capacity; the mental state of the witness or victim when there is doubt about their cognitive ability or ability to accurately report on the details of the case;
- 2. The age of the suspect, defendant, or victim if it is relevant to the resolution of the case and there are no documents to accurately determine their age or there is doubt about the authenticity of those documents;
- 3. Cause of death;
- 4. Nature of injury, extent of damage to health or ability to work;
- 5. Drugs, military weapons, explosives, flammable substances, toxic substances, radioactive substances, counterfeit money, gold, silver, precious metals, precious stones, antiques;
- 6. Level of environmental pollution.

#### **Article 207. Request for appraisal**

1. The parties or their representatives have the right to request competent authorities to conduct proceedings to request expert assessment of issues related to their legitimate rights and interests, except in cases where the expert assessment is related to determining the criminal liability of the accused.

Within 07 days from the date of receipt of the request, the agency conducting the proceedings must consider and issue a decision to request an appraisal. In case of not accepting the request, the person requesting the appraisal shall be notified in writing and clearly

state the reasons. After this period or from the date of receipt of the notice of refusal to request an appraisal from the competent agency conducting the proceedings, the person requesting the appraisal shall have the right to request an appraisal himself.

2. The person requesting the appraisal has the rights and obligations as prescribed by the Law on Judicial Appraisal .

#### **Article 208. Time limit for appraisal**

1. Time limit for appraisal in cases where appraisal is required:

- a) Not more than 03 months for the case specified in Clause 1, Article 206 of this Code ;
- b) Not more than 01 month for the cases specified in Clause 3 and Clause 6, Article 206 of this Code ;
- c) No more than 09 days for the cases specified in Clauses 2, 4 and 5, Article 206 of this Code .

2. The appraisal period for other cases shall be implemented according to the appraisal request decision.

3. In case the appraisal cannot be conducted within the time limit specified in Clause 1 and Clause 2 of this Article, the organization or individual conducting the appraisal must promptly notify in writing, clearly stating the reasons, to the requesting agency or the person requesting the appraisal.

4. The appraisal period prescribed in this Article also applies to cases of additional appraisal and re-appraisal.

#### **Article 209. Conducting appraisal**

1. The appraisal can be conducted at the appraisal agency or at the place where the case is investigated immediately after the decision to request an appraisal is made.

Investigators, prosecutors, judges, and persons requesting an appraisal may attend the appraisal but must notify the appraiser in advance.

2. The appraisal is carried out by an individual or a group.

#### **Article 210. Additional assessment**

1. Additional assessment is conducted in the following cases:

- a) The content of the appraisal conclusion is unclear or incomplete;
- b) When a new issue arises that requires an appraisal related to the details of a case that has a previous appraisal conclusion.

2. Additional appraisal may be performed by the organization or individual that did the appraisal or by another organization or individual.

3. Requests for additional appraisals are carried out as for initial appraisals.

#### **Article 211. Re-examination**

1. A re-examination is carried out when there is doubt that the initial appraisal conclusion is incorrect. The re-examination must be carried out by another appraiser.

2. The agency requesting the appraisal shall decide, on its own or at the request of the participant in the proceedings, to request a re-appraisal. In case the person requesting the appraisal does not accept the request for re-appraisal, it must notify the person requesting the appraisal in writing and state the reasons.

3. In case there is a difference between the first appraisal conclusion and the re-appraisal conclusion on the same appraisal content, the second re-appraisal shall be decided by the person requesting the appraisal. The second re-appraisal must be carried out by the Appraisal Council in accordance with the provisions of the Law on Judicial Appraisal .

#### **Article 212. Re-examination in special cases**

In special cases, the Chief Justice of the Supreme People's Court or the Chief Justice of the Supreme People's Procuracy shall decide on re-examination after the conclusion of the Appraisal Council has been reached. Re-examination in special cases must be conducted by the new Council; those who participated in the previous appraisal shall not be allowed to re-examine. The conclusion of the re-examination in this case shall be used to resolve the case.

#### **Article 213. Conclusion of appraisal**

1. The appraisal conclusion must clearly state the appraisal results for the contents that have been requested, requested and other contents according to the provisions of the Law on Judicial Appraisal .

2. Within 24 hours from the issuance of the appraisal conclusion, the organization or individual that conducted the appraisal must send the appraisal conclusion to the agency that requested the appraisal and the person requesting the appraisal.

Within 24 hours of receiving the appraisal conclusion, the agency that requested the appraisal and the person requesting the appraisal must send the appraisal conclusion to the Procuracy exercising the right to prosecute and supervise the investigation.

3. To clarify the content of the appraisal conclusion, the requesting agency and the person requesting the appraisal have the right to request the organization or individual that conducted the appraisal to explain the appraisal conclusion; and to ask the appraiser further questions about necessary details.

**Article 214. Rights of suspects, defendants, victims, and other participants in the proceedings regarding expert conclusions**

1. Within 07 days from the date of receipt of the request for expert assessment from the suspect, defendant, victim, or other participant in the proceedings, the competent authority conducting the proceedings must consider and issue a decision to request an expert assessment.
2. Within 07 days from the date of receiving the expert conclusion, the competent authority conducting the proceedings must notify the expert conclusion to the suspect, defendant, victim, and other relevant participants in the proceedings.
3. The suspect, defendant, victim, and other participants in the proceedings have the right to present their opinions on the expert conclusion; request additional expert examination or re-examination. In case they present directly, the Investigation Agency, the Procuracy, and the Court must make a record.
4. In case the Investigation Agency, the Procuracy, or the Court does not accept the request of the suspect, defendant, victim, or other participant in the proceedings, it must notify the requester in writing and state the reasons.

**Article 215. Request for property valuation**

1. When it is necessary to determine the value of property to resolve a criminal case, the competent authority conducting the proceedings shall issue a document requesting property valuation.
2. The document requesting asset valuation must contain the following contents:
  - a) Name of the agency requesting the valuation; full name of the person authorized to request the valuation;
  - b) Name of the requested asset valuation council;
  - c) Information and characteristics of the property to be appraised;
  - d) Name of relevant document (if any);
  - d) Content of request for asset valuation;
  - e) Date, month, year of request for asset valuation, deadline for returning asset valuation conclusion.
3. Within 24 hours from the issuance of the document requesting asset valuation, the agency requesting the valuation must deliver or send the document requesting asset valuation, records, and objects of the asset valuation request to the requested Asset Valuation Council; send the document requesting asset valuation to the competent Procuracy exercising the right to prosecute and supervise the investigation.
4. Requests for property valuation to resolve civil issues in criminal cases shall be made in accordance with the provisions of the law on civil procedure.

**Article 216. Time limit for asset valuation**

Asset valuation and return of asset valuation conclusions shall be carried out within the time limit stated in the asset valuation request document. In case the asset valuation cannot be carried out within the requested time limit, the Asset Valuation Council must promptly notify in writing, stating the reasons, to the agency or person requesting the valuation.

**Article 217. Conducting asset valuation**

1. Asset valuation is conducted by the Asset Valuation Council. The asset valuation meeting can be held at the location of the asset to be valued or at another location as decided by the Asset Valuation Council.

Investigators, Prosecutors, and Judges may attend the asset valuation meeting but must notify the Asset Valuation Council in advance; with the consent of the Asset Valuation Council, they have the right to give their opinions.

2. The Government shall detail the establishment and operation of the Asset Valuation Council; the order and procedures for asset valuation.

**Article 218. Revaluation of assets**

1. In case of doubt about the initial valuation conclusion, the competent authority conducting the proceedings shall, on its own or at the request of the accused or other participants in the proceedings, issue a document requesting a re-valuation of the assets. The re-valuation of the assets shall be directly carried out by the Asset Valuation Council at the next higher level.
2. In case there is a conflict between the initial valuation conclusion and the re-valuation conclusion on the price of the property to be valued, the competent authority conducting the proceedings shall issue a document requesting a second re-valuation. The second re-valuation shall be conducted by the competent Property Valuation Council. The re-valuation conclusion in this case shall be used to resolve the case.

**Article 219. Valuation of assets in case of loss or disappearance of assets**

In case the property to be appraised is lost or no longer exists, the appraisal of the property shall be carried out according to the property records on the basis of information and documents collected about the property to be appraised.

**Article 220. Revaluation of assets in special cases**

In special cases, the Chief Justice of the Supreme People's Procuracy or the Chief Justice of the Supreme People's Court shall decide on the re-evaluation of assets when there is a second re-evaluation conclusion from the Asset Valuation Council. The re-evaluation of assets in special cases must be carried out by the new Council. Those who participated in the previous valuation may not re-evaluate. The re-evaluation conclusion in this case shall be used to resolve the case.

#### **Article 221. Conclusion of asset valuation**

1. The asset valuation conclusion must clearly state the conclusion on the asset price according to the valuation request and other contents as prescribed by law.
2. Within 24 hours from the conclusion of the asset valuation, the Asset Valuation Council must send the conclusion to the agency requesting the asset valuation and the person requesting the asset valuation.

Within 24 hours of receiving the asset valuation conclusion, the requesting agency and the person requesting the asset valuation must send the asset valuation conclusion to the Procuracy exercising the right to prosecute and supervise the investigation.

3. To clarify the content of the asset valuation conclusion, the agency requesting the asset valuation has the right to request the Asset Valuation Council to explain the valuation conclusion; and to ask the Asset Valuation Council further about necessary details.

#### **Article 222. Rights of suspects, defendants, victims, and other participants in the proceedings regarding the conclusion of property valuation**

1. Within 07 days from the date of receipt of the request for asset valuation from the suspect, defendant, victim, or other participant in the proceedings, the competent authority conducting the proceedings must consider and issue a document requesting asset valuation.
2. Within 07 days from the date of receiving the asset valuation conclusion, the competent authority conducting the proceedings must notify the suspect, defendant, victim, and other relevant participants in the proceedings of the asset valuation conclusion.
3. The suspect, defendant, victim, and other participants in the proceedings have the right to present their opinions on the valuation conclusion; request a re-valuation. In case they present directly, the Investigation Agency, the Procuracy, and the Court must make a record.
4. In case the Investigation Agency, the Procuracy, or the Court does not accept the request of the suspect, defendant, victim, or other participant in the proceedings, it must notify the requester in writing and state the reasons.

### **Chapter XVI**

## **SPECIAL INVESTIGATION PROCEDURES**

#### **Article 223. Special investigative measures**

After initiating a case, during the investigation, the competent authority conducting the proceedings may apply special investigative measures:

1. Secret recording;
2. Listen to secret phone calls;
3. Secret collection of electronic data.

#### **Article 224. Cases of applying special investigative measures**

Special investigative measures may be applied in the following cases:

1. Crimes against national security, drug crimes, corruption crimes, terrorism crimes, money laundering crimes;
2. Other organized crimes are of particularly serious types.

#### **Article 225. Competence and responsibility for deciding and implementing decisions on applying special investigative measures**

1. The Head of the provincial-level Investigation Agency, the Head of the Military Investigation Agency at the military region level or higher, on his own or at the request of the Chief of the Provincial People's Procuracy, the Chief of the Military Procuracy at the military region level, has the right to decide to apply special investigative measures. In cases where the case is handled and investigated by the district-level Investigation Agency or the regional military investigation agency, the Head of the district-level Investigation Agency or the regional military investigation agency shall request the Head of the provincial-level Investigation Agency or the Head of the military investigation agency at the military region level to consider and decide to apply.

2. The decision to apply special investigative measures must clearly state the necessary information about the subject to which they are applied, the name of the measure to be applied, the duration, the location of application, the agency conducting the special investigative measures and the contents specified in Clause 2, Article 132 of this Code .

3. The decision to apply special investigative measures must be approved by the Chief Prosecutor of the same level before implementation. The Head of the Investigation Agency that issued the decision to apply is responsible for closely examining the application of this measure and promptly requesting the Procuracy to cancel it if it is deemed no longer necessary.

Specialized agencies in the People's Public Security and People's Army, in accordance with the provisions of law, are responsible for implementing decisions to apply special investigative and procedural measures.

4. The Head of the Investigation Agency, the Chief Prosecutor of the competent Procuracy and the person executing the decision to apply special investigative measures must keep the matter confidential.

#### **Article 226. Time limit for applying special investigative measures**

1. The time limit for applying special investigative measures shall not exceed 02 months from the date of approval by the Chief Prosecutor. In complicated cases, the time limit may be extended but shall not exceed the investigation period prescribed in this Code.

2. At least 10 days before the expiration of the period of application of special investigative measures, if it is deemed necessary to extend the period, the Head of the Investigation Agency that issued the decision to apply must send a written request to the Chief Prosecutor who approved the application to consider and decide on the extension.

#### **Article 227. Use of information and documents collected through special investigative measures**

1. Information and documents collected through special investigative measures shall only be used for the initiation, investigation, prosecution and trial of criminal cases; information and documents not related to the case must be promptly destroyed.

It is strictly forbidden to use collected information, documents and evidence for other purposes.

2. Information and documents collected through the application of special investigative measures can be used as evidence to resolve the case.

3. The investigation agency shall be responsible for promptly notifying the Chief Prosecutor of the results of the application of special investigative measures that have been approved.

#### **Article 228. Cancellation of application of special investigative measures**

The Chief Prosecutor who has approved the decision to apply special investigative measures must promptly revoke that decision in one of the following cases:

1. There is a written request from the Head of the competent Investigation Agency;
2. There are violations in the process of applying special investigative measures;
3. It is not necessary to continue applying special investigative measures.

### **Chapter XVII**

## **SUSPENSION OF INVESTIGATION AND END OF INVESTIGATION**

#### **Article 229. Temporary suspension of investigation**

1. The investigation agency shall decide to temporarily suspend the investigation in one of the following cases:

- a) When the suspect has not been identified or the suspect's whereabouts are unknown but the time limit for investigation has expired. In case the suspect's whereabouts are unknown, the Investigation Agency must issue a wanted notice before temporarily suspending the investigation;
- b) When there is a conclusion of a forensic examination determining that the accused has a mental illness or a serious illness, the investigation may be temporarily suspended before the end of the investigation period;
- c) When the request for appraisal, asset valuation, or foreign judicial assistance has not yet been completed but the investigation period has expired. In this case, the appraisal, asset valuation, and judicial assistance will continue until the results are completed.

2. In case a case has many defendants and the reason for temporary suspension of investigation does not relate to all defendants, the investigation may be temporarily suspended for each defendant.

3. Within 02 days from the date of the decision to temporarily suspend the investigation, the Investigation Agency must send this decision to the People's Procuracy at the same level, the accused, the defense attorney or the accused's representative; notify the victim, the parties and their rights protectors.

#### **Article 230. Suspension of investigation**

1. The investigation agency shall decide to suspend the investigation in one of the following cases:

- a) There is one of the grounds prescribed in Clause 2, Article 155 and Article 157 of this Code or there is a ground prescribed in Article 16 or Article 29 or Clause 2, Article 91 of the Penal Code;
- b) The investigation period has expired without proving that the defendant has committed a crime.

2. The decision to suspend the investigation must clearly state the time and place of the decision, the reasons and grounds for suspending the investigation, the cancellation of preventive measures, coercive measures, the return of documents and objects temporarily seized (if any), the handling of evidence and other related issues.

In cases where there are many defendants in a case and the basis for suspending the investigation does not relate to all defendants, the investigation may be suspended for each defendant.

3. Within 15 days from the date of receipt of the decision to suspend the investigation together with the case file from the Investigation Agency, if the decision to suspend the investigation is found to be well-founded, the Procuracy must return the case file to the Investigation Agency for settlement according to its authority; if the decision to suspend the investigation is found to be

unfounded, the decision to suspend the investigation shall be annulled and the Investigation Agency shall be requested to resume the investigation; if there is sufficient basis for prosecution, the decision to suspend the investigation shall be annulled and a decision to prosecute shall be issued according to the time limit, order and procedures prescribed in this Code.

#### **Article 231. Wanted suspects**

1. When the accused is in hiding or the whereabouts of the accused are unknown, the Investigation Agency must issue a decision to search for the accused.

2. The wanted notice shall clearly state the full name, date of birth, place of residence of the accused, characteristics to identify the accused, the crime for which the accused has been prosecuted and the contents specified in Clause 2, Article 132 of this Code ; accompanied by a photo of the accused (if any).

The decision to arrest the accused is sent to the same level Procuracy and publicly announced so that everyone can detect and arrest the wanted person.

3. After arresting the suspect according to the wanted decision, the Investigation Agency that issued the wanted decision must issue a decision to suspend the wanted case. The decision to suspend the wanted case shall be sent to the People's Procuracy of the same level and publicly announced.

#### **Article 232. Conclusion of investigation**

1. At the end of the investigation, the Investigation Agency must issue an investigation conclusion.

2. The investigation ends when the Investigation Agency issues an investigation conclusion requesting prosecution or issues an investigation conclusion and a decision to suspend the investigation.

3. The investigation conclusion clearly states the date, month, year; full name, position and signature of the person making the conclusion.

4. Within 02 days from the date of issuance of the investigation conclusion, the Investigation Agency must deliver the investigation conclusion proposing prosecution or the investigation conclusion accompanied by the decision to suspend the investigation and the case file to the People's Procuracy at the same level; deliver the investigation conclusion proposing prosecution or the decision to suspend the investigation to the accused or the accused's representative; send the investigation conclusion proposing prosecution or the decision to suspend the investigation to the defense attorney; notify the victim, the parties and the person protecting their legitimate rights and interests.

#### **Article 233. Investigation conclusion in case of proposed prosecution**

In case of a request for prosecution, the investigation conclusion shall clearly state the course of the crime; evidence determining the crime of the accused, the means, motive, purpose of the crime, the nature and extent of damage caused by the crime; the application, change or cancellation of preventive measures or coercive measures; aggravating or mitigating circumstances of criminal responsibility, personal characteristics of the accused; the seizure and temporary detention of documents and objects and the handling of evidence; the causes and conditions leading to the crime and other circumstances of significance to the case; the reasons and grounds for the request for prosecution; the crime, articles, clauses and points of the Penal Code applied; and proposed opinions on resolving the case.

The investigation conclusion must clearly state the date, month, and year of the conclusion; full name, position, and signature of the person making the investigation conclusion.

#### **Article 234. Investigation conclusion in case of investigation suspension**

In case of suspension of investigation, the investigation conclusion shall clearly state the developments of the incident, the investigation process, the reasons and grounds for suspension of investigation.

The investigation conclusion must clearly state the date, month, and year of the conclusion; full name, position, and signature of the person making the investigation conclusion.

The decision to suspend the investigation must clearly state the time and place of the decision, the reasons and grounds for suspending the investigation, the cancellation of preventive measures, coercive measures, the return of documents and objects temporarily seized (if any), the handling of evidence and other related issues.

#### **Article 235. Resumption of investigation**

1. When there is a reason to cancel the decision to suspend the investigation or the decision to temporarily suspend the investigation, the Investigation Agency shall issue a decision to resume the investigation, if the statute of limitations for criminal prosecution has not expired.

If the investigation is suspended according to the provisions of Clause 5 and Clause 6, Article 157 of this Code and the accused does not agree and requests a re-investigation, the Investigation Agency or the People's Procuracy at the same level shall issue a decision to resume the investigation.

2. Within 02 days from the date of the decision to resume the investigation, the Investigation Agency must send this decision to the People's Procuracy at the same level, the accused, the defense attorney or the accused's representative; notify the victim, the parties and the person protecting their legitimate rights and interests.

### **PART THREE**

## PROSECUTE

### Chapter XVIII

## GENERAL PROVISIONS

#### Article 236. Duties and powers of the Procuracy when exercising the right to prosecute during the prosecution stage

1. Decide to apply, change, or cancel preventive measures and coercive measures; request the Investigation Agency to search for suspects.
2. Request agencies, organizations and individuals to provide documents related to the case when necessary.
3. Directly conduct a number of investigative activities to examine and supplement documents and evidence to decide on prosecution or when the Court requests additional investigation and deems it unnecessary to return the case file to the Investigation Agency.
4. Decision to initiate prosecution, decision to change, decision to supplement the decision to initiate prosecution of a case, defendant in case of discovering other criminal acts, other criminals in the case that have not been prosecuted or investigated.
5. Decision to return the case file to the Investigation Agency to request further investigation.
6. Decide to separate or merge cases; transfer cases for prosecution according to authority, apply simplified procedures, and apply compulsory medical treatment measures.
7. Decision to extend or not extend the prosecution period, the period of application of preventive measures and coercive measures.
8. Decision to prosecute.
9. Decision to suspend or temporarily suspend a case; decision to suspend or temporarily suspend a case against a defendant; decision to resume a case, decision to resume a case against a defendant.
10. Perform other duties and powers to decide on prosecution according to the provisions of this Code.

#### Article 237. Duties and powers of the Procuracy when conducting prosecution during the prosecution stage

1. When conducting prosecution, the Procuracy has the following duties and powers:
  - a) Supervise the criminal proceedings of participants in the proceedings; request and recommend competent agencies, organizations and individuals to strictly handle participants in the proceedings who violate the law;
  - b) Recommend relevant agencies and organizations to apply measures to prevent crimes and violations of the law;
  - c) Perform other duties and powers to supervise during the prosecution stage as prescribed in this Code.
2. Within 10 days from the date of receipt of the request or recommendation specified in Point a and Point b, Clause 1 of this Article, the competent authority, organization or individual shall be responsible for notifying the Procuracy of the implementation of the request or recommendation.

#### Article 238. Delivery and receipt of case files and investigation conclusions

1. When the Investigation Agency or the agency assigned to conduct certain investigation activities submits the case file along with the investigation conclusion requesting prosecution and evidence (if any), the Procuracy must examine and handle it as follows:
  - a) In case the documents in the case file and accompanying evidence (if any) are complete compared to the list of documents, evidence and the investigation conclusion that has been delivered to the accused or the accused's representative, the case file shall be received;
  - b) In case the documents in the case file and accompanying evidence (if any) are not sufficient compared to the list of documents and evidence or the investigation conclusion has not been delivered to the accused or the accused's representative, the case file shall not be received and the Investigation Agency or the agency assigned to conduct certain investigation activities shall be requested to supplement documents and evidence; and the investigation conclusion shall be requested to be delivered to the accused or the accused's representative.
2. The delivery and receipt of case files and investigation conclusions shall be recorded in accordance with the provisions of Article 133 of this Code and included in the case file.

#### Article 239. Jurisdiction to prosecute

1. The Procuracy at which level exercises the right to prosecute and supervise investigation shall decide on the prosecution. The prosecution authority of the Procuracy is determined according to the jurisdiction of the Court over the case.

In case the case does not fall under its jurisdiction, the Procuracy shall immediately issue a decision to transfer the case to a competent Procuracy. The transfer of the case to a Procuracy outside the province, centrally-run city or outside the military region shall be decided by the provincial People's Procuracy or the military Procuracy at the military region level.

For cases in which the superior People's Procuracy exercises the right to prosecute and supervise the investigation, the superior People's Procuracy shall decide on the prosecution. At least 02 months before the end of the investigation, the superior People's Procuracy must notify the lower People's Procuracy at the same level as the Court with jurisdiction to try the case at first instance to assign a Prosecutor to participate in studying the case file. Immediately after deciding to prosecute, the superior People's Procuracy

shall issue a decision assigning the lower People's Procuracy to exercise the right to prosecute and supervise the trial; after receiving the case file with the indictment, the lower People's Procuracy has the authority to exercise the right to prosecute and supervise the trial in accordance with the provisions of this Code.

2. Within 03 days from the date of the decision to transfer the case, the Procuracy must notify in writing the Agency that has completed the investigation of the case, the accused or the accused's representative, the defense attorney, the victim, and other participants in the proceedings.

The delivery and sending of case files together with the indictment shall be carried out in accordance with the provisions of Clause 2, Article 240 of this Code . In this case, the time limit for prosecution shall be calculated from the date the competent Procuracy receives the case files.

#### **Article 240. Time limit for deciding on prosecution**

1. Within 20 days for less serious crimes and serious crimes, and 30 days for very serious crimes and especially serious crimes from the date of receipt of the case file and investigation conclusion, the Procuracy must issue one of the following decisions:

- a) Prosecute the accused before the Court;
- b) Return the file to request further investigation;
- c) Suspend or temporarily suspend the case; suspend or temporarily suspend the case against the accused.

If necessary, the Chief Prosecutor may extend the time limit for deciding on prosecution, but not more than 10 days for less serious crimes and serious crimes, not more than 15 days for very serious crimes, and not more than 30 days for especially serious crimes.

2. Within 03 days from the date of issuance of one of the decisions specified in Clause 1 of this Article, the Procuracy must notify the accused, the defense counsel or the representative of the accused, the victim of the return of the case file for further investigation; deliver to the accused or the representative of the accused and send to the Investigation Agency, the defense counsel the indictment, the decision to suspend the case or the decision to temporarily suspend the case, the decision to suspend the case against the accused or the decision to temporarily suspend the case against the accused; notify the victim, the parties, and the person protecting their legitimate rights and interests.

The delivery and receipt of the above documents shall be recorded in accordance with the provisions of Article 133 of this Code and included in the case file.

In complicated cases, the time limit for delivering the indictment, decision to suspend the case or decision to temporarily suspend the case to the accused or the accused's representative may be extended but not more than 10 days.

3. The decisions mentioned in Clause 1 of this Article must be immediately sent to the superior People's Procuracy. The Chief Procurator of the superior People's Procuracy has the right to withdraw, suspend or cancel such decisions if he finds them groundless or illegal and requests the inferior People's Procuracy to make a legal decision.

#### **Article 241. Application, change and cancellation of preventive measures and coercive measures**

After receiving the case file and investigation conclusion, the Procuracy has the right to decide to apply, change, or cancel preventive measures and coercive measures according to the provisions of this Code.

The period of application of preventive measures during the prosecution stage shall not exceed the period prescribed in Clause 1, Article 240 of this Code .

#### **Article 242. Merging or separating cases during the prosecution stage**

1. The Procuracy decides to merge cases when one of the following circumstances occurs:

- a) The defendant committed many crimes;
- b) The defendant commits the crime multiple times;
- c) Many defendants commit a crime together or together with the defendant there are other people who conceal the crime or fail to report the crime, or consume property obtained by the defendant's crime.

2. The Procuracy shall decide to separate a case in one of the following cases if it is deemed that such separation does not affect the determination of objective and comprehensive truth and a decision has been made to temporarily suspend the case against the accused:

- a) The defendant is on the run;
- b) The defendant has a serious illness;
- c) The accused is subject to compulsory medical treatment.

### **Chapter XIX**

## **DECISION ON PROSECUTION OF THE DEFENDANT**

#### **Article 243. Decision to prosecute the accused**

The prosecutor decided to prosecute the defendant in court by indictment.

The indictment clearly states the course of the crime; evidence determining the defendant's crime, the means, motive, purpose of the crime, the nature and extent of damage caused by the crime; the application, change or cancellation of preventive measures and coercive measures; aggravating and mitigating circumstances of criminal responsibility, personal characteristics of the defendant; the seizure and temporary detention of documents and objects and the handling of evidence; the causes and conditions leading to the crime and other circumstances of significance to the case.

The conclusion of the indictment clearly states the crime and the applicable articles, clauses and points of the Penal Code .

The indictment must clearly state the date, month, and year of the indictment; the full name, position, and signature of the person issuing the indictment.

#### **Article 244. Transfer of case files and indictments to the Court**

Within 03 days from the date of issuance of the indictment, the Procuracy must transfer the case file and the indictment to the Court. In complicated cases, the time limit for transferring the case file and the indictment to the Court may be extended but not more than 10 days.

In case the defendant is detained, 7 days before the end of the detention period, the Procuracy shall notify the Court to consider and decide on the detention of the defendant upon receiving the case file.

#### **Article 245. Return of case files for further investigation**

1. The Procuracy shall issue a decision to return the case file and request the Investigation Agency to conduct additional investigation in one of the following cases:

- a) There is still a lack of evidence to prove one of the issues specified in Article 85 of this Code that the Procuracy cannot supplement by itself;
- b) There is a basis to prosecute the accused for one or more other crimes;
- c) There are accomplices or other criminals involved in the case but have not been prosecuted;
- d) There is a serious violation of procedural law.

2. The decision to return the file to request additional investigation must clearly state the issues requiring additional investigation as prescribed in Clause 1 of this Article and the contents prescribed in Clause 2, Article 132 of this Code .

3. The investigation agency is responsible for fully implementing the requirements stated in the decision to return the case file for further investigation by the Procuracy; in case of force majeure or objective obstacles that cannot be implemented, the reasons must be clearly stated in writing.

At the end of the supplementary investigation, the Investigation Agency must issue a supplementary investigation conclusion. The supplementary investigation conclusion must clearly state the supplementary investigation results and the viewpoint on resolving the case. If the supplementary investigation results fundamentally change the previous investigation conclusion, the Investigation Agency must issue a new investigation conclusion to replace it.

The transfer of case files together with supplementary investigation conclusions to the Procuracy; the delivery, receipt and sending of notices of supplementary investigation results shall be carried out in accordance with the provisions of Articles 232 and 238 of this Code .

#### **Article 246. Settlement of requests for additional investigation by the Court**

In case the Court decides to return the case file to request additional investigation, the Procuracy must consider the basis for the request for additional investigation and resolve as follows:

1. If the decision to return the file for further investigation is well-founded and it is deemed unnecessary to return the file to the Investigation Agency, the Procuracy shall directly conduct a number of investigative activities to supplement documents and evidence; in case the Procuracy cannot conduct further investigation itself, the Procuracy shall issue a decision to return the file for further investigation and immediately transfer the file to the Investigation Agency for investigation.

In case the results of the supplementary investigation fundamentally change the content of the previous indictment, the Procuracy must issue a new indictment to replace it and transfer the file to the Court. In case the results of the supplementary investigation lead to the suspension of the case, the Procuracy shall issue a decision to suspend the case and notify the Court;

2. If the decision to return the case file for further investigation is unfounded, the Procuracy shall issue a document stating the reasons, uphold the prosecution decision and return the case file to the Court.

#### **Article 247. Temporary suspension of the case**

1. The Procuracy decides to temporarily suspend the case in the following cases:

- a) When there is a conclusion of a judicial examination determining that the accused has a mental illness or a serious illness, the case may be temporarily suspended before the expiration of the time limit for deciding on prosecution;
- b) When the accused has absconded and his whereabouts are unknown but the time limit for deciding on prosecution has expired; in this case, the Investigation Agency must be requested to search for the accused before temporarily suspending the case. The search for the accused shall be carried out in accordance with the provisions of Article 231 of this Code ;

c) When requesting an appraisal, requesting asset valuation, or requesting foreign judicial assistance without results, the time limit for deciding on prosecution has expired. In this case, the appraisal, asset valuation, and judicial assistance will continue until results are available.

2. The decision to temporarily suspend the case must clearly state the reasons and grounds for temporarily suspending the case, other relevant issues and the contents specified in Clause 2, Article 132 of this Code .

In case there are many defendants in a case and the basis for temporarily suspending the case does not relate to all defendants, the case shall be temporarily suspended for each defendant.

#### **Article 248. Suspension of case**

1. The Procuracy decides not to prosecute and issues a decision to suspend the case when there is one of the grounds prescribed in Clause 2, Article 155 and Article 157 of this Code or there is a ground prescribed in Article 16 or Article 29 or Clause 2, Article 91 of the Penal Code .

2. The decision to suspend the case must clearly state the reasons and grounds for suspending the case, the cancellation of preventive measures, coercive measures, handling of evidence, documents, and objects temporarily seized (if any), other relevant issues and the contents specified in Clause 2, Article 132 of this Code .

In case a case has many defendants and the basis for suspending the case does not relate to all defendants, the decision to suspend the case shall apply to each defendant.

#### **Article 249. Case resumption**

1. When there is a reason to cancel the decision to suspend the case or the decision to temporarily suspend the case, the Procuracy shall issue a decision to resume the case if the statute of limitations for criminal prosecution has not expired. If the case is suspended according to the provisions of Clause 5 and Clause 6, Article 157 of this Code and the accused does not agree and requests to resume the case, the Procuracy shall issue a decision to resume the case. The case may be resumed for the entire case or for each accused.

2. The decision to resume the case must clearly state the reasons and grounds for resuming the case, other relevant issues and the contents specified in Clause 2, Article 132 of this Code .

3. Within 03 days from the date of issuance of the decision, the Procuracy must deliver the decision to resume the case or the decision to resume the case against the accused to the accused or the accused's representative; send it to the agency that has completed the investigation of the case, the defense attorney; notify the victim, the parties, and the person protecting their legitimate rights and interests.

The delivery and receipt of the decision to resume the case and the decision to resume the case against the accused shall be recorded and included in the case file.

4. The time limit for deciding on prosecution when resuming a case is calculated according to the general procedure prescribed in this Code from the date the Procuracy issues a decision to resume the case.

5. When resuming a case, the Procuracy has the right to apply, change, or cancel preventive measures and coercive measures according to the provisions of this Code.

In cases where there is a basis under the provisions of this Code requiring temporary detention, the period of temporary detention to resume the case must not exceed the time limit for deciding on prosecution.

### **PART FOUR**

## **CRIMINAL TRIAL**

### **Chapter XX**

## **GENERAL PROVISIONS**

#### **Article 250. Direct, oral and continuous trial**

1. The trial shall be conducted orally.

The Trial Panel must directly determine the circumstances of the case by asking and listening to the opinions of the defendant, the victim, the litigant or their representatives, the witnesses, the experts, and other participants in the trial summoned by the Court; reviewing and examining collected documents and evidence; announcing the minutes, documents, and conducting other procedural activities to examine evidence; listening to the opinions of the Prosecutor, the defender, and the protector of the legitimate rights and interests of the victim and litigant.

2. The trial shall be conducted continuously, except for breaks and suspensions of the trial.

#### **Article 251. Suspension of trial**

1. The trial may be suspended in one of the following cases:

a) It is necessary to verify, collect, and supplement evidence, documents, and objects that cannot be done immediately at the trial and can be done within 05 days from the date of suspension of the trial;

b) Due to health conditions, force majeure events or objective obstacles, the person with authority to conduct the proceedings or the participant in the proceedings cannot continue to participate in the trial, but they can re-participate in the trial within 05 days from the date of suspension of the trial;

c) Absence of the Court Secretary at the trial.

2. The suspension of the trial must be recorded in the minutes of the trial and notified to the participants in the proceedings. The period of suspension of the trial shall not exceed 05 days from the date of the decision to suspend the trial. After the suspension period expires, the trial of the case shall continue. In case the trial of the case cannot be continued, the trial shall be adjourned.

#### **Article 252. Court verification, collection and supplement of evidence**

The court conducts verification, collection and supplementation of evidence through the following activities:

1. Receive evidence, documents, and objects related to the case provided by agencies, organizations, and individuals;

2. Requesting agencies, organizations and individuals to provide documents and objects related to the case;

3. On-site examination of evidence that cannot be brought to court;

4. Examine the scene where the crime occurred or other locations related to the case;

5. Request for appraisal, request for asset valuation other than cases where appraisal is required, asset valuation is required as prescribed in Article 206 and Article 215 of this Code ; request for additional appraisal, re-appraisal; request for re-valuation of assets;

6. In case the Court has requested the Procuracy to supplement evidence but the Procuracy fails to do so, the Court may proceed to verify and collect documents and evidence to resolve the case.

#### **Article 253. Receipt of evidence, documents and objects related to the case**

1. When an agency, organization or individual provides evidence, documents or objects related to a case, the presiding judge must receive them and may question the person who provided them about issues related to that evidence, documents or objects. The receipt shall be recorded in writing.

2. Immediately after receiving evidence, documents, and objects provided by agencies, organizations, and individuals, the Court must forward them to the Procuracy at the same level. Within 03 days from the date of receipt of evidence, documents, and objects, the Procuracy must review and forward them back to the Court for inclusion in the case file.

#### **Article 254. Composition of the Trial Panel**

1. The first instance trial panel consists of one judge and two assessors. In cases of serious and complicated nature, the first instance trial panel may consist of two judges and three assessors.

For cases where the defendant is charged with a crime for which the Penal Code stipulates the highest penalty of life imprisonment or death penalty, the first instance trial panel shall consist of two judges and three jurors.

2. The appellate panel consists of three judges.

#### **Article 255. Decision to bring a case to trial**

1. The decision to bring the case to trial clearly states:

a) Date of decision; name of the Court issuing the decision; hour, date, month, year, and location of the trial;

b) Public or closed trial;

c) Full name, date of birth, place of birth, occupation, and place of residence of the defendant;

d) The crime and the points, clauses and articles of the Penal Code that the Procuracy prosecutes against the defendant;

d) Full name of Judge, Jury, Court Secretary; full name of alternate Judge, alternate Jury, alternate Court Secretary (if any);

e) Full name of the prosecutor exercising the right to prosecute and supervise the trial at the trial; full name of the alternate prosecutor (if any);

g) Full name of the defense attorney (if any);

h) Full name of interpreter (if any);

i) The names of other persons summoned to the trial;

k) Evidence to be presented for consideration at trial.

2. The decision to bring the case to appeal must clearly state the contents specified in Points a, b, e, g, h, i and k, Clause 1 of this Article; the crime and the penalty decided by the Court of First Instance; the full names of the appellant, the appellant, and the appellant; the appealing Procuracy; the full names of the Judge and the Court Secretary; the full names of the alternate Judge and the alternate Court Secretary (if any).

#### **Article 256. Court rules**

1. All persons entering the courtroom must wear formal attire, undergo security checks, and follow the instructions of the Court Clerk.

2. Everyone in the courtroom must respect the Trial Panel, maintain order and obey the direction of the presiding judge.
3. Everyone in the courtroom must stand when the Trial Panel enters the courtroom and when the verdict is announced. The defendant must stand when the Prosecutor announces the indictment or the decision to prosecute. A person summoned by the Court to the hearing who wishes to present an opinion must have the approval of the presiding judge; the person presenting an opinion must stand when presenting an opinion and when asked.  
People for health reasons may be allowed to sit by the presiding judge.
4. At trial, the defendant in custody may only have contact with his or her defense counsel. Contact with other people must be permitted by the presiding judge.
5. Persons under 16 years of age are not allowed in the courtroom, unless summoned by the Court to appear in court.

**Article 257. Courtroom**

1. The courtroom must be arranged to demonstrate solemnity and safety, ensuring equality between the prosecutor and other lawyers and defenders.
2. The Chief Justice of the Supreme People's Court shall detail this Article.

**Article 258. Minutes of the trial**

1. The minutes of the court session must clearly state the time, date, month, year, and location of the court session and all proceedings from the beginning to the end of the court session. Along with the minutes, there may be audio or video recordings of the proceedings of the court session.
2. Questions, answers, presentations and decisions at the trial are recorded in the minutes.
3. Immediately after the end of the trial, the presiding judge must check the minutes and sign the minutes together with the Court Secretary.
4. After the presiding judge and the Court Secretary have signed the minutes of the trial, the Prosecutor, the defendant, the defense counsel, the victim, the litigant, the protector of the legitimate rights and interests of the victim, the litigant or their representatives may review the minutes of the trial. If anyone requests to record any amendments or additions to the minutes of the trial, the Court Secretary must record such amendments or additions in the minutes of the trial. No erasures or direct corrections may be made, but the amendments or additions must be recorded at the end of the minutes of the trial and signed by the presiding judge to confirm; if the presiding judge does not accept the request, the reason must be clearly stated and recorded in the minutes of the trial.

**Article 259. Minutes of deliberation**

1. Minutes must be made when deliberation.

The minutes of the deliberation must be signed by all members of the Trial Panel in the deliberation room before the verdict is pronounced.

2. The minutes of the deliberation of the first instance trial panel must clearly state:
  - a) Hour, day, month, year of the minutes; name of the trial court;
  - b) Full name of Judge and Juror;
  - c) The case is brought to trial;
  - d) Voting results of the Trial Council on each discussed issue specified in Clause 3, Article 326 of this Code , other opinions (if any).
3. The minutes of the deliberation of the appellate trial panel must clearly state points a, c and d, Clause 2 of this Article and the full names of the judges.

**Article 260. Judgment**

1. The Court issues the judgment on behalf of the Socialist Republic of Vietnam.

The judgment must be signed by all members of the Trial Panel.

2. The judgment of first instance must clearly state:
  - a) Name of the Court of First Instance; case number and date of acceptance; judgment number and date of judgment; full names of the members of the Trial Panel, Court Secretary, Prosecutor; full name, date of birth, place of birth, residence, occupation, educational level, ethnicity, criminal record of the defendant; date of temporary detention or temporary detention; full name, age, occupation, place of birth, residence of the defendant's representative; full name of the defense attorney, witness, expert, property valuer, interpreter, translator and other persons summoned by the Court to attend the trial; full name, age, occupation, residence of the victim, litigant, and their representatives; number, date, month, year of the decision to bring the case to trial; public or closed trial; time and place of trial;
  - b) Number, date, month, year of the indictment or decision to prosecute; name of the prosecuting Procuracy; the defendant's conduct according to the crime prosecuted by the Procuracy; crime, point, clause, article of the Penal Code and level of punishment, additional punishment, judicial measures, liability for compensation for damages that the Procuracy proposes to apply to the defendant; handling of evidence;

c) Opinions of the defense attorney, victim, litigant, and other participants in the trial summoned by the Court;

d) The Trial Panel's assessment must analyze the evidence determining guilt, evidence determining innocence, determine whether the defendant is guilty or not, and if the defendant is guilty, what crime, according to which point, clause, article of the Penal Code and other applicable legal documents, aggravating circumstances, mitigating circumstances of criminal responsibility and how to handle it. If the defendant is not guilty, the judgment must clearly state the grounds for determining that the defendant is not guilty and the resolution to restore their honor, rights and legitimate interests according to the provisions of law;

d) Analyze the reasons why the Trial Panel does not accept the incriminating evidence, exculpatory evidence, requests and proposals made by the Prosecutor, defendant, defense attorney, victim, litigant and their representatives and protectors of their legitimate rights and interests;

e) Analyze the legality of the actions and procedural decisions of the Investigator, Prosecutor, and defense attorney during the investigation, prosecution, and trial;

g) The decision of the Trial Panel on each issue to be resolved in the case, on court fees and the right to appeal against the judgment. In case there is a decision that must be enforced immediately, that decision must be clearly stated.

3. The appellate judgment must clearly state:

a) Name of the Court of Appeal; case number and date of acceptance; judgment number and date of judgment; full names of the members of the Trial Panel, Court Secretary, Prosecutor; full name, date of birth, place of birth, residence, occupation, educational level, ethnicity, criminal record of the defendant who appeals, is appealed, is protested and defendants who do not appeal, are not appealed, are not protested but are considered by the Court of Appeal; date of detention or temporary detention of the defendant; full name, age, occupation, place of birth, residence of the defendant's representative; full name of the defense attorney, expert, interpreter and other persons summoned by the Court to attend the trial; full name, age, occupation, residence, address of the victim, litigant, their representative; name of the Procuracy that appeals; public or closed trial; time and place of trial;

b) Summary of the content of the case, the decision in the first instance judgment; the content of the appeal, protest; the assessment of the appellate panel, the grounds for accepting or not accepting the appeal, protest; points, clauses, articles of the Penal Code and of other legal documents on which the appellate panel bases its decision to resolve the case;

c) Decision of the Appellate Court on each issue to be resolved in the case due to appeal, protest, and on first-instance and appellate court fees.

#### **Article 261. Correction and supplementation of judgments**

1. The judgment may not be corrected or supplemented except in cases where obvious errors in spelling or figures due to mistakes or miscalculations are discovered.

The amendment or supplement to the judgment must not change the nature of the case or be disadvantageous to the defendant and other participants in the proceedings.

The correction and supplementation of the judgment shall be expressed in writing and immediately delivered to the persons specified in Article 262 of this Code .

2. The correction and supplementation of the judgment prescribed in Clause 1 of this Article shall be implemented by the Judge presiding over the trial that issued the judgment or decision. In case the Judge presiding over the trial cannot do so, the correction and supplementation of the judgment shall be implemented by the Chief Justice of the Court that tried the case.

#### **Article 262. Delivery and sending of judgment**

1. Within 10 days from the date of sentencing, the Court of First Instance must deliver the judgment to the defendant, the victim, the People's Procuracy at the same level, and the defense attorney; send the judgment to the defendant tried in absentia as prescribed in Point c, Clause 2, Article 290 of this Code , the immediate superior People's Procuracy, the Investigation Agency at the same level, the competent criminal enforcement agency, the Detention Center, the Prison where the defendant is being held; notify in writing the authorities of the commune, ward, or town where the defendant resides or the agency or organization where the defendant works or studies; issue a copy of the judgment or an extract of the judgment regarding relevant parts to the litigant or their representative.

In case of trial in absentia of the defendant as prescribed in Point a or Point b, Clause 2, Article 290 of this Code , within the above-mentioned time limit, the judgment must be posted at the headquarters of the People's Committee of the commune, ward or town where the defendant last resided or at the agency or organization where he/she last worked or studied.

The court of first instance shall send the judgment to the competent civil enforcement agency in case the first instance judgment imposes a fine, confiscation of property and a civil decision according to the provisions of the Law on Civil Enforcement .

2. Within 10 days from the date of judgment or from the date of decision, the Court of Appeal must send the judgment or appellate decision to the People's Procuracy at the same level; the competent criminal enforcement agency; the investigation agency, the People's Procuracy, the Court where the first-instance trial took place; the detention camp, the prison where the defendant is being detained; the appellant, the person with rights and obligations related to the appeal or protest or their representative; the competent civil enforcement agency in case the appellate judgment imposes a fine, confiscation of property and a civil decision; notify in writing the local authorities of the commune, ward or town where the defendant resides or the agency or organization where he or she works or studies. In case the High People's Court conducts an appeal, this period may be extended but not more than 25 days.

#### **Article 263. Interpretation at court**

1. In cases where the defendant, victim, litigant, or witness does not know Vietnamese, is mute, or deaf, the interpreter must interpret for them to hear and understand the statements, questions, and answers at the trial, the content of the decision of the Trial Panel, and other issues related to them.

2. The interpreter must translate the statements, questions and answers of the persons specified in Clause 1 of this Article into Vietnamese for the Trial Panel and other participants in the trial to hear.

#### **Article 264. Recommendations to correct shortcomings and violations in management work**

1. Along with the issuance of the judgment, the Court shall make recommendations to relevant agencies and organizations to apply necessary measures to remedy the causes and conditions for the occurrence of crimes at those agencies and organizations. Within 30 days from the date of receipt of the Court's recommendation, the agency or organization receiving the recommendation must notify the Court in writing of the measures to be applied.

2. The Court's recommendation may be read at the hearing together with the judgment or sent separately to the relevant agencies and organizations.

#### **Article 265. Recommendations to competent authorities for consideration and handling of legal documents**

During the trial of criminal cases, the Court discovers and recommends that competent authorities consider amending, supplementing or abolishing legal documents that are contrary to the Constitution, laws, resolutions of the National Assembly, ordinances and resolutions of the National Assembly Standing Committee to ensure the legitimate rights and interests of agencies, organizations and individuals.

The consideration and response to the Court on the results of handling the requested legal document shall be carried out in accordance with the provisions of law.

#### **Article 266. Duties and powers of the Procuracy when exercising the right to prosecute during the trial stage**

1. When exercising the right to prosecute in the first instance trial stage, the Procuracy has the following duties and powers:

- a) Announce the indictment, announce the decision to prosecute under the simplified procedure, and other decisions on the accusation against the defendant at the trial;
- b) Questioning, examining evidence, examining on-site;
- c) Impeach, debate, withdraw part or all of the prosecution decision; conclude on other crimes of equal or lesser severity; express the opinion of the Procuracy on the settlement of the case at the trial;
- d) Appeal against court judgments and decisions in cases of injustice, wrongful convictions, or omissions of criminals or offenders;
- d) Perform other duties and powers when exercising the right to prosecute during the first-instance trial stage according to the provisions of this Code.

2. When exercising the right to prosecute during the appeal trial stage, the Procuracy has the following duties and powers:

- a) Present opinions on the content of the appeal or protest;
- b) Add new evidence;
- c) Supplement or change the appeal; withdraw part or all of the appeal;
- d) Questioning, examining evidence, examining on-site;
- d) Express the Procuracy's views on the settlement of the case at the trial or meeting;
- e) Argue with the defendant, defense attorney, and other participants in the proceedings at the trial;
- g) Perform other duties and powers when exercising the right to prosecute during the appeal trial stage according to the provisions of this Code.

#### **Article 267. Duties and powers of the Procuracy when prosecuting a trial**

- 1. Supervise compliance with the law in the trial of criminal cases by the Court.
- 2. Supervise compliance with the law by litigants; request and recommend competent agencies and organizations to strictly handle litigants who violate the law.
- 3. Review judgments, decisions, and other procedural documents of the Court.
- 4. Request the Court of the same level and lower level to transfer the criminal case file for consideration and decision on the appeal.
- 5. Appeal against court judgments and decisions that seriously violate procedural laws.
- 6. Recommend and request the Court, agencies, organizations and individuals to conduct litigation activities according to the provisions of this Code; recommend the Court to remedy violations in litigation activities.
- 7. Recommend relevant agencies and organizations to apply measures to prevent crimes and violations of the law in management activities.
- 8. Exercise the right to request, recommend, perform other duties and powers when prosecuting criminal cases according to the provisions of this Code.

**Chapter XXI****FIRST INSTANCE TRIAL****Section I. JURISDICTION OF COURTS AT ALL LEVELS****Article 268. Jurisdiction of the Court**

1. District People's Courts and Regional Military Courts shall try at first instance criminal cases of less serious crimes, serious crimes and very serious crimes, except for the following crimes:

- a) Crimes against national security;
- b) Crimes against peace, crimes against humanity and war crimes;
- c) Crimes specified in Articles 123, 125, 126, 227, 277, 278, 279, 280, 282, 283, 284, 286, 287, 288, 337, 368, 369, 370, 371, 399 and 400 of the Penal Code ;
- d) Crimes committed outside the territory of the Socialist Republic of Vietnam.

2. Provincial People's Courts and Military Courts of Military Regions shall try at first instance the following cases:

- a) Criminal cases on crimes not under the jurisdiction of the District People's Court and the Regional Military Court;
- b) Criminal cases with defendants, victims, litigants abroad or assets related to the case abroad;
- c) Criminal cases under the jurisdiction of the District People's Court and the Regional Military Court but with many complicated details that are difficult to assess and reach a consensus on the nature of the case or involve many levels and sectors; cases in which the defendant is a Judge, Prosecutor, Investigator, key leader in a district, county, town, city under a province, city under a centrally-run city, a religious dignitary or a person with high prestige among ethnic minorities.

**Article 269. Territorial jurisdiction**

1. The court with jurisdiction to try a criminal case is the court where the crime was committed. In cases where the crime is committed in different places or the place where the crime was committed cannot be determined, the court with jurisdiction to try the case is the court where the investigation is completed.

2. If a defendant commits a crime abroad and is tried in Vietnam, the People's Court of the province where the defendant last resided in the country shall try the case. If the defendant's last residence in the country cannot be determined, depending on the case, the Chief Justice of the Supreme People's Court shall decide to assign the case to the People's Court of Hanoi City, the People's Court of Ho Chi Minh City, or the People's Court of Da Nang City for trial.

If the defendant commits a crime abroad and falls under the jurisdiction of a military court, the military court at the military region level shall try the case according to the decision of the Chief Justice of the Central Military Court.

**Article 270. Jurisdiction to try crimes occurring on board aircraft or ships of the Socialist Republic of Vietnam operating outside the airspace or territorial waters of Vietnam**

Crimes committed on board an aircraft or ship of the Socialist Republic of Vietnam operating outside the airspace or territorial waters of Vietnam are under the jurisdiction of the Vietnamese Court where the first airport or port of return is located or where the aircraft or ship is registered.

**Article 271. Trial of defendants committing multiple crimes under the jurisdiction of courts of different levels**

When the defendant commits many crimes, including crimes under the jurisdiction of the higher court, the higher court will try the entire case.

**Article 272. Jurisdiction of military courts**

1. The military court has jurisdiction to try:

- a) Criminal cases in which the defendant is an active soldier, civil servant, worker, defense official, reserve soldier during the period of concentrated training or combat readiness inspection; militia, self-defense force during the period of concentrated training or affiliated with the People's Army in combat, combat service; citizen mobilized, conscripted or contracted to serve in the People's Army;
- b) Criminal cases in which the defendant is not subject to the provisions of Point a, Clause 1 of this Article, related to military secrets or causing damage to the life, health, honor, and dignity of active soldiers, civil servants, workers, defense officials, and reserve soldiers during concentrated training or combat readiness testing, or causing damage to the property, honor, and reputation of the People's Army, or committing crimes in military barracks or military areas managed and protected by the People's Army.

2. Military courts have jurisdiction to try all crimes occurring within martial law areas.

**Article 273. Trial of defendants committing multiple crimes falls under the jurisdiction of the People's Court and the Military Court.**

When a case has both a defendant or criminal under the jurisdiction of the Military Court and a defendant or criminal under the jurisdiction of the People's Court, the jurisdiction is exercised:

1. In cases where it is possible to separate the case, the Military Court shall try the defendants and crimes under the jurisdiction of the Military Court; the People's Court shall try the defendants and crimes under the jurisdiction of the People's Court;
2. In case it is not possible to separate the cases, the Military Court will try the entire case.

**Article 274. Transfer of cases during the trial stage**

1. When a case is not under its jurisdiction, the Court shall return the case file to the prosecuting Procuracy for transfer to the competent prosecuting Procuracy.

Within 03 days from the date of receiving the case file, the prosecuting Procuracy must issue a decision to transfer the case file to the competent prosecuting Procuracy for settlement according to its competence. The transfer of the case outside the scope of a province, centrally-run city or outside the scope of a military zone shall be carried out in accordance with the provisions of Article 239 of this Code .

When the Procuracy finds that the case is still within the jurisdiction of the Court that returned the file, it shall return the case file to the Court with a document stating the reasons; if the Court finds that the case is still not within its jurisdiction, the dispute over jurisdiction shall be resolved in accordance with Article 275 of this Code. The Procuracy shall comply with the decision of the competent Court.

2. The time limit for prosecution and application of preventive measures shall be implemented according to the provisions of Articles 240 and 241 of this Code .

**Article 275. Settlement of disputes over jurisdiction**

1. The settlement of disputes over jurisdiction between district-level People's Courts in the same province or centrally-run city, between regional military courts in the same military region, shall be decided by the Chief Justice of the provincial-level People's Court or the Chief Justice of the military court at the military region.
2. The settlement of disputes over jurisdiction between district-level People's Courts in different provinces and centrally-run cities, between regional military courts in different military zones, shall be decided by the Chief Justice of the provincial-level People's Court or the Chief Justice of the military court of the military zone where the investigation is completed.
3. The settlement of disputes over jurisdiction between provincial People's Courts and between military courts at military region level shall be decided by the Chief Justice of the Supreme People's Court and the Chief Justice of the Central Military Court.
4. The settlement of disputes over jurisdiction between the People's Court and the Military Court shall be decided by the Chief Justice of the Supreme People's Court.

The transfer of a case for trial according to jurisdiction is carried out in accordance with the provisions of Article 274 of this Code .

**Section II. TRIAL PREPARATION****Article 276. Receiving case files, indictments and accepting cases**

1. When the Procuracy delivers the indictment, case file and accompanying evidence (if any), the Court must examine and handle:
  - a) In case the documents in the case file and accompanying evidence (if any) are complete compared to the list of documents, evidence and the indictment has been delivered to the accused or the accused's representative, the case file shall be received;
  - b) In case the documents in the case file and accompanying evidence (if any) are not sufficient compared to the list of documents and evidence, or the indictment has not been delivered to the accused or the accused's representative, the case file shall not be received and the Procuracy shall be requested to supplement the documents and evidence; and the indictment shall be requested to be delivered to the accused or the accused's representative.
2. The delivery and receipt of case files and indictments shall be recorded in accordance with the provisions of Article 133 of this Code and included in the case file.

Immediately upon receiving the case file and the indictment, the Court must accept the case. Within 03 days from the date of accepting the case, the Chief Justice of the Court must assign a Judge to preside over the trial to resolve the case.

**Article 277. Time limit for trial preparation**

1. Within 30 days for less serious crimes, 45 days for serious crimes, 02 months for very serious crimes, 03 months for especially serious crimes from the date of accepting the case, the presiding judge of the trial must issue one of the following decisions:
  - a) Bring the case to trial;
  - b) Return the file to request further investigation;
  - c) Temporarily suspend the case or suspend the case.

For complicated cases, the Chief Justice may decide to extend the trial preparation period, but not more than 15 days for less serious crimes and serious crimes, and not more than 30 days for very serious crimes and especially serious crimes. The extension of the trial preparation period must be immediately notified to the Procuracy at the same level.

2. For cases that are returned for further investigation, within 15 days from the date of receiving the file back, the presiding judge must issue a decision to bring the case to trial. In case of resuming the case, the time limit for preparing for trial according to the general procedures prescribed in this Code shall be from the date the Court issues the decision to resume the case.

3. Within 15 days from the date of the decision to bring the case to trial, the Court must open a trial; in case of force majeure or objective obstacles, the Court may open a trial within 30 days.

#### **Article 278. Application, change and cancellation of preventive measures and coercive measures**

1. After accepting a case, the presiding judge of the trial decides on the application, change, or cancellation of preventive measures and coercive measures, except for the application, change, or cancellation of temporary detention measures decided by the Chief Justice or Deputy Chief Justice of the Court.

2. The period of temporary detention in preparation for trial shall not exceed the period of trial preparation prescribed in Clause 1, Article 277 of this Code .

3. For defendants who are being detained and whose detention period has expired by the date of the trial, if it is deemed necessary to continue detention to complete the trial, the Trial Panel shall issue an order for detention until the end of the trial.

#### **Article 279. Settlement of requests and proposals before opening a trial**

1. Before opening the trial, the presiding judge must resolve the following requests and proposals:

a) Requests of the Prosecutor and participants in the proceedings to provide or supplement evidence; summon witnesses, persons with authority to conduct the proceedings, and other participants in the proceedings to the court session; to change members of the Trial Panel and Court Secretary;

b) Request of the defendant or the defendant's representative, defense attorney to change or cancel preventive measures or coercive measures;

c) Requests of the Prosecutor and participants in the proceedings regarding a trial under summary procedure, public trial or closed trial;

d) Request of the litigant to be absent from the trial.

2. If the request or proposal is deemed well-founded, the presiding judge shall resolve it according to his/her authority or notify the competent person to resolve it according to the provisions of this Code and notify the person who made the request or proposal; if not accepted, he/she shall be notified in writing stating the reasons.

#### **Article 280. Return of files for further investigation**

1. The presiding judge of the trial shall decide to return the case file to the Procuracy for further investigation in one of the following cases:

a) When there is a lack of evidence to prove one of the issues specified in Article 85 of this Code that cannot be supplemented at the trial;

b) There is reason to believe that in addition to the acts prosecuted by the Procuracy, the accused also committed other acts that the Penal Code stipulates as crimes;

c) There is reason to believe that there are other accomplices or other people who have committed acts that the Penal Code stipulates as crimes related to the case but the case has not been prosecuted or the accused has not been prosecuted;

d) Prosecution, investigation and prosecution seriously violate procedural laws.

2. In case the Procuracy discovers grounds to return the file for further investigation, the Procuracy shall issue a written request to the Court to return the file.

3. The decision to return the case file for further investigation must clearly state the issues requiring further investigation and send it to the Procuracy together with the case file within 03 days from the date of the decision.

If the results of the additional investigation lead to the suspension of the case, the Procuracy shall issue a decision to suspend the case and notify the Court within 03 days from the date of the decision.

If the results of the additional investigation lead to a change in the prosecution decision, the Procuracy shall issue a new indictment to replace the previous indictment.

In case the Procuracy cannot supplement the issues requested by the Court and still maintains the prosecution decision, the Court shall proceed to try the case.

#### **Article 281. Temporary suspension of the case**

1. The presiding judge shall decide to temporarily suspend the case in one of the following cases:

a) There is a basis as prescribed in Point b and Point c, Clause 1, Article 229 of this Code ;

b) The whereabouts of the suspect or defendant are unknown and the time limit for preparing for trial has expired; in this case, the Investigation Agency must be requested to issue a decision to search for the suspect or defendant before temporarily suspending the case. The search for the suspect or defendant shall be carried out in accordance with the provisions of Article 231 of this Code ;

c) Wait for the results of processing the legal document recommended by the Court.

2. In case a case involves many suspects or defendants and the basis for temporary suspension does not relate to all suspects or defendants, the case may be temporarily suspended for each suspect or defendant.

3. The decision to temporarily suspend the case must clearly state the reasons for the temporary suspension and the contents specified in Clause 2, Article 132 of this Code .

#### **Article 282. Suspension of case**

1. The presiding judge shall decide to suspend the case in one of the following cases:

- a) There is one of the grounds specified in Clause 2, Article 155 or Points 3, 4, 5, 6 and 7, Article 157 of this Code ;
- b) The Procuracy withdraws all prosecution decisions before opening the trial.

In case a case has many suspects or defendants and the basis for suspending the case is not related to all suspects or defendants, the case can be suspended for each suspect or defendant.

2. The decision to suspend the case must clearly state the reasons for suspension and the contents specified in Clause 2, Article 132 of this Code .

#### **Article 283. Case resumption**

1. When there is a reason to cancel the decision to temporarily suspend the case or there is a reason to cancel the decision to suspend the case if the statute of limitations for criminal prosecution has not expired, the Judge who issued the decision to temporarily suspend or suspend the case shall issue a decision to restore the case.

In case the Judge has issued a decision to temporarily suspend or suspend the case, the decision to suspend the case cannot be implemented, the Chief Justice shall issue a decision to restore it.

2. In case of temporary suspension or suspension for each suspect or defendant, a decision shall be made to restore the case for each suspect or defendant.

3. The decision to resume the case must clearly state the reasons for resuming the case and the contents specified in Clause 2, Article 132 of this Code .

4. When resuming a case, the Court has the right to apply, change or cancel preventive measures and coercive measures according to the provisions of this Code.

In cases where there is a basis under the provisions of this Code requiring temporary detention, the period of temporary detention to resume the case must not exceed the period of preparation for trial.

#### **Article 284. Requesting the Procuracy to supplement documents and evidence**

1. When it is deemed necessary to supplement documents and evidence necessary for resolving the case without having to return the file for further investigation, the presiding judge shall request the Procuracy to supplement.

2. Requests for additional documents and evidence must be in writing, clearly stating the documents and evidence that need to be supplemented, and sent to the People's Procuracy of the same level within 02 days from the date of issuance of the request.

3. Within 05 days from the date of receipt of the Court's request, the Procuracy shall send the Court the requested additional documents and evidence. In case the Procuracy cannot provide additional documents and evidence, the Court shall proceed with the trial of the case.

#### **Article 285. Procuracy withdraws decision to prosecute**

When it is found that there is one of the grounds prescribed in Article 157 of this Code or there is a ground prescribed in Article 16 or Article 29 or Clause 2, Article 91 of the Penal Code , the Procuracy shall withdraw the decision to prosecute before opening the trial and request the Court to suspend the case.

#### **Article 286. Delivery and sending of decisions of the Court of First Instance**

1. The decision to bring the case to trial shall be delivered to the defendant or their representative; and sent to the defense attorney, victim, and litigant at least 10 days before the opening of the trial.

In case of trial in absentia of the defendant, the decision to bring the case to trial shall be delivered to the defendant's defense attorney or representative; the decision to bring the case to trial shall also be posted at the headquarters of the People's Committee of the commune, ward or town where the defendant last resided or at the agency or organization where the defendant last worked or studied.

2. The Court's decision to temporarily suspend, to suspend a case, or to resume a case shall be delivered to the suspect, defendant, victim or their representative and sent to other participants in the proceedings within 03 days from the date of issuance of the decision.

3. Decisions to assign a judge to preside over a court session, decisions to bring a case to trial, decisions to suspend, decisions to temporarily suspend, decisions to resume a case must be sent to the People's Procuracy at the same level within 02 days from the date of issuance of the decision. Decisions to suspend, decisions to temporarily suspend a case must be sent to the People's Procuracy at the next higher level within 02 days from the date of issuance of the decision.

4. The decision to apply, change or cancel preventive measures or coercive measures shall be delivered to the suspect, defendant, the same-level Procuracy, and the detention facility where the suspect or defendant is being detained within 24 hours from the date of issuance of the decision.

**Article 287. Summoning persons to be questioned to court**

Based on the decision to bring the case to trial, the request of the Prosecutor, the defense attorney, and other participants in the proceedings, the presiding judge summons those who need to be questioned to the court.

**Section III. GENERAL PROVISIONS ON COURT PROCEDURES****Article 288. Presence of members of the Trial Panel and Court Secretary**

1. The trial shall only proceed when there are sufficient members of the Trial Panel and the Court Secretary. The members of the Trial Panel shall hear the case from beginning to end.
2. In case a Judge or Jury member does not continue to participate in the trial of the case but there is an alternate Judge or Jury member who participated in the trial from the beginning, these people will be replaced as members of the Trial Panel. In case the Trial Panel has two Judges and the presiding Judge cannot continue to participate in the trial, the Judge who is a member of the Trial Panel will preside over the trial and the alternate Judge will be added as a member of the Trial Panel.
3. In case there is no alternate Judge or Juror to replace or the presiding judge of the trial must be changed without a Judge to replace as prescribed in Clause 2 of this Article, the trial must be adjourned.
4. In case the Court Secretary is changed or cannot continue to participate in the trial, the Court can still try the case if there is a substitute Court Secretary; if there is no replacement, the trial will be suspended.

**Article 289. Presence of the Prosecutor**

1. The prosecutor of the same-level People's Procuracy must be present to exercise the right to prosecute and supervise the trial at the trial; if the prosecutor is absent, the trial must be postponed. For serious and complicated cases, there may be many prosecutors. In case the prosecutor cannot be present at the trial, the alternate prosecutor who was present at the trial from the beginning will replace him/her to exercise the right to prosecute and supervise the trial at the trial.
2. In case the Prosecutor is changed or cannot continue to exercise the right to prosecute or supervise the trial without a reserve Prosecutor to replace him/her, the Trial Panel shall adjourn the trial.

**Article 290. Presence of the defendant at the trial**

1. The defendant must be present at the court hearing upon summons from the Court throughout the trial; if absent without force majeure or objective obstacles, he/she shall be escorted; if absent due to force majeure or objective obstacles, the court hearing must be postponed.

If the defendant is mentally ill or has a serious illness, the Trial Panel shall temporarily suspend the case until the defendant recovers.

If the defendant flees, the Trial Panel will temporarily suspend the case and request the Investigation Agency to search for the defendant.

2. The court may only try the defendant in absentia in the following cases:

- a) The defendant is in hiding and the search has been fruitless;
- b) The defendant is abroad and cannot be summoned to court;
- c) The defendant requested to be tried in absentia and the Trial Panel accepted;
- d) If the defendant's absence is not due to force majeure or objective obstacles and the defendant's absence does not hinder the trial.

**Article 291. Presence of defense counsel**

1. The defense attorney must be present at the trial to defend the person he has agreed to defend. The defense attorney may submit a defense statement to the Court in advance. In case the defense attorney is absent for the first time due to force majeure or objective obstacles, the Court must postpone the trial, unless the defendant agrees to be tried in the absence of the defense attorney. If the defense attorney is absent for no force majeure or objective obstacles or is properly summoned a second time but is still absent, the Court shall still hold the trial.
2. In case a defense attorney is appointed as prescribed in Clause 1, Article 76 of this Code but the defense attorney is absent, the Trial Panel must adjourn the trial, except in cases where the defendant or the defendant's representative agrees to be tried in the absence of the defense attorney.

**Article 292. Presence of the victim, the parties or their representatives**

1. If the victim, the litigant or their representative is absent, depending on the case, the Trial Panel shall decide to adjourn the trial or continue the trial.
2. In case the absence of the victim or the litigant is deemed to be an obstacle to the settlement of compensation for damages, the Trial Panel may separate the compensation matter for later trial in accordance with the provisions of law.

**Article 293. Presence of witnesses**

1. Witnesses attend the trial to clarify the details of the case. If the witness is absent but has previously given testimony at the Investigation Agency, the presiding judge shall announce those testimonies. If witnesses on important issues of the case are absent,

depending on the circumstances, the Trial Panel shall decide to adjourn the trial or continue the trial.

2. In case a witness is summoned by the Court but intentionally absent without force majeure or objective obstacles and their absence hinders the trial, the Trial Panel may decide to escort them according to the provisions of this Code.

#### **Article 294. Presence of expert and property valuer**

1. The appraiser and property valuer shall attend the trial when summoned by the Court.

2. If the expert or property valuer is absent, depending on the case, the Trial Panel shall decide to adjourn the trial or continue the trial.

#### **Article 295. Presence of interpreters and translators**

1. Interpreters and translators participate in court sessions when summoned by the Court.

2. In case the interpreter or translator is absent without a replacement, the Trial Panel shall decide to adjourn the trial.

#### **Article 296. Presence of Investigators and other persons**

During the trial, when deemed necessary, the Trial Panel may summon the Investigator, the competent person who has accepted and resolved the case, and other persons to the court to present issues related to the case.

#### **Article 297. Postponement of trial**

1. The court shall adjourn the trial in one of the following cases:

- a) There is one of the grounds specified in Articles 52, 53 , 288, 289 , 290, 291 , 292, 293 , 294 and 295 of this Code ;
- b) It is necessary to verify and collect additional evidence, documents and objects that cannot be done immediately at the trial;
- c) Additional assessment or re-assessment is required;
- d) Need to value assets, re-value assets.

In case of adjournment of the trial, the case must be retried from the beginning.

2. The period of adjournment of the first instance trial shall not exceed 30 days from the date of the decision to adjourn the trial.

3. The decision to postpone the trial has the following main contents:

- a) Date, month, year of decision;
- b) Name of the Court and full names of the Judge, Jurors, and Court Clerk;
- c) Full name of the prosecutor exercising the right to prosecute and supervise the trial at the trial;
- d) The case is brought to trial;
- d) Reasons for adjourning the trial;
- e) Time and place of reopening the trial.

4. The decision to adjourn the trial must be signed by the presiding judge on behalf of the Trial Panel. In case the presiding judge is absent or has been replaced, the Chief Justice of the Court shall issue a decision to adjourn the trial.

The decision to postpone the trial must be immediately notified to the participants in the proceedings present at the trial; sent to the same-level Procuracy and those absent from the trial within 02 days from the date of the decision.

#### **Article 298. Limits of trial**

1. The Court tries the defendants and the acts according to the charges that the Procuracy prosecutes and the Court has decided to bring the case to trial.

2. The court may try the defendant under a different clause from the one prosecuted by the Procuracy in the same article or for another crime equal to or lesser than the crime prosecuted by the Procuracy.

3. In case the Court finds it necessary to try the defendant for a more serious crime than the crime prosecuted by the Procuracy, the Court shall return the case file for the Procuracy to re-prosecute and clearly notify the defendant or the defendant's representative and defense attorney of the reason; if the Procuracy still maintains the prosecuted crime, the Court has the right to try the defendant for that more serious crime.

#### **Article 299. Issuance of judgments and decisions by the Court**

1. The verdict must be discussed and approved by the Trial Panel in the deliberation room.

2. Decisions on changing members of the Trial Panel, Prosecutor, Court Secretary, expert, property valuer, interpreter, translator, temporary suspension or adjournment of the case, postponement of the trial, temporary detention or release of the defendant must be discussed and approved in the deliberation room and made in writing.

3. Decisions on other issues discussed and approved by the Trial Panel in the courtroom do not have to be made in writing but must be recorded in the minutes of the trial.

### **Section IV. PROCEDURES FOR COMMENCEMENT OF THE TRIAL**

**Article 300. Preparation for opening of trial**

Before opening the trial, the Court Secretary must carry out the following tasks:

1. Check the presence of those summoned by the Court; if anyone is absent, the reason must be stated;
2. Disseminate court rules.

**Article 301. Opening of the trial**

1. The presiding judge opens the trial and reads the decision to bring the case to trial.
2. The Court Secretary reports to the Trial Panel on the presence and absence of those summoned by the Court and the reasons for their absence.
3. The presiding judge shall check the presence of those present at the trial according to the Court's summons and check their background, and disseminate their rights and obligations.

**Article 302. Settlement of requests for changes to Judges, Jurors, Prosecutors, Court Clerks, appraisers, property valuers, interpreters, and translators**

The presiding judge must ask the prosecutor and the participants in the proceedings present at the trial whether they have any request to change the judge, jury, prosecutor, court clerk, expert, property valuer, interpreter, or translator, and the reasons for the request. If there is a request, the Trial Panel shall consider and decide.

**Article 303. Guarantees of interpreters, translators, appraisers and property valuers**

After explaining the rights and obligations to the interpreter, translator, appraiser, and property valuer, the presiding judge requires these people to pledge to fulfill their duties.

**Article 304. Witness's pledge, witness isolation**

1. After explaining the rights and obligations to the witness, the presiding judge requires the witness to pledge to testify truthfully.
2. Before a witness is questioned about the case, the presiding judge shall decide on measures to prevent the witnesses from hearing each other's testimony or from coming into contact with relevant persons. In cases where the testimony of the defendant and the witness influences each other, the presiding judge shall decide to isolate the defendant from the witness before questioning the witness.

**Article 305. Resolving requests for examination of evidence and adjournment of court sessions when someone is absent**

The presiding judge must ask the prosecutor and the participants in the proceedings present at the trial whether anyone requests to summon additional witnesses or to present additional evidence or documents for examination. If a participant in the proceedings is absent or is present at the trial but cannot participate in the proceedings due to health reasons, the presiding judge must ask whether anyone requests to postpone the trial; if anyone requests, the Trial Panel shall consider and decide.

**Section V. PROCEDURES FOR LITIGATION AT COURT****Article 306. Publication of indictment**

Before proceeding with the questioning, the Prosecutor shall announce the indictment and present additional opinions (if any). Additional opinions must not worsen the defendant's situation.

**Article 307. Order of questioning**

1. The trial panel must fully determine the details of each incident, each crime in the case and each person. The presiding judge directs the questioning, decides who will be asked first and who will be asked later in a reasonable order.
2. When questioning each person, the presiding judge asks first and then decides to let the Judge, Jury, Prosecutor, defender, and person protecting the parties' legitimate rights and interests carry out the questioning.

Participants in the proceedings at the trial have the right to request the presiding judge to ask further questions about the details that need to be clarified.

The appraiser and property valuer are asked about issues related to the appraisal and valuation of the property.

3. During questioning, the Trial Panel shall examine relevant evidence in the case.

**Article 308. Disclosure of statements during investigation and prosecution**

1. If the person being questioned is present at the trial, the Trial Panel and the Prosecutor may not publish their testimony during the investigation and prosecution phase.
2. Statements made during the investigation and prosecution phase may only be published in one of the following cases:
  - a) The testimony of the person being questioned at the trial contradicts their testimony during the investigation and prosecution stages;
  - b) The person being questioned does not testify at the trial or does not remember his or her statements during the investigation and prosecution phase;
  - c) The person being questioned requests to disclose their statements during the investigation and prosecution phase;

d) The person being questioned is absent or dead.

3. In special cases where it is necessary to keep state secrets, preserve national traditions, professional secrets, business secrets, personal privacy secrets, family secrets at the request of a litigant or when it deems it necessary, the Trial Panel shall not disclose documents in the case file.

#### **Article 309. Questioning the accused**

1. The presiding judge must decide to question each defendant separately. If the testimony of one defendant may influence the testimony of another defendant, the presiding judge must isolate them. The isolated defendant shall be informed of the content of the testimony of the previous defendant and shall have the right to ask questions of that defendant.

2. The defendant presents his opinion on the indictment and the circumstances of the case. The panel of judges further asks about points that the defendant has presented incompletely or are contradictory.

The prosecutor asks the defendant about evidence, documents, objects related to the accusation, exoneration and other details of the case.

The defense attorney asks the defendant about evidence, documents, and objects related to the defense and other details of the case.

The person protecting the legitimate rights and interests of the victim and the party concerned asks the defendant about the details related to the protection of the rights and interests of the party concerned.

Participants in the proceedings at the trial have the right to request the presiding judge to ask more questions about the circumstances related to them.

3. If the defendant does not answer the questions, the Trial Panel, the Prosecutor, the defense attorney, the person protecting the legitimate rights and interests of the victim and the parties will continue to question other people and examine the evidence and documents related to the case.

With the consent of the presiding judge, the defendant may question other defendants on matters relevant to the defendant.

#### **Article 310. Questioning the victim, the parties or their representatives**

The victim, the litigant or their representative shall present the details of the case that are relevant to them. Then, the Trial Panel, the Prosecutor, the defense counsel and the person protecting the legitimate rights and interests of the victim or litigant shall ask further questions about points that they have presented that are incomplete or contradictory.

With the consent of the presiding judge, the defendant may ask the victim, the litigant or their representative about matters related to the defendant.

#### **Article 311. Questioning witnesses**

1. The questioning must be conducted privately with each witness and must not be made known to other witnesses.

2. When questioning witnesses, the Trial Panel must ask clearly about their relationship with the defendant and the parties in the case. The presiding judge shall ask the witnesses to clearly state the details of the case that they already know, then ask further questions about points that they have not fully stated or that are contradictory. The prosecutor, the defense attorney, and the person protecting the legitimate rights and interests of the victim or the parties may ask further questions of the witnesses.

With the consent of the presiding judge, the defendant may question the witness about matters related to the defendant.

3. After the witness has finished speaking, he or she remains in the courtroom to be questioned further.

4. In cases where there is reason to believe that a witness or their relatives have been harmed or threatened with harm to their life, health, property, honor or dignity, the Trial Panel must decide on measures to protect them in accordance with the provisions of this Code and other relevant laws.

5. If necessary, the Court shall decide to question witnesses via computer network or telecommunications network.

#### **Article 312. Examination of evidence**

1. Physical evidence, photos or minutes confirming physical evidence are presented for examination at the trial.

When necessary, the Trial Panel may, together with the Prosecutor, the defense attorney, and other participants in the trial, go to examine on-site evidence that cannot be brought to court. The examination of on-site evidence shall be recorded in accordance with the provisions of Article 133 of this Code .

2. The prosecutor, the defense attorney, and other participants in the trial have the right to present their comments on the evidence. The trial panel, the prosecutor, the defense attorney, the person protecting the legitimate rights and interests of the victim and the parties may ask additional questions to the participants in the trial about issues related to the evidence.

#### **Article 313. Listening to or viewing recorded content or video with sound**

In cases where it is necessary to examine evidence, documents, or objects related to the case or when the defendant alleges that he or she was forced to confess or was tortured, the Trial Panel shall decide to allow listening to or viewing of the recorded content or video recordings with related audio at the trial.

#### **Article 314. On-site inspection**

When deemed necessary, the Trial Panel may, together with the Prosecutor, the defense counsel, and other participants in the trial, visit the scene where the crime occurred or other locations related to the case. The Prosecutor, the defense counsel, and other participants in the trial have the right to present their comments on the scene where the crime occurred or other locations related to the case. The Trial Panel may further question the participants in the trial on issues related to that location.

The on-site inspection is recorded in accordance with the provisions of Article 133 of this Code .

#### **Article 315. Presentation and publication of reports and documents of agencies and organizations**

Reports and documents of agencies and organizations on the details of the case shall be presented by representatives of such agencies and organizations; in cases where no representative of the agency or organization is present, the Trial Panel shall announce the reports and documents at the trial.

The prosecutor, defendant, defense attorney, and other participants in the trial have the right to comment on the report and documents and to ask additional questions to the representatives of the agencies, organizations, and other participants in the trial about issues related to the report and documents.

#### **Article 316. Questioning of appraisers and property valuers**

1. The Trial Panel, on its own or at the request of the Prosecutor, the defense attorney, or other participants in the trial, shall request the expert or property valuer to present his or her conclusion on the matter being appraised or valued. When presenting, the expert or property valuer shall have the right to provide additional explanations regarding the conclusion of the appraisal or property value and the basis for drawing the conclusion of the appraisal or property value.

2. The prosecutor, the defense attorney, and other participants in the proceedings present at the trial have the right to comment on the conclusions of the appraisal and asset valuation, and to ask questions about unclear issues or conflicts in the conclusions of the appraisal and asset valuation, or conflicts with other details of the case.

3. In case the expert or property valuer is not present at the trial, the presiding judge shall announce the conclusion of the appraisal or property value.

4. When deemed necessary, the Trial Panel shall decide to conduct additional appraisal or re-appraisal or re-valuation of assets.

#### **Article 317. Investigators, prosecutors, other persons with authority to conduct proceedings, and participants in proceedings present opinions**

When deemed necessary, the Trial Panel, on its own or at the request of a participant in the proceedings, shall request the Investigator, Prosecutor, other persons with authority to conduct the proceedings, and participants in the proceedings to present opinions to clarify decisions and procedural acts during the investigation, prosecution, and trial stages.

#### **Article 318. End of questioning**

When the circumstances of the case have been fully considered, the presiding judge shall ask the prosecutor, the defendant, the defense counsel, and other participants in the trial whether they have any further questions to ask. If there is no further question, the questioning shall end; if there is a request and the presiding judge deems it necessary, he shall decide to continue the questioning.

#### **Article 319. Prosecutor withdraws decision to prosecute or concludes on lesser crime at trial**

After the end of the questioning, the Prosecutor may withdraw part or all of the decision to prosecute or conclude on a lesser crime.

#### **Article 320. Order of speaking during debate**

1. After the end of the questioning, the Prosecutor shall present the indictment; if there is no basis for conviction, the entire decision to prosecute shall be withdrawn and the Court shall be requested to declare the defendant not guilty.

2. The defendant presents his defense; the defense attorney presents his defense for the defendant; the defendant and the defendant's representative have the right to supplement their defense.

3. Victims, litigants, and their representatives present opinions to protect their rights and interests; if there is someone protecting their legitimate rights and interests, this person has the right to present and supplement opinions.

4. In case the case is initiated at the request of the victim, the victim or their representative shall present and supplement their opinions after the Prosecutor presents the indictment.

#### **Article 321. Procurator's impeachment**

1. The prosecutor's indictment must be based on evidence, documents, and objects examined at the trial and the opinions of the defendant, the defense attorney, the person protecting the legitimate rights and interests of the victim, the litigant, and other participants in the proceedings at the trial.

2. The content of the indictment must analyze and evaluate objectively, comprehensively and fully the evidence determining guilt and innocence; the nature and level of danger to society of the criminal act; the consequences caused by the criminal act; the defendant's identity and role in the case; the crime, punishment, application of points, clauses and articles of the Penal Code , aggravating and mitigating circumstances of criminal responsibility; the level of compensation for damages, handling of evidence, judicial measures; the cause and conditions of the crime and other circumstances of significance to the case.

3. Propose to convict the defendant according to all or part of the indictment or to conclude on a lesser crime; propose the main penalty, additional penalties, judicial measures, liability for compensation for damages, and handling of evidence.

#### 4. Recommend measures to prevent crime and violations of the law.

#### **Article 322. Debate at trial**

1. The defendant, the defense attorney, and other participants in the proceedings have the right to present their opinions, present evidence, documents, and arguments to respond to the Prosecutor regarding evidence determining guilt and innocence; the nature and level of danger to society of the criminal act; the consequences caused by the criminal act; the defendant's personal background and role in the case; aggravating and mitigating circumstances of criminal responsibility and the level of punishment; civil liability, handling of evidence, judicial measures; causes and conditions of the crime, and other circumstances of significance to the case.

The defendant, the defense attorney, and other participants in the proceedings have the right to make their own requests.

2. The prosecutor must present evidence, documents and arguments to respond to each opinion of the defendant, defense attorney and other participants in the proceedings at the trial.

Debate participants have the right to respond to other people's opinions.

3. The presiding judge shall not limit the time for debate, and shall create conditions for the prosecutor, defendant, defense attorney, victim, and other participants in the proceedings to debate and present all opinions, but shall have the right to cut off opinions unrelated to the case and repeated opinions.

The presiding judge requested the prosecutor to respond to the opinions of the defense attorney and other participants in the proceedings that had not been debated by the prosecutor.

4. The Trial Panel must listen to and fully record the opinions of the Prosecutor, the defendant, the defense attorney, and the participants in the debate at the trial to objectively and comprehensively assess the truth of the case. In case the opinions of the participants in the trial are not accepted, the Trial Panel must clearly state the reasons and they must be recorded in the judgment.

#### **Article 323. Return to questioning**

If, after the debate, it is found that there are details of the case that have not been asked or clarified, the Trial Panel must decide to resume the questioning. After the questioning, the debate must continue.

#### **Article 324. Defendant's final statement**

1. After the debaters have made no further statements, the presiding judge declares the debate over.

2. The defendant has the last word. No questions may be asked when the defendant has the last word. If, in the last word, the defendant presents new details that are important to the case, the Trial Panel must decide to resume questioning. The Trial Panel has the right to request the defendant not to present points that are not relevant to the case, but must not limit the defendant's time.

#### **Article 325. Consideration of withdrawal of prosecution decision or conclusion on lesser crime at trial**

1. When the Prosecutor partially withdraws the decision to prosecute or concludes on a lesser crime, the Trial Panel shall continue to try the case.

2. In case the Prosecutor withdraws the entire decision to prosecute, before deliberation, the Trial Panel shall request the participants in the trial to present their opinions on the withdrawal of the decision to prosecute.

### **Section VI. DELIBERATION AND SENTENCE**

#### **Article 326. Deliberation**

1. Only the Judge and the Jury have the right to deliberate. Deliberation must be conducted in the deliberation room.

The presiding judge of the trial is responsible for presenting each issue of the case to be resolved for the Trial Panel to discuss and decide. The presiding judge himself or assigns a member of the Trial Panel to record the minutes of the deliberation. The members of the Trial Panel must resolve all issues of the case by majority vote on each issue. The Jury votes first, the Judge votes last. If no opinion has a majority, each opinion of the Trial Panel members must be discussed and voted on again to determine the majority opinion. The person with a minority opinion has the right to present his opinion in writing and it will be included in the case file.

2. The deliberation shall be based only on evidence and documents examined at the trial, on the basis of full and comprehensive consideration of the evidence of the case, the opinions of the prosecutor, the defendant, the defense attorney, and other participants in the proceedings.

3. The issues of the case that must be resolved during deliberation include:

- a) Whether the case is subject to temporary suspension or to returning the file for further investigation;
- b) The legality of evidence and documents collected by the Investigation Agency, Investigator, Procurator, Prosecutor; provided by lawyers, defendants, accused, and other participants in the proceedings;
- c) Whether or not there is a basis for convicting the defendant. If there is sufficient basis for convicting, it is necessary to clearly identify the applicable points, clauses, and articles of the Penal Code ;
- d) Punishment, judicial measures applied to the defendant; liability for compensation for damages; civil issues in criminal cases;
- d) Is the defendant exempt from criminal liability or punishment?

- e) Criminal court fees, civil court fees; handling of evidence; seized assets, frozen accounts;
- g) The legality of the conduct and procedural decisions of the Investigator, Prosecutor, and defense attorney during the investigation, prosecution, and trial;
- h) Recommendations for crime prevention and violation correction.

4. In case the Prosecutor withdraws the entire decision to prosecute, the Trial Panel shall still resolve the issues of the case according to the procedures prescribed in Clause 1 of this Article. If there is a basis to determine that the defendant is not guilty, the Trial Panel shall declare the defendant not guilty; if it finds that the withdrawal of the decision to prosecute is groundless, it shall decide to temporarily suspend the case and make a recommendation to the Chief Prosecutor of the same-level People's Procuracy or the Chief Prosecutor of the immediate superior People's Procuracy.

5. In case the case has many complicated details, the Trial Panel may decide to extend the deliberation time but not more than 07 days from the date of conclusion of the debate at the trial. The Trial Panel must notify those present at the trial and the absent litigants of the time, date, month, year and place of the verdict.

6. At the end of the deliberation, the Trial Panel must decide on one of the following issues:

- a) Issue judgment and sentence;
- b) Return to questioning and debate if there are details of the case that have not been questioned or clarified;
- c) Return the case file to the Procuracy for further investigation; request the Procuracy to supplement documents and evidence;
- d) Temporarily suspend the case.

The adjudication panel must notify those present at the trial and the absent litigants of the decisions at Points c and d of this Clause.

7. In case of discovering that a crime has been overlooked, the Trial Panel shall decide to initiate a criminal case in accordance with the provisions of Article 18 and Article 153 of this Code .

#### **Article 327. Sentencing**

The presiding judge or another member of the Trial Panel reads the judgment. In the case of a closed trial, only the decision part of the judgment is read. After the reading, further explanation may be given regarding the execution of the judgment and the right to appeal.

#### **Article 328. Release of the accused**

In the following cases, the Trial Panel must declare the immediate release of the defendant in custody at the trial, if he/she is not in custody for another crime:

1. The defendant is not guilty;
2. The defendant is exempted from criminal liability or is exempted from punishment;
3. The defendant is sentenced to a penalty other than imprisonment;
4. The defendant was sentenced to prison but given a suspended sentence;
5. The term of imprisonment is equal to or shorter than the time the defendant was detained.

#### **Article 329. Temporary detention of the defendant after sentencing**

1. In case the defendant is being detained and sentenced to imprisonment but it is deemed necessary to continue detention to ensure execution of the sentence, the Trial Panel shall issue a decision to detain the defendant, except in the cases prescribed in Clauses 4 and 5, Article 328 of this Code .

2. In cases where the defendant is not detained but is sentenced to imprisonment, he/she shall only be detained to serve the sentence when the judgment has come into legal effect. The Trial Panel may decide to detain the defendant immediately at the trial if there is reason to believe that the defendant may flee or continue to commit crimes.

3. The period of detention of the defendant as prescribed in Clause 1 and Clause 2 of this Article is 45 days from the date of sentencing.

4. In case the defendant is sentenced to death, the Trial Panel shall decide in the judgment to continue to detain the defendant to ensure execution of the sentence.

#### **Chapter XXII**

### **APPEAL TRIAL**

#### **Section I. NATURE OF APPEAL TRIAL AND RIGHT TO APPEAL**

##### **Article 330. Nature of appellate trial**

1. Appellate trial is when the higher court directly re-trials a case or reviews a first-instance decision whose first-instance judgment or decision has not yet taken legal effect and is being appealed or protested.
2. The first-instance decisions subject to appeal or protest are decisions to temporarily suspend, decisions to suspend the case, decisions to temporarily suspend the case against the accused, decisions to suspend the case against the accused, and other

decisions of the Court of first instance as prescribed in this Code.

### **Article 331. Persons with the right to appeal**

1. The defendant, the victim, and their representatives have the right to appeal the judgment or decision of first instance.
2. The defender has the right to appeal to protect the interests of a person under 18 years of age or a person with mental or physical disabilities that he or she is defending.
3. Civil plaintiffs, civil defendants and their representatives have the right to appeal against the part of the judgment or decision related to compensation for damages.
4. People with rights and obligations related to the case and their representatives have the right to appeal the part of the judgment or decision related to their rights and obligations.
5. The person protecting the legitimate rights and interests of the victim, the party under 18 years of age or the person with mental or physical disabilities has the right to appeal the part of the judgment or decision related to the rights and obligations of the person he/she is protecting.
6. A person declared not guilty by the Court has the right to appeal on the grounds on which the first instance judgment determined that they were not guilty.

### **Article 332. Appeal procedure**

1. The appellant must submit an appeal to the Court of First Instance or the Court of Appeal.

In case the defendant is being detained, the Warden of the Detention Camp or the Head of the Detention House must ensure that the defendant exercises his/her right to appeal, receive the appeal petition and forward it to the Court of First Instance that issued the judgment or decision being appealed.

The appellant may present the appeal directly to the Court of First Instance or the Court of Appeal. The Court must make a record of the appeal in accordance with the provisions of Article 133 of this Code .

The appellate court that has made a record of the appeal or received an appeal must send the record or appeal to the court of first instance for implementation according to general regulations.

2. The appeal has the following main contents:

- a) Date, month, year of filing the appeal;
- b) Full name and address of the appellant;
- c) Reasons and requests of the appellant;
- d) Signature or fingerprint of the appellant.

3. Attached to the appeal or together with the direct presentation are additional evidence, documents, and objects (if any) to prove the validity of the appeal.

### **Article 333. Time limit for appeal**

1. The time limit for appeal against the judgment at first instance is 15 days from the date of judgment. For defendants and litigants absent from the trial, the time limit for appeal is calculated from the date they receive the judgment or the date the judgment is posted according to the provisions of law.

2. The time limit for appealing a first instance decision is 07 days from the date the person with the right to appeal receives the decision.

3. The date of appeal is determined as follows:

- a) In case the appeal is sent by postal service, the appeal date is the date of postmark of the place of sending;
- b) In case the appeal is sent through the Warden of the Detention Camp or the Head of the Detention House, the appeal date is the date the Warden of the Detention Camp or the Head of the Detention House receives the application. The Warden of the Detention Camp or the Head of the Detention House must clearly state the date of receipt of the application and sign the confirmation on the application;
- c) In case the appellant files an appeal at the Court, the appeal date is the date the Court receives the application. In case the appellant presents the appeal directly to the Court, the appeal date is the date the Court makes a record of the appeal.

### **Article 334. Procedures for receiving and handling appeals**

1. After receiving the appeal or the record of the appeal, the Court of First Instance must enter it into the receipt book and check the validity of the appeal according to the provisions of this Code.

2. In case the appeal is valid, the Court of First Instance shall notify the appeal in accordance with the provisions of Article 338 of this Code .

3. In case the appeal is valid but the content of the appeal is unclear, the Court of First Instance must immediately notify the appellant for clarification.

4. In case the content of the appeal petition is in accordance with the provisions of this Code but the appeal period has passed, the Court of First Instance shall request the appellant to state the reasons and present evidence, documents, and objects (if any) to prove that the reason for filing the appeal after the deadline is legitimate.

5. In case the appellant does not have the right to appeal, within 03 days from the date of receipt of the application, the Court shall return the application and notify in writing the applicant and the People's Procuracy at the same level. The notice must clearly state the reason for returning the application.

The return of the application may be appealed within 07 days from the date of receipt of the notice. The settlement of the appeal shall be carried out in accordance with the provisions of Chapter XXXIII of this Code.

#### **Article 335. Late appeal**

1. Late appeals are accepted if there are reasons of force majeure or objective obstacles that prevent the appellant from making the appeal within the time limit prescribed by this Code.

2. Within 03 days from the date of receipt of the overdue appeal, the Court of First Instance must send the appeal, the appellant's statement on the reasons for the overdue appeal and accompanying evidence, documents and objects (if any) to the Court of Appeal.

3. Within 10 days from the date of receipt of the overdue appeal and the accompanying evidence, documents and objects (if any), the Court of Appeal shall establish a Council of three Judges to consider the overdue appeal. The Council for considering the overdue appeal shall have the right to decide whether to accept or not to accept the overdue appeal and shall clearly state the reasons for acceptance or non-acceptance in the decision.

4. The session to consider an overdue appeal must be attended by the Procurator of the same-level Procuracy. Within 03 days before the date of consideration of the overdue appeal, the Court of Appeal shall send a copy of the overdue appeal and accompanying evidence and documents (if any) to the same-level Procuracy. The Procurator shall state the Procuracy's opinion on the consideration of the overdue appeal.

5. The decision of the Council for considering late appeals shall be sent to the late appellant, the Court of First Instance and the Procuracy at the same level as the Court of Appeal.

In case the Court of Appeal accepts an overdue appeal, the Court of First Instance must carry out the procedures prescribed by this Code and send the case file to the Court of Appeal.

#### **Article 336. Protest of the Procuracy**

1. The People's Procuracy at the same level and the People's Procuracy at the next higher level have the right to appeal against the judgment or decision of first instance.

2. The Procuracy's appeal decision has the following main contents:

- a) Date, month, year of the appeal decision and number of the appeal decision;
- b) Name of the Procuracy issuing the appeal decision;
- c) Appeal against all or part of the judgment or decision at first instance;
- d) Reasons, grounds for appeal and requests of the Procuracy;
- d) Full name and position of the person signing the appeal decision.

#### **Article 337. Time limit for appeal**

1. The time limit for the People's Procuracy at the same level to appeal against the judgment of the Court of First Instance is 15 days, and for the People's Procuracy at the immediate superior level is 30 days from the date the Court announces the judgment.

2. The time limit for the People's Procuracy at the same level to appeal against the decision of the Court of First Instance is 07 days, and for the People's Procuracy at the next higher level is 15 days from the date the Court issues the decision.

#### **Article 338. Notice of appeal, sending of appeal decision**

1. The appeal must be notified in writing by the Court of First Instance to the Procuracy at the same level and those involved in the appeal within 07 days from the date of expiration of the appeal period. The notice must clearly state the appellant's request.

2. Within 02 days from the date of issuing the appeal decision, the Procuracy must send the appeal decision along with additional evidence, documents, and objects (if any) to the Court of first instance, and send the appeal decision to the defendant and those involved in the appeal. The Procuracy that has appealed must send the appeal decision to another Procuracy that has the authority to appeal.

3. Litigants who receive notice of an appeal or protest have the right to send a written statement of their opinions on the content of the appeal or protest to the Court of Appeal. Their opinions will be included in the case file.

#### **Article 339. Consequences of appeal and protest**

The parts of the judgment or decision of the Court that are appealed or protested shall not be enforced, except in the cases specified in Article 363 of this Code. When there is an appeal or protest against the entire judgment or decision, the entire judgment or decision shall not be enforced, except in the cases specified in Article 363 of this Code.

The court of first instance must send the case file, appeal, protest and accompanying evidence, documents and objects (if any) to the appellate court within 07 days from the date of expiration of the appeal or protest period.

#### **Article 340. Acceptance of cases**

1. Immediately after receiving the case file with appeal, protest and accompanying evidence, documents and objects (if any), the Court of Appeal must enter it into the acceptance book.
2. Within 03 days from the date of accepting the case, the Chief Justice of the Court of Appeal shall assign a Judge to preside over the trial or meeting.

#### **Article 341. Transfer of case files to the Procuracy**

1. After accepting the case, the Court of Appeal must transfer the case file to the People's Procuracy of the same level. Within 15 days for the People's Procuracy at the provincial level and the Military Procuracy at the military zone level, and 20 days for the High People's Procuracy and the Central Military Procuracy from the date of receipt of the case file, the Procuracy must return the case file to the Court. In cases where the case is a particularly serious or complicated crime, this time limit may be extended but not more than 25 days for the People's Procuracy at the provincial level and the Military Procuracy at the military zone level, and 30 days for the High People's Procuracy and the Central Military Procuracy.
2. In case the Court of Appeal receives additional evidence, documents, or objects before the trial, it must transfer such evidence, documents, or objects to the Procuracy of the same level. Within 03 days from the date of receipt of additional evidence, documents, or objects, the Procuracy must return them to the Court.

#### **Article 342. Changing, supplementing, withdrawing appeals and protests**

1. Before the start of the trial or at the appeal trial, the appellant has the right to change or supplement the appeal; the Procuracy issuing the appeal decision has the right to change or supplement the appeal but must not worsen the defendant's situation; the appellant withdraws part or all of the appeal; the Procuracy issuing the appeal decision or the immediate superior Procuracy has the right to withdraw part or all of the appeal.
2. Any changes, additions or withdrawals of appeals or protests before the opening of the trial must be made in writing and sent to the Court of Appeal. The Court of Appeal must notify the Procuracy, the defendant and those involved in the appeal or protest of the changes, additions or withdrawals of appeals or protests. Changes, additions or withdrawals of appeals or protests at the trial shall be recorded in the minutes of the trial.
3. In case the appellant withdraws part of the appeal or the Procuracy withdraws part of the protest at the trial which is deemed unrelated to other appeals or protests, the Appellate Trial Panel shall consider the withdrawal of part of the appeal or protest and decide to suspend the trial of that part of the appeal or protest in the appellate judgment.

#### **Article 343. Validity of first-instance judgments and decisions of the Court without appeal or protest**

The judgment, decision and parts of the judgment, decision of the first instance Court that are not appealed or protested shall take legal effect from the date of expiration of the appeal or protest period.

### **Section II. APPEAL PROCEDURES**

#### **Article 344. Court with jurisdiction to hear appeals**

1. The provincial People's Court has the authority to hear appeals of judgments and decisions of the district People's Court that are appealed or protested.
2. The High People's Court has the authority to review on appeal judgments and decisions of the Provincial People's Court within its territorial jurisdiction that are appealed or protested.
3. The military court at the military region level has the authority to hear appeals against judgments and decisions of the regional military court.
4. The Central Military Court has the authority to review and appeal judgments and decisions of the Military Court at the military region level that are appealed or protested.

#### **Article 345. Scope of appellate trial**

The appellate court shall review the content of the judgment or decision that is being appealed or protested. If deemed necessary, it may review other parts of the judgment or decision that are not being appealed or protested.

#### **Article 346. Time limit for preparing for appeal trial**

1. The provincial People's Court and the military court of the military region must open an appeal trial within 60 days; the high-level People's Court and the central military court must open an appeal trial within 90 days from the date of receipt of the case file.
2. Within 45 days for provincial People's Courts and military courts of military regions, and 75 days for cases of high-level People's Courts and central military courts from the date of accepting the case, the presiding judge of the trial must issue one of the following decisions:
  - a) Suspension of appeal trial;
  - b) Bring the case to appeal.

3. Within 15 days from the date of the decision to bring the case to trial, the Court must open an appeal hearing.

4. At least 10 days before opening the trial, the Court of Appeal must send the decision to bring the case to trial to the People's Procuracy at the same level, the defense attorney, the victim, the person protecting the legitimate rights and interests of the victim, the litigant, the appellant, and the person with rights and obligations related to the appeal or protest.

#### **Article 347. Application, change and cancellation of preventive measures and coercive measures**

1. After accepting a case, the Court of Appeal has the right to decide on the application, change or cancellation of preventive measures and coercive measures.

The application, change, or cancellation of temporary detention measures shall be decided by the Chief Justice or Deputy Chief Justice of the Court. The application, change, or cancellation of other preventive measures and coercive measures shall be decided by the presiding Judge of the trial.

2. The period of detention in preparation for trial shall not exceed the period of preparation for appeal trial prescribed in Article 346 of this Code .

In case the defendant's detention period is still valid and it is deemed necessary to continue detaining the defendant, the Court of Appeal shall use the detention period according to the detention decision of the Court of First Instance. In case the defendant's detention period according to the detention decision of the Court of First Instance has expired, the Chief Judge or Deputy Chief Judge of the Court shall issue a new detention decision.

For defendants currently in detention, if it is deemed necessary to continue detention to complete the trial, the Trial Panel shall issue a decision to detain them until the end of the trial.

3. For defendants who are being detained and sentenced to imprisonment, and the detention period has expired by the end of the trial date, the Trial Panel shall issue a decision to detain the defendant to ensure the execution of the sentence, except in the cases prescribed in Clauses 4 and 5, Article 328 of this Code .

For defendants who are not detained but are sentenced to imprisonment, the Trial Panel may decide to detain the defendant immediately after sentencing.

The period of detention is 45 days from the date of sentencing.

#### **Article 348. Suspension of appeal trial**

1. The Court of Appeal shall suspend the appeal trial of a case in which the appellant has withdrawn the entire appeal and the Procuracy has withdrawn the entire protest. The suspension of the appeal trial before the opening of the trial shall be decided by the presiding judge, and at the trial by the Trial Panel. The judgment of first instance shall take legal effect from the date the Court of Appeal issues the decision to suspend the appeal trial.

2. In case the appellant withdraws part of the appeal or the Procuracy withdraws part of the protest before the opening of the trial and finds it unrelated to other appeals or protests, the presiding judge of the trial must issue a decision to suspend the appellate trial for the withdrawn part of the appeal or protest.

3. The decision to suspend the appeal trial shall clearly state the reasons for suspension and the contents as prescribed in Clause 2, Article 132 of this Code .

Within 03 days from the date of issuance of the decision, the Court of Appeal must send the decision to suspend the appeal trial to the People's Procuracy at the same level, the Court of First Instance, the defense attorney, the victim, the litigant, the protector of the legitimate rights and interests of the victim, the litigant, the appellant, and the person with rights and obligations related to the appeal or protest.

#### **Article 349. Presence of members of the Appellate Trial Council and Court Secretary**

1. The trial shall only proceed when there are sufficient members of the Trial Panel and the Court Secretary. The members of the Trial Panel shall hear the case from the beginning until the end of the trial.

2. In case a Judge does not continue to participate in the trial of the case but there is an alternate Judge who participated in the trial from the beginning, these people will be replaced as members of the Trial Panel. In case the presiding Judge cannot continue to participate in the trial, the Judge who is a member of the Trial Panel will preside over the trial and the alternate Judge will be added as a member of the Trial Panel.

3. In case there is no alternate judge or the presiding judge must be changed without a replacement judge, the trial must be adjourned.

4. In case the Court Secretary is changed or cannot continue to participate in the trial, the Court can still try the case if there is a substitute Court Secretary; if there is no replacement, the trial will be suspended.

#### **Article 350. Presence of the Prosecutor**

1. The prosecutor of the same-level People's Procuracy must be present to exercise the right to prosecute and supervise the trial at the trial. If the prosecutor is absent, the trial must be postponed. For serious and complicated cases, there may be many prosecutors. In case the prosecutor cannot be present at the trial, the alternate prosecutor who was present at the trial from the beginning will replace him/her to exercise the right to prosecute and supervise the trial at the trial.

2. In case the Prosecutor is changed or cannot continue to exercise the right to prosecute or supervise the trial without a reserve Prosecutor to replace him/her, the Trial Panel shall adjourn the trial.

**Article 351. Presence of defense counsel, protector of the legitimate rights and interests of the victim, litigant, appellant, person with rights and obligations related to the appeal or protest**

1. The defense attorney, the person protecting the legitimate rights and interests of the victim, the litigant, the appellant, the person with rights and obligations related to the appeal or protest who is summoned to the court session must be present at the court session. If any person is absent, the Trial Panel shall resolve:

a) In case the defense counsel is absent for the first time due to force majeure or objective obstacles, the trial must be postponed, unless the defendant agrees to be tried in the absence of the defense counsel. In case the defense counsel is absent without force majeure or objective obstacles or is properly summoned for the second time but is still absent, the Court shall still proceed with the trial.

In cases where a defense attorney must be appointed as prescribed in Clause 1, Article 76 of this Code but the defense attorney is absent, the trial must be adjourned, except in cases where the defendant or the defendant's representative agrees to be tried in the absence of the defense attorney;

b) In case the appellant, the person with rights and obligations related to the appeal or protest is the victim, the litigant and their representative, the person protecting the legitimate rights and interests of the victim or litigant is absent without a force majeure reason or without an objective obstacle, the Trial Panel shall still proceed with the trial. In case these persons are absent due to a force majeure reason or due to an objective obstacle, the Trial Panel may proceed with the trial but shall not issue a judgment or decision unfavorable to the victim or litigant;

c) If the defendant who appeals or is appealed or protested is absent due to force majeure or objective obstacles, the Trial Panel may still proceed with the trial but may not issue a judgment or decision unfavorable to the defendant. If the defendant's absence is due to force majeure or objective obstacles and such absence does not hinder the trial, the Trial Panel may still proceed with the trial.

2. When deemed necessary, the Court of Appeal shall decide to summon other persons to attend the trial.

**Article 352. Postponement of appeal hearing**

1. The Court of Appeal may only adjourn a trial in one of the following cases:

a) There is one of the grounds specified in Articles 52, 53, 349, 350 and 351 of this Code ;

b) It is necessary to verify and collect additional evidence, documents and objects that cannot be done immediately at the trial.

In case of adjournment of the trial, the case must be retried from the beginning.

2. The period of adjournment of the trial and the decision to adjourn the appeal trial shall be implemented according to the provisions of Article 297 of this Code .

**Article 353. Supplementing and examining evidence, documents and objects**

1. Before the trial or at the appeal hearing, the Procuracy may, on its own or at the request of the Court, supplement new evidence; the appellant and the person with rights and obligations related to the appeal, protest, the defender, the person protecting the legitimate rights and interests of the victim and the litigant also have the right to supplement evidence, documents and objects.

2. Old evidence, new evidence, newly added documents and objects must all be considered at the appeal hearing. The appeal judgment must be based on both old and new evidence.

**Article 354. Appeal court procedures**

1. The procedure for starting a trial and the debate at an appeal trial is conducted as in a first-instance trial, but before the questioning, a member of the Trial Panel will briefly present the content of the case, the decision of the first-instance judgment, and the content of the appeal and protest.

2. The presiding judge shall ask the appellant whether he/she wishes to change, supplement, or withdraw the appeal; if so, the presiding judge shall request the Prosecutor to present his/her opinion on the change, supplement, or withdrawal of the appeal.

The presiding judge shall ask the prosecutor whether he wishes to change, supplement, or withdraw the appeal; if so, the presiding judge shall request the defendant and those involved in the appeal to present their opinions on the change, supplement, or withdrawal of the appeal.

3. During the debate at the trial, the Prosecutor and other persons related to the appeal or protest shall express their opinions on the content of the appeal or protest; the Prosecutor shall express the Procuracy's viewpoint on the settlement of the case.

**Article 355. Jurisdiction of the appellate court over first instance judgments**

1. The appellate court has the right to:

a) Not accepting the appeal or protest and upholding the first instance judgment;

b) Amend the judgment of first instance;

c) Annul the judgment at first instance and transfer the case file for re-investigation or re-trial;

d) Annul the judgment at first instance and suspend the case;

d) Suspension of the appeal trial.

2. The appellate judgment takes legal effect from the date of judgment.

#### **Article 356. Not accepting appeals or protests and upholding the first instance judgment**

The appellate court shall not accept appeals or protests and uphold the first instance judgment when it considers that the decisions of the first instance judgment are well-founded and in accordance with the law.

#### **Article 357. Amendment of first instance judgment**

1. When there is a basis to determine that the judgment at first instance is not consistent with the nature, extent, and consequences of the crime, the defendant's personal circumstances, or there are new circumstances, the Appellate Court has the right to amend the judgment at first instance as follows:

a) Exempt the defendant from criminal liability or punishment; do not apply additional punishment; do not apply judicial measures;

b) Apply the articles and provisions of the Penal Code on lesser crimes;

c) Reduce the sentence for the defendant;

d) Reduce the level of compensation for damages and amend the decision on handling evidence;

d) Change to another punishment of a lighter type;

e) Maintain or reduce the prison sentence and grant a suspended sentence.

2. In case the Procuracy appeals or the victim appeals, the Appellate Court may:

a) Increase penalties, apply articles and clauses of the Penal Code on more serious crimes; apply additional penalties; apply judicial measures;

b) Increase the level of compensation for damages;

c) Change to another punishment of a more severe type;

d) Do not allow the defendant to receive a suspended sentence.

If there is a basis, the Trial Panel can still reduce the penalty, apply the articles and clauses of the Penal Code on a lesser crime, change to another lighter penalty, maintain the prison sentence and grant a suspended sentence, and reduce the amount of compensation for damages.

3. If there is a basis, the Appellate Court may amend the first instance judgment according to the provisions of Clause 1 of this Article for defendants who do not appeal or are not appealed or protested.

#### **Article 358. Annulment of first instance judgment for re-investigation or re-trial**

1. The appellate court shall annul the first instance judgment for reinvestigation in the following cases:

a) There is reason to believe that the court of first instance has overlooked a crime, a criminal, or has prosecuted or investigated a crime more serious than the crime declared in the judgment of first instance;

b) The investigation at the first instance level is incomplete and cannot be supplemented by the appellate level;

c) There are serious violations of procedural law during the investigation and prosecution stages.

2. The appellate court shall annul the first instance judgment to retry the case at the first instance level with a new trial panel in the following cases:

a) The first-instance trial panel does not have the correct composition as prescribed by this Code;

b) There is a serious violation of procedural law during the first instance trial;

c) A person who is declared not guilty by the Court of First Instance but there is reason to believe that he or she has committed a crime;

d) Exemption from criminal liability, exemption from punishment or application of judicial measures to the defendant without grounds;

d) The judgment at first instance has serious errors in the application of the law but is not a case where the Appellate Court may amend the judgment as prescribed in Article 357 of this Code .

3. When annulling the first instance judgment for reinvestigation or retrial, the Appellate Court must clearly state the reasons for annulling the first instance judgment.

4. When annulling the judgment of first instance for retrial, the Appellate Court shall not decide in advance the evidence that the Court of First Instance must accept or reject, nor shall it decide in advance the points, clauses, articles of the Penal Code to be applied and the punishment for the defendant.

5. In case the first instance judgment is annulled for reinvestigation or retrial, but the defendant's detention period has expired and it is deemed necessary to continue detaining the defendant, the Appellate Trial Panel shall issue a decision to continue detaining the defendant until the Procuracy or the Court of First Instance re-accepts the case.

Within 15 days from the date of annulment of the first instance judgment, the case file must be transferred to the People's Procuracy or the Court of First Instance for settlement according to the general procedures prescribed in this Code.

#### **Article 359. Annulment of first instance judgment and suspension of case**

1. When there is one of the grounds specified in Clause 1 and Clause 2, Article 157 of this Code , the Appellate Court shall annul the first instance judgment, declare the defendant not guilty and suspend the case.
2. When there is one of the grounds specified in Clauses 3, 4, 5, 6 and 7, Article 157 of this Code , the Appellate Court shall annul the first instance judgment and suspend the case.

#### **Article 360. Re-investigation or re-trial of criminal cases**

1. After the Appellate Court annuls the first instance judgment for reinvestigation, the Investigation Agency, the Procuracy and the Court of First Instance shall have the authority to conduct investigation, prosecution and retrial of the case according to the general procedures prescribed in this Code.
2. After the Appellate Court annuls the first instance judgment for retrial, the competent first instance court shall retry the case according to the general procedures prescribed in this Code.

#### **Article 361. Jurisdiction of the Appeal Council over first-instance decisions**

1. The Appeals Council has the right to:
  - a) Not accepting appeals and protests and upholding the decisions of the Court of First Instance when considering that the decisions of the Court of First Instance are well-founded and in accordance with the law;
  - b) Amend the decision of the Court of First Instance;
  - c) Annul the decision of the Court of First Instance and transfer the case file to the Court of First Instance to continue resolving the case.
2. The appeal decision takes legal effect from the date of the decision.

#### **Article 362. Appeal procedure for first instance decisions**

1. When appealing a first-instance decision that is appealed or protested, the Appellate Trial Panel must summon the appellant, the defense attorney, the person protecting the legal rights and interests of the litigant, and the person with rights and obligations related to the appeal or protest to attend the meeting. In case they are absent, the Appellate Trial Panel shall still proceed with the meeting.
2. Within 15 days from the date of acceptance of the case file, the Court must hold a session to consider the first instance decision being appealed or protested.

Within 10 days from the date of the decision to open the session, the Appellate Trial Panel must open the session. Within 02 days from the date of the decision, the Court must transfer the case file together with the decision to open the session to the Procuracy of the same level. Within 05 days from the date of receipt of the case file, the Procuracy must return the case file to the Court.

3. At the meeting, a member of the Appellate Court shall briefly present the content of the first instance decision, the content of the appeal, protest and accompanying evidence, documents and objects (if any).

The prosecutor of the same-level People's Procuracy must be present at the meeting and state the Procuracy's viewpoint on the settlement of the appeal or protest before the Appellate Trial Panel makes a decision.

### **PART FIVE**

## **SOME PROVISIONS ON ENFORCEMENT OF COURT JUDGMENTS AND DECISIONS**

### **Chapter XXIII**

#### **JUDGMENTS AND DECISIONS THAT ARE IMMEDIATELY ENFORCEABLE AND AUTHORITY TO ISSUE DECISIONS ON ENFORCEMENT OF JUDGMENTS**

#### **Article 363. Court judgments and decisions shall be enforced immediately.**

In case the defendant is in detention and the Court of First Instance decides to suspend the case, declare the defendant not guilty, exempt the defendant from criminal liability, exempt the defendant from punishment, the punishment is not imprisonment or imprisonment but is suspended, or when the term of imprisonment is equal to or shorter than the term of detention, the judgment or decision of the Court shall be enforced immediately, although it may still be appealed or protested.

The warning penalty is enforced immediately in court.

#### **Article 364. Competence and procedures for issuing decisions on execution of judgments**

1. The Chief Justice of the Court of First Instance has the authority to issue a decision to execute the judgment or to authorize the Chief Justice of another Court at the same level to issue a decision to execute the judgment.
2. The time limit for issuing a decision to execute a judgment is 07 days from the date the judgment or decision at first instance takes legal effect or from the date of receipt of the judgment, decision at appeal, decision of final judgment, or decision of retrial.

Within 07 days from the date of receipt of the decision on entrustment of execution from the Chief Justice of the Court of first instance, the Chief Justice of the Court entrusted must issue a decision on execution.

3. In case the person sentenced to imprisonment is on bail, the decision to execute the imprisonment sentence must clearly state that within 07 days from the date of receipt of the decision, that person must be present at the criminal enforcement agency of the district-level police to execute the sentence.

In case a person sentenced to imprisonment escapes while on bail, the Chief Justice of the Court that issued the decision to execute the sentence shall request the criminal enforcement agency of the provincial-level Public Security where the person sentenced to imprisonment is on bail to issue a wanted notice.

#### **Article 365. Interpretation and correction of court judgments and decisions**

1. Criminal enforcement agencies, civil enforcement agencies, the Procuracy, convicted persons, victims, and parties involved in the enforcement of judgments have the right to request the Court that issued the judgment or decision to explain and correct unclear points in the judgment or decision for enforcement.

2. The judge presiding over the trial that issued the judgment or decision shall be responsible for explaining and correcting unclear points in the judgment or decision of the Court. In case the judge presiding over the trial is unable to do so, the explanation and correction shall be carried out by the Chief Justice of the Court that issued the judgment or decision.

#### **Article 366. Resolution of petitions against court judgments and decisions**

In case the criminal enforcement agency or civil enforcement agency requests a review of the judgment or decision of the Court under the supervisory or retrial procedures, the competent Court shall be responsible for responding within 90 days from the date of receipt of the written request. In case of complicated cases, the response period may be extended but shall not exceed 120 days from the date of receipt of the written request.

### **Chapter XXIV**

## **SOME PROCEDURES FOR EXECUTING DEATH PENALTY, CONDITIONAL EARLY RELEASE, AND CRIMINAL RECORD DELETION**

#### **Article 367. Procedures for reviewing death sentences before execution**

1. The procedure for reviewing a death sentence before execution is carried out:

- a) After the death sentence comes into legal effect, the case file must be immediately sent to the Chief Justice of the Supreme People's Court and the sentence must be immediately sent to the Chief Prosecutor of the Supreme People's Procuracy;
- b) After reviewing the case file to decide to appeal or decide not to appeal for review or retrial, the Supreme People's Court must transfer the case file to the Supreme People's Procuracy. Within 01 month from the date of receipt of the case file, the Supreme People's Procuracy must return the case file to the Supreme People's Court;
- c) Within 02 months from the date of receipt of the case file, the Chief Justice of the Supreme People's Court and the Chief Prosecutor of the Supreme People's Procuracy must decide to appeal or decide not to appeal for a review or retrial;
- d) Within 07 days from the date the judgment comes into legal effect, the convicted person may submit a petition for clemency to the President;
- d) The death sentence shall be executed if the Chief Justice of the Supreme People's Court and the Chief Prosecutor of the Supreme People's Procuracy do not appeal under the supervisory or retrial procedures and the convicted person does not submit a petition for clemency to the President.

In case the death sentence is appealed according to the cassation or retrial procedures, and the Supreme People's Court's cassation or retrial council decides not to accept the appeal and uphold the death sentence, the Supreme People's Court must immediately notify the convicted person so that they can apply for clemency of the death penalty;

e) In case the convicted person has a petition for clemency of the death penalty, the death sentence will be carried out after the President rejects the petition for clemency.

2. When there is a basis prescribed in Clause 3, Article 40 of the Penal Code, the Chief Justice of the Court of First Instance shall not issue a decision to execute the death sentence and shall report to the Chief Justice of the Supreme People's Court to consider converting the death penalty to life imprisonment for the convicted person.

#### **Article 368. Procedures for considering conditional early release from prison**

1. Prisons; Detention camps under the Ministry of Public Security, Detention camps under the Ministry of National Defense, criminal enforcement agencies of provincial-level Public Security, criminal enforcement agencies of military regions are responsible for preparing dossiers requesting early release from prison and transferring them to the provincial-level People's Procuracy, military-regional-level Military Procuracy, provincial-level People's Court, and military-regional-level Military Court where the prisoner is serving his/her prison sentence.

The application for early release from prison includes:

- a) The prisoner's application for early release from prison, along with a commitment not to violate the law and the obligations to be fulfilled upon early release from prison;
- b) Copy of legally effective judgment; decision on execution of judgment;
- c) A copy of the decision to reduce the term of imprisonment for a person convicted of a serious crime or more;

- d) Documents and papers showing completion of additional penalties such as fines, court fees, and civil obligations;
- d) Documents on the prisoner's personal and family circumstances;
- e) Results of ranking of prison sentence execution by quarter, 06 months, year; decision on commendation or certificate of confirmation from competent authority on prisoner's merit (if any);
- g) Document requesting early release from the agency preparing the dossier.

2. The document requesting early release from the agency preparing the dossier includes the following main contents:

- a) Number, date, month, year of the document;
- b) Full name, position, signature of the authorized person making the request;
- c) Full name, gender, year of birth, place of residence of the prisoner; place where the prisoner serves the probation period;
- d) Time served in prison; remaining time served in prison;
- d) Comments and recommendations of the dossier preparation agency.

3. Within 15 days from the date of receipt of the request for early release from prison, the provincial People's Procuracy and the military region-level Military Procuracy must issue a document expressing their views on the request for conditional early release from prison of the requesting agency.

In case the Procuracy requests the dossier-making agency to supplement documents, within 03 days from the date of receiving the request, the dossier-making agency must supplement documents and send them to the Procuracy and the Court.

4. Within 15 days from the date of receipt of the dossier from the requesting agency, the Chief Justice of the Provincial People's Court and the Chief Justice of the Military Court of the Military Region must hold a meeting to consider conditional early release from prison; at the same time, notify in writing the People's Procuracy at the same level to send a Prosecutor to attend the meeting. In case the Court requests the dossier-making agency to supplement documents, within 03 days from the date of receipt of the request, the dossier-making agency must supplement documents and send them to the Court and the People's Procuracy.

5. The Council for considering conditional early release from prison consists of the Chief Justice and 02 Judges, with the Chief Justice as Chairman of the Council.

6. At the meeting, a member of the Council will present a summary of the request. The prosecutor will present the Procuracy's views on the requesting agency's request for conditional early release and compliance with the law in considering and deciding on conditional early release. The representative of the agency that prepared the request may present additional information to clarify the request for early release.

7. Minutes of the meeting to consider conditional early release are recorded. The minutes clearly state the date, month, year, and location of the meeting; the participants of the meeting; the content and progress of the meeting, and the Council's decision on accepting or not accepting the request for conditional early release for each prisoner.

After the end of the meeting, the Prosecutor shall review the meeting minutes and request amendments and additions (if any) to be recorded in the meeting minutes; the Chairman of the Council shall check the minutes and sign the minutes together with the meeting secretary.

8. Within 03 days from the date of the decision on conditional early release, the Court must send the decision to the prisoner, the People's Procuracy at the same level, the immediate superior People's Procuracy, the agency that prepared the request file, the Court that issued the decision to execute the sentence, the criminal judgment enforcement agency of the district-level or military region-level police, the commune, ward or town authorities where the person released from prison before the term resides, the military unit assigned to manage that person, and the Department of Justice where the Court that issued the decision is headquartered.

9. Immediately after receiving the decision on conditional early release, the detention facility must organize the announcement of this decision and carry out the procedures for implementing the decision on conditional early release. During the probation period, if the person granted conditional early release does not violate the provisions of Clause 4, Article 66 of the Penal Code, when the probation period expires, the criminal enforcement agency of the district-level police or the criminal enforcement agency of the military region where they were managed shall be responsible for issuing a certificate of completion of the prison sentence.

10. In case a person released from prison before term violates the provisions of Clause 4, Article 66 of the Penal Code, the criminal judgment enforcement agency of the district-level police where the person released from prison before term resides, or the military unit assigned to manage that person, must prepare a file and transfer it to the People's Procuracy and the Court that issued the decision on conditional early release for consideration, cancellation of the issued decision and forcing that person to serve the remaining part of the prison sentence that has not been served.

Within 05 days from the date of receipt of the request, the Court must hold a session to consider and decide.

Within 03 days from the date of the decision to cancel the decision on conditional early release from prison, the Court must send the decision to the agencies and individuals specified in Clause 8 of this Article.

11. The Procuracy has the right to appeal, and the prisoner has the right to complain about the decision to accept or not accept the request for conditional early release, or the decision to cancel the decision to grant conditional early release.

The order, procedures and authority to resolve appeals and complaints against decisions specified in this clause shall comply with the provisions of Chapter XXII and Chapter XXXIII of this Code.

#### **Article 369. Procedures for criminal record deletion**

1. Within 05 days from the date of receipt of the request of the person whose criminal record is automatically erased and finding that the conditions specified in Article 70 of the Penal Code are met, the agency managing the criminal record database shall issue a criminal record certificate stating that they have no criminal record.

2. In cases specified in Articles 71 and 72 of the Penal Code, the Court shall decide on the expungement of criminal records. The convicted person must submit a petition to the Court that tried the case at first instance, with comments from the local authorities of the commune, ward or town where he/she resides or the agency or organization where he/she works or studies.

Within 03 days from the date of receipt of the convicted person's application, the Court of First Instance shall transfer the documents on the request for expungement of the criminal record to the People's Procuracy at the same level. Within 05 days from the date of receipt of the documents transferred by the Court, the People's Procuracy at the same level shall give its written opinion and return the documents to the Court.

If the conditions are met, within 05 days from the date of receiving the documents transferred by the Procuracy, the Chief Justice of the Court of First Instance must issue a decision to erase the criminal record; if the conditions are not met, the decision to reject the application for erasure of the criminal record must be made.

Within 05 days from the date of issuance of the decision to expunge the criminal record or the decision to reject the application for expungement of the criminal record, the Court that issued the decision must send this decision to the convicted person, the People's Procuracy at the same level, the commune, ward or town authorities where they reside or the agency or organization where they work or study.

### **PART SIX**

## **REVIEW OF JUDGMENTS AND DECISIONS THAT HAVE ENTERED INTO LEGAL EFFECT**

### **Chapter XXV**

## **PROCEDURE FOR SUPERVISION OF APPEALS**

#### **Article 370. Nature of final judgment**

The review is the review of a judgment or decision of the Court that has come into legal effect but is protested because serious violations of the law are discovered in the settlement of the case.

#### **Article 371. Grounds for appeal under the cassation procedure**

A judgment or decision of the Court that has come into legal effect may be appealed under the cassation procedure when there is one of the following grounds:

1. The conclusion in the judgment or decision of the Court is not consistent with the objective circumstances of the case;
2. There are serious violations of procedural law in the investigation, prosecution, and trial leading to serious mistakes in resolving the case;
3. There is a serious error in the application of the law.

#### **Article 372. Discovery of a judgment or decision that has come into legal effect and needs to be reviewed under the cassation procedure**

1. Convicted persons, agencies, organizations and all individuals have the right to detect violations of the law in court judgments and decisions that have come into legal effect and notify the competent person to appeal.

2. The provincial People's Court shall examine the legally effective judgments and decisions of the district People's Court to detect violations of the law and recommend that the Chief Justice of the High People's Court or the Chief Justice of the Supreme People's Court consider appeals.

Military courts at the military region level shall examine legally effective judgments and decisions of regional military courts to detect violations of the law and recommend that the Chief Justice of the Central Military Court consider appeals.

3. When performing the task of supervising the trial, supervising the trial or through other sources of information, if the Court or the Procuracy discovers a violation of the law in a judgment or decision of the Court that has come into legal effect, it shall immediately notify in writing the person with the authority to appeal.

#### **Article 373. Persons entitled to appeal under the cassation procedure**

1. The Chief Justice of the Supreme People's Court and the Chief Prosecutor of the Supreme People's Procuracy have the right to appeal under the cassation procedure against judgments and decisions that have come into legal effect of the High People's Court; judgments and decisions that have come into legal effect of other Courts when deemed necessary, except for decisions of the Council of Judges of the Supreme People's Court.

2. The Chief Justice of the Central Military Court and the Chief Prosecutor of the Central Military Procuracy have the right to appeal, under the cassation procedure, the judgments and decisions that have come into legal effect of the Military Court of the military region or the Military Court of the region.

3. The Chief Justice of the High People's Court and the Chief Prosecutor of the High People's Procuracy have the right to appeal according to the cassation procedure against judgments and decisions that have come into legal effect of the Provincial People's Court and the District People's Court within their territorial jurisdiction.

**Article 374. Procedure for notification of judgments and decisions of the Court that have come into legal effect and need to be reviewed under the cassation procedure**

1. When discovering a violation of the law in a judgment or decision of a Court that has come into legal effect, the convicted person, agency, organization or individual shall notify in writing or present directly to the person with the authority to appeal or to the nearest Court or Procuracy, along with evidence, documents and objects (if any).

2. The notice has the following main contents:

- a) Day, month, year;
- b) Name and address of the notifying agency, organization or individual;
- c) The Court's judgment or decision that has come into legal effect is found to violate the law;
- d) Illegal content discovered;
- d) Recommend competent authority to consider appeal.

3. The notifier must sign or fingerprint; in case the notification is made by an agency or organization, the legal representative of that agency or organization must sign and affix the seal.

**Article 375. Procedures for receiving notices of court judgments and decisions that have come into legal effect and need to be reviewed under the cassation procedure**

1. Upon receiving a written notice, the Court and the Procuracy must enter it into the notice receipt book.

2. When a convicted person, agency, organization or individual directly presents a violation of the law in a judgment or decision of a Court that has come into legal effect, the Court or the Procuracy must make a record; if the informing person provides evidence, documents or objects, the Court or the Procuracy must make a record of the seizure. The record shall be made in accordance with the provisions of Article 133 of this Code .

3. The Court and the Procuracy that have received the notice and made the record must immediately send the notice and record along with evidence, documents, and objects (if any) to the person with the authority to appeal and notify in writing the convicted person, the agency, organization, or individual that made the petition or request.

**Article 376. Transfer of case files for consideration of appeal under the supervisory review procedure**

1. In case it is necessary to study the case file to consider an appeal under the supervisory review procedure, the Court or the competent Procuracy shall request in writing that the Court managing the file transfer the case file.

Within 07 days from the date of receipt of the request, the Court managing the case file must transfer the case file to the Court or Procuracy that made the request.

2. In case the Court and the Procuracy both have a written request, the Court managing the case file shall transfer the file to the agency requesting first and notify the agency requesting later.

**Article 377. Temporary suspension of execution of judgments and decisions subject to appeal for review**

The person who decides to appeal a final judgment or decision has the right to decide to temporarily suspend the enforcement of that judgment or decision.

The decision to temporarily suspend the enforcement of a judgment or decision subject to a final appeal must be sent to the Court, the Procuracy where the first instance or appeal trial was held, and the competent enforcement agency.

**Article 378. Decision on appeal for final review**

The decision to appeal for review has the following main contents:

1. Number, date, month, year of the decision;
2. Person with decision-making authority;
3. Number, date, month, year of the judgment or decision being appealed;
4. Comment and analyze violations of law and mistakes in the judgment and decision being appealed;
5. Legal basis for deciding to appeal;
6. Decision to appeal all or part of the judgment or decision;
7. Name of the Court with jurisdiction to review the case;
8. Request of the appellant.

**Article 379. Time limit for appeal under the cassation procedure**

1. An appeal against a judgment unfavorable to the convicted person may only be made within 01 year from the date the judgment or decision takes legal effect.
2. An appeal in favor of the convicted person may be made at any time, even in cases where the convicted person has died and it is necessary to clear his name.
3. Civil protests in criminal cases against litigants are carried out in accordance with the provisions of the law on civil procedure.
4. If there is no basis for appeal under the review procedure, the person with the right to appeal must respond in writing to the agency, organization or individual that made the request, clearly stating the reason for not appealing.

#### **Article 380. Sending of decision on appeal to the chief justice**

1. The decision to appeal for review must be immediately sent to the Court that issued the judgment or decision that has come into legal effect and is being appealed, the convicted person, the competent criminal enforcement agency, the competent civil enforcement agency, and other persons with rights and obligations related to the content of the appeal.
2. In case the Chief Justice of the Supreme People's Court appeals, the appeal decision together with the case file must be immediately sent to the Court with the authority to review the case.

In case the Chief Justice of the High People's Court or the Chief Justice of the Central Military Court appeals, the appeal decision together with the case file must be immediately sent to the competent Procuracy.

The Court with the authority to review the case must send the appeal decision together with the case file to the People's Procuracy at the same level. Within 30 days from the date of receipt of the case file, the People's Procuracy must return the case file to the Court.

3. In case the Chief Justice of the Supreme People's Procuracy, the Chief Justice of the High People's Procuracy, or the Chief Justice of the Central Military Procuracy appeals, the appeal decision together with the case file must be immediately sent to the Court with the authority to review the case.

#### **Article 381. Changing, supplementing and withdrawing appeals**

1. Before the opening of the trial or at the cassation trial, the appellant has the right to supplement or change the protest if the time limit for appeal has not expired. Supplementing or changing the protest before the opening of the trial must be by decision and sent in accordance with the provisions of Clause 1, Article 380 of this Code. Supplementing or changing the protest at the trial shall be recorded in the minutes of the trial.
2. Before the start of or at the cassation trial, the appellant has the right to withdraw part or all of the appeal. The withdrawal of the appeal before the opening of the trial must be by decision; the withdrawal of the appeal at the trial is recorded in the minutes of the trial.
3. In case the entire appeal is withdrawn before the trial opens, the Chief Justice of the Court with the authority to review the case shall issue a decision to suspend the review trial. In case the entire appeal is withdrawn at the trial, the Trial Panel shall issue a decision to suspend the review trial.

Within 02 days from the date of issuance of the decision, the Court shall send the decision to suspend the final review trial to the persons specified in Clause 1, Article 380 of this Code and the People's Procuracy at the same level.

#### **Article 382. Jurisdiction of final review**

1. The Judicial Committee of the High People's Court shall review by a Trial Panel of three Judges the judgments and decisions that have come into legal effect of the Provincial People's Court and the District People's Court within the territorial jurisdiction that are subject to appeal.
2. The entire Council of the Judicial Committee of the High People's Court shall review the judgments and decisions that have come into legal effect of the People's Court as prescribed in Clause 1 of this Article but are complicated in nature or the judgments and decisions that have been reviewed by the Judicial Committee of the High People's Court by a Trial Panel of three Judges but did not reach a consensus when voting to pass the decision on the settlement of the case.

When a final appeal is held by the Plenary Council of the Judicial Committee of the High People's Court, at least two-thirds of the total number of members must participate, with the Chief Justice of the High People's Court presiding over the trial. The decision of the Plenary Council of the Judicial Committee must be approved by more than half of the total number of members; if not approved by more than half of the members of the Plenary Council of the Judicial Committee, the trial must be adjourned. Within 30 days from the date of the decision to adjourn the trial, the Plenary Council of the Judicial Committee must reopen the trial to retry the case.

3. The Central Military Court's Judicial Committee conducts a final review of legally effective judgments and decisions of military courts at the military zone level and regional military courts that have been protested against. When conducting a final review, at least two-thirds of the total members of the Central Military Court's Judicial Committee must participate, with the Chief Justice of the Central Military Court presiding over the trial. The decision of the Judicial Committee must be approved by more than half of the total members; if not approved by more than half of the members of the Judicial Committee, the trial must be adjourned. Within 30 days from the date of the decision to adjourn the trial, the Judicial Committee must reopen the trial to retry the case.

4. The Supreme People's Court's Council of Judges shall conduct a final review by a Trial Panel of five Judges of the judgments and decisions that have come into legal effect of the High People's Court and the Central Military Court that are subject to appeal.

5. The entire Council of Judges of the Supreme People's Court shall review the judgment or decision that has come into legal effect as prescribed in Clause 4 of this Article but is complex in nature or the judgment or decision that has been reviewed by the Council of Judges of the Supreme People's Court by a Trial Panel of five Judges but did not reach a consensus when voting to pass a decision on the settlement of the case.

When a final appeal is held by the Supreme People's Court's Plenary Council of Judges, at least two-thirds of the total number of members must participate, with the Chief Justice of the Supreme People's Court presiding over the trial. The decision of the Supreme People's Court's Plenary Council of Judges must be approved by more than half of the total number of members; if not approved by more than half of the members of the Plenary Council of Judges, the trial must be adjourned. Within 30 days from the date of the decision to adjourn the trial, the Plenary Council of Judges must reopen the trial to review the case.

6. If a judgment or decision that has come into legal effect is appealed and falls under the jurisdiction of the Supreme People's Court, the Council of Judges of the Supreme People's Court shall review the entire case.

#### **Article 383. Participants in the cassation trial**

1. The cassation trial must have the participation of the Procurator of the same level People's Procuracy.
2. In case it is deemed necessary or there is a basis to amend a part of a judgment or decision that has come into legal effect, the Court must summon the convicted person, the defense attorney and those with rights and obligations related to the appeal to participate in the cassation trial; if they are absent, the cassation trial will still proceed.

#### **Article 384. Preparation for the cassation trial**

The Chief Justice of the Court assigns a Judge who is a member of the Board of Review to make a presentation on the case. The presentation summarizes the content of the case and the judgments and decisions of the Courts at all levels, and the content of the appeal.

The presentation and related documents must be sent to the members of the Board of Directors at least 07 days before the opening date of the appeal hearing.

#### **Article 385. Time limit for opening a review trial**

Within 04 months from the date of receipt of the appeal decision with the case file attached, the Court of Cassation must open a trial.

#### **Article 386. Procedures for the cassation trial**

1. After the presiding judge opens the trial, a member of the Board of Judges presents a presentation on the case. Other members of the Board of Judges ask the presenting Judge further questions about unclear points before discussing and expressing their opinions on the resolution of the case. In case the Procuracy appeals, the Procurator presents the content of the appeal.
2. In case the convicted person, the defense attorney, and persons with rights and obligations related to the appeal are present at the trial, these persons shall be allowed to present their opinions on the issues requested by the Board of Review.

The prosecutor stated the opinion of the Procuracy on the appeal decision and the settlement of the case.

Prosecutors and participants in the proceedings at the cassation trial debate issues related to the settlement of the case. The presiding judge must create conditions for prosecutors and participants in the proceedings to fully present their opinions and debate democratically and equally before the Court.

3. The members of the Board of Directors express their opinions and discuss. The Board of Directors votes on the settlement of the case and announces the decision on the settlement of the case.

#### **Article 387. Scope of cassation review**

The Board of Appeal must consider the entire case and not just limit itself to the content of the appeal.

#### **Article 388. Jurisdiction of the Board of Final Appeal**

1. Not accepting the appeal and maintaining the legally effective judgment or decision under appeal.
2. Annul the judgment or decision that has come into legal effect and maintain the legally valid judgment or decision of the Court of First Instance or the Court of Appeal that was annulled or amended illegally.
3. Annul the judgment or decision that has come into legal effect for re-investigation or re-trial.
4. Annul the judgment or decision that has come into legal effect and suspend the case.
5. Amending judgments and decisions that have come into legal effect.
6. Suspension of the final judgment.

#### **Article 389. Not accepting appeals and upholding the judgment or decision that has come into legal effect and is subject to appeal**

The Board of Appeal shall not accept the appeal and uphold the judgment or decision that has come into legal effect and is subject to the appeal when it considers that the judgment or decision is well-founded and in accordance with the law.

#### **Article 390. Annulment of legally effective judgments and decisions and upholding of legally valid judgments and decisions of the Court of First Instance or the Court of Appeal that have been annulled or amended illegally**

The Board of Review decides to annul the judgment or decision that has come into legal effect and uphold the legally correct judgment or decision of the Court of First Instance or the Court of Appeal but was annulled or amended illegally.

#### **Article 391. Annulment of judgments and decisions that have come into legal effect for re-investigation or re-trial**

The Board of Review shall annul part or all of a judgment or decision that has come into legal effect for reinvestigation or retrial if there is one of the grounds specified in Article 371 of this Code . If annulment is made for retrial, depending on the case, the Board of Review may decide to retry from the first instance or appeal level.

In case it is deemed necessary to continue detaining the defendant, the Board of Review shall issue a decision to detain him until the Procuracy or the Court re-accepts the case.

#### **Article 392. Annulment of judgments and decisions that have come into legal effect and suspension of cases**

The Board of Review shall annul a judgment or decision that has come into legal effect and suspend the case if there is one of the grounds specified in Article 157 of this Code .

#### **Article 393. Amendment of judgments and decisions that have come into legal effect**

The Board of Appeal shall amend a judgment or decision that has come into legal effect when all of the following conditions are met:

1. The documents and evidence in the case file are clear and complete;
2. Amending a judgment or decision does not change the nature of the case, does not worsen the situation of the convicted person, and does not cause disadvantage to the victim or the litigant.

#### **Article 394. Decision on final review**

1. The Board of Directors issues a final decision on behalf of the Socialist Republic of Vietnam.
2. The final decision has the following contents:
  - a) Date, month, year and place of the trial;
  - b) Full names of members of the Board of Directors;
  - c) Full name of the prosecutor exercising the right to prosecute and supervise the trial;
  - d) Name of the case that the Council brought to trial for final review;
  - d) Name, age, address of the convicted person and other persons with related rights and obligations according to the final judgment;
  - e) Summary of the content of the case, the decision of the judgment or decision that has come into legal effect and is being appealed;
  - g) Decision on appeal, grounds for appeal;
  - h) The opinion of the Board of Directors, which must analyze the grounds for accepting or not accepting the appeal;
  - i) Points, clauses and articles of the Criminal Procedure Code and the Penal Code on which the Board of Review of Cassation bases its decision;
  - k) Decision of the Board of Directors.

#### **Article 395. Effect of final judgment and sending of final judgment**

1. The decision of the Board of Directors shall take legal effect from the date of issuance of the decision.
2. Within 10 days from the date of issuance of the decision, the Board of Review must send the final review decision to the convicted person, the person who appealed; the People's Procuracy at the same level; the People's Procuracy, the Court where the first instance or appeal trial was held; the competent criminal enforcement agency, civil enforcement agency, persons with rights and obligations related to the appeal or their representatives; and notify in writing the authorities of the commune, ward or town where the convicted person resides or the agency or organization where the convicted person works or studies.

#### **Article 396. Time limit for transferring case files for re-investigation or re-trial**

If the Board of Review decides to annul a judgment or decision that has come into legal effect for reinvestigation, within 15 days from the date of issuance of the decision, the case file must be transferred to the People's Procuracy of the same level for reinvestigation according to the general procedures prescribed in this Code.

If the Board of Review decides to annul a judgment or decision that has come into legal effect to retry the case at the first instance or at the appellate level, within 15 days from the date of the decision, the case file must be transferred to the competent Court for retrial according to the general procedures prescribed in this Code.

### **Chapter XXVI**

## **RETRIAL PROCEDURE**

#### **Article 397. Nature of retrial**

Retrial is the review of a judgment or decision that has come into legal effect of the Court but is protested because of newly discovered circumstances that may fundamentally change the content of the judgment or decision that the Court did not know when

issuing the judgment or decision.

#### **Article 398. Grounds for appeal under retrial procedure**

A judgment or decision of the Court that has come into legal effect may be appealed under the retrial procedure when there is one of the following grounds:

1. There is evidence to prove that the testimony of the witness, the conclusion of the appraisal, the conclusion of the property valuation, the interpretation of the interpreter, and the translation have important points that are not true;
2. There are circumstances that the Investigator, Prosecutor, Judge, or Jury, due to not knowing them, have drawn incorrect conclusions, causing the Court's legally effective judgment or decision to be inconsistent with the objective truth of the case;
3. Evidence, records of investigation, prosecution, trial, records of other procedural activities or other evidence, documents, objects in the case are forged or untrue;
4. Other circumstances that make the Court's judgment or decision that has come into legal effect inconsistent with the objective truth of the case.

#### **Article 399. Notification and verification of newly discovered facts**

1. The convicted person, agency, organization and all individuals have the right to discover new circumstances of the case and notify the Procuracy or the Court with relevant documents. In case the Court receives a notice or discovers new circumstances of the case itself, it must immediately notify in writing with relevant documents to the Chief Procuracy with authority to appeal for a retrial. The Chief Procuracy with authority to appeal for a retrial shall issue a decision to verify those circumstances.
2. The Procuracy must verify new details; when deemed necessary, the Chief Procuracy has the authority to appeal for a retrial, requesting the competent Investigation Agency to verify new details of the case and transfer the verification results to the Procuracy.
3. When verifying new details of the case, the Procuracy and the Investigation Agency have the right to apply investigative measures according to the provisions of this Code.

#### **Article 400. Persons entitled to appeal under retrial procedures**

1. The Chief Justice of the Supreme People's Procuracy has the right to appeal under retrial procedures against judgments and decisions that have come into legal effect of courts at all levels, except for decisions of the Council of Judges of the Supreme People's Court.
2. The Chief Prosecutor of the Central Military Procuracy has the right to appeal under retrial procedures against judgments and decisions that have come into legal effect of the Military Court of the military region or the Military Court of the region.
3. The Chief Prosecutor of the High People's Procuracy has the right to appeal according to the retrial procedure against the judgments and decisions that have come into legal effect of the Provincial People's Court and the District People's Court within the territorial jurisdiction.

#### **Article 401. Time limit for appeal under retrial procedure**

1. A retrial in a direction unfavorable to the convicted person may only be conducted within the statute of limitations for criminal prosecution as prescribed in Article 27 of the Penal Code and the appeal period shall not exceed 01 year from the date the Procuracy receives notice of newly discovered circumstances.
2. A retrial in favor of the convicted person is not limited in time and is carried out even in cases where the convicted person has died and it is necessary to exonerate them.
3. Civil protests in criminal cases against litigants are carried out in accordance with the provisions of the law on civil procedure.

#### **Article 402. Jurisdiction of the Review Council**

1. Not accepting the appeal and maintaining the legally effective judgment or decision under appeal.
2. Annul the judgment or decision of the Court that has come into legal effect for re-investigation or re-trial.
3. Annul the judgment or decision of the Court that has come into legal effect and suspend the case.
4. Suspension of the retrial.

#### **Article 403. Other procedures for retrial**

Other procedures for retrial shall be carried out in accordance with the provisions on cassation procedures prescribed in this Code.

### **Chapter XXVII**

## **PROCEDURES FOR REVIEWING DECISIONS OF THE SUPREME PEOPLE'S COURT'S JUDGES' COUNCIL**

#### **Article 404. Requests, recommendations and proposals for reconsideration of decisions of the Supreme People's Court's Council of Judges**

1. When there is a basis to determine that a decision of the Council of Judges of the Supreme People's Court has a serious violation of the law or when a new important circumstance is discovered that may fundamentally change the content of the decision that the Council of Judges of the Supreme People's Court was not aware of when making that decision, if the Standing Committee of the

National Assembly requests, the Judicial Committee of the National Assembly, the Chief Justice of the Supreme People's Procuracy recommends, or the Chief Justice of the Supreme People's Court requests, the Council of Judges of the Supreme People's Court must hold a session to review that decision.

2. In case the Standing Committee of the National Assembly requests, the Chief Justice of the Supreme People's Court shall be responsible for reporting to the Council of Judges of the Supreme People's Court to review the decision of the Council of Judges of the Supreme People's Court.

3. In case the National Assembly's Judicial Committee or the Chief Justice of the Supreme People's Procuracy makes a recommendation, the Supreme People's Court's Judicial Council shall hold a session to consider that recommendation.

In case the Chief Justice of the Supreme People's Court makes a request, the Supreme People's Court Council of Judges shall hold a meeting to consider the request.

#### **Article 405. Composition of participants in the meeting of the Supreme People's Court Council of Judges to consider petitions and proposals**

1. The Chief Justice of the Supreme People's Procuracy must attend the meeting of the Council of Judges of the Supreme People's Court to consider the recommendations of the National Assembly's Judicial Committee, the recommendations of the Chief Justice of the Supreme People's Procuracy or the proposal of the Chief Justice of the Supreme People's Court.

2. Representatives of the National Assembly's Judicial Committee are invited to attend the meeting of the Supreme People's Court's Judicial Council to consider the recommendations of the National Assembly's Judicial Committee.

3. If deemed necessary, the Supreme People's Court may invite relevant agencies, organizations and individuals to attend the meeting.

#### **Article 406. Preparation for opening a meeting to consider recommendations and proposals**

1. After receiving a recommendation from the National Assembly's Judicial Committee, the Chief Justice of the Supreme People's Procuracy, or after the Chief Justice of the Supreme People's Court has a written request to review the decision of the Supreme People's Court's Judicial Council, the Supreme People's Court shall send to the Supreme People's Procuracy a copy of the written recommendation or request, together with the case file, so that the Supreme People's Procuracy can prepare its opinion to speak at the meeting to consider the recommendation or request.

The Chief Justice of the Supreme People's Court organizes the appraisal of the dossier to report to the Supreme People's Court Judicial Council for consideration and decision at the meeting.

2. Within 30 days from the date of receipt of the recommendation of the National Assembly's Judicial Committee, the recommendation of the Chief Procurator of the Supreme People's Procuracy, or from the date the Chief Justice of the Supreme People's Court issues a written request, the Council of Judges of the Supreme People's Court must hold a meeting to consider such recommendation or request and notify in writing the Chief Procurator of the Supreme People's Procuracy of the time and place of the meeting to consider the recommendation or request.

#### **Article 407. Procedures for opening a meeting to consider recommendations and proposals**

1. The Chief Justice of the Supreme People's Court himself or herself or assigns a member of the Supreme People's Court Judicial Council to briefly present the content of the case and the process of resolving the case.

2. Representatives of the National Assembly's Judicial Committee, the Chief Justice of the Supreme People's Court, and the Chief Prosecutor of the Supreme People's Procuracy have recommendations and requests to review the decision of the Supreme People's Court's Judicial Council, presenting the following issues:

- a) Content of recommendations and proposals;
- b) Based on recommendations and proposals;
- c) Analyze old evidence and new additional evidence (if any) to clarify serious violations of the law in the decision of the Supreme People's Court's Judicial Council or new important details that may fundamentally change the content of the decision of the Supreme People's Court's Judicial Council.

3. In the case of considering the recommendation of the National Assembly's Judiciary Committee or the proposal of the Chief Justice of the Supreme People's Court, the Chief Procurator of the Supreme People's Procuracy shall express his/her opinion on the basis and legality of the recommendation or proposal; clearly state the viewpoint and reasons for agreeing or disagreeing with that recommendation or proposal.

4. The Council of Judges of the Supreme People's Court discusses and votes by majority on whether to agree or disagree with the recommendation or request to reconsider the decision of the Council of Judges of the Supreme People's Court.

5. In case of agreement with the recommendation of the National Assembly's Judicial Committee, the Chief Justice of the Supreme People's Procuracy or the proposal of the Chief Justice of the Supreme People's Court, the Council of Judges of the Supreme People's Court shall decide to hold a session to review its decision.

6. All developments at the meeting to consider recommendations and proposals and decisions passed at the meeting shall be recorded in the meeting minutes and kept in the file for considering recommendations and proposals.

#### **Article 408. Notification of results of meeting to consider recommendations and proposals**

After the end of the session, the Council of Judges of the Supreme People's Court shall send a written notice of the results of the session regarding the agreement or disagreement with the recommendation or proposal to the National Assembly's Judicial Committee and the Chief Procurator of the Supreme People's Procuracy. The written notice must clearly state the reasons for the agreement or disagreement with the recommendation or proposal.

In case of disagreement with the results of consideration of recommendations and proposals of the Council of Judges of the Supreme People's Court, the National Assembly's Judicial Committee, the Chief Justice of the Supreme People's Court, and the Chief Justice of the Supreme People's Court have the right to report to the National Assembly Standing Committee for consideration and decision.

#### **Article 409. Appraisal of case files; verification, collection of evidence, documents, and objects**

1. In case of request from the Standing Committee of the National Assembly or decision of the Council of Judges of the Supreme People's Court agreeing to reconsider its decision, the Chief Justice of the Supreme People's Court shall organize the appraisal of the case file and organize the verification and collection of evidence, documents and objects if necessary.
2. The appraisal of case files, verification, collection of evidence, documents and objects must clarify whether or not there is a serious violation of the law or whether or not there is a new important circumstance that fundamentally changes the content of the decision of the Supreme People's Court's Judicial Council.

#### **Article 410. Time limit for opening a session to review the decision of the Supreme People's Court's Council of Judges**

1. Within 04 months from the date of receipt of the request of the National Assembly Standing Committee or from the date of the decision of the Supreme People's Court Judicial Council agreeing to review its decision, the Supreme People's Court Judicial Council must hold a meeting.
2. The Supreme People's Court shall send to the Supreme People's Procuracy a written notice of the time and place of the session to review the decision of the Supreme People's Court Judicial Council, together with the case file, if requested by the National Assembly Standing Committee.

#### **Article 411. Procedures and authority to review decisions of the Supreme People's Court's Council of Judges**

1. The Chief Justice of the Supreme People's Procuracy must attend the meeting to review the decision of the Council of Judges of the Supreme People's Court and express his/her opinion on whether or not there is a serious violation of the law or whether or not there are important new circumstances that fundamentally change the content of the decision of the Council of Judges of the Supreme People's Court and his/her opinion on the settlement of the case.
2. After listening to the report of the Chief Justice of the Supreme People's Court and the opinions of the Chief Prosecutor of the Supreme People's Procuracy, and of relevant agencies, organizations and individuals in attendance (if any), the Council of Judges of the Supreme People's Court decides:
  - a) Not accepting the request of the National Assembly Standing Committee, the recommendation of the National Assembly's Judicial Committee, the Chief Justice of the Supreme People's Procuracy, the proposal of the Chief Justice of the Supreme People's Court and upholding the decision of the Supreme People's Court Judicial Council;
  - b) Annul the decision of the Supreme People's Court's Council of Judges, annul the judgment or decision that has come into legal effect that violates the law and the decision on the content of the case;
  - c) Annul the decision of the Supreme People's Court's Council of Judges, annul the judgment or decision that has come into legal effect and determine the responsibility for compensation for damages according to the provisions of law;
  - d) Annul the decision of the Supreme People's Court's Council of Judges, annul the judgment or decision that has come into legal effect and violates the law for re-investigation or re-trial.
3. The decision of the Council of Judges of the Supreme People's Court must be approved by at least three-quarters of the total number of members of the Council of Judges of the Supreme People's Court.

#### **Article 412. Sending the decision of the Council of Judges of the Supreme People's Court on reviewing the decision of the Council of Judges of the Supreme People's Court**

After the Council of Judges of the Supreme People's Court issues one of the decisions specified in Article 411 of this Code, the Supreme People's Court shall send the decision to the Standing Committee of the National Assembly, the Judicial Committee of the National Assembly, the Supreme People's Procuracy, the Investigation Agency, the Procuracy and the Court that resolved the case and relevant persons.

### **PART SEVEN**

## **SPECIAL PROCEDURES**

### **Chapter XXVIII**

## **LITIGATION PROCEDURES FOR PERSONS UNDER 18 YEARS OLD**

#### **Article 413. Scope of application**

Procedural procedures for accused persons, victims and witnesses who are under 18 years of age shall be applied according to the provisions of this Chapter, as well as other provisions of this Code that are not contrary to the provisions of this Chapter.

**Article 414. Principles of conducting proceedings**

1. Ensure friendly litigation procedures, appropriate to the psychology, age, maturity level, and cognitive ability of persons under 18 years of age; ensure the legitimate rights and interests of persons under 18 years of age; ensure the best interests of persons under 18 years of age.
2. Ensure the confidentiality of individuals under 18 years of age.
3. Ensure the right to participate in legal proceedings of representatives of people under 18 years old, schools, Youth Unions, people with experience and understanding of psychology, society, and other organizations where people under 18 years old study, work, and live.
4. Respect the right to participate and express opinions of people under 18 years old.
5. Guarantee the right to defense and the right to legal aid of people under 18 years of age.
6. Ensure the handling principles of the Penal Code for people under 18 years of age who commit crimes.
7. Ensure prompt and timely resolution of cases involving persons under 18 years of age.

**Article 415. Person conducting proceedings**

The person conducting the proceedings in a case involving a person under 18 years of age must be a person who has been trained or has experience in investigating, prosecuting, and trying cases involving a person under 18 years of age, and has the necessary knowledge of psychology and educational science for a person under 18 years of age.

**Article 416. Issues to be determined when conducting proceedings against an accused person under 18 years of age**

1. Age, level of physical and mental development, level of awareness of criminal behavior of people under 18 years old.
2. Living conditions and education.
3. Whether or not there is a person 18 years of age or older instigating it.
4. Causes, conditions and circumstances of the crime.

**Article 417. Determining the age of the accused and the victim who are under 18 years old**

1. The determination of the age of the accused and the victim under 18 years of age shall be carried out by the competent prosecution authority in accordance with the provisions of law.
2. In case legal measures have been applied but the exact date of birth cannot be determined, the date, month and year of birth will be determined:
  - a) In case the month can be determined but the day cannot be determined, the last day of that month is taken as the date of birth.
  - b) In case the quarter can be determined but the day and month cannot be determined, the last day of the last month of that quarter shall be taken as the date and month of birth.
  - c) In case the half of the year can be determined but the day and month cannot be determined, the last day of the last month of that half of the year shall be taken as the date and month of birth.
  - d) In case the year can be determined but the day and month cannot be determined, the last day of the last month of that year shall be taken as the date and month of birth.
3. In case the year of birth cannot be determined, an appraisal must be conducted to determine age.

**Article 418. Supervision of accused persons under 18 years of age**

1. The investigation agency, the agency assigned to conduct certain investigation activities, the Procuracy, and the Court may issue a decision to assign the accused person who is under 18 years of age to their representative for supervision to ensure their presence when summoned by the competent authority conducting the proceedings.
2. The person assigned to supervise has the obligation to closely supervise a person under 18 years of age, monitor his/her character, morality and education.

In case a person under 18 years of age shows signs of absconding or has acts of bribing, coercing, inciting others to make false statements, providing false documents; destroying or falsifying evidence, documents, objects of the case, dispersing assets related to the case; threatening, controlling, retaliating against witnesses, victims, whistleblowers or relatives of these people or continuing to commit crimes, the person assigned to supervise must promptly notify and coordinate with competent authorities to conduct proceedings to take timely measures to prevent and handle the case.

**Article 419. Application of preventive measures and coercive measures**

1. Preventive measures and escort measures shall only be applied to accused persons under 18 years of age in cases of real necessity.

Temporary detention and temporary imprisonment shall only be applied to an accused person under 18 years of age when there is reason to believe that the application of supervision and other preventive measures is ineffective. The period of temporary detention for an accused person under 18 years of age shall be two-thirds of the period of temporary detention for a person 18 years of age or

older as prescribed in this Code. When there is no longer a basis for temporary detention or temporary imprisonment, the competent authority or person must promptly cancel and replace it with another preventive measure.

2. Persons from 14 years old to under 16 years old may be detained in emergency cases, arrested, temporarily detained, or imprisoned for crimes specified in Clause 2, Article 12 of the Penal Code if there are grounds specified in Articles 110, 111 and 112, points a, b, c, d and dd, Clause 2, Article 119 of this Code.

3. Persons from 16 years old to under 18 years old may be detained in emergency cases, arrested, temporarily detained, or imprisoned for serious intentional crimes, very serious crimes, or especially serious crimes if there are grounds specified in Articles 110, 111, and 112, points a, b, c, d, and dd, Clause 2, Article 119 of this Code.

4. For suspects and defendants from 16 years old to under 18 years old who are prosecuted, investigated, prosecuted, and tried for serious crimes committed unintentionally or less serious crimes for which the Penal Code prescribes a prison sentence of up to 02 years, they may be arrested, detained, or temporarily detained if they continue to commit crimes, escape, and are arrested according to a wanted decision.

5. Within 24 hours of holding a person in an emergency, arrest, temporary detention, or temporary imprisonment, the person issuing the detention order, warrant, or decision to arrest, temporarily detain, or temporarily imprison a person under 18 years of age must notify their representative.

#### **Article 420. Participation in proceedings of representatives, schools and organizations**

1. Representatives of persons under 18 years of age, teachers, representatives of schools, Youth Unions, and other organizations where persons under 18 years of age study, work, and live have the right and obligation to participate in the proceedings according to the decisions of the Investigation Agency, the Procuracy, and the Court.

2. Representatives of persons under 18 years of age are allowed to participate in taking statements and questioning persons under 18 years of age; present evidence, documents, objects, requests, complaints, and denunciations; read, take notes, and photocopy documents related to the accusation of persons under 18 years of age in the case file after the investigation is completed.

3. The persons specified in Clause 1 of this Article, when participating in the trial, have the right to present evidence, documents, objects, request and propose changes to the person conducting the proceedings; express opinions and debate; and complain about the procedural acts of the competent persons conducting the proceedings and the decisions of the Court.

#### **Article 421. Taking statements of detainees in emergency cases, arrested persons, persons in temporary detention, victims, witnesses; questioning of suspects; confrontation**

1. When taking statements from detainees in emergency cases, arrested persons, persons in temporary detention, victims, witnesses, or questioning suspects under 18 years of age, the competent authority conducting the proceedings must notify in advance the time and place of taking statements and questioning to the defense attorney, representative, or person protecting their legitimate rights and interests.

2. Taking statements of people detained in emergency cases, arrested people, people in temporary detention, and questioning of suspects must have their defense attorney or representative present.

The taking of statements from victims and witnesses must be attended by their representatives or protectors of their legal rights and interests.

3. The defense attorney or representative may question the arrested person, the detained person, or the accused who is under 18 years of age if the investigator or prosecutor agrees. After each time the statement is taken or the interrogation by the competent person is completed, the defense attorney or representative may question the person detained in an emergency, the arrested person, the detained person, or the accused.

4. Time for taking statements from people under 18 years old is not more than twice in 1 day and each time is not more than 2 hours, except in cases where the case has many complicated details.

5. The time for questioning a suspect under 18 years old shall not exceed two times in one day and each time shall not exceed two hours, except in the following cases:

- a) Organized crime;
- b) To arrest another criminal who is on the run;
- c) Prevent others from committing crimes;
- d) To search for tools, means of crime or other evidence of the case;
- d) The case has many complicated details.

6. The competent person conducting the proceedings shall only conduct a confrontation between the victim who is under 18 years of age and the suspect or defendant to clarify the details of the case in cases where the case cannot be resolved without the confrontation.

#### **Article 422. Defense**

1. A person under 18 years of age who is accused of a crime has the right to defend himself or herself or to have someone else defend him or her.

2. The representative of a person under 18 years of age accused of a crime has the right to choose a defense attorney or to defend the accused person under 18 years of age himself.

3. In case the accused is a person under 18 years of age and does not have a defense attorney or their representative does not choose a defense attorney, the Investigation Agency, the Procuracy, or the Court must appoint a defense attorney in accordance with the provisions of Article 76 of this Code .

#### **Article 423. Trial**

1. The composition of the first instance trial panel must include a juror who is a teacher or Youth Union officer or a person with experience and understanding of the psychology of people under 18 years old.

2. In special cases where it is necessary to protect the defendant or victim who is under 18 years old, the Court may decide to hold a closed trial.

3. The trial of a defendant under 18 years of age must have the presence of the defendant's representative and a representative of the school or organization where the defendant studies or lives, except in cases where these people are absent without force majeure or objective obstacles.

4. The questioning and debate with defendants, victims and witnesses who are under 18 years old in court shall be conducted in accordance with their age and level of development. The courtroom shall be arranged in a friendly manner, suitable for people under 18 years old.

5. In cases where the victim or witness is under 18 years old, the Trial Panel must limit contact between the victim or witness and the defendant when the victim or witness presents testimony at the trial. The presiding judge may request the representative or the person protecting the legal rights and interests to question the victim or witness.

6. During the trial, if it is deemed unnecessary to decide on a penalty for the defendant, the Trial Panel shall apply educational measures at a reformatory school.

7. The Chief Justice of the Supreme People's Court shall detail the trial of cases involving persons under 18 years of age by the Family and Juvenile Court.

#### **Article 424. Termination of execution of educational measures at communes, wards and towns, educational measures at reformatory schools, reduction or exemption of execution of penalties**

A person under 18 years of age who is convicted may have his/her sentence of education at the commune, ward or town terminated, or his/her sentence reduced or exempted, if he/she meets all the conditions specified in Article 95, Article 96 or Article 105 of the Penal Code .

#### **Article 425. Criminal record deletion**

The deletion of criminal records for persons under 18 years of age who commit crimes when meeting the conditions prescribed in Article 107 of the Penal Code is carried out according to the general procedures prescribed in this Code.

#### **Article 426. Authority to apply supervision and education measures to persons under 18 years of age who commit crimes and are exempt from criminal liability**

The competent investigation agency, Procuracy, and Court shall decide to apply one of the following supervision and education measures to a person under 18 years of age who commits a crime and is exempted from criminal liability:

1. Reprimand;
2. Community reconciliation;
3. Education at commune, ward and town levels.

#### **Article 427. Procedures for applying reprimand measures**

1. When exempting a person under 18 years of age from criminal liability for committing a crime and finding that there are sufficient conditions for applying the measure of reprimand according to the provisions of the Penal Code , the Head, Deputy Head of the Investigation Agency, the Chief, Deputy Chief of the Procuracy, and the Trial Panel shall decide to apply the measure of reprimand to the person under 18 years of age committing a crime in the case handled and resolved by their agency.

2. The decision to apply reprimand measures has the following main contents:

- a) Number, date, month, year; place of decision;
- b) Full name, position, signature of the person with authority to make the decision and seal of the decision-making agency;
- c) Reasons and basis for decision;
- d) Full name, date of birth, place of residence of the suspect or defendant;
- d) Crime, points, clauses and articles of the Penal Code applied;
- e) Time to perform the obligations of the reprimanded person.

3. The investigation agency, the Procuracy, and the Court must immediately deliver the decision to apply the reprimand measure to the reprimanded person, their parents or representatives.

**Article 428. Procedures for applying community mediation measures**

1. When it is determined that there are sufficient conditions for applying community mediation measures according to the provisions of the Penal Code , the Head, Deputy Head of the Investigation Agency, the Chief, Deputy Chief of the Procuracy, and the Trial Panel shall decide to apply community mediation measures.
2. The decision to apply community mediation measures has the following main contents:
  - a) Number, date, month, year; place of decision;
  - b) Full name, position, signature of the decision maker and seal of the decision-making agency;
  - c) Reasons and basis for decision;
  - d) Crime, points, clauses and articles of the Penal Code applied;
  - d) Full name of the Investigator or Prosecutor or Judge assigned to conduct the mediation;
  - e) Full name, date of birth, place of residence of the suspect or defendant;
  - g) Full name of the victim;
  - h) Full names of other people participating in the mediation;
  - i) Time, place and conduct of mediation.
3. The decision to apply community mediation must be delivered to the person under 18 years of age who committed the crime, their parents or representatives; the victim, the victim's representative and the People's Committee of the commune, ward or town where the community mediation is held at least 03 days before the date of mediation.
4. When conducting conciliation, the Investigator or Prosecutor or Judge assigned to conduct conciliation must coordinate with the People's Committee of the commune, ward or town where the conciliation is held and must draw up a conciliation record.
5. The minutes of conciliation have the following main contents:
  - a) Location, hour, day, month, year of conciliation, start time and end time;
  - b) Full name of the Investigator, Prosecutor, Judge assigned to conduct the mediation;
  - c) Full name, date of birth, place of residence of the suspect or defendant;
  - d) Full name, date of birth, and place of residence of the victim;
  - d) Full name, date of birth, and place of residence of other persons participating in the mediation;
  - e) Questions, answers and statements of the participants in the mediation;
  - g) Results of reconciliation; the person under 18 years old, the parent or representative of the person under 18 years old apologizes to the victim and compensates for damages (if any); the victim, the representative of the victim voluntarily reconciles, requests exemption from criminal liability (if any);
  - h) Signature of the Investigator, Prosecutor, and Conciliation Judge.
6. Immediately after the conciliation ends, the Investigator, Prosecutor, or Judge conducting the conciliation must read the minutes to the conciliation participants. If anyone requests amendments or additions, the Investigator, Prosecutor, or Judge who prepared the minutes must record those amendments or additions in the minutes and sign to confirm. In case the request is not accepted, the reason must be clearly stated in the minutes. The conciliation minutes shall be immediately delivered to the conciliation participants.

**Article 429. Procedures for applying educational measures at commune, ward and town levels**

1. When exempting a person under 18 years of age from criminal liability for a crime and finding that there are sufficient conditions for applying educational measures at the commune, ward or town level according to the provisions of the Penal Code , the Head and Deputy Head of the Investigation Agency, the Chief and Deputy Chief of the Procuracy, and the Trial Council shall decide to apply educational measures at the commune, ward or town level to the person under 18 years of age who committed a crime in a case handled and resolved by their agency.
2. The decision to apply educational measures at the commune, ward or town level has the following main contents:
  - a) Number, date, month, year; place of decision;
  - b) Full name, position, signature of the decision maker and seal of the decision-making agency;
  - c) Reasons and basis for decision;
  - d) Full name, date of birth, place of residence of the suspect or defendant;
  - d) Crime, points, clauses and articles of the Penal Code applied;
  - e) Duration of application of educational measures at commune, ward, and town levels;
  - g) Responsibilities of the commune, ward or town authorities where the person subject to this measure resides.

3. Within 03 days from the date of the decision to apply educational measures at the commune, ward or town level, the Investigation Agency, the Procuracy or the Court must deliver the decision to the person subject to this measure, their parents or representatives and the authorities of the commune, ward or town where they reside.

#### **Article 430. Procedures for applying educational measures at reformatory schools**

1. When it is deemed unnecessary to apply a penalty, the Trial Panel shall decide in the judgment to apply educational measures at a reformatory school to a person under 18 years of age who commits a crime.

2. The decision to apply educational measures at a reformatory school has the following main contents:

- a) Number, date, month, year; place of decision;
- b) Full name and signature of the members of the Trial Panel that issued the decision;
- c) Reasons and basis for decision;
- d) Full name, date of birth, place of residence of the defendant;
- e) Crime, points, clauses and articles of the Penal Code applied;
- f) Duration of application of educational measures at reformatory schools;
- g) Responsibilities of the reformatory school where the person subject to this measure is educated.

3. The decision to apply educational measures at a reformatory school shall be immediately delivered to the person under 18 years of age who committed the crime, their parents or representatives and the reformatory school where they are educated.

#### **Chapter XXIX**

### **CRIMINAL PROSECUTION PROCEDURES FOR LEGAL ENTITIES**

#### **Article 431. Scope of application**

The procedural proceedings against legal entities that are denounced, reported for crimes, recommended for prosecution, investigated, prosecuted, tried, and sentenced shall be conducted in accordance with the provisions of this Chapter, and at the same time in accordance with other provisions of this Code that are not contrary to the provisions of this Chapter.

#### **Article 432. Initiation of criminal cases, change and supplement of decisions to initiate criminal cases**

- 1. When determining that there are signs of a crime committed by a legal entity, the competent authority shall issue a decision to initiate criminal proceedings in accordance with the provisions of Articles 143, 153 and 154 of this Code .
- 2. The basis, order and procedures for changing and supplementing the decision to initiate criminal proceedings shall be implemented according to the provisions of Article 156 of this Code .

#### **Article 433. Prosecution of accused, change and supplement of decision to prosecute accused against legal entities**

- 1. When there is sufficient basis to determine that a legal entity has committed an act that the Penal Code defines as a crime, the competent authority shall issue a decision to prosecute the legal entity.
- 2. The decision to prosecute a legal entity must clearly state the time and place of the decision; the full name and position of the person making the decision; the name and address of the legal entity according to the decision to establish it by the competent authority; the crime, the applicable provisions of the Penal Code ; the time and place of the crime and other details of the crime.

If a legal entity is prosecuted for many different crimes, the decision to prosecute the legal entity must clearly state each crime and the applicable articles and clauses of the Penal Code .

3. The authority, order and procedures for prosecuting a defendant, changing or supplementing the decision to prosecute a defendant against a legal entity shall be implemented in accordance with the provisions of Articles 179 and 180 of this Code .

#### **Article 434. Legal representative of a legal entity participating in litigation**

1. All litigation activities of a legal entity subject to criminal prosecution shall be conducted through the legal representative of the legal entity. The legal entity must appoint and ensure that its legal representative fully participates in the activities of initiating, investigating, prosecuting, adjudicating, and enforcing judgments at the request of competent authorities and persons.

In case the legal representative of a legal entity is prosecuted, investigated, prosecuted, tried or is unable to participate in the proceedings, the legal entity must appoint another person to act as its legal representative to participate in the proceedings. In case the legal entity changes its representative, the legal entity must immediately notify the competent authority conducting the proceedings.

At the time of prosecution, investigation, indictment, or trial, if a legal entity does not have a legal representative or has multiple legal representatives, the competent authority conducting the proceedings shall appoint a representative for the legal entity to participate in the proceedings.

2. The legal representative of a legal entity participating in the proceedings must notify the competent authority conducting the proceedings of his/her full name, date of birth, nationality, ethnicity, religion, gender, occupation, and position. If there is any change in this information, the legal representative must immediately notify the competent authority conducting the proceedings.

#### **Article 435. Rights and obligations of legal representatives of legal entities**

1. The legal representative of a legal entity has the right to:

- a) Be informed of the results of handling information about crimes;
- b) To know the reason why the legal entity he represents is being prosecuted;
- c) Be informed and explained about the rights and obligations stipulated in this Article;
- d) Receive decisions to prosecute a legal entity; decisions to change or supplement decisions to prosecute a legal entity; decisions to approve decisions to prosecute a legal entity; decisions to apply, change or cancel coercive measures; investigation conclusions; decisions to suspend or temporarily suspend investigations; decisions to suspend or temporarily suspend cases; indictments; decisions to bring cases to trial; judgments and decisions of the Court and other procedural decisions as prescribed in this Code;
- d) Present statements and opinions, not being forced to give statements against the legal entity he represents or being forced to admit that the legal entity he represents is guilty;
- e) Provide evidence, documents, objects, requests;
- g) Request to change the person with authority to conduct the proceedings, the appraiser, the property valuer, the interpreter, the translator according to the provisions of this Code;
- h) Self-defense or hiring a lawyer to defend a legal entity;
- i) To read and take notes on copies of documents or digitized documents related to the indictment, exoneration or other copies of documents related to the defense of the legal entity since the end of the investigation upon request;
- k) Participate in court sessions, request the presiding judge to ask questions or personally ask the participants in the court sessions if the presiding judge agrees; debate in court sessions;
- l) Express final opinions before deliberation;
- m) Review the court minutes and request amendments and additions to the court minutes;
- n) Appeal against court judgments and decisions;
- o) Complain about decisions and procedural actions of competent agencies and individuals conducting proceedings.

2. The legal representative of a legal entity has the obligation to:

- a) Appear in response to the summons of the competent person conducting the proceedings. In case of absence not due to force majeure or objective obstacles, he/she may be escorted;
- b) Comply with decisions and requests of competent authorities and persons conducting proceedings.

#### **Article 436. Coercive measures against legal entities**

1. Investigation agencies, agencies assigned to conduct certain investigation activities, the Procuracy, and the Court may apply the following coercive measures against legal entities being prosecuted, investigated, prosecuted, or tried:

- a) Seize assets related to the criminal acts of legal entities;
- b) Freezing the accounts of legal entities related to the criminal acts of legal entities;
- c) Temporarily suspend the operations of a legal entity related to the criminal act of the legal entity;
- d) Forced to deposit a sum of money to ensure execution of the judgment.

2. The period of application of coercive measures prescribed in Clause 1 of this Article shall not exceed the period of investigation, prosecution and trial.

#### **Article 437. Property attachment**

1. Asset seizure applies to legal entities being prosecuted, investigated, prosecuted, or tried for crimes for which the Penal Code prescribes a fine or to ensure compensation for damages.

2. Only the portion of property corresponding to the amount that can be confiscated, fined or compensated for damages shall be seized. The seized property shall be assigned to the head of the legal entity responsible for safekeeping; if there is any illegal consumption, use, transfer, swap, concealment or destruction of the seized property, this person shall be held responsible according to the provisions of law.

3. When seizing the assets of a legal entity, the following people must be present:

- a) Legal representative of the legal entity;
- b) Representative of the commune, ward or town authorities where the legal entity has assets subject to seizure;
- c) Witness.

4. The authority, order and procedures for property seizure shall be implemented according to the provisions of Article 128 of this Code .

#### **Article 438. Account freezing**

1. Account freezing applies to legal entities being prosecuted, investigated, prosecuted, or tried for crimes for which the Penal Code prescribes a fine or to ensure compensation for damages and there is a basis to determine that the legal entity has an account at a credit institution or the State Treasury.
2. Account freezing is also applied to accounts of other individuals and organizations if there is a basis to determine that the amount of money in that account is related to the criminal acts of the legal entity.
3. Only block the amount in the account corresponding to the amount of fine or compensation for damages.
4. The competent authority to freeze an account must deliver the decision to freeze the account to the representative of the credit institution or the State Treasury that is managing the account of the legal entity or the account of another individual or organization related to the criminal act of the legal entity.
5. The authority, order and procedures for blocking accounts shall be implemented in accordance with the provisions of Article 129 of this Code .

**Article 439. Temporary suspension of legal entity's operations related to the legal entity's criminal acts; forced payment of a sum of money to ensure execution of judgment**

1. Temporary suspension of a legal entity's operations shall only be applied when there is a basis to determine that the legal entity's criminal act causes or is likely to cause damage to human life, health, the environment or social order and security.

The competent person specified in Clause 1, Article 113 of this Code has the right to decide to temporarily suspend the operation of a legal entity for a period of time. The decision to temporarily suspend the operation of a legal entity by the persons specified in Point a, Clause 1, Article 113 of this Code must be approved by the People's Procuracy at the same level before implementation.

The period of temporary suspension of a legal entity's operations shall not exceed the period of investigation, prosecution, and trial as prescribed in this Code. The period of temporary suspension for a convicted legal entity shall not exceed the period from the date of sentencing to the date the legal entity serves the sentence.

2. Compulsory payment of a sum of money to ensure execution of a judgment applied to a legal entity being prosecuted, investigated, prosecuted, or tried for a crime for which the Penal Code prescribes a fine or to ensure compensation for damages.

Only required to deposit an amount to ensure enforcement of the judgment corresponding to the amount of the possible fine or compensation for damages.

The competent person specified in Clause 1, Article 113 of this Code has the right to issue a decision requiring a legal entity to pay a sum of money to ensure execution of the judgment. The decision requiring a legal entity to pay a sum of money to ensure execution of the judgment by the persons specified in Point a, Clause 1, Article 113 of this Code must be approved by the Procuracy of the same level before execution.

The Government shall specify in detail the order, procedures, and amount of money to be paid to ensure execution of judgments; the temporary detention, refund, and payment to the state budget of the amount paid.

**Article 440. Summoning of legal representative of legal entity**

1. When summoning the legal representative of a legal entity, the person with the authority to conduct the proceedings must send a summons. The summons must clearly state the full name, residence or place of work of the legal representative of the legal entity; the hour, day, month, year, place of presence, who to meet, and responsibility for absence not due to force majeure or objective obstacles.

2. The summons shall be sent to the legal representative of the legal entity or the legal entity where that person works or the commune, ward or town authority where the legal representative of the legal entity resides. The agency or organization receiving the summons shall be responsible for immediately forwarding the summons to the legal representative of the legal entity.

Upon receiving a summons, the legal representative of the legal entity must sign and clearly state the date and time of receipt. The person delivering the summons must forward the portion of the summons signed by the representative to the agency that has summoned it; if the representative does not sign, a record of the matter must be made and sent to the agency that has summoned it; if the representative is absent, the summons may be given to a person 18 years of age or older in the family to sign and forward to the representative.

3. The legal representative of the legal entity must be present in response to the summons. In case of absence not due to force majeure or objective obstacles, the competent person conducting the proceedings may issue a decision to escort.

**Article 441. Matters that must be proven when conducting proceedings against an accused legal entity**

1. Whether a crime has occurred, the time, location and other circumstances of the crime are subject to the criminal responsibility of the legal entity as prescribed by the Penal Code .
2. Fault of legal entity, fault of individual who is a member of legal entity.
3. The nature and extent of damage caused by the criminal act of the legal entity.
4. Mitigating and aggravating circumstances of criminal liability and other circumstances related to exemption from punishment.
5. Causes and conditions of crime.

**Article 442. Taking testimony of legal representative of legal entity**

1. The taking of statements from the legal representative of a legal entity must be carried out by the Investigator or investigation officer of the agency assigned to conduct certain investigative activities at the place of investigation, at the headquarters of the Investigation Agency or the agency assigned to conduct certain investigative activities or at the headquarters of the legal entity. Before taking statements, the Investigator or investigation officer must notify the Prosecutor and the defense attorney of the time and place of taking statements. When deemed necessary, the Prosecutor shall participate in taking statements.
2. Before taking the first statement, the Investigator or investigating officer of the agency assigned to conduct some investigative activities must explain to the legal representative of the legal entity the rights and obligations stipulated in Article 435 of this Code and must record it in the minutes. The legal representative of the legal entity may write his/her own statement.
3. It is not allowed to take statements from legal representatives of legal entities at night.
4. The prosecutor shall take the testimony of the legal representative of a legal entity in cases where this person does not admit the criminal act of the legal entity, complains about the investigation activities or has grounds to determine that the investigation violates the law or in other cases when deemed necessary.

The prosecutor's taking of testimony from the legal representative of a legal entity shall also be conducted in accordance with the provisions of this Article.

5. The taking of statements of the legal representative of a legal entity at the headquarters of the Investigation Agency or the agency assigned to conduct certain investigation activities must be recorded by audio or video with sound.

The taking of statements of legal representatives of legal entities at other locations is recorded by audio or video at the request of the representative, the agency or person with authority to conduct the proceedings.

6. Minutes of taking testimony of the legal representative of a legal entity are made in accordance with the provisions of Article 178 of this Code .

#### **Article 443. Temporary suspension of investigation, suspension of investigation, suspension of case, suspension of suspect and defendant**

1. The investigation agency or the agency assigned to conduct certain investigation activities shall decide to temporarily suspend the investigation when requesting an appraisal, requesting asset valuation, or requesting foreign judicial assistance but the results have not yet been obtained and the investigation period has expired. In this case, the appraisal, asset valuation, and judicial assistance shall continue until the results are available.
2. The investigation agency or the agency assigned to conduct certain investigation activities shall issue a decision to suspend the investigation, the Procuracy or the Court shall issue a decision to suspend the case or suspend the defendant or accused who is a legal entity when one of the following cases occurs:
  - a) There is no crime;
  - b) The conduct of the legal entity does not constitute a crime;
  - c) The criminal act of a legal entity has a verdict or a decision to suspend the case that has come into legal effect;
  - d) The investigation period expires without proving that the legal entity committed the crime;
  - d) The statute of limitations for criminal prosecution has expired.

#### **Article 444. Jurisdiction and trial procedures for legal entities**

1. The Court with jurisdiction to try criminal cases involving crimes committed by a legal entity is the Court where the legal entity committed the crime. In cases where the crime is committed in different places, the Court with jurisdiction to try the case is the Court where the legal entity has its head office or where the branch of the legal entity that committed the crime is located.
2. The first instance, appeal, review and retrial of a legal entity committing a crime shall be conducted in accordance with the general procedures prescribed in Part Four and Part Six of this Code. The trial of a legal entity must be attended by the legal representative of the legal entity, the prosecutor of the same-level People's Procuracy, and the victim or the victim's representative.

#### **Article 445. Jurisdiction and procedures for enforcement of judgments against legal entities**

1. The head of the civil judgment enforcement agency has the authority to issue a decision to enforce a fine against a legal entity. The order and procedures for enforcing a fine shall be implemented in accordance with the provisions of the Law on Civil Judgment Enforcement .
2. State agencies have the authority to execute other penalties and judicial measures prescribed in the Penal Code against legal entities in accordance with the provisions of law.
3. In case a convicted legal entity is divided, separated, merged or consolidated, the legal entity inheriting the rights and obligations of the convicted legal entity shall be responsible for performing the obligation to execute the fine and compensate for damages.

#### **Article 446. Procedures for automatic criminal record deletion for legal entities**

Within 05 days from the date of receipt of the request of the legal entity whose criminal record has been automatically erased and finding that it meets the conditions prescribed in Article 89 of the Penal Code, the Chief Justice of the Court that tried the case at first instance shall issue a certificate of the legal entity's criminal record being erased.

### **Chapter XXX**

## PROCEDURES FOR APPLYING COMPULSORY MEDICAL TREATMENT MEASURES

### Article 447. Conditions and authority to apply compulsory medical treatment measures

1. When there is reason to believe that the person committing a socially dangerous act does not have criminal responsibility as prescribed in Article 21 of the Penal Code, depending on each stage of the proceedings, the Investigation Agency, the Procuracy, and the Court must request a forensic psychiatric examination.
2. Based on the conclusion of the forensic psychiatric assessment, the Procuracy shall decide to apply compulsory medical treatment measures during the investigation and prosecution stages; the Court shall decide to apply compulsory medical treatment measures during the trial and execution stages.

### Article 448. Investigation of persons suspected of criminal liability

1. In cases where there is reason to believe that the person committing a socially dangerous act does not have criminal capacity, the Investigation Agency must clarify:
  - a) Socially dangerous behavior has occurred;
  - b) Mental condition and mental illness of people with socially dangerous behavior;
  - c) Does a person who commits a socially dangerous act lose the ability to perceive or control his or her behavior?
2. When conducting proceedings, the Investigation Agency must ensure that a defense attorney participates in the proceedings from the time it is determined that the person who has committed a socially dangerous act has a mental illness or other illness that causes loss of cognitive ability or ability to control behavior. The representative of that person may participate in the proceedings if necessary.

### Article 449. Application of compulsory medical treatment measures during the investigation phase

1. When the Investigation Agency requests a forensic psychiatric examination and the examination results determine that the accused has a mental illness or other illness that causes loss of cognitive ability or ability to control behavior, the Investigation Agency shall send a document requesting the application of compulsory medical treatment measures together with the examination conclusion to the People's Procuracy at the same level for consideration and decision.

Within 03 days from the date of receipt of the request document of the Investigation Agency together with the conclusion of the appraisal, the Procuracy shall decide to apply medical treatment measures to the accused or request the Investigation Agency to request additional appraisal or re-appraisal if it finds that there is not enough basis to decide.

2. In case the Procuracy decides to apply compulsory medical treatment, the Investigation Agency must decide to temporarily suspend or terminate the investigation of the accused.

### Article 450. Decisions of the Procuracy during the prosecution stage

1. After receiving the case file and investigation conclusion, if there is reason to believe that the accused does not have criminal capacity, the Procuracy shall request a forensic psychiatric examination.
2. Based on the expert conclusion, the Procuracy may issue one of the following decisions:
  - a) Temporarily suspend the case and apply compulsory medical treatment measures;
  - b) Suspend the case and apply compulsory medical treatment measures;
  - c) Return the file for further investigation;
  - d) Prosecute the accused before the Court.
3. In addition to the decision to apply compulsory medical treatment, the Procuracy may resolve other issues related to the case.

### Article 451. Court decisions during the trial stage

1. After accepting a case, if there is reason to believe that the suspect or defendant does not have criminal capacity, the Court shall request a forensic psychiatric examination.
2. Based on the expert conclusion, the Court may issue one of the following decisions:
  - a) Decision to temporarily suspend or discontinue the case and apply compulsory medical treatment measures;
  - b) Return the file for re-investigation or additional investigation;
  - c) Exemption from criminal liability or punishment and application of compulsory medical treatment measures;
  - d) Bring the case to trial.
3. In addition to deciding to apply compulsory medical treatment, the Court may resolve the issue of compensation for damages or other issues related to the case.

### Article 452. Application of compulsory medical treatment measures to persons serving prison sentences

1. In case there is reason to believe that a person serving a prison sentence has a mental illness or another disease that causes loss of cognitive ability or ability to control behavior, the Prison, Detention Center, or criminal enforcement agency of the provincial-

level Public Security shall request the People's Court of the provincial level or the Military Court of the military region where the convicted person is serving the prison sentence to request a forensic psychiatric assessment.

2. Based on the conclusion of the forensic psychiatric assessment, the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the military region where the convicted person is serving a prison sentence shall issue a decision to temporarily suspend the execution of the prison sentence and apply compulsory medical treatment measures.

After recovering from illness, the person must continue to serve the prison sentence if there is no reason to exempt him from serving the prison sentence.

#### **Article 453. Complaints, appeals, protests**

1. Complaints and settlement of complaints against decisions of the Procuracy on the application of compulsory medical treatment measures shall be carried out in accordance with the provisions of Chapter XXXIII of this Code.

2. Appeals and protests against court decisions on the application of compulsory medical treatment measures shall be carried out as for first-instance decisions as prescribed in this Code.

3. The decision to apply compulsory medical treatment measures shall be effective until another decision replaces or cancels the decision to apply compulsory medical treatment measures.

#### **Article 454. Suspension of compulsory medical treatment**

1. Compulsory medical treatment measures are carried out at compulsory mental health treatment facilities designated by the Procuracy or the Court in accordance with the provisions of law.

2. When there is a notice from the head of the compulsory mental health treatment facility that the person subject to compulsory treatment has recovered, the agency that proposed the application of compulsory treatment measures or the Procuracy or Court that issued the decision to apply compulsory treatment measures shall request a forensic psychiatric assessment of the medical condition of the person subject to compulsory treatment.

Based on the expert conclusion that the person subject to compulsory medical treatment has recovered, the Procuracy and the Court shall issue a decision to suspend the enforcement of compulsory medical treatment measures.

3. The decision to suspend the enforcement of compulsory medical treatment measures must be immediately sent by the agency that proposed the application of compulsory medical treatment measures or by the Procuracy or Court to the compulsory medical treatment facility and the representative of the person subject to compulsory medical treatment.

4. Proceedings and execution of sentences that have been suspended may be restored in accordance with the provisions of this Code.

### **Chapter XXXI**

## **SHORT PROCEDURE**

#### **Article 455. Scope of application of simplified procedure**

The summary procedure for investigation, prosecution, first-instance trial and appeal trial shall be carried out in accordance with the provisions of this Chapter and other provisions of this Code that are not contrary to the provisions of this Chapter.

#### **Article 456. Conditions for applying simplified procedures**

1. The simplified procedure is applied in the investigation, prosecution and first instance trial stages when all the following conditions are met:

- a) The person committing the crime is caught red-handed or the person confesses;
- b) The crime is simple, the evidence is clear;
- c) The crime committed is a less serious crime;
- d) The offender has a clear residence and background.

2. The simplified procedure is applied in appeal trials when one of the following conditions is met:

- a) The case has been subject to summary procedure in the first instance trial and there is only an appeal, protest to reduce the sentence or to allow the defendant to receive a suspended sentence;
- b) The case has not been subject to the simplified procedure in the first instance trial but meets all the conditions specified in Clause 1 of this Article and there is only an appeal, protest to reduce the sentence or to allow the defendant to receive a suspended sentence.

#### **Article 457. Decision to apply simplified procedure**

1. Within 24 hours from the time the case meets the conditions specified in Article 456 of this Code, the Investigation Agency, the Procuracy, and the Court must issue a decision to apply the simplified procedure.

The simplified procedure shall be applied from the time of decision issuance until the end of the appeal trial, except in cases of cancellation as prescribed in Article 458 of this Code .

2. The decision to apply the simplified procedure shall be delivered to the suspect, defendant or their representative and sent to the defense attorney within 24 hours from the time of the decision.

The decision to apply the simplified procedure of the Investigation Agency or the Court shall be sent to the People's Procuracy of the same level within 24 hours from the date of issuance of the decision.

3. In case the Investigation Agency's decision to apply the simplified procedure is found to be illegal, within 24 hours of receiving the decision, the Procuracy must issue a decision to cancel the decision to apply the simplified procedure and send it to the Investigation Agency.

4. In case the decision to apply the simplified procedure of the Court is found to be unlawful, the Procuracy shall make a recommendation to the Chief Justice of the Court that issued the decision. The Chief Justice of the Court shall consider and respond within 24 hours of receiving the recommendation of the Procuracy.

5. The decision to apply the simplified procedure may be appealed. The suspect, defendant or their representative has the right to appeal the decision to apply the simplified procedure; the time limit for appeal is 05 days from the date of receipt of the decision. The appeal shall be sent to the Investigation Agency, the Procuracy, or the Court that issued the decision to apply the simplified procedure and must be resolved within 03 days from the date of receipt of the appeal.

#### **Article 458. Cancellation of decision to apply simplified procedure**

During the process of applying the simplified procedure, if one of the conditions specified in Points b, c and d, Clause 1, Article 456 of this Code no longer exists or the case falls under the case of temporary suspension of investigation, temporary suspension of the case or return of the file for further investigation according to the provisions of this Code, the Investigation Agency, the Procuracy, or the Court shall issue a decision to cancel the decision to apply the simplified procedure and resolve the case according to the general procedure specified in this Code.

The procedural time limit of a case shall be calculated according to the general procedure prescribed in this Code from the date of the decision to cancel the decision to apply the simplified procedure.

#### **Article 459. Detention and temporary detention for investigation, prosecution and trial**

1. The basis, authority and procedures for temporary detention and temporary imprisonment shall be implemented according to the provisions of this Code.

2. The detention period shall not exceed 03 days from the date the Investigation Agency receives the arrested person.

3. The period of detention during the investigation phase shall not exceed 20 days, during the prosecution phase shall not exceed 05 days, during the first instance trial phase shall not exceed 17 days, and during the appeal trial phase shall not exceed 22 days.

#### **Article 460. Investigation**

1. The investigation period under the simplified procedure is 20 days from the date of the decision to initiate criminal proceedings.

2. At the end of the investigation, the Investigation Agency shall issue a decision to propose prosecution.

The decision to propose prosecution summarizes the criminal act, the method, motive, purpose of the crime, the nature and extent of damage caused by the criminal act; the application, change or cancellation of preventive measures and coercive measures; the seizure, temporary detention of documents and objects and the handling of evidence; the personal characteristics of the accused, the aggravating and mitigating circumstances of criminal responsibility; the reasons and grounds for the proposed prosecution; the crime, points, clauses and articles of the Penal Code applied; clearly stating the time, location, full name and signature of the person issuing the decision.

3. Within 24 hours of issuing the decision to propose prosecution, the Investigation Agency must deliver the decision to propose prosecution to the accused or the accused's representative, send it to the defense attorney, victim, litigant or their representative and transfer the decision to propose prosecution together with the case file to the Procuracy.

#### **Article 461. Decision to prosecute**

1. Within 05 days from the date of receipt of the decision to request prosecution and the case file, the Procuracy shall issue one of the following decisions:

- a) Prosecute the accused before the Court by a prosecution decision;
- b) Not to prosecute the accused and issue a decision to suspend the case;
- c) Return the file for further investigation;
- d) Temporarily suspend the case;
- d) Dismiss the case.

2. The decision to prosecute shall summarize the criminal act, the means, motive, purpose of the crime, the nature and extent of damage caused by the criminal act; the application, change or cancellation of preventive measures and coercive measures; the seizure and temporary detention of documents and objects and the handling of evidence; the personal characteristics of the accused, the aggravating and mitigating circumstances of criminal liability, clearly stating the reasons and grounds for prosecution; the crime, points, clauses and articles of the Penal Code applied; clearly stating the time, location, full name and signature of the person issuing the decision.

3. Within 24 hours of issuing the decision to prosecute, the Procuracy must deliver the decision to the accused or their representative; send it to the Investigation Agency, the defense attorney, the victim, the litigant or their representative and transfer the decision to prosecute and the case file to the Court.

#### **Article 462. Preparation for first instance trial**

1. Within 10 days from the date of accepting the case, the assigned Judge shall issue one of the following decisions:

- a) Bring the case to trial;
- b) Return the file for further investigation;
- c) Temporarily suspend the case;
- d) Dismiss the case.

2. In case of deciding to bring the case to trial, within 07 days from the date of decision, the Court must open a trial to try the case.

3. Within 24 hours from the decision to bring the case to trial, the Court of First Instance must send that decision to the People's Procuracy at the same level; deliver it to the defendant or the defendant's representative; send it to the defense attorney, victim, litigant or their representative.

#### **Article 463. First instance trial**

1. The first instance trial under summary procedure is conducted by one Judge.

2. After the trial proceedings begin, the Prosecutor announces the decision to prosecute.

3. Other procedures and formalities at the first instance trial are carried out according to the general procedures prescribed in this Code but without deliberation.

#### **Article 464. Preparation for appeal trial**

1. The receipt and acceptance of case files by the Court of Appeal shall be carried out according to the general procedures prescribed in this Code.

After accepting a case, the Court must immediately transfer the case file to the Procuracy of the same level. Within 05 days, the Procuracy must return the case file to the Court.

2. Within 15 days from the date of accepting the case, the assigned Judge shall issue one of the following decisions:

- a) Bring the case to appeal;
- b) Suspend the appeal trial of the case.

3. In case of a decision to bring the case to appeal, within 07 days from the date of the decision, the Court must open a trial to try the case.

4. Within 24 hours from the decision to bring the case to trial, the Court of Appeal must send that decision to the People's Procuracy at the same level, the defense attorney; and deliver it to the defendant or the defendant's representative, the victim, the litigant or their representative.

#### **Article 465. Appeal trial**

1. The appeal trial under the summary procedure is conducted by one Judge.

2. Other procedures at the appeal hearing are carried out according to the general procedures prescribed in this Code but without deliberation.

### **Chapter XXXII**

## **HANDLING ACTS THAT OBSTRUCT CRIMINAL PROCEEDINGS**

#### **Article 466. Handling of persons who obstruct the proceedings of competent authorities conducting proceedings**

The accused person or other participant in the proceedings who commits one of the following acts, depending on the severity of the violation, may be subject to a decision by the competent authority conducting the proceedings to be escorted, escorted, warned, fined, administratively detained, forced to remedy the consequences, or prosecuted for criminal liability according to the provisions of law:

- 1. Falsifying or destroying evidence, causing obstacles to the settlement of cases or lawsuits;
- 2. False declaration or provision of false documents;
- 3. Refusal to declare or refusal to provide documents or objects;
- 4. The appraiser or property valuer makes a false conclusion or refuses to make an appraisal or property value conclusion without any reason of force majeure or objective obstacles;
- 5. Deceiving, threatening, bribing, or using force to prevent a witness from testifying or forcing another person to testify falsely;
- 6. Deceiving, threatening, bribing, using force to prevent the victim from participating in the proceedings or forcing the victim to give false testimony;

7. Deceiving, threatening, bribing, using force to prevent appraisers or property valuers from performing their duties or forcing appraisers or property valuers to draw conclusions that are contrary to objective truth;
8. Deceiving, threatening, bribing, using force to prevent interpreters or translators from performing their duties or forcing interpreters or translators to translate falsely;
9. Deceiving, threatening, bribing, using force to prevent representatives of other agencies, organizations, and individuals from participating in litigation;
10. Insulting the honor, dignity, or reputation of a person with authority to conduct proceedings; threatening, using force, or otherwise obstructing the proceedings of a person with authority to conduct proceedings;
11. Having been summoned but absent without force majeure or objective obstacles and their absence hinders the proceedings;
12. Preventing the issuance, delivery, receipt or notification of procedural documents by competent authorities conducting proceedings.

#### **Article 467. Handling of violators of court rules**

1. Depending on the nature and severity of the violation, any person who violates the court rules may be subject to an administrative penalty by the presiding judge in accordance with the provisions of law.
2. The presiding judge has the right to decide to force the violator to leave the courtroom or to administratively detain him. The police agency responsible for maintaining order in the courtroom or the person responsible for maintaining order in the courtroom shall enforce the decision of the presiding judge to force the violator to leave the courtroom or to administratively detain him.
3. In case the behavior of a person violating court rules is serious enough to warrant criminal prosecution, the Trial Panel has the right to initiate criminal proceedings.
4. The provisions of this Article shall also apply to persons who commit violations at Court sessions.

#### **Article 468. Forms of sanction, competence, order and procedures for sanctioning**

The forms of sanctions, authority, order and procedures for sanctions against acts of obstructing criminal proceedings shall be implemented according to the provisions of the Law on Handling of Administrative Violations and other relevant laws.

### **Chapter XXXIII**

## **COMPLAINTS AND ACCUSATIONS IN CRIMINAL PROCEEDINGS**

#### **Article 469. Persons entitled to complain**

1. Agencies, organizations and individuals have the right to complain about decisions and procedural actions of competent agencies and persons conducting proceedings when there are grounds to believe that such decisions and actions are illegal and infringe upon their legitimate rights and interests.
2. For first-instance judgments and decisions that have not yet come into legal effect, judgments and decisions that have come into legal effect of the Court, indictments or prosecution decisions, decisions on application of simplified procedures, decisions of the first-instance trial council, the appellate trial council, the cassation trial council, the retrial council, the council for considering reduction of term or exemption from serving a sentence, or conditional early release from prison, if there are complaints, appeals or protests, they shall be resolved according to the provisions of Chapters XXI, XXII, XXIV, XXV, XXVI and XXXI of this Code.

#### **Article 470. Decisions and procedural acts that may be appealed**

1. Procedural decisions that may be appealed are decisions of the Head, Deputy Head of the Investigation Agency, Investigator, Chief Prosecutor, Deputy Chief Prosecutor of the Procuracy, Prosecutor, Chief Justice, Deputy Chief Justice of the Court, Judge, and persons with authority to conduct certain investigation activities issued in accordance with the provisions of this Code.
2. Procedural acts that may be complained about are acts performed in procedural activities by the Head, Deputy Head of the Investigation Agency, Investigator, Investigation Officer, Chief, Deputy Chief of the Procuracy, Prosecutor, Inspector, Chief Justice, Deputy Chief Justice of the Court, Judge, Examiner, and persons assigned to conduct certain investigative activities carried out in accordance with the provisions of this Code.

#### **Article 471. Statute of limitations for complaints**

1. The statute of limitations for complaints is 15 days from the date the complainant receives or learns of the decision or procedural action that he or she believes violates the law.
2. In case due to force majeure or objective obstacles the complainant cannot exercise the right to complain within the statute of limitations, the time of force majeure or objective obstacles shall not be counted in the statute of limitations for complaints.

#### **Article 472. Rights and obligations of complainants**

1. The complainant has the right to:
  - a) Complain by yourself or through a defender, a person protecting the legal rights and interests of the party or a representative;
  - b) Complaints at any stage of the criminal case settlement process;
  - c) Withdraw the complaint at any stage of the complaint settlement process;

d) Receive the decision to resolve the complaint;

d) Have their infringed legitimate rights and interests restored and receive compensation for damages in accordance with the provisions of law.

2. The complainant has the obligation to:

a) Honestly present the matter, provide information and documents to the complaint handler; be responsible before the law for the content of the presentation and the provision of such information and documents;

b) Comply with the complaint settlement decision that has come into legal effect.

#### **Article 473. Rights and obligations of the complained person**

1. The complainant has the right to:

a) Be informed of the content of the complaint;

b) Provide evidence of the legality of the decision or procedural act being complained about;

c) Receive a decision to resolve complaints about one's decisions and procedural actions.

2. The person complained against has the obligation to:

a) Explain the decisions and procedural actions being complained about; provide relevant information and documents when requested by competent agencies, organizations and individuals;

b) Comply with the decision to resolve the complaint;

c) Compensate for damages, reimburse, and remedy consequences caused by one's illegal decisions and procedural actions according to the provisions of law.

#### **Article 474. Competence and time limit for resolving complaints about decisions and procedural acts in emergency detention, arrest, temporary detention, and temporary imprisonment**

1. Complaints against emergency detention orders, arrest warrants, temporary detention decisions, temporary detention orders, temporary detention decisions, decisions approving arrests, decisions extending temporary detention, decisions extending temporary detention, and complaints against the implementation of such orders and decisions must be resolved within 24 hours of receipt of the complaint. In cases where further verification is required, the resolution period shall not exceed 03 days from the date of receipt of the complaint.

2. The Chief Prosecutor is responsible for resolving complaints about decisions and procedural actions in emergency detention, arrest, temporary detention, and temporary imprisonment during the investigation and prosecution stages. Agencies and individuals with authority in emergency detention, arrest, temporary detention, and temporary imprisonment must immediately transfer to the Procuracy exercising the right to prosecute and supervise the investigation of cases and incidents complaints of detainees, arrestees, temporary detainees, and temporary prisoners within 24 hours of receiving the complaint.

Complaints against decisions and procedural actions of the Head, Deputy Head of the Investigation Agency, Investigator, Investigation Officer, Prosecutor, Inspector, or person assigned to conduct certain investigative activities in emergency detention, arrest, temporary detention, or temporary imprisonment shall be resolved by the Chief Prosecutor.

Complaints against decisions and procedural actions of the Deputy Chief Prosecutor in arrest, detention, and temporary detention shall be resolved by the Chief Prosecutor.

If the complainant does not agree with the complaint settlement decision of the Chief Prosecutor, within 03 days from the date of receipt of the complaint settlement decision, the complainant has the right to appeal to the Chief Prosecutor of the immediate superior People's Procuracy or the Chief Prosecutor of the Supreme People's Procuracy if the initial complaint settlement is handled by the Chief Prosecutor of the provincial People's Procuracy. Within 07 days from the date of receipt of the complaint, the Chief Prosecutor of the immediate superior People's Procuracy or the Chief Prosecutor of the Supreme People's Procuracy must consider and resolve the complaint. The settlement decision of the Chief Prosecutor of the immediate superior People's Procuracy or the Chief Prosecutor of the Supreme People's Procuracy is a legally effective decision.

Complaints against decisions and procedural actions of the Chief Prosecutor in arrest, temporary detention, and temporary imprisonment shall be considered and resolved by the Chief Prosecutor of the immediate superior People's Procuracy or the Chief Prosecutor of the Supreme People's Procuracy if the decisions and procedural actions being complained about are those of the Chief Prosecutor of the provincial People's Procuracy. Within 07 days from the date of receipt of the complaint, the Chief Prosecutor of the immediate superior People's Procuracy or the Chief Prosecutor of the Supreme People's Procuracy must consider and resolve the complaint. The decision to resolve the case by the Chief Prosecutor of the immediate superior People's Procuracy or the Chief Prosecutor of the Supreme People's Procuracy shall be a legally effective decision.

3. The court is responsible for resolving complaints about arrest and detention decisions during the trial phase.

Complaints against the decisions and procedural actions of the Deputy Chief Justice in the arrest and detention shall be considered and resolved by the Chief Justice of the Court. If the complainant does not agree with the Chief Justice's decision to resolve the complaint, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the Chief Justice of the Court at a higher level. Within 07 days from the date of receipt of the complaint, the Chief Justice of the

Court at a higher level must consider and resolve it. The decision to resolve by the Chief Justice of the Court at a higher level is a legally effective decision.

Complaints against decisions and procedural actions of the Chief Justice of the Court in arrest and detention shall be considered and resolved by the Chief Justice of the Court at a higher level. Within 07 days from the date of receipt of the complaint, the Chief Justice of the Court at a higher level must consider and resolve it. The decision of the Chief Justice of the Court at a higher level shall have legal effect.

**Article 475. Competence and time limit for handling complaints against Investigators, Investigation Officers, Deputy Heads and Heads of Investigation Agencies, and persons assigned to conduct certain investigation activities**

1. Complaints against decisions and procedural actions of Investigators, Investigating Officers, Deputy Heads of Investigation Agencies, except for complaints about detention in emergency cases, arrest, temporary detention, and temporary imprisonment, shall be considered and resolved by the Head of Investigation Agency within 07 days from the date of receipt of the complaint. If the complainant does not agree with the decision of the Head of Investigation Agency, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the Chief Prosecutor of the same-level Procuracy. Within 07 days from the date of receipt of the complaint, the Chief Prosecutor of the same-level Procuracy must consider and resolve the complaint. The decision to resolve by the Chief Prosecutor of the same-level Procuracy is a legally effective decision.

Complaints against decisions and procedural actions of the Head of the Investigation Agency and procedural decisions of the Investigation Agency approved by the Procuracy shall be resolved by the Chief Procuracy of the same level within 07 days from the date of receipt of the complaint. If the complainant does not agree with the resolution decision of the Chief Procuracy of the same level, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the Chief Procuracy of the immediate superior level or the Chief Procuracy of the Supreme People's Procuracy if the initial resolution of the complaint is resolved by the Chief Procuracy of the provincial level. Within 15 days from the date of receipt of the complaint, the Chief Procuracy of the immediate superior level or the Chief Procuracy of the Supreme People's Procuracy must consider and resolve the complaint. The resolution decision of the Chief Procuracy of the immediate superior level or the Chief Procuracy of the Supreme People's Procuracy is a legally effective decision.

2. Complaints against decisions and procedural actions of deputies and investigation officers of agencies assigned to conduct certain investigative activities, except for detention in emergency cases, arrests and temporary detentions, shall be considered and resolved by the head of the agency assigned to conduct certain investigative activities within 07 days from the date of receipt of the complaint. If the complainant does not agree with the decision of the head, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the Procuracy exercising the right to prosecute and supervise the investigation. Within 07 days from the date of receipt of the complaint, the Chief Procurator must consider and resolve the complaint. The decision to resolve by the Chief Procurator is a legally effective decision.

Complaints against decisions and procedural actions of the heads of agencies assigned to conduct certain investigative activities shall be considered and resolved by the Chief Prosecutor exercising the right to prosecute and supervise investigations. Within 07 days from the date of receipt of the complaint, the Chief Prosecutor must consider and resolve it. The decision of the Chief Prosecutor shall be legally effective.

**Article 476. Competence and time limit for handling complaints against Prosecutors, Inspectors, Deputy Chief Prosecutors and Chief Prosecutors of the People's Procuracy**

1. Complaints against decisions and procedural actions of Prosecutors, Inspectors, and Deputy Chief Prosecutors shall be considered and resolved by the Chief Prosecutor within 07 days from the date of receipt of the complaint. If the complainant does not agree with the decision of the Chief Prosecutor, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the immediate superior Procuracy. Within 15 days from the date of receipt of the complaint, the immediate superior Procuracy must consider and resolve the complaint. The decision of the immediate superior Procuracy is a legally effective decision.

2. Complaints against decisions and procedural actions of the Chief Prosecutor shall be considered and resolved by the immediate superior Prosecutor within 15 days from the date of receipt of the complaint. The decision of the Chief Prosecutor of the immediate superior Prosecutor shall be legally effective.

3. In the cases specified in Clause 1 and Clause 2 of this Article, if it is a complaint against a decision or procedural act of the Chief Prosecutor of the Provincial People's Procuracy, it shall be resolved as follows:

a) Complaints against decisions and procedural actions of the Chief Prosecutor of the Provincial People's Procuracy in exercising the right to prosecute, supervise investigation and prosecution shall be considered and resolved by the Supreme People's Procuracy within 15 days from the date of receipt of the complaint. The decision of the Supreme People's Procuracy shall be legally effective;

b) Complaints against decisions and procedural actions of the Chief Prosecutor of the Provincial People's Procuracy in exercising the right to prosecute and supervise trials shall be considered and resolved by the High People's Procuracy within 15 days from the date of receipt of the complaint. The decision of the High People's Procuracy shall be legally effective.

4. Complaints against decisions and procedural actions of the Deputy Chief Prosecutor of the Supreme People's Procuracy, Prosecutors and Inspectors working at the Supreme People's Procuracy, Prosecutors and Inspectors working at the Central Military Procuracy, Deputy Chief Prosecutor of the Central Military Procuracy shall be considered and resolved by the Chief Prosecutor of the Supreme People's Procuracy, the Chief Prosecutor of the Central Military Procuracy within 15 days from the date of receipt of the complaint. The decision to resolve by the Chief Prosecutor of the Supreme People's Procuracy, the Chief Prosecutor of the Central Military Procuracy shall be legally effective.

### **Article 477. Jurisdiction and time limit for handling complaints against Judges, Investigators, Deputy Chief Justices and Chief Justices of Courts**

1. Complaints against decisions and procedural actions of Judges, Investigators, Deputy Chief Justices of District People's Courts and Regional Military Courts before the opening of a trial shall be resolved by the Chief Justice of the District People's Court and Chief Justice of the Regional Military Court within 07 days from the date of receipt of the complaint.

If the complainant does not agree with the settlement decision of the Chief Justice of the District People's Court or the Chief Justice of the Regional Military Court, within 03 days from the date of receipt of the complaint settlement decision, the complainant has the right to appeal to the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region. Within 15 days from the date of receipt of the complaint, the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region must consider and resolve the complaint. The settlement decision of the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region is a legally effective decision.

Complaints against decisions and procedural actions of the Chief Justice of the District People's Court or the Chief Justice of the Regional Military Court before the opening of the trial shall be considered and resolved by the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region within 15 days from the date of receipt of the complaint. The decision of the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region shall be legally effective.

2. Complaints against decisions and procedural actions of judges, examiners, deputy chief judges of provincial-level People's Courts, and chief judges of military courts of military regions before the opening of a trial shall be considered and resolved by the chief judges of provincial-level People's Courts and chief judges of military courts of military regions within 07 days from the date of receipt of the complaint. If the complainant disagrees with the decision of the chief judge of provincial-level People's Court or chief judge of military courts of military regions, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the chief judge of the high-level People's Court or the chief judge of the central military court for consideration and resolution within 15 days. The decision of the chief judge of the high-level People's Court or the chief judge of the central military court shall be legally effective.

Complaints against decisions and procedural actions of Judges, Investigators, and Deputy Chief Justices of the High People's Court before the opening of a trial shall be considered and resolved by the Chief Justice of the High People's Court within 07 days from the date of receipt of the complaint. If the complainant does not agree with the decision of the Chief Justice of the High People's Court, within 03 days from the date of receipt of the decision to resolve the complaint, the complainant has the right to appeal to the Chief Justice of the Supreme People's Court for consideration and resolution within 15 days. The decision of the Chief Justice of the Supreme People's Court is a legally effective decision.

Complaints against decisions and procedural actions of the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region shall be considered and resolved by the Chief Justice of the High People's Court or the Chief Justice of the Central Military Court within 15 days from the date of receipt of the complaint. The decision of the Chief Justice of the High People's Court or the Chief Justice of the Central Military Court shall be legally effective.

3. Complaints against decisions and procedural actions of the Chief Justice of the High People's Court, Judges of the Supreme People's Court, Examiners working at the Supreme People's Court, Deputy Chief Justices of the Supreme People's Court, Judges and Examiners working at the Central Military Court, Deputy Chief Justices of the Central Military Court shall be considered and resolved by the Chief Justice of the Supreme People's Court, Chief Justice of the Central Military Court within 15 days from the date of receipt of the complaint. The decision of the Chief Justice of the Supreme People's Court, Chief Justice of the Central Military Court shall be legally effective.

### **Article 478. Persons with the right to denounce**

Individuals have the right to denounce to competent agencies and persons any violations of the law by any competent person conducting proceedings that cause damage or threaten to cause damage to the interests of the State or the rights and legitimate interests of agencies, organizations and individuals.

### **Article 479. Rights and obligations of the whistleblower**

1. The whistleblower has the right to:

- a) Submit a petition or directly report to the competent authority or person;
- b) Request to keep your name, address and handwriting confidential;
- c) Receive the decision to resolve the complaint;
- d) Request competent authorities to conduct protective proceedings when being threatened, persecuted or retaliated against.

2. The whistleblower has the obligation to:

- a) Honestly present the content of the denunciation, provide information and documents related to the denunciation;
- b) State your full name and address;
- c) Be responsible before the law if intentionally making false accusations.

### **Article 480. Rights and obligations of the accused**

1. The accused has the right to:

- a) Be informed of the content of the complaint;
- b) Provide evidence to prove that the content of the accusation is untrue;
- c) Receive the decision to resolve the complaint;
- d) Have their infringed legitimate rights and interests restored, have their honor restored, and be compensated for damages caused by false accusations;
- d) Request competent agencies, organizations and individuals to handle people who make false accusations.

2. The accused has the obligation to:

- a) Explain the accused behavior; provide relevant information and documents when requested by competent authorities or individuals;
- b) Comply with the decision to resolve the complaint;
- c) Compensate for damages, reimburse, and remedy consequences caused by one's illegal litigation.

#### **Article 481. Competence and time limit for handling denunciations**

1. The head of the competent authority that has the authority to handle a complaint about a violation of the law by a person with the authority to conduct proceedings shall be the competent authority to resolve the complaint.

In case the accused is the Head of the Investigation Agency or the Chief of the Procuracy, the Head of the Investigation Agency or the Chief of the immediate superior Procuracy has the authority to resolve the case.

In case the accused is the Chief Justice of the District People's Court or the Chief Justice of the Regional Military Court, the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region has the authority to resolve the matter.

In case the accused is the Chief Justice of the Provincial People's Court or the Chief Justice of the Military Court of the Military Region, the Chief Justice of the High People's Court or the Chief Justice of the Central Military Court has the authority to resolve the matter.

In case the accused is the Chief Justice of the High People's Court or the Chief Justice of the Central Military Court, the Chief Justice of the Supreme People's Court has the authority to resolve the matter.

Denunciations of procedural acts of persons assigned to conduct certain investigative activities shall be considered and resolved by the competent Procuracy exercising the right to prosecute and the competent investigative prosecutor.

2. Denunciations of violations of the law with signs of crime shall be resolved according to the provisions of Article 145 of this Code .

3. The time limit for handling complaints shall not exceed 30 days from the date of receipt of the complaint; for complicated cases, the time limit for handling complaints may be extended but shall not exceed 60 days.

4. Denunciations related to acts of detention in emergency cases, arrest, temporary detention, and temporary detention during the investigation and prosecution stages must be considered and resolved by the Chief Prosecutor of the same-level Procuracy or the Chief Prosecutor of the competent Procuracy within 24 hours of receiving the denunciation. In case further verification is required, the time limit shall not exceed 03 days from the date of receipt of the denunciation.

#### **Article 482. Responsibilities of competent agencies and persons in handling complaints and denunciations**

1. Agencies and persons with the authority to resolve complaints and denunciations, within the scope of their duties and powers, are responsible for receiving and promptly and lawfully resolving complaints and denunciations and sending documents resolving complaints and denunciations to the complainant or denouncer; strictly handling violators of the law; applying measures to protect the denouncer when requested, preventing possible damage; ensuring that the results of resolving complaints and denunciations are strictly implemented and are legally responsible for their resolution.

2. A person with the authority to resolve complaints and denunciations who fails to resolve them, is irresponsible in resolving them, or resolves them illegally shall, depending on the nature and severity of the violation, be subject to disciplinary action or criminal prosecution; if causing damage, he/she must compensate for the damage and make restitution in accordance with the provisions of law.

3. The investigation agency, the agency assigned to conduct certain investigation activities, and the Court are responsible for notifying the receipt and sending of documents resolving complaints and denunciations to the People's Procuracy at the same level or the competent People's Procuracy.

#### **Article 483. Duties and powers of the Procuracy when supervising the settlement of complaints and denunciations**

1. The Procuracy supervises the settlement of complaints and denunciations by the Investigation Agency, the agency assigned to conduct certain investigation activities, and the Courts at the same level and lower levels.

2. When supervising the settlement of complaints and denunciations, the Procuracy has the following duties and powers:

- a) Request the Investigation Agency, Court, and agency assigned to conduct certain investigation activities to issue a decision to resolve complaints and issue a document to resolve denunciations according to the provisions of this Chapter;

- b) Request the Investigation Agency, Court, and agency assigned to conduct certain investigation activities to self-inspect the handling of complaints and denunciations by its level and subordinates; notify the inspection results to the Procuracy;
  - c) Request the Investigation Agency, Court, and agency assigned to conduct certain investigation activities to provide records and documents related to the settlement of complaints and denunciations to the Procuracy;
  - d) Directly supervise the settlement of complaints and denunciations at the Investigation Agency, the agency assigned to conduct a number of investigation activities, the Court at the same level and lower levels;
  - d) Issue inspection conclusions; exercise the right to propose, protest, and request the Investigation Agency, Court, and agencies assigned to conduct certain investigation activities to remedy violations in handling complaints and denunciations.
3. The superior People's Procuracy is responsible for inspecting and examining the handling of complaints and denunciations by the subordinate People's Procuracy. The Supreme People's Procuracy inspects and examines the handling of complaints and denunciations by the People's Procuracy at all levels.

#### **Chapter XXXIV**

### **PROTECTION OF CRIME REPORTERS, WITNESSES, VICTIMS AND OTHER LITIGATION PARTICIPANTS**

#### **Article 484. Protected person**

1. Protected persons include:
  - a) Crime whistleblower;
  - b) Witness;
  - c) Victim;
  - d) Relatives of the person reporting the crime, witness, or victim.
2. The protected person has the right to:
  - a) Request for protection;
  - b) Be informed and explained about rights and obligations;
  - c) To be informed about the application of protective measures; to propose changes, additions, or cancellations of protective measures;
  - d) Be compensated for damages, have honor restored, and have legal rights and interests guaranteed during the protection period.
3. The protected person has the obligation to:
  - a) Strictly comply with the requirements of the protection agency related to protection;
  - b) Keep security information confidential;
  - c) Promptly notify the responsible protection agency of any suspicious issues during the protection period.

#### **Article 485. Competent agencies and persons deciding on the application of protective measures**

1. The competent authority shall apply protective measures including:
  - a) Investigation agency of the People's Public Security;
  - b) Investigation agency in the People's Army.
2. The person with the authority to decide on applying protective measures includes:
  - a) The Head and Deputy Head of the Investigation Agency of the People's Public Security have the authority to decide to apply protective measures to protected persons in criminal cases and cases that their agency accepts, resolves, investigates or upon request of the People's Procuracy or People's Court at the same level; or upon request of the Supreme People's Procuracy;
  - b) The Head and Deputy Head of the Investigation Agency in the People's Army have the authority to decide to apply protective measures to protected persons in criminal cases and cases that their agency accepts, resolves, investigates or upon request of the Military Procuracy or Military Court at the same level; or upon request of the Central Military Procuracy.
3. If the People's Procuracy and People's Courts at all levels deem it necessary to apply protective measures to the protected person, they shall request the Investigation Agency directly handling the criminal case to issue a decision to apply protective measures to the protected person. The request must be made in writing.

If the investigation agency of the Supreme People's Procuracy or the investigation agency of the Central Military Procuracy deems it necessary to apply protective measures to the protected person in a criminal case or case that it has accepted, resolved, or investigated, it shall report to the Chief Justice of the Supreme People's Procuracy or the Chief Justice of the Central Military Procuracy and issue a written request to the Investigation Police Agency, the Investigation Security Agency of the Ministry of Public Security, the Criminal Investigation Agency, or the Investigation Security Agency of the Ministry of National Defense to issue a decision to apply protective measures.

#### **Article 486. Protective measures**

1. When there is a basis to determine that the life, health, property, honor, and dignity of the protected person are being violated or threatened with violation due to the provision of evidence, documents, and information related to a crime, the competent agency or person conducting the proceedings shall decide to apply the following measures to protect them:

- a) Arrange forces, carry out professional measures, use weapons, support tools and other means to guard and protect;
- b) Restrict the movement and contact of the protected person to ensure their safety;
- c) Keep confidential and request others to keep confidential information related to the protected person;
- d) Moving, keeping secret the residence, workplace, study place; changing the whereabouts, background, and identification characteristics of the protected person, if they agree;
- d) Deter, warn, and neutralize acts of harm against protected persons; prevent and promptly handle acts of harm according to the provisions of law;
- e) Other protection measures as prescribed by law.

2. The application or change of protection measures prescribed in Clause 1 of this Article must not affect the legitimate rights and interests of the protected person.

#### **Article 487. Proposal and request for application of protective measures**

1. The protected person has the right to make a written request, requesting the competent authority to apply protection measures. The written request, request must have the following main contents:

- a) Day, month, year;
- b) Name and address of the applicant;
- c) Reasons and content of the proposed protective measures;
- d) Signature or fingerprint of the applicant. In case of application by an agency or organization, the legal representative of that agency or organization shall sign and affix the seal.

2. In case of emergency, the protected person may directly request the competent authority or person to apply protective measures or through means of communication, but must then express the request in writing. The competent authority or person receiving the request or request must make a record and include it in the protection file.

3. When conducting proceedings for a case, the agency assigned to conduct certain investigative activities, the Procuracy, or the Court that receives a request or request for application of protective measures shall be responsible for considering and requesting the Investigation Agency at the same level to consider and decide to apply protective measures. In case the High People's Procuracy or the High People's Court receives a request or request for protection, it shall request the Investigation Agency of the Ministry of Public Security to consider and decide to apply protective measures.

4. The investigating agency must verify the basis and authenticity of the request for protection. In case it is deemed unnecessary to apply protective measures, the reason must be clearly explained to the person who made the request.

#### **Article 488. Decision to apply protective measures**

1. The decision to apply protective measures includes the following main contents:

- a) Number, date, month, year; place of decision;
- b) Position of the decision maker;
- c) Basis for decision;
- d) Full name, date of birth, place of residence of the protected person;
- d) Protective measures and time to start implementing protective measures.

2. The decision to apply protective measures shall be sent to the person requesting protection, the person being protected, the Procuracy, the Court that has proposed the application of protective measures, and the agencies, organizations and units involved in the protection.

3. After deciding to apply protective measures, the competent Investigation Agency must immediately organize the implementation of protective measures. If necessary, it may coordinate with agencies and units in the People's Public Security and the People's Army to carry out protection.

4. The investigating agency that has issued the decision to apply may change or supplement the protection measures during the protection process if deemed necessary.

5. The protection period is calculated from the time the protection measure is applied until the decision to terminate the application of the protection measure is made.

#### **Article 489. Termination of protection**

1. When it is determined that the grounds for infringing or threatening to infringe upon the life, health, property, honor, or dignity of the protected person no longer exist, the Head of the Investigation Agency that decided to apply protective measures must issue a decision to terminate the application of protective measures.

2. The decision to terminate the application of protective measures must be sent to the protected person, the agency that proposed the application of protective measures, and the agencies, organizations and units involved in the protection.

#### **Article 490. Protection records**

1. The investigating agency that has decided to apply protective measures must establish a protective record.
2. Protection records include:
  - a) Document requesting or requesting application of protective measures; minutes of request or request for application of protective measures;
  - b) Verification results of acts of infringement or threats to infringe upon the life, health, property, honor and dignity of the protected person;
  - c) Documents on the consequences of damage that has occurred (if any) and the handling by the competent authority;
  - d) Document requesting, proposing to change, supplement or cancel protective measures;
  - d) Decision to apply, change, supplement, or cancel protective measures;
  - e) Documents reflecting the progress of the application of protective measures;
  - g) Document requesting and proposing agencies, organizations and individuals to coordinate protection;
  - h) Report on the results of implementing protective measures;
  - i) Decision to terminate protective measures;
  - k) Other documents and materials related to protection.

### **PART EIGHT**

## **INTERNATIONAL COOPERATION**

### **Chapter XXXV**

## **GENERAL PROVISIONS**

#### **Article 491. Scope of international cooperation in criminal proceedings**

1. International cooperation in criminal proceedings is the coordination and support between competent authorities of the Socialist Republic of Vietnam and competent authorities of foreign countries to carry out activities serving the requirements of investigation, prosecution, trial and execution of criminal sentences.
2. International cooperation in criminal proceedings includes judicial assistance in criminal matters; extradition; reception and transfer of persons serving prison sentences and other international cooperation activities as prescribed in this Code, laws on judicial assistance and international treaties to which the Socialist Republic of Vietnam is a member.
3. International cooperation in criminal proceedings in the territory of the Socialist Republic of Vietnam shall be carried out in accordance with the provisions of international treaties to which the Socialist Republic of Vietnam is a member or on the principle of reciprocity, in accordance with the provisions of this Code, the law on judicial assistance and other relevant provisions of Vietnamese law.

#### **Article 492. Principles of international cooperation in criminal proceedings**

1. International cooperation in criminal proceedings is carried out on the principles of respect for national independence, sovereignty, territorial integrity, non-interference in each other's internal affairs, equality and mutual benefit, in accordance with the Constitution, laws of Vietnam and international treaties to which the Socialist Republic of Vietnam is a member.
2. In cases where Vietnam has not signed or joined relevant international treaties, international cooperation in criminal proceedings shall be carried out on the principle of reciprocity but not contrary to Vietnamese law, in accordance with international law and international practices.

#### **Article 493. Central agencies in international cooperation on criminal proceedings**

1. The Ministry of Public Security is the central agency of the Socialist Republic of Vietnam in the activities of extradition and transfer of persons serving prison sentences.
2. The Supreme People's Procuracy is the central agency of the Socialist Republic of Vietnam in criminal judicial assistance activities and other international cooperation activities as prescribed by law.

#### **Article 494. Legal value of documents and objects collected through international cooperation in criminal proceedings**

Documents and objects collected by competent foreign agencies under the judicial mandate of competent Vietnamese agencies or documents and objects sent to Vietnam by competent foreign agencies for the purpose of criminal prosecution may be considered evidence. In cases where these documents and objects have the characteristics specified in Article 89 of this Code, they may be considered material evidence.

#### **Article 495. Conduct of proceedings by competent Vietnamese persons abroad and competent foreign persons in Vietnam**

The conduct of proceedings by competent Vietnamese persons abroad and competent foreign persons in Vietnam shall be carried out in accordance with the provisions of international treaties to which the Socialist Republic of Vietnam is a member or shall be carried out on the principle of reciprocity.

**Article 496. Presence of witnesses, experts, and persons serving prison sentences in Vietnam abroad; witnesses, experts, and persons serving prison sentences in foreign countries in Vietnam**

1. The competent authority of Vietnam may request the competent authority of a foreign country to allow witnesses, experts, or persons serving prison sentences in the requested country to be present in Vietnam to assist in the settlement of criminal cases.
2. At the request of a competent foreign authority, a competent Vietnamese authority may allow a witness, an expert, or a person serving a prison sentence in Vietnam to be present in the requesting country to assist in the settlement of a criminal case.

**Chapter XXXVI**

**SOME INTERNATIONAL COOPERATION ACTIVITIES**

**Article 497. Receipt and transfer of documents and objects related to the case**

The receipt and transfer of documents and objects related to the case shall be carried out in accordance with the provisions of international treaties to which the Socialist Republic of Vietnam is a member, the provisions of this Code, the law on judicial assistance and other relevant provisions of Vietnamese law.

**Article 498. Handling of cases of refusal to extradite Vietnamese citizens**

At the request of a competent foreign authority, a competent Vietnamese authority shall be responsible for considering criminal prosecution or enforcing a foreign court's criminal judgment or decision against a Vietnamese citizen whose extradition is denied.

**Article 499. Procedures for considering and handling requests for criminal prosecution against Vietnamese citizens whose extradition is denied**

1. Within 10 days from the date of the decision to refuse extradition of a Vietnamese citizen at the request of a competent foreign authority, the Court that has issued the decision to refuse extradition shall transfer the case file and accompanying foreign documents to the Supreme People's Procuracy for consideration of criminal prosecution.
2. The Supreme People's Procuracy shall consider and handle foreign requests to prosecute Vietnamese citizens whose extradition is denied in accordance with the provisions of law.
3. The initiation, investigation, prosecution and trial of a person requested to be prosecuted for criminal liability shall be conducted in accordance with the provisions of this Code.
4. Competent authorities of Vietnam may request competent authorities of foreign countries to provide or supplement evidence, documents, and objects to ensure that the investigation, prosecution, and trial are well-founded and in accordance with the law.

**Article 500. Conditions for enforcement of criminal judgments and decisions of foreign courts against Vietnamese citizens whose extradition is refused**

Criminal judgments and decisions of foreign courts against Vietnamese citizens whose extradition is refused can be enforced in Vietnam when all of the following conditions are met:

1. There is a written request from a competent foreign authority to enforce a foreign court's criminal judgment or decision against a Vietnamese citizen whose extradition is denied;
2. Criminal acts for which Vietnamese citizens are convicted abroad also constitute crimes under the provisions of the Penal Code of the Socialist Republic of Vietnam;
3. The criminal judgment or decision of a foreign court against a Vietnamese citizen has come into legal effect and there are no more proceedings against that person.

**Article 501. Procedures for considering requests for enforcement of criminal judgments and decisions of foreign courts against Vietnamese citizens whose extradition is denied**

1. Within 30 days from the date of receipt of the request of a competent foreign authority to enforce a foreign court's criminal judgment or decision against a Vietnamese citizen whose extradition was refused, the provincial People's Court that issued the decision refusing extradition shall consider the foreign request.
2. The competent court shall hold a meeting with a panel of three judges to consider the request for enforcement of a foreign court's criminal judgment or decision against a Vietnamese citizen whose extradition has been refused. The meeting must be attended by the prosecutor of the same-level People's Procuracy, the person requested to enforce the foreign court's criminal judgment or decision, their lawyer or representative (if any).
3. After opening the meeting, a member of the Council shall present issues related to the request for enforcement of foreign court's criminal judgments and decisions against Vietnamese citizens and express opinions on the legal basis for the enforcement of foreign court's criminal judgments and decisions against Vietnamese citizens in Vietnam.

The prosecutor expressed the opinion of the Procuracy on the enforcement of criminal judgments and decisions of foreign courts against Vietnamese citizens in Vietnam.

The person requested to execute a foreign court's criminal judgment or decision, his or her lawyer or representative shall present his or her opinion (if any).

The Council discusses and decides by majority whether to enforce or not to enforce the foreign court's criminal judgment or decision against the requested person.

4. The decision to enforce a foreign court's criminal judgment or decision against a Vietnamese citizen in Vietnam must clearly state the term for which the person must serve the prison sentence in Vietnam based on consideration and decision:

a) In case the term of the sentence imposed by a foreign country is in accordance with Vietnamese law, the term of execution of the sentence in Vietnam shall be decided in accordance with that term;

b) In case the nature or duration of the penalty imposed by a foreign court is not in accordance with Vietnamese law, the decision shall be made to convert the penalty to be in accordance with Vietnamese law, but it must not be longer than the penalty imposed by the foreign court.

5. No later than 10 days from the date of the decision to enforce or not to enforce a foreign court's criminal judgment or decision, the provincial People's Court shall send the decision to the person requested to be enforced, the People's Procuracy at the same level, and the Ministry of Public Security for implementation.

A person required to enforce a foreign court's criminal judgment or decision has the right to appeal. The People's Procuracy at the same level has the right to protest within 15 days, and the High People's Procuracy has the right to protest within 30 days from the date the provincial People's Court issues the decision.

The provincial People's Court must send the file and appeal or protest to the High People's Court within 07 days from the date of expiration of the appeal or protest period.

6. Within 20 days from the date of receipt of the dossier for consideration of the request for enforcement of a foreign court's criminal judgment or decision subject to appeal or protest, the High People's Court shall hold a session to consider the decision of the provincial People's Court subject to appeal or protest.

The procedure for considering appeals and protests against decisions of provincial People's Courts shall be implemented according to the provisions of this Article.

7. Decisions to enforce criminal judgments and decisions of foreign courts against Vietnamese citizens in Vietnam with legal effect include:

a) The decision of the Provincial People's Court is not subject to appeal or protest;

b) Decision of the High People's Court.

8. The order and procedures for enforcing decisions to enforce judgments and decisions of foreign courts against Vietnamese citizens in Vietnam shall be implemented in accordance with the provisions of this Code and the Law on Enforcement of Criminal Judgments .

9. Upon receiving a notice of a foreign country's decision to grant amnesty, general amnesty, or exemption or reduction of sentence for a Vietnamese citizen who committed a crime abroad and whose extradition was refused by Vietnam and who is serving a sentence in Vietnam, the Ministry of Public Security shall immediately send that notice to the competent Court or Procuracy for consideration and decision.

#### **Article 502. Preventive measures, grounds and authority to apply preventive measures**

1. Preventive measures to ensure the consideration of extradition requests or the enforcement of extradition decisions include arrest, temporary detention, prohibition from leaving the place of residence, deposit of money as security, and temporary suspension of exit.

2. Preventive measures shall only be applied to a person whose extradition request is being considered or who is being extradited when all of the following conditions are met:

a) The court has decided to consider the extradition request for that person or the extradition decision for that person has come into legal effect;

b) There are grounds to believe that the person requested for extradition has absconded or is causing difficulties or obstructions in the consideration of the extradition request or the enforcement of the extradition decision.

3. The Chief Justice and Deputy Chief Justice of the provincial People's Court and the Chief Justice and Deputy Chief Justice of the High People's Court shall decide on the application of preventive measures prescribed in Clause 1 of this Article. The judge presiding over the session considering the extradition request shall have the right to decide on the application of measures prohibiting leaving the place of residence and measures to deposit money to ensure the presence of the person requested for extradition at the session.

#### **Article 503. Temporary detention of the person requested for extradition**

1. The arrest of a person requested for extradition for temporary detention or execution of an extradition decision shall be carried out in accordance with the provisions of Article 113 of this Code .

2. The period of temporary detention for consideration of the extradition request shall not exceed the period of time in the arrest warrant issued by the competent authority of the country requesting extradition or the period of time to be served or to be served of

the prison sentence in the criminal judgment or decision of the Court of the country requesting extradition.

If necessary, the Provincial People's Court or the High People's Court may send a written request to the competent authority of the country requesting extradition to issue an order or decide to temporarily detain or extend the temporary detention of the person requested for extradition to ensure the consideration of the extradition request; the request shall be sent through the Ministry of Public Security.

#### **Article 504. Prohibition of leaving the place of residence, temporary suspension of exit from the country**

1. Prohibition from leaving the place of residence is a preventive measure that can be applied to a person whose extradition is requested and whose place of residence is clearly defined in order to ensure their presence in response to a court summons.

The application of the measure of prohibiting leaving the place of residence is carried out according to the provisions of Article 123 of this Code .

The duration of the measure of prohibiting leaving the place of residence shall not exceed the period for ensuring consideration of the extradition request and the period for considering appeals and protests against extradition decisions or decisions refusing extradition according to the provisions of the law on judicial assistance.

2. Suspension of exit is a preventive measure that can be applied to a person whose extradition is requested to ensure their presence in response to a Court summons.

The application of temporary exit suspension measures is carried out in accordance with the provisions of Article 124 of this Code .

The duration of the temporary exit suspension measure shall not exceed the period for ensuring consideration of the extradition request and the period for considering appeals and protests against extradition decisions or decisions refusing extradition as prescribed by law on judicial assistance.

#### **Article 505. Deposit as security**

1. Depositing money as security is a preventive measure that can be applied to a person whose extradition is requested based on the person's property status to ensure their presence in response to a court summons.

2. The application of the measure of depositing money to ensure performance shall comply with the provisions of Article 122 of this Code.

3. The period of application of the measure of depositing money to guarantee must not exceed the period of ensuring the consideration of the extradition request and the period of considering the appeal or protest against the extradition decision or the decision to refuse extradition according to the provisions of the law on judicial assistance.

#### **Article 506. Cancellation or replacement of preventive measures**

1. When a competent Court decides to refuse extradition or after 15 days from the date of the decision to enforce the extradition decision comes into effect, the requesting country does not accept the extradited person, all applied preventive measures must be cancelled.

2. The person with the authority to apply preventive measures prescribed in Article 502 of this Code must promptly cancel or change the preventive measures he/she decides if he/she finds that they violate the law or are no longer necessary.

#### **Article 507. Handling of property obtained from crime**

1. Competent authorities of Vietnam shall cooperate with competent authorities of foreign countries in searching for, temporarily detaining, seizing, freezing, confiscating and handling assets obtained from crimes to serve the requirements of investigation, prosecution, trial and execution of criminal sentences.

2. The search, detention, attachment, freezing and confiscation of assets obtained from crimes in Vietnam shall be carried out in accordance with the provisions of this Code and other relevant provisions of Vietnamese law.

3. The handling of assets obtained from crimes in Vietnam shall be carried out in accordance with the provisions of international treaties to which the Socialist Republic of Vietnam is a member or according to agreements in each specific case between competent authorities of Vietnam and competent authorities of relevant foreign countries.

#### **Article 508. Coordination of investigation and application of special investigative measures**

1. Competent authorities of Vietnam may cooperate with competent authorities of foreign countries in coordinating investigations or applying special investigative measures. Cooperation in coordinating investigations or applying special investigative measures shall be carried out on the basis of international treaties to which the Socialist Republic of Vietnam is a member or according to agreements in each specific case between competent authorities of Vietnam and competent authorities of relevant foreign countries.

2. Investigation coordination activities carried out in the territory of the Socialist Republic of Vietnam shall be carried out in accordance with the provisions of this Code and other relevant provisions of Vietnamese law.

### **PART NINE**

## **TERMS OF IMPLEMENTATION**

#### **Article 509. Entry into force**

1. This Code comes into force from July 1, 2016.

2. Criminal Procedure Code No. 19/2003/QH11 ceases to be effective from the date this Code comes into effect.

3. Abolish the provisions on granting defense attorney certificates in Clause 3 and Clause 4, Article 27 of the Law on Lawyers No. 65/2006/QH11, which has been amended and supplemented by a number of articles under Law No. 20/2012/QH13 .

**Article 510. Detailed regulations**

The Government, the Supreme People's Procuracy and the Supreme People's Court shall detail the articles and provisions assigned in this Code.

*This Code was passed by the 13th National Assembly of the Socialist Republic of Vietnam at its 10th session on November 27, 2015.*

**CHAIRMAN OF THE NATIONAL ASSEMBLY**

**Nguyen Sinh Hung**