Code of Criminal Procedure

No. 88, 12 June 2008

Ferill málsins á Alþingi. Frumvarp til laga.

Took effect 1 January 2009 (see, however, Interim Provisions VII and VIII). *Amended by* Act 156/2008 (took effect 31 Dec. 2008), Act 70/2009 (took effect 30 June 2009 except Articles 1–3, 12–26 and Interim Provisions V and VI, which took effect 1 July 2009, Article 4, which took effect on 1 Sept. 2009 and Interim Provision IV, which took effect 16 June 2009; implemented in accordance with the provisions of Article 29; *cf.* also Act 97/2009 (took effect 3. sept. 2009)), Act 80/2009 (took effect 7 August 2009), Act 123/2009 (took effect 30 Dec. 2009), Act 52/2010 (took effect 12 June 2010), Act 162/2010 (took effect 1 Jan. 2011), Act 82/2011 (took effect 1 Sept. 2011, except for the Interim Provision which took effect 30 June 2011), Act 126/2011 (took effect 30 Sept. 2011), Act 168/2011 (took effect 30 Dec. 2011), Act 15/2013 (took effect 9 Mar. 2013), Act 116/2013 (took effect 15 Nov. 2013), Act 103/2014 (took effect 4 Nov. 2014), Act 47/2015 (took effect 1 Jan. 2016 except for the Interim Provisions and Articles 22 and 23, which took effect 15 July 2015), Act 78/2015 (took effect 1 Aug. 2015), Act 15/2016 (took effect 31 Mar. 2016), Act 23/2016 (took effect 5. April 2016), Act 49/2016 (took effect 1 Jan. 2018; regarding conflict of laws, see Article 78; *cf.* Act 117/2016, Article 76, Act 53/2017, Article 4, and Act 90/2017, Article 8), Act 99/2016 (took effect 24 Sept. 2016), Act 103/2016 (took effect 1 Jan. 2017), Act 117/2016 (took effect 1 Jan. 2018, except Articles 52, 53, 75, 76 and 79–81, which took effect 28 Oct. 2016), Act 34/2017 (took effect 16 June 2017), Act 53/2017 (took effect 20 June 2017), Act 90/2017 (took effect 29 Dec. 2017), Act 17/2018 (took effect 13 April 2018), Act 67/2018 (took effect 11 June 2018), Act 141/2018 (took effect 1 January 2019) and Act 18/2019 (took effect 21 March 2019).

Where mention is made in this Act of 'the minister' or 'the ministry' without further definition, the reference intended is to the **Minister of Justice** or the **Ministry of Justice**, which is responsible for the implementation of this Act. Information on the division of responsibilities between ministries according to a presidential decree may be found here.

Part 1. General rules on criminal procedure.
Section I. [Scope of the Act; judges in the district courts and the Court of Appeals.][1)]

[1)] *Act 49/2016, Art. 36.*

■ Article 1

☐Procedure laid down in this Act shall apply to all cases that are brought by the prosecution to secure punishment under the law unless other arrangements are prescribed in acts of law.

☐The same shall apply to cases brought to apply punitive sanctions, such as preventive detention and other preventive measures, seizure of property, deprivation of rights and declaring comments null and void, if the prosecution authorities are in charge of prosecuting the case, even though no claim is submitted for punishment in the case.

■ Article 2

☐Procedure according to this Act shall also apply to the resolution of a request for the extradition of criminals and the enforcement of foreign punitive sentences in Iceland and the handling of requests from foreign courts and authorities to have actions taken in Iceland in connection with criminal cases. Furthermore, procedure according to this Act shall apply to those cases where such procedure is prescribed in other acts of law.

☐Civil law claims may be presented and adjudicated in a criminal case in accordance with Section XXVI of this Act. The same shall apply to claims of a public-law nature, such as claims for taxes, the ending of an unlawful situation or the prohibition of unlawful activities.

■ Article 3

☐At the district court level, cases covered by this Act shall come under the ordinary district courts.

☐The court in each case [at district court level][1)] shall consist of one judge except under the circumstances described in the third, fourth and fifth paragraphs.

☐[If there is a dispute over facts and the judge considers that specialist knowledge is needed in the court so as to resolve the issue, he or she may summon one co-judge who possesses such knowledge, and the president of the court shall decide which district court judge is to sit on the bench with the presiding judge and the expert co-judge. However, the judge may summon two co-judges if he or she considers that specialist knowledge is needed in the court in more than one field.] [1)]

☐... [1)]

☐[If the case is otherwise broad in scope, or if the offence covered by the indictment may lead to a sentence of 10 or more years' imprisonment], [1)] or if the matter at issue is of great general significance, the president of the court

may decide that three district court judges are to sit on the bench in the case, or else two district court judges together with one expert co-judge.

1) *Act 49/2016, Art. 32.*

[Article 3 a

If an expert co-judge has taken part in the hearing of a case at the district court level which has been substantively resolved there but a dispute continues regarding facts before the Court of Appeals, and the president considers that specialist knowledge is needed in the court to resolve the issue, then the president may, on his or her own initiative or in accordance with a recommendation from the presiding judge in the case, appoint one co-judge with such specialist knowledge, who shall then sit on the bench in the case together with two judges of the Court of Appeals. If the case has been allocated to three judges of the Court of Appeals, the president of the court shall decide which of them is to step down. If the president of the court considers that specialist knowledge is needed in more than one field, but no co-judge with specialist knowledge in both or all fields is available, he or she may appoint two expert co-judges to take part in the hearing of the case along with three judges of the Court of Appeals. The president may also decide, if the case is broad in scope, the offence covered by the indictment may lead to a sentence of 10 or more years' imprisonment or the matter at issue is of great general significance, and the district court sat in plenary session, that three judges of the Court of Appeals are to sit on the bench together with two expert co-judges, or that five judges of the Court of Appeals are to sit on the bench in the case.] 1)

1) *Act 49/2016, Art. 33.*

Article 4

Only persons who have sufficient maturity and mental and physical health, are Icelandic citizens, are legally competent and are aged 25 years or older, have charge of their financial affairs and [have received prison sentences for criminal acts committed after they attained the age of 18 years][2] not been convicted of a criminal offence that can be regarded as disgraceful in the eyes of the ordinary public, or exhibited conduct that may diminish the trust that judges must normally enjoy, may be appointed to sit on the bench as expert co-judges.

Any person who meets the conditions of paragraph 1 shall be obliged to accept an appointment to work as a co-judge. This shall not apply, however, to Supreme Court judges, employees of the Supreme Court, [judges of the Court of Appeals, employees of the Court of Appeals],[1)] district court judges and their assistants, government ministers, permanent secretaries in the ministries, bishops, clergymen and the heads of recognised religious groupings [and registered life-stance associations],[1)] the Parliamentary Ombudsman, the Director of Public Prosecutions, the Director of the National Prosecution

Service, district commissioners, directors of customs and commissioners of police and their legally-qualified employees [or][1] lawyers and their deputies.

☐[The Judiciary Act shall apply regarding other aspects of the choice of expert co-judges.] [1]

[1]*Act 49/2016, Art. 34.* [2]*Act 141/2018, Art. 10.*

■ Article 5

☐Co-judges shall take their seats on the bench no later than at the beginning of the hearing of the case. All other things being equal, the judge shall inform the parties to the case with some notice of who he or she intends to appoint to sit on the bench, so giving them the opportunity of raising objections if they consider there is reason to do so.

☐An entry shall be made in the records noting the appointment of the co-judges in a case when they first take their seats on the bench. … [1]

☐Co-judges shall participate in the hearing of the case and [the compilation of the judgment][2] and have the same rights and obligations as the presiding judge in the case. The presiding judge shall nevertheless direct the court, shall act alone in delivering rulings on matters other than the dismissal of the case, and shall issue summonses and notifications, convene a session of the court for the delivery of judgment, see to the preparation and confirmation of actions taken by the court and represent the court to external parties.

☐The presiding judge shall determine the fee paid to expert co-judges [in accordance with rules set by the Courts Administration]. [1]

[1]*Act 49/2016, Art. 35.* [2]*Act 78/2015, Art. 17.*

■ Article 6

☐A judge (this also applies to a co-judge) shall be disqualified from handling cases if he or she:

a. is the accused, the injured party in the case or a representative of either;

b. has defended the interests of the accused or the injured party in the case;

c. has given testimony, or been summonsed to give testimony, on the facts of the case, for legitimate reasons, or has acted as an assessor or rapporteur regarding the substance of the case;

d. is, or used to be, the spouse of the accused or the injured party, or is related by blood or marriage to either of them in a direct line of descent or as an uncle, aunt, nephew, niece or first cousin, or is related to either of them in the same way as a result of adoption;

e. is related to, or used to be related to, the representative or legal counsel of the accused or the injured party in the way described in indent d;

f. is related to, or used to be related to, a witness in the case in the way described in indent d, or to an assessor or rapporteur;

g. if other events or circumstances are such as to cast reasonable doubt on his or her impartiality.

In addition, a judge shall step down on a case following the issue of the indictment if he or she acceded to a request that the defendant be remanded in custody under the second paragraph of Article 95.

Article 7

Judges shall, on their own initiative, assess their competence to judge a case; either of the parties may also demand that they step down. The presiding judge shall make a similar assessment of the competence of expert co-judges.

The judge, or the presiding judge if the court is in plenum, shall deliver a ruling on a demand by one of the parties that he or she, or the co-judges, step down, and also when deciding to step down on his or her own initiative. When three district court judges sit on the bench, they shall all deliver such rulings.

Even though a judge steps down, he or she shall be obliged to take such measures as may be necessary to keep the case in proper order until another judge takes it on. During this time, he or she may also release copies of documents in the case and confirm actions taken by the court.

Section II. Court sessions, court records, etc.

Article 8

Judges shall direct sessions of the court and ensure that they proceed in accordance with the appropriate rules. They shall decide in what order cases are examined. No one may speak without the judge's permission, and the judge may, after issuing a warning, order someone to stop speaking if they do not stick to the subject of the case.

When one person sits on the bench, there shall normally be one court witness. He or she shall meet the ordinary requirements for being a witness and may not be so closely related to the judge, the prosecutor, the accused, the injured party or a representative or a legal counsel as is described in indent d of the first paragraph of Article 6. If the court witness is not an employee of the court, the judge shall decide on the witness's remuneration.

Article 9

Sessions of the court shall be held in the regular court premises. A session maybe held elsewhere, however, if this is considered more convenient, e.g. in a prison or a hospital if it is necessary to question someone who is there. [If it is necessary to question an injured party who is under the age of 15, this shall be done in special premises for questioning children unless the interests of the injured party dictate that this be done in some other way. Furthermore, the judge may decide that questioning of witnesses under the age of 15 take place in specially designed premises of this type.] [1)]

[1)] *Act 78/2015, Art.18.*

Article 10

☐Sessions of the court shall be open. The judge may nevertheless decide, on his or her own initiative or at the demand of the prosecutor, the accused or the injured party, that a session is to be held *in camera*, in part or in its entirety, if it is held outside the regular court premises, or if the accused is under the age of 18 or if the judge considers this is necessary for other reasons:

a. to protect the accused, the injured party, relatives of these persons, witnesses or other persons on whom the case touches;

b. in view of the need of the accused, the injured party, a witness or another person on whom the case touches to keep secret matters involving business interests or similar circumstances;

c. in view of the public interest or the security of the state;

d. for reasons of propriety;

e. to maintain peace for the court to do its work,

f. while the investigation of a case is in progress and there is considered to be a danger of damage to the procedure if the court were to be held in open session;

g. while a witness is questioned without having to state his or her name where this would be heard by those present (*cf.* the eighth paragraph of Article 122).

☐When a case is registered, the judge may decide once and for all that sessions of the court hearing the case are to be held *in camera*, providing that this decision is recorded and the reason for it is stated. In the same way, the judge may decide on holding individual sessions *in camera*. Any person who does not accept the judge's decision may demand that he or she deliver a ruling on whether all sessions, or an individual session, is to be held *in camera.*

☐Even though a session is held in open court, the judge shall be empowered to limit the number of those present to what the courtroom can comfortably accommodate. The judge may also deny access to persons aged under 15 or to those who are in such condition as is not compatible with good courtroom procedure or whose presence could result in a danger that the accused or a witness will not tell the truth.

☐The judge may expel a person from the court if his or her presence seems likely to interfere with the functioning of the court or if his or her conduct, in word or deed, is improper. If such a person is the accused, his or her representative, the prosecutor or the accused's legal counsel or legal rights protector, then the judge shall normally reprove the person and give him or her the opportunity of adopting more acceptable conduct before being ordered to leave. A judge's decision to expel someone from the court may be enforced with the assistance of the police if necessary. If the person is the accused, his or her representative or his or her legal counsel, then the expulsion shall be noted in the records.

If the judge considers it will be sufficient, for the purpose of securing the interests covered in the first paragraph, to prohibit public reporting of a court session under the second paragraph of Article 11, he or she shall then take that measure instead of holding the session *in camera*.

Article 11

Sound recording and photography are forbidden during court sessions. The judge may grant exemption from this prohibition in special circumstances. If sound recordings have been made, or photographs taken, during a court session without the judge's permission, they may not be published.

It is forbidden to give reports of *in camera* proceedings without the judge's permission. Even when a session is held in open court, the judge may prohibit the giving of reports on proceedings there if there is reason to believe that a report could result in damage to the procedure or cause relatives of the accused or of the injured party, or other persons who are not charged with any offence, suffering or substantial inconvenience. A decision on such a prohibition may be taken for a limited duration. The judge shall record the decision in the court records and make it known to those present.

Violations of the first or second paragraph shall be punishable by fines, *cf.* [the first paragraph of Article 241]. [1)] Furthermore, the judge may deny those who have violated those provisions access to sessions of the court, either in the same case or in other cases.

[1)] *Act 17/2018, Art. 1.*

Article 12

The language of the court shall be Icelandic.

If a person is questioned in court who does not have sufficient command of Icelandic, the prosecution shall have an authorised court interpreter called in. If no authorised court interpreter is available, then the judge shall consent to having another person act as interpreter; that person shall then sign a pledge in the court records stating that he or she will perform the task to the best of his or her ability, and shall be obliged to confirm the accuracy of his or her interpretation or translation before the court if it is called in question.

Documents in foreign languages shall normally be accompanied by Icelandic translations to the extent that they serve as the basis for action in the case unless the judge considers himself or herself able to translate them. Translations shall normally be made by an authorised translator. If no authorised translator is available, a translation by another competent person may be submitted; that person shall be obliged to confirm the accuracy of his or her translation before the court if it is called in question.

[Where persons who are questioned in court rely on sign language as a means of communication, the prosecution shall have a sign-language

interpreter called in. The provisions of the second paragraph shall apply as regards pledges and confirmations by these persons.] [1)]

If a person who is to be questioned in court is not [fully] [1)] capable of engaging in verbal exchanges through the medium of speech [or Icelandic sign language] [1)], then the prosecution shall call in a qualified person to assist him or her. The provisions of the second paragraph shall apply regarding the pledge to be signed by that person and the confirmation of the quality of his or her services. The judge may, however, decide that instead of following this procedure, questions may, as appropriate, be put to the witness and he or she shall then answer them in writing before the court.

[Only persons who are 20 years of age or older may be called in as court interpreters, sign-language interpreters, translators or qualified persons. Furthermore, court interpreters, sign-language interpreters or qualified persons may not be disqualified from undertaking this work (*cf.* Article 6). The judge shall decide the fee paid to a court interpreter, sign-language interpreter, translator or qualified person, and the fee and other expenses connected with the person's work shall be paid by the Treasury.] [1)]

[1)] *Act 18/2019, Art. 4.*

Article 13

There shall be record books in [the Court of Appeals and] [1)] in every district court for use in criminal cases. Judges may have material that would otherwise be entered in such record books typed or written up on a computer; material recorded in this way shall then be preserved in printed form, with the judge's signature as confirmation, and shall then be stapled or bound together as a court record book.

When a court session is held, a report of its proceedings shall be written up in the record book. This shall normally record where and when the session was held, the name of the judge presiding over the case before the court, the evidence submitted, who took part in the session and appeared before the court and the decisions taken about the conduct of the case, and also the judge's decisions and rulings delivered during the conduct of the case. Declarations made by the parties which have not been submitted in writing shall also be recorded. Otherwise, where no provision is made elsewhere in this Act stating that particular matters are to be recorded, the judge shall decide what is to be recorded in the record book and shall sign the record at the end of the court session. However, those pleading the case may demand that short comments they make be recorded. If the judge considers there is reason to do so, he or she shall acquaint those present with the contents of the records, in part or in their entirety, and shall give those involved the opportunity of signing them. Without prejudice to what is stated above, the

names and other personal information about witnesses who give testimony in court without being required to state their names aloud so as to be heard by those present (*cf.* the eighth paragraph of Article 122) shall not be recorded; this information shall be preserved in the manner prescribed in the article referred to.

☐[Audio-visual recordings shall be made of oral testimony. In exceptional cases, however, the judge may also decide to record, audio-visually or in writing, his or her summary of testimony, in which case the person concerned shall be given the opportunity of commenting on what he or she is quoted as saying and on how testimony was taken.] [1)]

[1)] *Act 49/2016, Art. 38.*

■ Article 14

☐There shall be judgment books in [the Court of Appeals and][1)] in every district court which shall contain court judgments and also judges' rulings which constitute the conclusion of cases, signed by the judge.

[1)] *Act 49/2016, Art. 39.*

■ Article 15

☐Documents submitted in court shall be originals if these are available. They shall be marked in continuous numerical order and their submission to the court shall be witnessed. The party submitting a document shall provide the number of copies thereof specified by the judge and shall also deliver copies to the other parties to the case, and to the injured party if representation is made on behalf of the injured party in the case.

☐[Judgment books, court record books, documents submitted and audio and audio-visual recordings shall be kept in the archives of the relevant court until they are delivered to the National Archives.] [1)]

☐Original documents shall not be released to persons other than those who have a legitimate claim to them. While the case remains unresolved, original documents shall not be released unless this is required by urgent necessity and the judge considers that the document may be released if a copy is produced in its stead.

☐Sound recordings, videos and DVDs as referred to in the third paragraph of Article 13 shall be preserved for at least three years after the court case is concluded.

[1)] *Act 49/2016, Art. 40.*

■ Article 16

☐The defendant and the injured party shall be entitled to obtain copies of documents in the case without charge as soon as the case is registered (see, however, the first paragraph of Article 47). After registration of the case, the judge shall be obliged to provide other persons who so wish with certified copies of the indictment and the defendant's observations, if these have been

submitted, at the first opportunity, in return for payment of a fee. However, the release of copies of those parts of these documents that contain information on individuals' personal, financial or commercial interests, or those of legal persons, which it is fair and natural to keep secret, shall not be permitted except with the permission of the person concerned. Secrecy shall also be maintained if this is demanded by important public interests, for example in the case of information regarding the security or defence of the state or its relations with other states or international institutions.

The parties to the case, and the injured party, shall be entitled to obtain confirmed transcripts from the court records or the judgment book without charge.

Judges shall furthermore be obliged, in return for payment of a fee, to provide other persons who so desire with certified transcripts from the judgment book and certified transcripts of rulings and decisions that have been entered in the court records. Before these transcripts are released, matters which it is natural to keep secret, with regard to public or private interests, shall be deleted from them, if there is considered reason to do so, including matters in transcripts of rulings and judgments, if there would be a danger of damage to the procedure if they became public knowledge. The same shall apply if judgments or other resolutions by a court are published, e.g. on websites.

While a case is being conducted before a district court, or while it may be referred to [a higher court][1] or while it is being heard there, the judge shall be obliged to provide the parties to the case, without charge, with copies of audio or audio-visual recordings in accordance with the third paragraph of Article 13, or to permit them to listen to such recordings, as soon as can be arranged after they request this. After that time, a request to this effect may be granted if particular circumstances favour this. The judge shall be obliged, in return for payment of a fee, to provide the accused with copies of audio or audio-visual recordings, or permit him or her to listen to such recordings, if this is necessary for the accused to be able to defend his or her interests.

Judges may demand advance payment of the estimated fees under the first, third or fourth paragraph.

If judges consider they are not permitted, or not obliged, to comply with requests for copies or transcripts, or for permission to listen to recordings, they shall deliver rulings on this point if this is demanded.

[If the hearing of a case has been brought to a final conclusion before a district court, the president of the court shall take a decision on the release of copies as provided for in the first and third paragraphs 1 or deliver a ruling in accordance with the sixth paragraph.] [2]

[1] *Act 49/2016, Art. 41.* [2] *Act 78/2015, Art. 19.*

Article 17

Registers shall be kept in [the Court of Appeals and][1)] every district court covering the cases submitted to them for resolution under this Act.

[The Courts Administration shall set further rules[2)] on the following matters before the Court of Appeals and the district courts]: [1)]

a. case registers,

b. court records, including [electronic records], [3)]

c. equipment for audio and [audio-visual recordings][1)] in court sessions,

d. judgment books,

e. the preservation of case documents, audio recordings [and audio-visual recordings], [3)]

f. [public access to transcripts of judgments and of court records, and also to documents submitted, including as regards the removal of information from them, after the final conclusion of a case], [1)]

[g. the form and presentation of case documents, including as regards the maximum length of an indictment and of observations by the defendant]. [3)]

[1)] *Act 49/2016, Art. 42.* [2)] *Rules 189/2009.* [3)] *Act 78/2015, Art. 20.*

Section III. The prosecution.

Article 18

The prosecution consists of the Director of Public Prosecutions, the District Prosecutor and commissioners of police. In addition, and acting on their behalf, the Deputy Director of Public Prosecutions, the Deputy District Prosecutor, prosecutors, assistant prosecutors and deputy prosecutors, and legally-qualified assistant commissioners of police represent the prosecution.

The role of prosecutors is to ensure, in collaboration with the police, that the legally-prescribed punishments are imposed on those who commit offences. They do not take orders from other government authorities regarding procedure by the prosecution unless provision to this effect is made in law.

Prosecutors shall work to reveal the truth and shall give equal consideration to matters which argue for acquittal and for conviction. They shall also process cases as quickly as possible.

Prosecutors shall be obliged to treat in confidence matters of which they become aware in the course of the work and which should be kept secret with regard to legitimate public or private interests. This applies to information about individuals' personal circumstances which should normally be kept secret, information regarding the working methods of the prosecution and the police and measures that are planned in the service of an investigation, and other information which is to be kept secret according to law, official government instructions or the nature of the case. This non-disclosure obligation shall remain in force even after employment has ended.

Article 19

[The minister] [1] shall monitor the functions of the prosecution and may demand that the Director of Public Prosecutions submit materials and statements concerning procedure in specific cases.
Special provisions in law stating that court actions shall only be brought if [the minister][2] orders this to be done shall remain in force. Under such circumstances, the minister shall approve indictments and appeals, and may also give the Director of Public Prosecutions orders on procedure, including as regards the investigation of cases.

[1] *Act 126/2011, Art. 490.* [2] *Act 162/2010, Art. 194.*

Article 20

The Director of Public Prosecutions exercises supreme prosecuting authority and is responsible for decisions taken by those who work at the directorate. The director shall be permanently appointed to the position by [the minister] [1] and shall meet the requirements in law for appointment as a Supreme Court judge. He or she shall also enjoy the same terms of employment as Supreme Court judges as far as this can be arranged.
The Director of Public Prosecutions shall have his or her office in Reykjavík. The director shall be assisted by the Deputy Director of Public Prosecutions, who shall be permanently appointed by the minister, and by prosecutors appointed by the minister for terms of five years at a time. The Deputy Director of Public Prosecutions shall meet the same legal requirements as the director; the other prosecutors shall meet the requirements for being appointed district court judges. The Director of Public Prosecutions shall engage other staff of his or her office, including deputy prosecutors, who shall have completed both a first degree and a postgraduate degree in Law.

[1] *Act 162/2010, Art. 194.*

Article 21

The Director of Public Prosecutions shall issue general rules and orders on procedure to be followed by the prosecution. He or she shall also supervise the conduct of the prosecution by other prosecutors.
The Director of Public Prosecutions shall bring a criminal case if the offence falls under Section X of the General Penal Code, and also other criminal cases in which [the minister] [1] takes the decision on prosecution (*cf.* the second paragraph of Article 19). If the conduct involved comprises another offence, or other offences, then the Director of Public Prosecutions shall exercise prosecuting powers in relation to them. The Director of Public Prosecutions may at all times take over the prosecution, including the issue of an indictment and prosecuting a case in court, if he or she considers this is necessary.
The Director of Public Prosecutions may give other prosecutors orders regarding specific cases, which they shall be obliged to obey. He or she may

commission the investigation of a case, give orders on how it is to be executed, and monitor its progress.

☐[The Director of Public Prosecutions takes decisions on the lodging of appeals against district court judgments with the Court of Appeals and on applications for leave to appeal to the Supreme Court against judgments by the Court of Appeals. He or she also takes decisions on lodging appeals with the Court of Appeals and, as appropriate, with the Supreme Court, in cases that he or she has brought.] 2)

☐[The Director of Public Prosecutions shall determine the extent of the powers of the District Prosecutor vis-à-vis other prosecutors if it is drawn in question. Moreover, the Director of Public Prosecutions may commission the District Prosecutor to undertake cases that are not covered by Article 23, or entrust other prosecutors with conducting cases that are covered by that article, e.g. if the investigation of the case has already been started.] 3)

1) *Act 162/2010, Art. 194.* 2) *Act 49/2016, Art. 43.* 3) *Act 47/2015, Art. 1.*

■ Article 22

☐[The minister] 1) shall appoint the District Prosecutor on a permanent basis, and his or her office shall be in Reykjavík. The director shall be assisted by the Deputy District Prosecutor, whom the minister shall appoint on a permanent basis, and by prosecutors whom the minister shall appoint for terms of five years at a time. The minister shall decide on the number of prosecutors following consultation with the Director of Public Prosecutions. The District Prosecutor, the Deputy District Prosecutor and the prosecutors shall meet the requirements for appointment as district court judges. The District Prosecutor shall engage other staff of his or her office, including assistant prosecutors and deputy prosecutors, who have completed both a first degree and a postgraduate degree in Law.

☐ The District Prosecutor shall responsible for decisions taken by those who work at the directorate. The director shall share tasks with the deputy director and the other prosecutors, and shall assign cases to them. A special department dealing with tax-related and financial crime shall function within the office, and the prosecutor or prosecutors who work there shall bear official designations referring to these categories of offence. The District Prosecutor may divide the office into more departments dealing with specific categories of offences or regions of the country.

1) *Act 162/2010, Art. 194.*

■ Article 23

☐[The District Prosecutor shall bring actions in the event of the following violations of the General Penal Code:

a. of the provisions of Section XI, other than Articles 99 and 101;

b. of the provisions of Sections XII–XIV;

c. of the provisions of Section XV, other than Article148, if the violation is connected with a violation for which a commissioner of police brings an action,

d. of the provisions of Section XVI;

e. of the provisions of Section XVII, other than Articles 155–158;

f. of the provisions of Section XVIII–XXI;

g. of the provisions of Section XXII, other than Article 206 and Article 210 a;

h. of the provisions of Section XXIII, other than Article 215 if the violation is connected with a violation of the Traffic Act, and Article 217, the first paragraph of Article 218, Article [218 b] [1] and Article 219;

i. of the provisions of Section XXIV;

j. of the provisions of Section XXVI, which he or she investigates according to the Police Act.

☐The District Prosecutor also brings actions in criminal cases arising from other violations that he or she investigates under the Police Act.

☐If the conduct involved also comprises an offence, or offences, other than those which the District Prosecutor is to prosecute under the first and second paragraphs, then the District Prosecutor may bring an action covering the offences; if not, then the commissioner of police shall do this.

☐To the extent that this is not at variance with orders given by the Director of Public Prosecutions under the third paragraph of Article 21, the District Prosecutor may give commissioners of police orders on the further investigation of individual cases that commissioners of police send to the District Prosecutor for a decision on prosecution, give orders on how the investigation is to be executed and monitor its progress.

☐The District Prosecutor may refer questions of other types regarding prosecution or procedure to the Director of Public Prosecutions, for example when he or she considers that a commissioner of police should bring an action, or when he or she considers himself or herself to be disqualified, or when a case is difficult to resolve.

☐If the District Prosecutor decides not to proceed with prosecution under the second, third or fourth paragraphs of Article 146, he or she shall inform the Director of Public Prosecutions of this. If the Director of Public Prosecutions considers there was not sufficient reason for not proceeding with the prosecution, he or she may, within two months of the decision, require the District Prosecutor to bring an action.

☐The District Prosecutor shall take decisions on appeals to [the Court of Appeals] [2] in cases that he or she is investigating or has brought.] [3]

[1] *Act 23/2016, Art. 7.* [2] *Act 49/2016, Art. 44.* [3] *Act 47/2015, 2.*

■ Article 24

☐Commissioners of police shall bring actions in criminal cases other than those that the Director of Public Prosecutions or the District Prosecutor are to

bring under the second paragraph of Article 21 and the first and second paragraphs of Article 23 (see, however, the third paragraph of that article).

Commissioners of police may refer to [the Director of Public Prosecutions] [1] questions of other types regarding prosecution or procedure, for example if they consider that actions should be brought in another police jurisdiction or if they consider themselves to be disqualified, or when cases are difficult to resolve.

[If a commissioner of police decides not to proceed with prosecution under the second, third or fourth paragraphs of Article 146, he or she shall inform the Director of Public Prosecutions of this. If the Director of Public Prosecutions considers there was not sufficient reason for not proceeding with prosecution, he or she may, within two months of the decision, require the District Prosecutor or the commissioner of police to bring an action.

The commissioner of police who has directed the investigation of an offence shall bring an action in a criminal case concerning the offence unless the Director of Public Prosecutions or the District Prosecutor brings an action or other arrangements follow from the rules on venue under Section VI. In such a case, the Director of Public Prosecutions shall take a decision as to which commissioner of police is to bring the action, or whether the District Prosecutor is to do so.

Commissioners of police shall take decisions on appeals to [the Court of Appeals] [2] in cases that they are investigating or in which they have brought actions.] [1]

[1] *Act 47/2015, Art. 3.* [2] *Act 49/2016, Art. 44.*

Article 25

At the district court level, the Director of Public Prosecutions, the Deputy Director of Public Prosecutions or a prosecutor shall plead cases which are brought by the Director of Public Prosecutions. The director may entrust the District Prosecutor or a commissioner of police with pleading the case before a district court, in which case procedure shall be in accordance with the second or third paragraph. Furthermore, the Director of Public Prosecutions may commission a district court attorney or a Supreme Court attorney to plead cases before a district court, in which case he or she shall have the same standing in law as a prosecutor.

At the district court level, the District Prosecutor, the Deputy District Prosecutor, a prosecutor, an assistant prosecutor or a deputy prosecutor shall plead the cases that are brought by the District Prosecutor. [Furthermore, the Director of Public Prosecutions] [1] may entrust a commissioner of police, a district court attorney or a Supreme Court attorney with pleading a case at the district court level in the same way as is provided for in the first paragraph.

☐At the district court level, commissioners of police shall see to pleading the cases that they bring. They may entrust deputy commissioners of police, assistant prosecutors or deputy prosecutors in their offices with pleading these cases. Commissioners of police may entrust other commissioners of police with attending court in a case.
☐The Director of Public Prosecutions shall prosecute cases before [the Court of Appeals and] [2] the Supreme Court (see, however, the fifth paragraph). He or she may entrust the Deputy Director of Public Prosecutions, the District Prosecutor, [the Deputy District Prosecutor], [1] a prosecutor or a Supreme Court attorney with pleading these cases. If a Supreme Court attorney is commissioned to plead a case before [the Court of Appeals or] [2] the Supreme Court, he or she shall have the same obligations as a prosecutor.
☐The District Prosecutor and commissioners of police shall plead the appeal actions before [the Court of Appeals] [3] which they are responsible for handling [under the seventh paragraph of Article 23] [1] and the fifth paragraph of Article 24. They may entrust the pleading of these case to other legally-qualified employees as is provided for in the second or third paragraph.

[1] *Act 47/2015, Art. 4.* [2] *Act 49/2016, Art. 45.* [3] *Act 49/2016, Art. 44.*

■ Article 26

☐If the Director of Public Prosecutions would be disqualified from a case as a judge under Article 6, he or she shall disqualify himself or herself. In such a case, [the minister] [1] shall then appoint another legally-qualified person to handle the case. [If the Director of Public Prosecutions considers that he or she lacks competence to handle unspecified cases in a particular defined field for a specific time, then [the minister] [1] shall appoint another legally-qualified person to carry out the functions of the Director of Public Prosecutions in such cases.] [2]
☐If the District Prosecutor would be disqualified from a case as a judge under Article 6, he or she shall disqualify himself or herself. The Director of Public Prosecutions shall then appoint another legally-qualified person to handle the case.
☐[If a commissioner of police would be disqualified from handling a case as a judge under Article 6, the Director of Public Prosecutions shall entrust the District Prosecutor or another commissioner of police with handling the case.
☐Where an indictment has been issued, the judge shall, either on his or her own initiative or in response to a demand from one of the parties, dismiss the case from court if he or she considers that the prosecutor was not competent to bring it or that the commissioner of police was not competent to investigate it.
☐Where a person is disqualified, in the same way as is described above, from dealing with a particular case in court, he or she may not plead it as a

prosecutor either. The judge shall rule on the person's competence. If the judge considers the person to be disqualified from handling the case, the Director of Public Prosecutions or, as appropriate, the District Prosecutor, shall undertake the pleading in person or entrust it to another legally competent person.] [3)]

[1)] *Act 162/2010, Art. 194.* [2)] *Act 80/2009, Art. 4.* [3)] *Act 47/2015, Art. 5.*

Section IV. The accused and the counsel for the defence.

■ Article 27

☐The accused is the person who is accused of committing an offence or suspected of criminal conduct. Furthermore, the term denotes a legal person that is accused or suspected of responsibility for such conduct.

☐If the accused is not legally competent, a legal guardian shall appear as his or her representative, as necessary. The legal guardian shall take decisions on behalf of the person who is not legally competent on matters which the person is not considered capable of understanding in full or able to decide.

☐If the accused is a legal person, its directors shall appear as its representatives, either singly or more than one of them, jointly, as its representatives, as provided for under general rules. If possible, a person who is accused of the same sort of offences as the legal person shall not represent it.

☐Representatives as provided for under the second and third paragraphs shall have the same standing in law as if they themselves were accused of committing offences or suspected of criminal conduct.

■ Article 28

☐An accused person shall be entitled to receive information about the substance of the case before being questioned concerning it, or at the time of arrest if an arrest is made.

☐Accused persons who have been arrested in the interests of the investigation of the case shall be entitled to contact a lawyer immediately following arrest, and also their next-of-kin unless there is special reason to believe that this would impede the investigation of the case. In such cases, the police shall, at the first opportunity, notify the next-of-kin of the accused that he or she has been arrested and where he or she is being held. [The minister][1)] shall issue regulations [2)] containing more detailed provisions on when an accused person may be refused the opportunity of contacting his or her next-of-kin.

[1)] *Act 162/2010, Art. 194.* [2)] *Rg. 651/2009.*

■ Article 29

☐An accused person may conduct his or her own defence in the case if he or she chooses to do so and is capable of doing so in the opinion of the judge or the police. In such cases, accused persons who are not qualified in law shall be given guidance, as necessary, as to the formal aspects of the case.

Article 30

The police shall be obliged to comply with an accused person's wish to have a defence counsel appointed if he or she has been arrested in the interests of the investigation of a case.

The police may at all times, in accordance with an accused person's wishes, nominate him or her a defence counsel during the investigation of the case and before an action has been brought if there is reason to do this in terms of the nature of the offence and other circumstances of the case. In addition, the police may nominate a defence counsel for the accused, even when he or she has not requested this, if he or she is not capable of defending his or her interests properly during the investigation. This decision may be referred to the judge.

Nomination of a defence counsel under the first paragraph shall expire automatically when the accused is released or brought before a judge under Article 94. Otherwise, the nomination shall expire according to a ruling by the judge as provided for under the third sentence of the second paragraph, or when a case is brought, the investigation is discontinued or the case is dropped in some other way.

Article 31

Judges shall be obliged to comply with an accused person's request to have a defence counsel appointed if the demand has been made to have the accused person remanded in custody or subjected to other measures under Section XIV of this Act, or if a court case has been brought against the person.

Furthermore, the appointment of a defence counsel for the defendant shall be obligatory if the hearing of the case proceeds according to the provisions of Section XXV, except where the defendant has chosen his or her own defence counsel in accordance with Article 32 and does not wish to have that person appointed as such, or requests to plead his or her own case in accordance with Article 29.

A judge may appoint a defence counsel for an accused person even if he or she has not requested this if, in the judge's opinion, he or she is not capable of defending his or her interests properly when the case is heard in court.

If the police refuse or neglect to nominate a defence counsel for the accused as provided for in Article 30, he or she may seek the assistance of the judge and request to have a defence counsel appointed.

The appointment of a defence counsel shall expire automatically when [judgment] [1] is delivered or when the investigation is discontinued or the case is dropped in some other way.

If an appeal is lodged against a [judgment] [1] then the appointment of a defence counsel before [the higher court] [1] shall be subject to the fifth paragraph of Article 201.

[1] *Act 49/2016, Art. 46.*

Article 32

At all stages of the … [1] case, the accused may engage a lawyer at his or her own expense to defend his or her interests.

A lawyer engaged by the accused without the intermediary agency of the judge or the police shall have the same rights and obligations, as appropriate, as a defence counsel. During the investigation of the case, however, the lawyer's right to confer with the accused, be present at questioning, examine materials and monitor the progress of the investigation may be restricted if there is a danger that it would impede the investigation.

[1] *Act 52/2010, Art. 3.*

Article 33

When they are obliged, or permitted, to appoint or nominate a defence counsel for the accused, judges and the police shall draw the attention of the accused to this right.

Defence counsels shall be appointed or nominated from among the ranks of lawyers.

Before a defence counsel is appointed or nominated, the accused person shall be given the opportunity of naming a lawyer to take on this function. When a defence counsel is appointed or nominated, the wishes of the accused shall normally be respected (see, however, the fourth and fifth paragraphs). Furthermore, the judge or the police may refuse to appoint or nominate the defence counsel whom the accused has requested if there is considered to be a danger that he or she will obstruct the investigation of the case in an unlawful manner.

A person may not be appointed or nominated as a defence counsel who has worked as an assessor in the case, or who may be summonsed to give testimony as a witness in the case, or is involved with the case or one of the parties in such a way that there is a danger that he or she will not be able to defend the interests of the accused properly.

Where more than one person is accused in the same case, the same person may be appointed or nominated as the defence counsel of them both, or all, if it may be considered that there will not be any conflict between their interests.

Article 34

If the accused requests that the appointment or nomination of a defence counsel be revoked and a new defence counsel appointed or nominated, such a request shall be granted unless there is a danger that the case will be delayed as a result.

If it can be considered that a defence counsel will obstruct, or has obstructed, the investigation of a case in an unlawful manner or has violated his or her professional obligations in some other way, the prosecution or the police may

seek the judge's assistance and demand that the defence counsel be released from his or her duties and another defence counsel appointed instead. The defence counsel may demand that the judge issue a ruling on this demand.

■Article 35

□The role of defence counsels is to highlight everything in the case that may lead to their client's acquittal or advantage and to defend their client's rights in every detail.

□Defence counsels shall attend in person to their professional obligations, including the pleading of cases. They may, however, have their deputies or other lawyers attend the taking of statements and investigative actions, and also attend individual court sessions on their behalf while the investigation or hearing of a case is in progress.

□Defence counsels shall be under a non-disclosure (confidentiality) obligation regarding that which their clients may have confided to them about their position regarding the offence that is the subject of the case and also other matters of which they become aware in the course of their work and which are not already public knowledge.

■Article 36

□Defence counsels may speak in private with their clients about any matter relating to the case.

□At all times during the investigation of a case, a defence counsel may be present when his or her client is questioned. Defence counsels may also be present when other accused persons and witnesses in their clients' cases are questioned if this is considered not to pose any danger to the investigation of the case.

□After an indictment has been issued, the defence counsel has the right to attend all court sessions on the case, and the judge shall be obliged to notify him or her of them. The defence counsel shall also have the right to attend court sessions during the investigation of the case unless there is a danger that this would obstruct the investigation (see the first paragraph of Article 104).

■Article 37

□Defence counsels shall receive, as quickly as possible, copies of all documents in cases regarding their clients and shall also be put in a position to familiarise themselves with other materials in the case. The police may nevertheless deny a defence counsel access to particular documents or other materials for up to three weeks from the date on which they were created or came into their possession if they consider that releasing them could interfere with the investigation of the case. The police may, for the same reason, refuse to provide the defence counsel with copies of particular documents during the investigation of the case. Refusals may be referred to the judge.

If the police have requested questioning in court under indent *b* of the first paragraph of Article 59, the judge may extend the time period specified in the first paragraph to as much as five weeks so that questioning can be completed within the period.

The police may moreover deny a defence counsel access to particular documents and other materials while the investigation of the case is in progress if the security of the state or the public is in jeopardy or if urgent private interests of persons other than the counsel's client, or communications with government authorities in other states preclude doing so. Refusals on these grounds may be referred to a judge.

When defence counsels have received access to case materials, they may provide their clients with copies of them or inform them of them in another manner.

The police shall give the defence counsel the opportunity of monitoring the progress of the investigation to the extent possible. They shall act on the defence counsel's suggestions regarding specific investigative actions unless they consider them to be prohibited or pointless.

Article 38

Remuneration to an appointed defence counsel shall be determined in the judgment or ruling, if the case is concluded in this manner, unless the defence counsel has waived the right to accept remuneration. If the case is not concluded in this manner, the judge shall determine remuneration in an entry in the court records, or in another manner in writing.

The judge shall determine remuneration as a single payment if the person who was nominated as the accused person's defence counsel is subsequently appointed to that position. [Otherwise, the District Prosecutor, a commissioner of police or a legally qualified member of their staff shall decide remuneration to the nominated defence counsel.] [1)] The defence counsel may be paid part of the estimated remuneration before the investigation of the case is completed.

Remuneration to the appointed or nominated defence counsel shall be paid by the Treasury and shall be regarded as part of legal costs under [Article 233.] [2)] [[The Courts Administration] [2)] shall set rules on hourly rates which shall be used as a frame of reference when determining fees.] [3)]

[1)] *Act 47/2015, Art. 6.* [2)] *Act 49/2016, Art. 47.* [3)] *Act 78/2015, Art. 21.*

Section V. The injured party and the legal rights protector.

Article 39

The injured party is the person who considers he or she has suffered an injury as a result of the offence. The term also refers to a person who considers he or she has suffered financial loss as a result of criminal conduct, providing

the conduct was directed at the person himself or herself, or a legal person who is said to have suffered such loss.

If the injured party is not legally competent, his or her legal guardian shall appear as his or her representative. The legal guardian shall take decisions on behalf of the injured party lacking legal competence on matters which the injured party is not considered capable of understanding in full or able to decide.

If the injured party is a legal person, its directors (one or more, collectively), shall appear as its representatives, according to the ordinary rules.

Representatives as provided for under the second and third paragraphs shall have the same standing in law as they would if they themselves considered they had suffered loss or damage due to the criminal conduct.

The injured party is not a party to the criminal case. If the injured party presents a civil law claim under Section XXVI, he or she shall nevertheless enjoy the same standing in that part of the case as a party to a civil law case in accordance with the further provisions of this Act.

Article 40

The police shall be obliged, as appropriate, to give the injured party guidance regarding his or her legal rights according to law.

If the identity of the injured party is known, he or she shall be informed if the investigation of the case is terminated or if the case is dropped in some other manner, irrespective of whether or not he or she brought a charge concerning the offence. If the injured party so requests, reasons for the decision shall be given. In addition, the police shall point out to the injured party that he or she may refer a decision to terminate the investigation to the [Director of Public Prosecutions] [1] under the fifth paragraph of Article 52.

If an indictment is issued, the prosecutor shall inform the injured party, or the injured party's legal rights protector, of this when the indictment has been served unless he or she has previously received information concerning the indictment. Furthermore, the prosecutor shall be obliged to inform the injured party of the court's conclusion, if this is reached, or of how the case ended, if no measures were taken to defend his or her interests in court.

[1] *Act 47/2015, Art. 7.*

Article 41

The police shall be obliged to nominate a legal rights protector if the investigation of the case is directed towards an offence under Section XXII of the General Penal Code and the injured party requests that this be done. A legal rights protector shall be nominated in all cases where the injured party has not reached the age of 18 years at the time when the investigation is begun.

In all instances, the police shall be obliged to nominate a legal rights protector for the injured party if he or she so requests and if the investigation

is directed towards an offence under Section XXIII or XXIV of the General Penal Code, or Articles 251-253 of the General Penal Code, and there is reason to believe that the injured party has sustained substantial damage to his or her physical or mental health as a result of the offence, or that the offence was perpetrated against the injured party by someone who is closely related to, or associated with, him or her. A condition for the appointment of a legal rights protector under this Article shall be that, in the opinion of the police, the injured party needs special assistance from a legal rights protector in order to defend his or her interests in the case.

The police may nominate a legal rights protector for the injured party even if he or she has not requested that this be done, if the conditions of the second paragraph are met and the injured party is not capable of defending his or her own interests properly during the investigation of the case.

When the conditions for nominating a legal rights protector under the first, second or third paragraph are met, this shall be done as soon as there is reason to do so. Nomination shall expire automatically if a legal rights protector is appointed under the first paragraph of Article 42; otherwise, the police shall take a decision on the matter in each individual instance.

Article 42

When a court case has been brought and the conditions for nominating a legal rights protector under the first, second or third paragraph of Article 41 are met, the judge shall appoint a legal rights protector for the injured party.

If the police refuse, or neglect, to nominate a legal rights protector for the injured party in accordance with Article 41, the injured party may seek the assistance of the judge in having a legal rights protector appointed for him or her.

Article 43

The injured party may engage a lawyer, at his or her own expense, to defend his or her interests.

A lawyer engaged by the injured party without the assistance of the judge or the police shall have the same rights and obligations, as appropriate, as a legal rights protector. During the investigation of the case, however, his or her right to be present when the injured party is questioned, and to acquaint himself or herself with the case materials, may be restricted if there is a danger that this would impede the investigation.

Article 44

The provisions of Articles 33 and 34 shall apply regarding the nomination, appointment and qualifications of the legal rights protector, and also the revocation of his or her nomination, as appropriate.

Article 45

☐The role of a legal rights protector is to defend the interests of his or her client and to render him or her assistance in the case, including help with submitting civil law claims in accordance with Section XXVI.

☐Legal rights protectors shall attend in person to their professional obligations, including expressing themselves orally in court. They may, however, have their deputies or other lawyers attend when their clients are questioned and attend individual court sessions on their behalf.

☐Legal rights protectors shall be under a non-disclosure (confidentiality) obligation regarding that which their clients confide to them and also other matters of which they become aware in the course of their work and which are not already public knowledge.

■ **Article 46**

☐At all times during the investigation of a case, legal rights protectors may be present when their clients are questioned.

☐After an indictment has been issued, a legal rights protector shall have the right to attend all court sessions on the case. The judge shall be obliged to notify him or her of when court sessions are to take place.

☐Legal rights protectors may not put questions to those who are being questioned by the police or before a court. They may, however, request that the police or the judge ask their clients about particular matters, and also that the defendant and witnesses be asked about particular points which have a special bearing on the injured party's civil law claims.

☐Legal rights protectors may only make oral comments in court about their clients' civil law claims, and not about other aspects of the claims made by the prosecution. They may, however, make comments concerning procedural matters if these have particular implications for their clients.

■ **Article 47**

☐During investigation, a legal rights protector shall only have the right of access to the materials which concern his or her client's part in the case and which are necessary in order for him or her to defend the client's interests. However, copies of documents may not be released to the legal rights protector, and he or she may not be granted access to materials, if the defence counsel has been refused such copies or denied access. On registration of the case, the legal rights protector shall have the right of access to all materials with a bearing on his or her client's part of the case unless the judge considers that this could impede the resolution of the case. In such instances, the legal rights protector shall nevertheless have access to the materials prior to the hearing of the case at the latest.

☐When the legal rights protector has gained access to the case materials, he or she may provide his or her client with a copy of them or make the contents of them known to him or her in some other way.

An injured party who does not have the assistance of a legal rights protector shall have the right of access to the case documents as provided for under the first paragraph.

Article 48

Remuneration to an appointed legal rights protector shall be determined in the judgment or ruling, if the case is concluded in this manner, unless the legal rights protector has waived remuneration. If the case is not concluded with a judgement, the judge shall determine the remuneration in an entry in the court records, or in another manner in writing.

The judge shall determine the remuneration as a single payment if the person who was nominated as the injured party's legal rights protector is subsequently appointed to that position. [Otherwise, the District Prosecutor, a commissioner of police or a legally-qualified member of their staff shall decide on remuneration to the nominated legal rights protector.] 1)

Remuneration to the legal rights protector shall be paid by the Treasury and shall be regarded as part of legal costs under [Article 233.] 2) [[The Courts Administration] 2) shall set rules on hourly rates which shall be used as a frame of reference when determining remuneration.] 3)

1) *Act 47/2015, Art. 8.* 2) *Act 49/2016, Art. 47.* 3) *Act 78/2015, Art. 22.*

Section VI. Venue.

Article 49

All other things being equal, a request for an investigative measure for which the intermediary agency of a judge is required shall be directed to the district court in the police jurisdiction area under the commissioner of police who is directing the investigation of the offence. If [the District Prosecutor or] 1) the National Commissioner of Police is directing the investigation, the request shall normally be made to [the Reykjavík District Court]. 2)

Notwithstanding the provisions of the first paragraph, a request for an investigative measure may be directed to the district court in another police jurisdiction area if this seems likely to be a quicker or more efficient procedure. If it is necessary to take a statement from the accused, or from a witness, before a court during the investigation of the case, this may also be done in the police jurisdiction area where the person who is to make the statement lives, or is present, or where it is foreseeable that a court action regarding the matter at issue could be brought.

When a dispute of the type referred to in the second paragraph of Article 102 is referred to a judge, this shall be done before the district court in the jurisdiction of the commissioner of police who is directing the investigation into the offence (*cf.* the first paragraph). [If the District Prosecutor or the

National Commissioner of Police is directing the investigation, the demand shall be directed to the Reykjavík District Court.] [1)]

[1)] *Act 47/2015, Art. 9.* [2)] *Act 49/2016, Art. 48.*

■ Article 50

☐A case which is to receive ordinary procedure by a court under Section XXV may be brought in the court jurisdiction where the defendant is domiciled. If more than one person is made to face charges in the same case, it may be brought where either or any one of them is domiciled. A case against a person whose domicile is not in Iceland may be brought anywhere in Iceland.

☐If a case concerns one offence, the action may be brought in the court jurisdiction where the offence was committed. Actions in cases concerning more than one offence may be brought in the court jurisdiction where any one of them was committed if they were all committed within the jurisdiction of the same district court.

☐An action may be brought before a district court in any part of Iceland if the offence was committed in Iceland and there is doubt as to the boundary between court jurisdiction areas or if it was committed on an Icelandic ship or aircraft outside these jurisdiction areas, and also if the offence was committed abroad and the case arising from it is subject to the jurisdiction of Icelandic courts.

☐If the defendant, or his or her defence counsel, attends court at the registration of a case that has been brought in a court jurisdiction area other than that described above, then the case shall not be dismissed from court except at his or her demand.

■ Article 51

☐If the Director of Public Prosecutions, the District Prosecutor or a commissioner of police brings to court a case that is to receive extraordinary procedure under Section XXVII, this shall be done before the district court in the court jurisdiction area where the director or commissioner has his or her place of work or where the person whom the case concerns is domiciled. If such a case is brought to court by another party, this shall be done before the court where the party is domiciled; if there is no such place of domicile, then it may be brought before any district court in Iceland.

Part 2. Investigations.

Section VII. General rules on investigations.

■ Article 52

☐[Investigation of criminal cases is the responsibility of the police, under the direction of the District Prosecutor or a commissioner of police, unless other arrangements are prescribed in law.] [1)]

☐The police shall, whenever this is necessary, begin an investigation on the basis of knowledge, or suspicion, that a criminal offence has been committed, irrespective of whether or not they have received any complaint. Furthermore, the police shall investigate deaths, disappearances, fires, accidents and other unfortunate events, even though there is no suspicion of foul play. [The Director of Public Prosecutions may order the police to initiate an investigation (*cf*. the third paragraph of Article 21).] [1)]

☐Complaints concerning criminal offences or requests for an investigation shall be directed to the police or a prosecutor. If the conduct involved is not punishable unless the injured party demands that a criminal action be brought, then no investigation shall be begun unless the injured party so demands. The provisions of Article 144 shall apply, as appropriate, regarding other aspects of such demands.

☐The police shall dismiss complaints concerning offences if there is not thought to be reason to begin an investigation on the basis of the complaint. Once an investigation has been begun, the police may also terminate it if there do not appear to be sufficient grounds for continuing it, for example if it comes to light that there was no sound basis for the complaint or if the offence is minor and it can be foreseen that the investigation would involve an abnormally large amount of effort and expense. There is no obligation to give the persons concerned an opportunity of expressing themselves before such a decision is taken.

☐If a complaint is dismissed, or an investigation terminated, as provided for in the fourth paragraph, the police shall be obliged to inform the person who filed the complaint, if he or she has interests at stake. It shall also be brought to his or her attention that an appeal may be lodged against the decision with [the Director of Public Prosecutions] [1)] under the sixth paragraph.

☐[A person who has interests at stake may lodge an appeal against a decision by the police under the fourth paragraph with the Director of Public Prosecutions within one month from the date on which he or she was informed of it or became aware of it in some other manner. The Director of Public Prosecutions shall be obliged to adopt a position on the appeal within three months of the date on which it is received by the directorate.] [1)] [The Director of Public Prosecutions] [1)] may also decide, on his or her own initiative, that the complaint is to be dismissed or the investigation terminated, providing that any of the conditions of the fourth paragraph is met. There is no obligation to give the persons concerned an opportunity of expressing themselves before such a decision is taken; the appellant shall, however, be informed of it in accordance with the provisions of the fifth paragraph.

☐… [1)]

[The police shall be obliged to state reasons, in brief, for their decisions under the fourth paragraph if this is requested.] [1)]

[1)] *Act 47/2015, Art. 10.*

Article 53

The aim of an investigation is to obtain all the evidence necessary to enable the prosecution to decide, when the investigation is complete, whether criminal charges are to be brought against any person, and also to obtain materials in order to prepare the conduct of the case in court.

Those who investigate a criminal case shall strive to reveal the truth and to give equal weight to matters which argue for acquittal and for conviction. They shall also process cases as quickly as possible.

Those who investigate criminal cases shall ensure that persons are not made to suffer greater damage or loss, inconvenience or non-financial loss than is unavoidable under the circumstances. They may not use harsh measures against the accused or other persons over and above what is permitted in law and is necessary to overcome their resistance to lawful measures or in any way apply unlawful coercion to them, in word or in deed, for example by making threats.

Article 54

The act in question shall be investigated and all available evidence pertaining to it shall be collected, e.g. as regards the place and time of its commission and all further circumstances that may be regarded as being of potential significance; the person suspected of the offence shall be sought; witnesses and others who may be regarded as likely to be able to give testimony, shall be found; items to be seized, and other visible pieces of evidence, shall be located. In addition, the scene of the crime, where appropriate, shall be examined, as shall all signs that may remain following commission of the offence.

An examination shall be made of matters pertaining to the accused himself or herself, including (according to whether there is reason to do this) his or her age, personal circumstances (such as family and home background), education, employment and financial standing, conduct and previous offences and his or her level of maturity and state of health, both mental and physical.

An examination shall be made of the accused's attitudes and motivation for the offence, whether he or she committed the offence on purpose or, as appropriate, through negligence and, if it constituted an attempt, whether he or she abandoned it by free choice. If more than one person was involved in the offence, their parts in it shall be investigated, where possible, separately.

Article 55

If called to do so, people shall be obliged to assist the police in the service of an investigation, subject to the condition that they are able to do so without thereby jeopardizing their life and health or that of their relatives or others

whom they are supposed to look after. Subject to the same conditions, people shall be obliged to put facilities or objects under their control (e.g. buildings and vehicles) at the service of the investigation. The next-of-kin of the accused, as defined in Article 117 of this act, shall be exempt from the obligations under this paragraph.

Labour, and other things provided under the first paragraph, shall be paid for; this shall be subject to the same provisions as other legal costs.

Article 56

The police shall compile a report on their investigation in each case, describing individual investigative measures and their outcomes. As appropriate, these reports shall state what the accused and witnesses have said during questioning (*cf.* Articles 64 and 65), examinations made by the police themselves and the outcomes of examinations and investigations by specialists.

If there is reason to think that the life, health or freedom of a police officer who compiles a report or attends to an investigative measure, or that of his or her next-of-kin (*cf.* the first or second paragraph of Article 117) would be jeopardized if his or her identity were revealed, the person directing the investigation may decide to give the police officer a fictive name or identification code. In such a case, the identity of the police officer involved shall be documented, but other persons apart from the director of the investigation and the prosecutor, and the judge, if the information is subsequently presented in court, shall not have access to information about his or her identity.

The Director of Public Prosecutions may set rules on the obligation on the police to provide information about the investigation of a case, if such information is sought, in which, among other things, it shall be stated what matters are to be revealed while certain types of case are under investigation and at what stage of the investigation this is to be done.

Article 57

When the police consider that the investigation is complete, and that evidence has been revealed that could lead to a conviction, they shall send the investigation materials to a prosecutor, unless an action may be brought by the commissioner of police himself or herself under the first and fourth paragraphs of Article 24. Together with the investigation materials, the police shall send a report covering the investigation in accordance with the first paragraph of Article 56.

The prosecutor may order that the police take further investigative measures if he or she considers this necessary (*cf.* the third paragraph of Article 21 and the fourth paragraph of Article 23).

If an investigation against an accused person has been terminated because the case materials were not considered sufficient as the basis for an indictment, then the investigation against the accused shall not be reopened unless new case materials have come to light or are likely to come to light. If an investigation against an accused person has been terminated, the police shall inform the person, who shall be entitled to have this confirmed in writing.

Section VIII. Questioning as part of the investigation.

■ Article 58

The police shall question the accused and witnesses during the investigation of the case in accordance with the further provisions of this section (see, however, Article 59).

At the demand of the police, all persons who are asked shall state their names, ID numbers and addresses.

■ Article 59

During an investigation, questioning shall take place before a court in the following cases:

a. of the injured party, if the investigation is directed towards an offence under Section XXII of the General Penal Code and the injured party has not reached the age of 15 years when the investigation of the case commences;

b. of the accused, the injured party or other witnesses if the police consider this necessary in order to solve the case before the defence counsel obtains access to individual documents or other case materials;

c. of the injured party or other witnesses if they refuse to attend questioning sessions by the police, or refuse to answer questions put by the police, or if it may be assumed that they will not appear in court during the hearing of the case or if this is considered desirable in terms of their best interests, e.g. in the case of children.

The provisions of Section XV shall apply to questioning before a court as provided for under the first paragraph.

■ Article 60

If the police go to the scene of a crime and speak to eye-witnesses there, or to other witnesses, they may write a report on what they have said without having them confirm the report specifically.

At other stages of the investigation, the police may, by talking to witnesses, obtain their accounts of matters connected with the alleged offence and write a report on the substance of what they say in the same way as is provided for in the first paragraph.

The provisions of Articles 63–65 shall apply, as appropriate, to questioning under the first and second paragraphs.

■ Article 61

☐If the accused has not been arrested, the police shall summons him or her to attend a questioning session, and he or she shall be obliged to comply with that summons. If a statement is to be taken from an accused person under the age of 18 in connection with an alleged violation of the General Penal Code or other acts of law which may entail punishment heavier than two years' imprisonment, the child protection committee shall be informed of this and may send a representative to be present at the questioning.
☐If the police consider there is a need to question witnesses, including the injured party, more extensively than is provided for in Article 60, they shall summons the witness to attend a questioning session. The witness may choose not to comply with this summons.
☐If the defence counsel and the legal rights protector are entitled to be present at a questioning session under this Article, they shall also be invited to attend it.

■ **Article 62**

☐Questioning of the accused and of witnesses under Article 61 shall take place *in camera.* If possible, it shall take place at a police station or in other specially-equipped premises.
☐Questioning of a person may not last longer than a total of twelve hours in any 24-hour period. Where questioning has lasted four hours, even with short breaks, it shall be obligatory, at the request of the person under questioning, to take a longer break of at least one hour before continuing. Apart from this, measures shall be taken to ensure that the person under questioning receives sufficient rest and nourishment.
☐Each person shall be questioned without others being present (this covering both the accused and witnesses) until such time as there may be reason to question persons jointly. Joint questioning shall take the form of two or more persons being questioned together, questions being put to them on specific matters of which they have given discrepant accounts.
☐In addition to the police officer directing the questioning, the questioning session shall be attended by one articulate and reliable witness, if this is possible.

■ **Article 63**

☐A person giving testimony under Article 61 shall first be asked his or her name, ID number and address.
☐A person under questioning shall be entitled to be informed, when the case has been elucidated sufficiently to make this a possibility, whether he or she is being questioned because of a suspicion that he or she has committed a criminal offence or whether he or she has been summonsed as a witness.

Questions put by the police shall be clear and unambiguous. A person under questioning may not be confused with false information or be subjected to any form of unlawful coercion in another manner, by word or deed.

If a defence counsel is present at a questioning session, he or she may request that the person under questioning be asked about particular matters. In the same way, a legal rights protector who is present at a questioning session may request that his or her client be asked about particular matters. If such requests are not acted upon, or if the defence counsel or legal rights protector sees other reason to do so, he or she may have a concisely-worded criticism of the way the questioning was carried out entered in the records at the end of the session.

If a person under questioning does not have sufficient command of Icelandic, the police shall call in an authorised court interpreter or another competent person to interpret the proceedings. [Similarly, if a person under questioning relies on Icelandic sign language as a means of communication, the police shall call in a sign-language interpreter.][1)] If a person under questioning is not [fully][1)] capable of engaging in verbal exchanges through the medium of speech [or Icelandic sign language][1)], the police shall, in the same way, have a qualified person called in to assist him or her. The police shall determine the remuneration to be paid to the interpreter or other qualified person; this remuneration, and other costs connected with their work, shall be paid by the Treasury. Article 12 shall apply, as appropriate, regarding the work and qualifications of these persons.

1) *Act No. 18/2019, Art. 5.*

Article 64

If the accused has not received information about the substance of the charge, he or she shall be informed of it at the beginning of the questioning session (*cf.* the first paragraph of Article 28).

The accused shall not be obliged to answer questions regarding the criminal conduct with which he or she is charged. Those who conduct the questioning shall be obliged to make this right clear to the accused in an unambiguous manner.

If the accused chooses to make a statement about the substance of the charge, he or she shall be urged to give a true and accurate account of the facts and not to conceal or understate matters that may be of significance. The accused may not be promised concessions or privileges if he or she gives testimony in a particular manner; promises of this type are unlawful and it does not lie within the power of the police to make them.

The accused may not confer with his or her defence counsel on how to answer individual questions. The accused may, however, confer with his or her defence counsel in private providing that this does not interfere with the

questioning in the opinion of the person who is conducting it. If a disagreement arises between the accused and his or her defence counsel, the questioning session shall nevertheless be continued, but the defence counsel shall have the right to give a short account of his or her point of view in the form of a statement entered in the records.

■ Article 65

□If a witness, including the injured party, is questioned under Article 61, he or she shall be obliged to answer questions and to give a true and accurate account of the facts; failure to do so shall entail criminal liability (*cf.*, however, the second paragraph). The person who is conducting the questioning shall be obliged to impress this duty upon the witness.

□A witness may refuse or, as appropriate, may not be permitted, to answer individual questions if the circumstances described in Articles 117-119 obtain. The witness's attention shall be drawn to these exemptions from the duty to bear witness if there is reason to do so.

□A witness may request that his or her name, ID number and address, and other information that may indicate his or her identity, is not to appear in a police report if he or she believes that it would jeopardize his or her own life, health or freedom, or those of his or her next-of-kin (*cf.* the first or second paragraphs of Article 117) if it were made known. In such a case, this information shall be preserved in such a way as to ensure that other persons apart from the director of the investigation and the prosecutor, and the judge, if the information is subsequently presented in court, shall not have access to it. The witness's attention shall be drawn to this right if there is reason to do so.

■ Article 66

□When the accused or a witness is questioned as provided for in Articles 61–65, it shall be recorded on a special form where the questioning took place, who conducted it, who was questioned and what other persons were present. It shall also be recorded when the session began and when it ended, how it was conducted (*cf.* the second paragraph) and what materials were submitted or shown to the person being questioned. Furthermore, any comments that he or she may have, and the comments of his or her defence counsel or legal rights protector (see the fourth paragraph of Article 63) shall be recorded.

□All other material that comes to light during the session shall be sound-recorded or filmed on video or a DVD, if this can be done, or else written up by the person conducting the questioning in accordance with his or her further decision. This decision shall be made known to the person who is being questioned and to other persons present at the questioning session. If the questioning is not sound-recorded or recorded in another manner, efforts shall be made to take down the words of the person who is being questioned

verbatim. At the end of the session, the person who has been questioned shall be given the opportunity of reading over the written record of what he or she has said. If he or she wishes to correct what is written there, or to clarify it further, he or she shall be given the chance to do so; as appropriate, this may involve recording his or her comments under the first paragraph.

☐On completion of the questioning, the person who conducted it, the person who was questioned and other persons who are present shall sign their names on the form referred to in the first paragraph. If the statements made by the person being questioned was written down, he or she shall also sign that statement. The form, together with the statements by the person who was questioned testimony, shall accompany the police investigation report provided for under Article 56.

☐If a witness is questioned without his or her name and other personal details being stated in the report (*cf.* the third paragraph of Article 65), this information shall not be entered on the form provided for in the first paragraph; nor shall it be included in the materials under the second paragraph, in addition to which the witness shall not be required to sign his or her name under the third paragraph.

■ Article 67

☐[The minister] [1)] shall issue regulations [2)] containing further provisions on the police register of cases, statements taken and the preservation of written reports, sound recordings, videos and DVDs containing statements by persons who have been questioned.

[1)] *Act 162/2010, Art. 194.* [2)] *Rg. 651/2009.*

Section IX. Seizure of items.

■ Article 68

☐Items, including documents, shall be seized if there is reason to believe that they, or things or information that they contain, are of evidential value in a criminal case, that they have been acquired in a criminal manner or that they may be eligible for confiscation. Items may not be seized if they contain information on communications between the accused and his or her defence counsel, and also information covered by the second paragraph of Article 119.

☐If it is possible to secure evidential proof for the purpose described in the first paragraph without it being necessary to seize an item, then instead of the item being seized, its owner or keeper shall be ordered to grant access to it or to release the information it contains, for example by handing over a copy of a document or information of another type.

■ Article 69

☐The police may seize items without a court order (see, however, the second paragraph).

☐If items are in the keeping of a person other than the accused, and there is no danger that they will be destroyed or disposed of, seizure shall be decided by a court order unles the unequivocal consent of the owner or keeper has been given.
☐If the owner or keeper of an item which is seized is not prepared to comply with the ruling, he or she may refer the dispute to a judge. A demand to have an item released shall nevertheless not postpone seizure.

■ **Article 70**

☐Letters and other items in the post which are in the keeping of a postal or transport company, and also telegrams, faxes, electronic mail or other communications which are in the keeping of a telecom, may be seized providing that this is done in connection with the investigation of an offence which is punishable by imprisonment according to law. If the sender or recipient are not present at the seizure, they shall be informed of it at the first opportunity, though without this damaging the further investigation of the case. Examination of the contents of letters, messages or items sent by post which are seized under this paragraph may only proceed in accordance with a court order.
☐Printed matter may not be seized in preparation for confiscation under the Printed Matter Act without a previous court order.

■ **Article 71**

☐Seized items shall be recorded in a register and shall be preserved securely. In response to a request by the owner, or the person who released the items, he or she shall be provided with a copy of the register.

■ **Article 72**

☐Items shall be released when the it is no longer to hold them, and at the latest when the case is finally concluded, except in the case of:

a. items that have been confiscated according to a court judgment,

b. items that were acquired through criminal activity and that have been restored to persons who had the right to claim them,

c. items that were submitted as evidence in the case, unless the person demanding their release needs the item in question in order to secure his or her rights or avoid the loss of rights.

☐When items are released under the first paragraph, the police shall see to it that they are returned to the persons who have a claim to them.

Section X. Searches and physical examinations.

■ **Article 73**

☐In the interest of an investigation, buildings or storage places, individual rooms, cupboards, trunks, etc., may be sealed, specific places or areas may be cordoned off and closed to entry, prohibitions may be imposed on removing

items from specific places or areas and comparable measures may be taken in order to ensure that crime scenes and evidence of other types that may be of use in an investigation are not disturbed; this may be done without a court order.

■ Article 74

□Searches may be carried out in buildings, storage places, cupboards, trunks, etc., vessels, aircraft, automobiles or other vehicles belonging to the accused in order to arrest him or her, examine property damaged or destroyed in the offence, or other evidence, or to locate items that are to be seized.

□A search may be carried out in buildings, storage places, cupboards, trunks, etc., or vehicles belonging to a person other than the accused if the offence was committed there or the accused was arrested there. This may also be done if there is a reasonable suspicion that the accused is present there or that items that are to be seized will be found there.

□A condition for searching a building shall be that there is a reasonable suspicion that an offence has been committed there which may lead to an indictment and that the accused was involved, providing that this is obviously of importance to the investigation. Another condition for searching a building as provided for in the second paragraph shall be that the investigation is directed towards an offence that could lead to the imposition of a prison sentence according to law.

■ Article 75

□Decisions on searches under Article 74 shall be taken by means a court order unless the unequivocal consent of the owner or the person in charge of item has been given (see, however, the second and third paragraphs).

□A search may nevertheless be carried out without a court order if there is an imminent risk that waiting for a court order could result in damage to the procedure. This shall also apply if a search is being made for a person who is to be arrested and he or she is being followed, or there is a danger that he or she will escape if it is necessary to wait for a court order.

□Searches may be made without a court order on open ground and in premises or vehicles that are open to the public or that any person is allowed to move around in without interference, even though the conditions of Article 74 are not met.

□If a person with interests at stake is unwilling to comply with a police decision to carry out a search under the second or third paragraph, it shall be pointed out to him or her that the dispute may be referred to a court. This shall not, however, postpone the search.

■ Article 76

□An accused person may be subjected to a body search if this is considered necessary in order to remove from him or her items that are to be seized,

providing there is a reasonable suspicion that he or she has committed an offence that may be punishable by imprisonment under the General Penal Code or two years' imprisonment under other acts of law. Furthermore, and subject to the same conditions, persons other than the accused may be subjected to body searches providing that there is a reasonable suspicion that they have items that are to be seized on their person.

☐If it is considered that an accused person is concealing within his or her body items or substances that are to be seized, an examination may be carried out providing that there is a reasonable suspicion that the person has committed an offence that is punishable by six years' imprisonment according to law. Furthermore, a doctor's opinion must be obtained stating that an examination under this paragraph may be carried out without posing a hazard to the accused person's health.

☐An accused person's fingerprints may be taken, and photographs may be taken of him or her, in the interests of the investigation; breath samples may be taken for the same purpose. Fingerprints of all those who, because they have been at the scene of the crime, may have left fingerprints there, may be taken for purposes of comparison. This authorisation shall apply even if no punishment may be imposed according to law.

■ **Article 77**

☐Blood and urine samples, and other biological specimens, may be taken from an accused person and examined, and any other physical examination of the accused which does not cause him or her harm or discomfort may be made in the service of the investigation providing there is a reasonable suspicion that he or she has committed an offence which may be punishable by imprisonment according to law. Furthermore, biological specimens may be taken from persons other than the accused, and examined, providing that the case concerns an offence that is punishable by two years' imprisonment according to law and a doctor's opinion has been obtained stating that such an examination may be carried out without posing a hazard to the health of the person involved.

☐In the event of doubt as to whether the accused is responsible for his or her actions, or whether punishment could produce results in view of his or her mental condition, a special psychiatric examination shall be carried out in order to clarify these points. A condition for a psychiatric examination shall be that there is a reasonable suspicion that the accused has committed an offence that entails the imposition of a prison sentence according to law.

■ **Article 78**

☐Decisions on body searches and physical examinations under the first and second paragraphs of Article 76 shall be taken by means of a court order unless the unequivocal consent of the person concerned has been given. Body

searches under the first paragraph of Article 76 may be carried out without a court order, however, if there is an imminent risk that waiting for a court order could result in damage to the procedure.

☐Decisions on physical examinations or psychiatric examinations under Article 77 shall be taken by means of a court order unless the unequivocal consent of the person concerned has been given.

■ Article 79

☐The police shall direct searches of buildings and carry out body searches in accordance with the provisions of this section. Body searches shall be carried out by a police officer of the same sex as the person who is to be searched. Examinations under the second paragraph of Article 76 and [physical examinations, and also] [1] psychiatric examinations, shall be carried out by a physician or other person who has the required training.

☐The owner or person in charge of premises or a vehicle in which a search is carried out shall be shown a warrant for the search and be given the opportunity of being present at it if this is possible. If that person is not at the location, members of his or her household or staff who are on the site shall be summoned. Any person who obstructs or interferes with a search may be ordered to leave the search site. If no one is present at a search of premises to represent the owner or person in charge, the police shall inform the person in question of the search without unreasonable delay.

☐When searches and physical examinations are carried out, the caution and forbearance that are commensurate with their aim shall be observed. Searches of premises shall not be carried out at night unless important interests of the investigation would otherwise be in jeopardy.

[1] *Act 52/2010, Art. 4.*

Section XI. Telephone tapping and other comparable measures.

■ Article 80

☐Subject to the conditions stated in the first paragraph of Article 83 and the first paragraph of Article 84, telecoms may be required, in the interests of an investigation, to provide information on telephone calls or other telecommunications with a specific telephone, computer or other type of telecommunications device.

■ Article 81

☐Subject to the conditions stated in Article 83 and the first paragraph of Article 84, telecoms may be required, in the interests of an investigation, to permit the tapping or recording of telephone calls or other telecommunications with a specific telephone, computer or other type of telecommunications device, or with a telephone, computer or other type of telecommunications device owned by or at the disposal of a specific person.

Subject to the same conditions, the police may be permitted to monitor or record telecommunications with equipment designed for this purpose.

■ Article 82

☐Subject to the conditions stated in Article 83 and the first paragraph of Article 84, it shall be permitted, in the interests of an investigation:

a. to record conversations or pick up other types of sound or signals by using special sound-recording techniques or comparable techniques without the knowledge of those involved,

b. to take pictures of people, whether these are photographs or motion pictures, without the knowledge of those involved,

c. to place a device on or inside a person's automobile or other vehicle, or in a product or on a person, e.g. in his or her wallet, purse, clothing, bag, briefcase, etc., in order to follow him or her, or for some other lawful purpose.

☐Sound recordings or images of people may be taken, and people may be monitored in the interests of an investigation, in public places or in places to which the public has access without the conditions of Article 83 and the first paragraph of Article 84 being met.

■ Article 83

☐A condition for the application of measures under Articles 80-82 is that there must be reason to expect that information that may be of great significance for the investigation of a case will be obtained in that way.

☐[In addition to what is stated in the first paragraph, a condition that must be met in order to apply measures under Article 81 and the first paragraph of Article 82 is that the investigation must be directed towards an offence that may entail six years' imprisonment according to law and that it is demanded by substantial public or private interests. Subject to the same conditions, these measures may be applied if the investigation is directed towards an offence under Article 109, Article 175 a, Article 206, Article 210 a, Article 210 b, Article 226, the first paragraph of Article 232, Article 233 and Article 264 a of the General Penal Code.] [1)]

[1)] *Act 103/2016, Art. 1.*

■ Article 84

☐A court order is required for the measures listed in Articles 80-82. Nevertheless, information under Article 80 must be provided without a court order if the unequivocal consent of the person in charge, and the actual user, of the telephone, computer or other telecommunications device, has been given.

☐[When a judge receives a request that a measure be taken, and agrees to have the request examined by a court without the person against whom it is directed being called to attend a session of the court (*cf.* the first paragraph of Article 103 and the first paragraph of Article 104), he or she shall appoint a

lawyer to defend the interests of the person against whom the measure is directed. Before this appointment takes effect, the lawyer shall sign a solemn declaration that he or she will treat in confidence everything of which he or she becomes aware in the course of executing this function, including vis-à-vis the person whose interests he or she is defending. In accordance with his or her function, the lawyer shall be entitled to the right of access to the materials submitted with the request, and to express a position on the request in accordance with the first paragraph of Article 105 after acquainting himself or herself with them. The provisions of the second, fourth and fifth paragraphs of Article 33, the second paragraph of Article 34 and Article 38 shall apply regarding the appointment and qualifications of persons for this position, and also regarding the revocation of their appointment and remuneration for their work, as appropriate. If a request for the application of a measure is granted, the lawyer may lodge an appeal with a higher court against the judge's order as is provided for in Article 193.] [1)]

☐Rulings shall state what telephone or other telecommunications device is referred to, or identify the owner or person in charge of the telecommunications device (*cf.* Article 80 and 81), or what method is to be used to record sound, take visual images, monitor people or place tracking devices (*cf.* Article 82) and where this is to be done.

☐The ruling shall limit the authorisation to take measures to a specific period, which may not exceed four weeks in each instance.

☐Staff of telecoms shall be obliged to render the police assistance with implementing the measures listed in Article 80 and Article 81, as necessary.

1) *Act 103/2016, Art. 2.*

■ Article 85

☐[Recordings of telephone conversations, sound recordings, images or other data that is gathered by the methods stated in Articles 80-82 shall be deleted as soon as they are no longer needed. If an action is brought on the basis of the investigation, however, the aforementioned materials may not be deleted until final judgment has been delivered in the case. The same shall apply to copies or transcripts of these data. If materials contain conversations or other communications between the accused and his or her defence counsel, or information covered by the second paragraph of Article 119, they shall nevertheless be deleted or destroyed immediately.

☐When measures provided for under Articles 80-82 are complete, a commissioner of police shall ensure that the person against whom the measure was directed, and also the owner or person in charge of the telecommunications device, premises or vehicle, is informed about the measure at the first opportunity. Notification of the measure may in no case be postponed for more than twelve months after it was completed.

☐The Director of Public Prosecutions shall monitor to ensure that materials are deleted or destroyed and that notification is given of the completion of measures in accordance with the first and second paragraphs. He or she shall issue rules on how monitoring is to be carried out, stating, amongst other things, how it is to be ensured that details can be given, in retrospect, of those who had access to the data obtained by measures under Articles 80-82. Each year, the Director of Public Prosecutions shall publish a report on the implementation of monitoring and the application of measures under Articles 80-82.] [1)]

[1)] *Act 103/2016, Art. 3.*

Section XII. Miscellaneous investigative measures.

■ Article 86

☐In the interests of an investigation, the police shall consult experts when there is a need for an expert examination or investigation to solve a case, such as a medical examination, chemical analysis, graphological examination or forensic accounting. If there is reason to do so, the police or the prosecutor may apply for the appointment by a court of an assessor under Article 128.

☐[Remuneration for an investigation or examination under the first paragraph shall be determined by the District Prosecutor, a commissioner of police or a legally-qualified member of staff of either of those authorities.] [1)]

[1)] *Act 47/2015, Art. 12.*

■ Article 87

☐A forensic examination of a body shall be performed when the police consider it necessary in the interests of an investigation. An autopsy shall also be performed, if considered necessary; a court order shall be sought authorising an autopsy unless the next-of-kin of the deceased given their consent for it.

■ Article 88

☐As surety for the payment of a fine, legal costs and the confiscation of gains acquired through criminal offences, the police may demand the performance of distraint against the accused's property if there is thought to be a danger that items of property would otherwise be disposed of, or lost, or that they would fall significantly in value.

☐The execution and effect of distraint under this Article shall be in accordance with the distraint of items of value in general, with the exception that there is no obligation to put up security, no action need be brought in order to have the distraint confirmed and no fees shall be paid for the measures taken.

☐Distraint under this Article shall lapse if the defendant is acquitted by a final judgment from the payment of a fine and legal costs or if no confiscation of gains is ordered. The same shall apply if the prosecution action is dropped or

the investigation does not result in a prosecution action. The accused shall then be entitled to demand that the measures taken to secure the distraint be cancelled. The distraint shall also lapse if the accused makes the payments that the distraint was intended to secure.

■ Article 89

☐At the suggestion of the Director of Public Prosecutions, [the minister] [1] may set rules on special police methods and police taken in the investigation of criminal cases which are not provided for under this Act, e.g. the use of decoys, informers and infiltration, controlled delivery and shadowing. These rules shall cover, amongst other things, the conditions that must obtain in order to resort to particular methods and measures, the persons who are competent to take decisions on these and how they are to be applied.

[1] *Act 162/2010, Art. 194.* [2] *Rg. 516/2011, cf. Advertisement. 129/2013.*

Section XIII. Arrests.

■Article 90

☐The police may arrest a person if there is a reasonable suspicion that he or she has committed an offence that may lead to an indictment, providing that arrest is necessary to prevent further offences, to ensure the person's continued presence, to ensure his or her safety or to prevent him or her from destroying or interfering with the evidence.

☐If disturbances or riots involving many people break out and result, or could result, in physical injury or large-scale destruction of property and it is not possible to identify the guilty person or persons with any certainty, then the police may arrest all those who are close to the scene or whom there is reason to suspect of criminal conduct.

☐In addition to the provisions of other acts of law, the police may arrest a person:

a. if he or she refuses to state his or her name or to give other personal information, providing that this is necessary in the interests of an investigation,

b. if he or she has been summonsed for questioning by the police and has not complied with the summons,

c. if he or she has not, without a proper excuse, complied with a summons to give testimony in a criminal case,

d. if he or she has, without permission, disappeared from custody or infringed a prohibition under the first paragraph of Article 100.

■Article 91

☐Any person who finds someone committing an offence that could lead to an indictment and entail a prison sentence shall have the authority to arrest him or her. In such cases, the person arrested shall be placed in the hands of the

police immediately, together with information on the reason for the arrest and when it was made.

Article 92

A judge may order an arrest at the demand of the District Prosecutor or the police if the conditions of the first or third paragraph of Article 90 are met. Such arrest orders shall be made in writing, stating details of the person to be arrested and the reason for the arrest.

Judges' orders may be published, with a call to any person to carry them out if the whereabouts of the person to be arrested are not known and the offence could entail a prison sentence.

Article 93

When an arrest is made, the person who is arrested shall be informed of the reason for it.

When an arrest is made, steps shall be taken to avoid causing injury to the person who is arrested or causing him or her more discomfort than is necessary. Care shall also be taken, as far as possible, to avoid causing injury to oneself or other persons.

A person who has been arrested may be searched and items that he or she has on him or her may be taken away. Such items shall be returned to the person when the arrest period is over unless they have been seized under the first paragraph of Article 68.

[The minister][1] shall issue regulations [2] containing provisions on the placement of persons who have been arrested, including what matters are to be recorded in connection with it.

[1] *Act 162/2010, Art. 194.* [2] *Rg. 651/2009.*

Article 94

Persons who have been arrested shall be brought before a court within 24 hours of being deprived of their freedom if they are not released before that time or recommitted to custody imposed on them. If weather, impassability of roads or other such circumstances prevent an arrested person from being brought before a court in accordance with the foregoing, then this shall be done at the first opportunity. The same shall apply if it is not possible to question an arrested person quickly after he or she has been deprived of his or her freedom because he or she is under the influence of alcohol or other intoxicants. At no time, however, may the time elapsing before persons are brought before a judge for this reason exceed 30 hours.

Section XIV. Custody and other comparable measures.

Article 95

An accused person may only be remanded in custody if a reasonable suspicion has arisen that he or she is guilty of conduct for which a term of

imprisonment is prescribed, providing he or she has reached the age of 15 years. In addition, one of the following conditions must obtain:

a. that there is reason to believe that the accused would impede the investigation of the case, for example by obliterating evidence of the offence, disposing of items or exerting an influence on persons who are also guilty, or on witnesses,

b. that there is reason to believe that the accused would attempt to flee the country or hide, or by other means avoid prosecution or the execution of a punitive judgment,

c. that there is reason to believe that the accused would continue to commit offences until the conclusion of the case, or there is reason to suspect that he or she has, in substantial respects, violated conditions that were imposed on him or her in a suspended sentence,

d. that there is reason to believe that custody is necessary in order to protect other persons from attacks by the accused, or to protect the accused himself or herself from being attacked or influenced by other persons.

☐An accused person may also be remanded in custody even though the conditions of indents a-d of the first paragraph do not obtain if there is a strong suspicion that he or she has committed an offence for which 10 years' imprisonment is prescribed in law, providing that the offence is of such a nature that it is reasonable to believe that custody is necessary in view of the public interest.

☐An accused person may not be remanded in custody if it is considered as being demonstrated that the offence of which he or she is accused will only result in fines or a suspended prison sentence according to the circumstances. Furthermore, to the extent possible, measures shall be taken to ensure that accused persons are not held in custody for longer than the time for which it is considered demonstrated that they will be sentenced to spend in prison.

☐An accused person may not be remanded in custody for more than twelve weeks unless an action has been brought against him or her or this is demanded by urgent considerations regarding an investigation (*cf.* indent a of the first paragraph).

☐Accused persons under the age of 18 may not be remanded in custody unless it may be regarded as certain that other measures referred to in the first paragraph of Article 100, or prescribed in the Child Protection Act, cannot be applied instead.

■Article 96

☐A member of parliament may not be remanded in custody while the Althingi (parliament) is functioning without the consent of parliament unless he or her has been apprehended for committing a crime.

■Article 97

Custody shall be determined by a court order, which shall specify a definite duration that may not exceed four weeks at a time, provided that the provisions of the fourth paragraph of Article 95 do not restrict it to a shorter period. Custody may not be extended without a new court order. It may, however, be applied for a period longer than four weeks under the circumstances described in the third paragraph.

Custody shall not last for longer than necessary. The party that requested custody shall release the accused person as soon as the reasons for holding him or her in custody no longer apply.

Custody shall end when the district court has delivered its judgment. [At the request of the prosecution, however, the district court judge may rule that custody is to remain in force during the period allowed for lodging an appeal under Article 199, and also while the case is under examination by a higher court and until a final judgment is delivered.] [1)]

[1)] *Act 49/2016, Art. 49.*

Article 98

Judges shall normally deliver rulings on applications for custody orders as soon as possible. At all times, rulings shall be delivered within 24 hours of the time when an accused person who has been arrested appears in court (*cf.* Article 94).

If it is demanded that an accused person be held in solitary confinement during custody under indent b of the first paragraph of Article 99, the judge shall adopt a position on this demand in his or her ruling. Accused persons may not be committed by a court order to solitary confinement during custody unless this is necessary for the reasons stated in indents a or d of the first paragraph of Article 95. Solitary confinement may not last, continuously, for more than four weeks unless the person on whom it is imposed is accused of an offence that may entail 10 years' imprisonment according to law. Furthermore, the judge shall, in his or her ruling, adopt a position on how other aspects of solitary confinement are to be arranged (*cf.* the third paragraph of Article 99).

Article 99

Remand prisoners shall receive the treatment necessary in order that custody will be of use and good order is maintained during custody; however, harshness or severity shall be avoided. In other respects, the following rules apply to custody:

a. remand prisoners may have themselves provided with, and receive, food and other personal necessities, including clothing,

b. remand prisoners shall only be held in isolation in accordance with a court order, though they may not be kept together with other prisoners against their will,

c. remand prisoners shall be entitled to receive visits. Nevertheless, the person directing the investigation may prohibit visits if this is necessary in the interest of the investigation, but a remand prisoner's wish to contact his or her defence counsels and speak to him or her in private (*cf.* the first paragraph of Article 36) must be granted, and requests to contact a physician or a minister of religion shall be granted if possible.

d. remand prisoners may use telephones or other telecommunications equipment and send and receive letters and other documents. However, the person directing the investigation may prohibit the use of telephones or other telecommunications equipment and have the contents of letters or other documents examined, and seize them if this is necessary in the interest of the investigation, but the sender shall be informed of the seizure if it takes place,

e. remand prisoners may read newspapers and books and also follow radio and television. However, the person directing an investigation may limit remand prisoners' access to the media if this is necessary in the interest of an investigation,

f. remand prisoners may, according as this is possible, have themselves provided with employment during their time in custody.

Without prejudice to indent d of the first paragraph, remand prisoners may accept letters from, and send letters to, the courts, [the minister], [1] the Parliamentary Ombudsman and their legal counsels without their contents being examined.

At the demand of an accused person who is remanded in custody, it may be decided in a court ruling that the rights to which he or she is entitled as a remand prisoner under indents c-e of the first paragraph may not be abridged.

[The minister] [1] shall set further rules on the conduct of remand custody in a regulation, including as regards the application of the matters covered in the first and second paragraphs in further detail.

Remand prisoners may refer matters concerning their time in remand custody to a judge under Article 102.

[1] *Act 162/2010, Art. 194.*

Article 100

When the conditions for remand custody under the first or second paragraph of Article 95 obtain, the judge may, instead of having the accused remanded in custody, order that he or she be placed in a hospital or appropriate institution, forbid him or her to leave the country or require him or her to remain in a particular place or within a particular area. If this is demanded, the judge may impose, as a condition for the measure taken, that the accused wear a device on his or her person so as to make it possible to monitor his or her movements.

The judge shall prescribe measures under the first paragraph in a ruling, and the measure may not last for longer than is necessary. The party who

demanded the remand custody or other measure shall terminate it as soon as it is no longer necessary. At the latest, the measure shall end when a district court judgment has been delivered in the case. [At the request of the prosecution, however, the district court judge may rule that it is to remain in force during the period allowed for lodging an appeal under Article 199, and also while the case is under examination by a higher court and until a final judgment is delivered.] [1)]

☐The police may require an accused person who is under a travel ban, or another measure under the first paragraph, to report his or her whereabouts to the police or to report in person to the police at certain times. The police may also require an accused person who is under a travel ban to deliver his or her passport to them for safekeeping.

☐An accused person may refer matters regarding the application of a travel ban and other measures under the first paragraph to a judge under Article 102.

[1)] *Act 49/2016, Art. 50.*

■Article 101

☐If the condition under indent b of the first paragraph of Article 95 is met, the judge may decide that the accused is to retain his or her freedom in return for the payment of bail. Bail shall be in the form of cash, securities or guarantees, in accordance with a further decision by the judge.

☐The judge shall prescribe bail in a ruling which shall fix its amount. The prosecutor or the police shall see to the safekeeping of items of value that are lodged as bail, and take the necessary measures to protect them.

☐Bail shall be forfeit to the Treasury if the accused violates the conditions that bail is intended to secure. Alternatively, bail shall cease to be required when the case is finally concluded or, if the defendant is convicted and sentenced to serve a term in prison, when service of the sentence commences. The same shall apply if an accused person is remanded in custody in any case.

Section XV. Procedure in investigations before a court.

■Article 102

☐In accordance with the provisions of this section, a demand may be submitted to a district court for a measure to be taken during the investigation phase for which the agency of a judge is required under other provisions of this Act, including a demand to have the accused, the injured party or other witnesses questioned before a court under Article 59.

☐In addition to what is stated in the first paragraph, disputes concerning the lawfulness of investigative measures taken by the police or the prosecutor may be referred to a district court. Also, disputes as to the rights of the accused, and of his or her defence counsel or lawyer, may be referred to a district court, including requests by them to employ specific investigative measures, and also

concerning the rights of the injured party and his or her legal rights protector or lawyer.

Article 103

When [the prosecutor or commissioner of police] [1] considers there to be a need for the assistance of a judge in accordance with the first paragraph of Article 102, he or she shall submit to the district court a written and reasoned demand request for assistance. As appropriate, this shall state clearly what is being requested, towards whom it is directed and on what grounds it is based. The request shall be accompanied by the materials on which it is based. It shall also be stated whether the person making the request is asking that it be examined by the court without the accused or other person against whom it is directed being summonsed to attend the session of the court (*cf.* the first paragraph of Article 104).

When [the prosecutor, the commissioner of police], [1] the accused, his or her defence counsel or lawyer or another person who has interests to defend refers to a district court a point in dispute in connection with the investigation of a case in accordance with the second paragraph of Article 102, this shall be done in the same way as is described above, with a written and reasoned request. If [the prosecutor or the commissioner of police] [1] makes such a request, materials about the point in dispute shall accompany the request; alternatively, the judge shall require [the prosecutor or commissioner of police] [1] involved to supply such materials.

Without prejudice to the provisions of the first and second paragraphs, those who address their request to the district court may amend it orally at a session of the court, providing that no occasion for doing so has arisen previously and the materials and information available are sufficient in other respects, in the judge's opinion, to make it possible to adopt a position on the amended request.

[1] *Act 47/2015, Art. 13.*

Article 104

If a request is made for an investigative measure covered by the first paragraph of Article 102 and it is asked in the request that it be examined by the court without the accused, or other party against whom the measure is directed, being summonsed to attend the session of the court, the judge shall take a decision on whether or not to grant this request. This shall not normally be done unless the judge considers that a sufficient case has been made for the view that awareness of the measure in advance on the part of the accused or other person against whom it is directed could damage the investigation. If the judge agrees to consider the request at a session of the court without summoning the accused or other person against whom it is directed, he or she

shall inform the person making the request of the place and time of the court session, which shall be held at the first opportunity.

If a request under Article 102 is not treated in the manner described in the first paragraph of this Article, the judge shall decide a place and time for a session of the court and inform the person who made the request, and also, as appropriate, [the commissioner of police, the prosecutor], [1] the accused or his or her defence counsel, or other party against whom the request is made, of these arrangements, unless the judge considers there to be such defects in the request that it must be dismissed from court immediately by a ruling. If the announcement of the court session is in writing, it shall normally be accompanied by a copy of the request that is to be considered there. The judge may entrust the police or the prosecutor with ensuring that those concerned receive the announcement of the court session.

If the person who made the request does not attend the court session, the case shall be dropped; the accused, or others who have attended the court session, may be awarded compensation for their trouble, to be paid by the person who made the request.

[1] *Act 47/2015, Art. 14.*

Article 105

When a request is examined at a court session, the judge shall give the person who has presented it the opportunity of giving an oral account of it first. If the accused, or the person against whom the request is directed, has been summonsed to attend court, and is represented in court, the materials that have been submitted shall be made known to him or her, subject to the limitations that may result from the first paragraph of Article 37, and he or she shall then be given an opportunity of expressing a position on the request. Normally, no deferral period until the next court session shall be granted in the case unless the person making the request consents to this or the judge accepts that it is not likely to damage that person's case.

If a request is presented in the court session as provided for in the first paragraph that the request be dismissed from court, the judge shall adopt a position on this after listening to the parties' arguments. If the judge considers there to be no grounds for dismissing the request from court, he or she shall enter his or her decision to that effect in the court records; alternatively, he or she shall accede to the request by means of a ruling.

Article 106

If a request under examination by a court is that the accused, or a witness, be questioned, the judge shall consider whether the conditions of Article 59 for this are met. If the accused is to be questioned, he or she shall be brought to court by the police if he or she has been arrested or remanded in custody; otherwise, the provisions of the first and second paragraphs of Article 120

shall apply regarding the summonsing of a person to be questioned and, as appropriate, for calling him or her to a session of a court, and of Article 121 regarding a response to a situation in which the person does not attend court or a witness fails to discharge the duties of a witness in other respects.

☐During the examination of a request for custody or other measures under Section XIV, the accused shall be obliged to attend court and make a statement there if the police or the prosecutor consider this necessary.

☐As the occasion arises, a party may also request that oral questioning take place before the court during the hearing of a case under this Section. The judge shall adopt a position on such a request, having regard to the third paragraph of Article 110.

☐Procedure in the questioning of the accused and of witnesses in court shall be subject to the provisions of Sections XVII and XVIII. As far as is possible, questioning under the first paragraph shall be recorded on video or digital video disc (DVD).

■Article 107

☐If a demand under Article 102 is for something other than oral questioning in a court session, the judge shall adopt a position on it after listening to the parties' arguments regarding it. This shall be done by means of a ruling if the matter is such as to be concluded in that manner under other provisions of this Act or a point in dispute against the resolution of which an appeal may be lodged with the [Court of Appeals].[1)] Otherwise, the judge shall conclude the matter with a decision or other measure, which shall be entered in the court records.

[1)] *Act 49/2016, Art. 44.*

Part 3. Proof and evidence.

Section XVI. General rules on proof.

■Article 108

☐The burden of proof regarding the guilt of the defendant, and circumstances that may be considered as weighing against the accused, shall lie with the prosecution.

■Article 109

☐The judge shall assess whether sufficient proof, which cannot be refuted by rational arguments, has been adduced on all points that determine guilt and the determination of sanctions for an offence, including the evidential value of statements by the defendant, witness evidence, assessments, documents and other visible items of evidence.

☐Moreover, the judge shall assess, if necessary, the evidential value of assertions that do not have a direct bearing on the matter to be proved but from which conclusions regarding it may be drawn.

☐It shall not be necessary to prove matters that are common knowledge at the place and time when the judgment or ruling is delivered.

■Article 110

☐The prosecutor shall gather evidence; the defendant may also gather evidence if he or she considers there is reason to do so.

☐According as the judge considers it necessary to solve a matter or clarify it, he or she may instruct the prosecutor to gather evidence regarding particular aspects of it.

☐If the judge considers it evident that points which a party wishes to demonstrate are of no importance or that an item of evidence is of no evidential value, he or she may prevent a party from presenting proof concerning it.

■Article 111

☐The judgment shall be based on evidence presented in the hearing of the case by the court.

☐The judge may accept as evidence statements that the defendant, the injured party or other witnesses gave before a court before the action was brought under Articles 59 and 106. Nevertheless, those who gave evidence shall appear again before the court during the hearing if this is possible and if either of the parties to the case so demands, or if the judge considers there to be another reason for them to do so. If the case concerns a violation of Section XXII of the General Penal Code and the injured party has not reached the age of 15, he or she shall not appear again before the court unless the judge considers there is a particular reason for him or her to do so.

☐If a witness has not appeared before the court and it is not possible for him or her to do so during the hearing of the case, but testimony has been given to the police or another government authority during the investigation of the case, the judge shall assess whether such testimony has evidential value and, if so, what it is.

■Article 112

☐The gathering of evidence shall normally take place before the judge who hears the case and delivers judgment on it. If this is not possible without substantial expense or inconvenience, the judge may decide that evidence may be gathered before another court in accordance with the provisions of Section XXI, providing that this will not result in unnecessary delay in the conduct of the case.

☐If the accused, the injured party or a witness is questioned before a court before an action is brought under the first paragraph of Article 59, this shall be done, if it can be arranged, before the judge who will subsequently hear the case and deliver judgment on it, if it goes that far, possibly as the presiding judge.

Section XVII. Questioning of the defendant before the court.

■Article 113

□The defendant shall at all times be obliged to attend court for questioning after an action has been brought against him or her. An accused person is also obliged to attend court for questioning during the investigation and if the occasion arises (*cf.* indent b of the first paragraph of Article 59 and the second paragraph of Article 106).

□The defendant shall not be obliged to answer questions concerning the criminal conduct of which he or she has been accused. He or she may either refuse to give testimony on the substance of the charge or to answer individual questions concerning it.

□If the defendant fails to turn up for questioning without a lawful excuse, the prosecutor may order the police to fetch him or her or to bring him or her before the court later on, by force if necessary. The police shall be obliged to comply with such an order from the prosecutor.

□A representative who appears on behalf of the defendant shall be regarded as the defendant under the provisions of this Section.

■Article 114

□When the defendant appears before the court, the judge shall first have him or her state his or her name, ID number and address. Then the judge shall explain that he or she is not obliged to answer questions regarding the criminal conduct with which he or she is charged (*cf.* the second paragraph of Article 113) but that if he or she chooses to do so, he or she shall be obliged to give a true and accurate account. When this has been done, the judge shall ask the defendant to express himself or herself independently about the circumstances of the case, and shall then give the prosecution and the defence an opportunity to put questions to the defendant.

□While the defendant is being questioned, witnesses in the same case shall not hear his or her testimony. The judge may also decide that the same is to apply to other defendants if he or she considers there is reason to do so.

□When the defendant is being questioned, other aspects of procedures in the questioning shall be in accordance with the provisions of the second and third paragraphs of Article 122, as appropriate.

■Article 115

□The judge shall assess the evidential value of statements by the defendant, including as regards his or her credibility, when resolving the case. In this connection, consideration shall also be given to the defendant's condition and conduct during questioning and consistency in his or her account.

Section XVIII. Witnesses.

Article 116

Any person who has reached the age of 15, is subject to Icelandic jurisdiction and is nether the defendant nor his or her representative, shall be obliged to appear in court as a witness to answer oral questions put to him or her regarding the circumstances of the case. Persons who gave the prosecution or the police expert assistance or advice before the action was brought shall moreover be obliged to attend court as witnesses in order to answer oral questions put to them about specialist matters.

The judge shall assess, with regard to the circumstances in any given instance, whether a person who is younger than is stated in the first paragraph may be obliged to be questioned as a witness. The judge shall adopt the same approach regarding persons who are not in sound mental health.

If a witness is unable to come to the court venue due to illness or similar reasons, the judge may decide that he or she is to give testimony at another location where this is possible.

If a witness is located far from the court venue, or would encounter particular inconvenience in attending the court, the judge may decide to have him or her questioned at the session of the court by telephone or another telecommunications device, providing the questioning is structured in such a way that all those present at the court session are able to hear the verbal exchanges with the witness. This authorisation may not be used, however, if it may be expected that the outcome of the case could be determined by what the witness says.

In a summons under the second paragraph of Article 120, the judge may require a witness to bring items of evidence to show the court, or to examine his or her books, documents or other items and make a summary of specific matters in them in order to clarify the circumstances of the case. This shall not apply, however, if the documents or items contain information covered by the second paragraph of Article 119.

Article 117

The following persons may refuse to give witness testimony, entirely or in part:

a. a person who is, or used to be, the spouse of the defendant,

b. the defendant's relatives in direct line of descent, siblings and persons related to him or her in this way by adoption,

c. the defendant's step-parent or step-child,

d. the defendant's parent-in-law or child-in-law.

The judge may release other persons who are, or who have been, very close to the defendant, from the obligation to give evidence, e.g. in the case of a foster-parent or foster-child, a cohabiting partner (female or male), girl-friend or boy-friend.

☐A defence counsel may not bear witness in his or her client's case without the client's permission.
☐Civil servants and district commissioners are not obliged to appear in court to give testimony on matters that have occurred in their offices or their official functions and may be sufficiently demonstrated by means of certificates from official records or some other official document.

■Article 118

☐Witnesses shall be entitled to refuse to answer questions if there is reason to believe that an answer could constitute an admission, or an indication, that they have committed a punishable offence or an act which could bring them into moral disrepute or cause them substantial financial loss. The same shall apply if there is reason to believe that an answer would have the same consequences for any person connected with the witness in a manner described in the first or second paragraph of Article 117.
☐The judge may exempt witnesses from revealing secrets regarding their commercial dealings, discoveries or inventions or other such activities if he or she considers the witness's interest in maintaining secrecy to outweigh substantially the interest served by obtaining the evidence.

■Article 119

☐Witnesses may not, without the permission of the relevant government minister, answer questions about secret plans, resolutions or agreements made by persons exercising state power on matters with a bearing on the security, rights or prosperity of the state, or which are of great significance for the nation's trade or financial standing.
☐ Witnesses may not, without the permission of the person concerned, answer questions concerning:

a. the identity of the author of, or the source of the information in, an article, report or announcement which has been published without his or her being named, if the witness is responsible in law for the contents of the printed publication or for other material which is published, or has gained a knowledge of the identity of the author or source through his or her work for the person responsible,

b. an individual's personal circumstances about which the witness has been told in confidence or of which the witness has become aware in another manner through work as an accountant, social worker, lawyer, pharmacist, physician, minister of religion, head of a religious association or psychologist, or through other work to which a similar non-disclosure obligation pertains,

c. matters which they have found out through work in an official position and which should be kept secret,

d. secrets pertaining to commercial dealings, discoveries or inventions or other such activities of which they become aware in the course of their work.

If the judge considers that witness testimony may play a crucial role in determining the outcome of a case, he or she may, without prejudice to the provisions of the first and second paragraphs, decide that the witness is to answer questions on particular points, providing that the interests served by having the questions answered outweigh those of maintaining confidentiality. This shall not apply, however, to matters which the defendant has told his or her defence counsel, a minister of religion or the head of a religious association in confidence regarding circumstances of the case.

If the judge considers it uncertain whether the conditions of the third paragraph are met, he or she may require the witness to tell him or her first, in confidence, what his or her answer would be.

Article 120

The prosecutor shall see to summonsing witnesses to a session of the court. Nevertheless, the defence counsel may summons a witness to attend a session of court if he or she chooses to do so. Witnesses under the age of 18 shall be summonsed through their legal guardians.

If there is reason to do so, the judge shall summons witnesses to attend court by means of a written summons issued at his or her initiative or at the request of either of the parties. The summons shall state the witness's name and address, the reason, in its essentials, why the witness is being summonsed, the name of the court, where and when questioning is to take place and what consequences it may have if the witness fails to attend or to discharge his or her duty in other respects. The prosecutor shall see to it that the summons is served; this shall be done in the same way as the serving of an indictment under Article 156.

If a witness is present at a session of the court, he or she shall be obliged to give testimony even though he or she was not summonsed for that purpose.

Article 121

If a witness fails to attend court in accordance with a lawfully-served summons without a legitimate excuse, the prosecutor may call on the police to fetch him or her, or to bring him or her to the court at a later date. The police shall be obliged to comply with orders of this type from the prosecutor.

If a witness attends court but does not discharge his or her duties as a witness in other respects, including obeying instructions from the judge under the fifth paragraph of Article 116, the judge may, at the request of one of the parties, impose a fine on him or her by a ruling.

If a witness attends court but is unable to discharge his or her duties as a witness due to his or her condition, e.g. as a consequence of inebriation or mental excitement, the judge may take the measures necessary to ensure that the witness will be able to discharge these duties at a later time.

Article 122

When a witness appears in court, the judge shall first have him or her state his or her name, ID number and address, and then examine, as necessary whether the witness is obliged to answer questions. The judge shall then impress upon the witness in serious terms the obligation he or she is under to give true and accurate answers and not to conceal anything, drawing the witness's attention to the criminal liability and moral responsibility involved in giving false evidence, consciously or through inattention, and also to the fact that the witness may be required to confirm the veracity of his or her testimony by swearing an oath or giving his or her word of honour.

When this has been done, questions shall be put to the witness. The judge shall allow the prosecutor and the counsel for the defence put questions to the witness; normally, the prosecution shall ask first, followed by the counsel for the defence. Furthermore, the legal rights protector shall be given an opportunity of stating to the judge any questions that he or she wishes to have put to the witness (*cf.* the third paragraph of Article 46). The judge shall be entitled to re-word, revise and clarify these questions before the witness answers them and prevent questions being put to the witness that are vague, ambiguous, tendentious, needlessly insulting or hurtful, put in order to confuse the witness or evidently devoid of purpose. The judge may deprive a person who abuses the entitlement in this way of the right to put questions to the witness and take charge of the questioning himself or herself. The judge may also require a witness to give further clarification of an answer so that its content is stated clearly, and may also question the witness independently, or possibly at the request of the defendant.

If a witness has previously given testimony to the police, including as provided for under the first or second paragraph of Article 60, or to the court in the case, the judge shall not submit that testimony and other visible items of evidence to the witness until he or she considers this to be necessary in order to clarify or to correct the witness's recorded testimony. The same shall apply regarding testimony that the witness may have given to a government authority other than the police while the case was under investigation.

Each witness shall normally be questioned separately without other witnesses hearing the proceedings. If a party so requests, the judge may nevertheless decide that witnesses are to be questioned together with the defendant or another witness.

If the court session is open and a question put to a witness is such that the answer to it will have a bearing on the private circumstances of the witness or other persons, the judge may have the witness answer the question in writing. In that case, the answer shall be entered in the records and the parties and the witness shall be given an opportunity to confirm that the record is correct without it being read aloud.

The judge shall give witnesses guidelines regarding their duty and right to give evidence. If a witness considers that he or she is not under any obligation to give evidence or to answer individual questions, or maintains that he or she lacks permission to do so, the witness shall then be obliged to state arguments supporting the probable facts in this regard. The judge may permit a witness to call other persons before the court to give evidence for this purpose.

When a witness gives evidence, the judge shall, as necessary, seek to establish matters regarding the assessment of the witness's credibility. In this, the judge shall normally seek to establish whether the testimony of the witness is based on the witness's own perception or on rumours borne by other persons. Furthermore, the judge shall make special efforts to establish whether the witness's attitude towards the case, or towards the defendant or, as appropriate, the injured party, is in some way such that it could influence the evidential value of the witness's testimony.

The judge may, at the demand of the prosecutor, the defendant or the witness, decide that a witness who appears in court shall not state his or her name, ID number and address aloud (*cf.* the first paragraph) or identify himself or herself in any other way if the judge considers that the witness's life, health or freedom, or that of his or her close relatives (*cf.* the first or second paragraph of Article 117) could be jeopardized if his or her identity were known. Nevertheless, the judge shall not comply with a request for witness anonymity unless there is a cogent reason for doing so and there is no reason to believe that the anonymity of a witness could significantly undermine the defendant's case. In such cases, the judge shall be informed, in writing and confidentially, of the witness's name and other details that are to be kept secret; materials containing this information shall then be kept securely so as to ensure that others do not gain access to them. If an appeal is lodged in the case with [a higher court], [1] this information shall accompany it in the same way.

[1] *Act 49/2016, Art. 51.*

Article 123

The judge may, in accordance with a demand by the prosecutor or a witness, decide that the defendant is to be sent out of the court while the witness is questioned if the judge considers that the presence of the defendant could be particularly difficult for the witness and influence his or her testimony.

If a witness under the age of 15 is questioned, the judge may summons an expert to assist with the questioning. The prosecutor, the defendant and his or her defence counsel shall not be entitled to be present in the courtroom or other locality where the court sits if the judge considers that their presence could be particularly difficult for the witness and influence his or her testimony. In the same way, the judge may decide that the defendant and the

legal counsels pleading the case are to leave the courtroom if a witness is questioned without having to state his or her name aloud (*cf.* the eighth paragraph of Article 122).

If the defendant is not permitted to be present during questioning under the first paragraph, or this applies both to the defendant and the legal counsels pleading the case under the second paragraph, the judge shall ensure that they are able to follow the questioning as it takes place. Furthermore, the judge shall ask the witness any questions that they wish to have put to him or her. [The Courts Administration] [1] shall set further rules [2] on arrangements for questioning under this Article.

[1] *Act 53/2017, Art. 2.* [2] *Rgl. 190/2009.*

Article 124

In accordance with a demand by one of the parties, the judge shall have witnesses attest the truth of their testimony by means of swearing an oath or giving a solemn declaration when they have finished giving evidence. Witnesses shall not, however, be required to attest the truth of their testimony if:

a. they have not attained the age of 15,

b. they are in such a poor state of mental health that they do not understand, or are incapable of grasping, the solemnity or significance of such an attestation,

c. they are under an indictment for false testimony, or have been convicted of a violation of such a type,

d. they refuse to give an attestation and the provisions of Article 117 and the first paragraph of Article 118 apply, or

e. the judge considers that they are so closely connected with the parties, or have such great interests at stake in the outcome of the case, that such an attestation is inappropriate.

Before witnesses attest to the truth of their testimony, the judge shall impress on them the solemnity and the significance of the attestation, both for the outcome of the case and for the witnesses themselves, both legally and morally.

If a witness declares, in response to a question from the judge, that it is compatible with his or her religious attitudes to swear an oath and that he or she believes in God, the attestation shall involve the witness raising his or her right hand and repeating these words after the judge: 'I swear and declare before my God that I have said what I know to be most truthful and correct and have not concealed anything.'

If the conditions for the swearing of an oath according to the third paragraph do not obtain, then the witness shall make a solemn declaration by raising his or her right hand and repeating these words after the judge: 'I solemnly

declare, on my honour and reputation, that I have said what I know to be most truthful and correct and have not concealed anything.'

☐Swearing an oath and making a solemn declaration have the same significance in law.

■Article 125

☐If the prosecutor summonses a witness to attend a court session, or if the witness is summoned to attend it, the prosecutor shall be obliged, if requested, to provide the witness with funds in advance to pay his or her travelling costs, accommodation and maintenance at the place where the court is held.

☐If a witness so demands, after discharging his or her duties, the judge shall decide on payment to him or her to cover costs incurred in the course of discharging the obligations of a witness and a remuneration to cover loss of employment that may be regarded as being of significance to the witness, based on his or her financial standing and circumstances. The prosecutor shall ensure that the witness is paid his or her costs and remuneration as an interim measure, and shall make this payment as soon as possible.

■Article 126

☐The judge shall assess the evidential value of testimony when resolving the case. In this connection, consideration shall be given to matters including the attitude of the witness towards the defendant and, as appropriate, the injured party, the witness's interests affected by the outcome of the case, his or her maturity, the reliability of his or her perception of events, his or her memory, condition and conduct while giving evidence, confidence and clarity in answering questions and the consistency of his or her account of events.

Section XIX. Assessments.

■Article 127

☐Inspection reports and assessments, descriptions of objects and other investigative reports shall hereinafter be referred to by the single term 'assessment reports' or 'assessments' and the activity involved in them by the verb 'to assess.'

☐Judges themselves shall assess matters which require general knowledge and education or a knowledge of Law.

☐ If a public official is appointed once and for all to assess certain matters, a party may apply directly to that official if the official is obliged to carry out the assessment or is willing to do so without being appointed by the court, providing that it lies within his or her sphere of responsibility.

■Article 128

☐If the procedures provided for in the second or third paragraph of Article 127 cannot be followed, the judge shall appoint one or two assessors, if he or she considers there is a need to do so, to carry out the assessment in accordance

with a written request from a party. The request shall state clearly what is to be assessed, where that which is to be assessed is located and what the party intends to demonstrate by means of the assessment. Both the prosecutor and the defendant may request an assessment after the action has been brought. Furthermore, the police or the prosecutor may request an assessment during the investigation.

The parties shall be summonsed to a session of the court at which the application for assessment is considered and the judge shall inform them of the person he or she proposes to appoint to handle the assessment.

Only someone who has attained the age of 20, is in every respect an unassailable witness regarding the matter that is to be assessed and who has the necessary skill and knowledge to perform the task or, failing that, the best available skill and knowledge, may be appointed by the court to carry out the assessment. No one may refuse to accept a court appointment if they would be obliged and permitted to give evidence as a witness regarding the matter to be assessed; the fact that they may have to travel to a court jurisdiction area other than that in which they reside in order to carry out the task shall make no difference. Nevertheless, the judge may accept reasoned grounds for not wishing to accept the appointment, providing that another equally competent person is available to take on the task.

A judge may appoint an assessor who is domiciled outside his or her jurisdiction area.

Appointments of assessors shall be noted in the court records. The records shall state clearly what is to be assessed, when the assessment is to be completed and those persons who are to be given an opportunity of defending their interests while it is being carried out. The judge may, at his or her own initiative, add points to the assessment request, and these shall also be recorded. In addition, it shall be stated that the assessor is expected to perform the task in accordance with his or her best awareness and to prepare a reasoned assessment report, concerning which he or she may expect to have to give testimony in court (see, however, the first paragraph of Article 130).

If an assessor dies, is unable to attend to the task, proves incompetent to carry out the assessment or fails to perform it properly, the court shall appoint another assessor to replace him or her in accordance with a demand from the party requesting the assessment .

Article 129

The party requesting the assessment shall inform the assessor of the court's appointment and provide him or her with a copy of the court's record of the appointment.

The assessor shall inform the parties at the earliest opportunity and in a verifiable manner where and when the assessment is to take place. The judge

shall give the assessor guidelines, to the extent possible, concerning the matters to be assessed of the assessment. The assessor shall be expected to gather materials for use in the assessment; persons who are present shall be given the opportunity to state their position regarding them as necessary. Should it prove necessary to have witnesses give depositions in order to clarify matters to be assessed, the judge shall have this done immediately.

Any person who has something that is the object of an assessment under his or her control shall be obliged to give the assessor access to it unless he or she is entitled to refuse to give testimony as a witness concerning matters to be assessed or is forbidden to given evidence concerning them.

Assessors shall carry out their task even if the parties do not attend the assessment, unless information which they would have been able to provide is lacking.

Article 130

The assessor shall compile a reasoned assessment report detailing the points of view on which his or her opinion is based (see, however, the second paragraph). The assessment report shall be delivered to the judge unless the assessment was requested during the investigation, in which case it shall be delivered to the party who requested the assessment. The assessor may, however, demand payment as provided for in the third paragraph before delivering the report.

The judge may decide that an assessor who is appointed by the court after the action has been brought need not compile a written report as provided for in the first paragraph but shall instead attend court before the hearing and present a report there on the outcome of the assessment (*cf.* the second paragraph of Article 132).

Assessors shall be entitled to adequate remuneration from the prosecution for their work as per invoice and to the reimbursement of costs incurred. If either party considers that the sum which the assessor asks for is unfair, he or she may demand a ruling by the judge regarding it. The assessor may demand payment in advance to cover travelling costs in conformity with a decision by the judge.

Article 131

A party may demand a revised assessment in which the matters that have been assessed are reassessed. The number of revising assessors shall be greater than that of the assessors in the original assessment; in other respects, the provisions of Articles 128-130 shall apply to revised assessments.

Article 132

An assessor who has submitted a written assessment report shall appear in court to make a statement to clarify and confirm the assessment report and matters related thereto if a party so demands or if the judge otherwise decides

that there is a reason for this. If the assessor has not submitted a written assessment report, he or she shall be obliged to attend court and give an account of the outcome of the assessment and also to answer questions relating to it.

☐The provisions of Section XVIII may be applied regarding the questioning of assessors, as appropriate.

■Article 133

☐Judges shall resolve disputes concerning the appointment of assessors and their competence by means of rulings. Furthermore, a judge may make a ruling on matters relating to how an assessment has been carried out, for example whether a matter that was to be assessed according to the court appointment has been assessed or whether an assessment report is sufficiently backed with reasons, if the question of a review of the assessment or a reassessment arises.

☐The judge shall assess other matters relating to assessment reports, including as regards their evidential value, when resolving other aspects of the case.

Section XX. Documents and other visible items of evidence.

■Article 134

☐The parties shall submit the documents and other visible items of evidence that they wish to have taken into consideration in the resolution of the case.

☐The prosecutor shall submit the documents and other visible items of evidence that have been gathered in the course of the investigation and that have evidential value, in his or her view, including those that contain what the defendant and witnesses have said in court and to the police. However, statements that witnesses have made to the police or, as appropriate, other government authorities, may only be submitted if the intention is to produce the witnesses before the court or if there is no possibility of having them appear in court to answer questions. If there is reason to do so, the prosecutor shall moreover submit a list of the names of those who have made statements to the police or other government authorities.

☐Apart from as provided for in the second paragraph, documents or materials of other types may not be submitted if they contain statements made by the defendant or other parties who are obliged to appear in court as witnesses.

☐Documents or materials of other types may not be submitted if they contain information on communications between the accused and his or her defence counsel, or information covered by the second paragraph of Article 119.

■Article 135

☐If a document or other visible item of evidence is in the keeping of a person who is not a party to the case, the prosecutor or the defendant may demand to have it released for submission, providing that it may be expected that it will

have evidential value in the case and that the keeper is obliged, and permitted, to give evidence on its contents. If the person does not comply with a call to release a document or item of another type, the prosecutor shall seize it in accordance with a ruling by the judge.

The keeper may demand that the judge release an item by means of a ruling from seizure imposed under the first paragraph. Otherwise, it shall be released when it is no longer needed, and at the latest when the case is brought to a final conclusion, unless circumstances listed in indent a or b of the first paragraph of Article 72 obtain.

Article 136

If a document that is to be seized under the first paragraph of Article 135 contains matters to which the person concerned would not be obliged, or would not be permitted, to bear witness, the judge may decide that the document be submitted to him or her in confidence and under a non-disclosure obligation, and either that he or she will take a copy of those matters in the document which it is obligatory, and permitted, to reveal, or else that he or she will compile a report on those matters.

If the owner or keeper of a document that is to be seized under the first paragraph of Article 135 establishes a probability that it would cause him or her loss or inconvenience if this were done, the judge may decide nevertheless to proceed and have the document released in court for copying. The same shall apply if the document has value for the person concerned, or if there is a particular danger that it would be lost or damaged if it were released.

Original documents covered by the first and second paragraphs shall be made over to the person concerned as soon as use has been made of them.

The provisions of the first, second and third paragraphs shall apply, as appropriate, to other visible items of evidence.

Article 137

The judge shall assess the evidential value of documents and other visible items of evidence according to the circumstances in each individual instance.

Section XXI. Gathering of evidence before another court.

Article 138

If a party wishes to produce witnesses, have an assessor appointed or gather documents or other visible evidence before a court other than the one where the case is being conducted, he or she shall submit a written petition to this effect to the judge who is sitting on the case. The petition shall state the reasons it is based on, where it is requested that the evidence be gathered, what materials are to be sent to the relevant court, who is to be given notice of the court session to be held there, and what further gathering of evidence will be involved. If a petition is made to produce witnesses, their names, ID numbers

and addresses shall be stated, and also the specific matters on which the witnesses' evidence is to bear. If it is requested that an assessor be appointed, a petition to this effect shall normally be enclosed

Petitions as provided for in the first paragraph shall be considered in a session of the court dealing with the case. If the judge considers that the conditions of the first paragraph of Article 112 for granting the petition are met, he or she shall record his or her decision to this effect in the court records. A ruling shall be delivered if this is demanded.

Article 139

If evidence is to be gathered before another court in Iceland, the judge sitting on the case shall send the court in question a written communication, together with the party's petition, originals or copies of the necessary documents and transcripts from the court records.

If evidence is to be gathered before a court in another state, the judge sitting on the case shall obtain translations of the documents listed in the first paragraph. The judge shall send his or her written communication and the other documents, together with translations, to the court in question via the intermediary agency of government authorities as appropriate.

Article 140

When evidence is obtained in accordance with the provisions of this Section before a court in Iceland, procedure shall be according to the provisions of Sections II and XVIII–XX, as appropriate. The judge who presides over the gathering of evidence shall take decisions and deliver rulings on matters concerning how it gathered.

If, during the gathering of evidence before another court, there is particular reason to do so, a party may request that more evidence be gathered than was initially requested. The judge concerned shall decide whether or not to grant such a request.

Article 141

The provisions of Article 140 shall be applied, as appropriate, when [written] [1] evidence is gathered at the district court level in connection with the pleading of a case before a [higher court]. [1]

The provisions of Article 140 shall furthermore be applied, as appropriate, when evidence is gathered before a district court in Iceland in connection with the pleading of a case abroad.

[1] *Act 49/2016, Art. 52.*

Part 4. Prosecution and procedure in cases before a district court.
Section XXII. General rules on prosecution.

Article 142

Indictments shall be issued for all criminal acts unless other arrangements are specifically made in law.

Article 143

If a person is indicted for more than one offence, this shall be done in a single action where possible.

If more than one person is prosecuted for participation in the same act, this shall be done in a single action unless another arrangement is considered to be more convenient.

Article 144

If it is set as a condition for the bringing of a criminal action that a demand be made to this effect, then it shall only be brought if the injured party, or one of the injured parties, so demands. If the injured party is deceased, then the spouse, children, other descendants, parents or siblings of the deceased shall be entitled, in lieu of the deceased, to demand that an action be brought. If, in accordance with the foregoing, more than one person is to be considered as the injured party's relatives and they do not agree as to whether an action should be brought, the prosecutor shall decide whether to do so.

Demands for the bringing of an action under the first paragraph should not be granted if the person presenting the demand wishes to exclude any of those who may be guilty of the criminal conduct involved. A demand for the bringing of an action may be withdrawn at any stage until judgment is delivered by a district court. A person who has withdrawn such a demand may not present it anew unless this is done within the time limit stated in the third paragraph and the prosecutor is able to accede to it.

The authorisation to present a demand for the bringing of an action under the first paragraph shall expire if no demand is presented within six months of the time when the holder of the authorisation became aware of the identity of the person who might be guilty of the criminal conduct. If the injured party dies before the deadline is past, then the person who succeeds him or her may at all times submit the demand within three months of the death. If more than one person may be guilty and the deadline for demanding the bringing of an action against any one of them has passed, then a demand for the bringing of an action against the others shall only be granted if the prosecutor is able to accede to it.

Article 145

When the prosecutor has received the case documents and established that the investigation is complete, he or she shall consider whether the accused is to be indicted or not. If he or she considers what has been revealed to be insufficient or unlikely to lead to a conviction, he or she shall either not proceed further or else shall bring an action against the accused in accordance with Article 152 (see, however, Article 146).

■Article 146

□Prosecution shall not go ahead if the accused submits to, or has imposed on him or her, sanctions in accordance with Section XXIII (see, however, the third paragraph of Article 148 and the fourth paragraph of Article 149.

□Prosecution may be waived by suspending the indictment in accordance with the General Penal Code.

□Furthermore, prosecution may be waived under the following circumstances:

a. if the offence is minor or if it can be foreseen that the effort required in the case will be substantially disproportionate to the punishment in which it may be expected to result,

b. if the accused and the injured party have made a settlement and the accused has discharged his or her part thereof,

c. if the accused appears not to be responsible for his or her actions and it is not necessary to present a demand that he or she be placed under measures to secure his or her personal safety or that of others,

d. if the offence caused the accused himself or herself unusually great suffering or if other special reasons argue for the waiving of prosecution, providing that prosecution cannot be regarded as being demanded by the public interest.

□If there is a prospect of bringing a single action against a person covering several offences, it shall be possible to waive prosecution of the offences that may be expected to be of little or no significance in the determination of the sanctions imposed. Furthermore, prosecution may be waived if a person who has been sentenced for an offence is found to have committed another offence or offences before being sentenced, providing it may be expected that no further punishment would be imposed even if he or she were convicted of those offences.

□[In cases where the District Prosecutor or a commissioner of police exercises prosecutory power, he or she may waive prosecution. If he or she considers there is reason to waive prosecution under the second, third or fourth paragraph, but there is doubt as to authorisation for doing so, he or she shall send the matter to the Director of Public Prosecutions for a decision.] [1)]

[1)] *Act 47/2015, Art. 15.*

■Article 147

□If the prosecution of a case is dropped under Article 145, or waived under the second, third or fourth paragraphs of Article 146, there shall be no obligation to give the person involved the opportunity of expressing his or her position before this decision is taken. On the other hand, the prosecutor who takes the decision shall inform the accused and, as appropriate, the injured party, if his or her identity is known, thereof. [The District Prosecutor or

commissioner of police shall be obliged to state brief reasons for the decision to waive prosecution if this is requested. Reference shall be made to the relevant provision of Article 146 as the reason for a decision to waive prosecution; no further reasoning need be given for the decision.] [1)]

☐[Any person who does not accept a decision by the District Prosecutor or commissioner of police under the first paragraph may lodge an appeal against it to the Director of Public Prosecutions within a month of the date on which he or she was informed of it. The Director of Public Prosecutions shall adopt a position on the appeal within three months of receiving it, but shall not be obliged to state specific reasons for this position unless the decision by the District Prosecutor or commissioner of police is set aside.] [1)]

☐… [1)]

☐[The Director of Public Prosecutions may set aside a decision by the District Prosecutor or commissioner of police under the first paragraph at his or her own initiative if he or she considers it contrary to law or absurd in some other respect, providing this is done within three months of when the decision was taken.] [1)]

[1)] *Act 47/2015, Art. 16.*

Section XXIII. Conclusion of a case without an indictment.

■ **Article 148**

☐If the police apprehend a person committing an offence which comes under the prosecutory power of a commissioner of police, the person confesses to it without reservation and the police consider a suitable sanction for this to be a fine that does not exceed the amount specified in a regulation issued by [the minister] [1)] under the first paragraph of Article 151, the police may decide on a sanction for the offence according to the regulation. The police shall explain to the accused the sanction applying to the offence and the consequences of a failure to pay a fine by giving him or her a statement containing a brief description of the offence, where and when it was committed, the provisions under which it falls, the fine and reserve punishment applying to the offence and the fact that an attachment may be demanded if the fine is not paid or that he or she may be made to serve the reserve punishment. Where appropriate, it shall also be announced to the accused, and specified in the statement, how many penalty points are imposed under the regulations on driving records and the penalty point system for traffic offences. The accused shall sign the statement and receive a copy of it. The police may offer the accused the opportunity of concluding the matter immediately by paying the fine on site. If the accused does not do this, he or she shall be given a certain period, which shall be specified in the statement, in which to do so. [An electronic signature by the accused shall be regarded as a fully-valid signature under this Article. If

the statement is signed electronically, the police may deliver it to the accused electronically. The minister shall issue a regulation containing further provisions on the implementation of electronic signatures and the delivery of statements.] [2)]

If a fine determined under the first paragraph is not paid, then instead of prosecuting a case covering the offence, the fine may be enforced by means of an attachment as provided for in the second paragraph of Article 151.

If a commissioner of police or the District Prosecutor considers that an innocent person has been made to suffer sanctions under this Article or that the way a case was concluded is absurd in some other respect, he or she may, within a month of becoming aware of the conclusion of the case, have the conclusion set aside, providing that less than one year has passed since the case was concluded.

[1)] *Act 162/2010, Art. 194.* [2)] *Act 34/2017, Art. 1.*

Article 149

If a commissioner of police receives a complaint about an offence which falls under his or her prosecutory power, or apprehends a person in the commission of such an offence and considers that the sanction for the offence will not exceed a fine of a specific amount under the regulation issued by [the minister][1)] under the first paragraph of Article 151, the deprivation of rights or the confiscation of property, the commissioner of police may, in writing and within a month of receiving the complaint, give the accused the opportunity of concluding the matter by submitting to the appropriate sanctions together with the payment of legal costs. If the accused accepts the determination of the sanctions, this conclusion of the matter shall have the same effect regarding whether an offence is repeated, if this is considered, as would a judgment. If the accused rejects this method of concluding the case, or fails to respond to the offer by the commissioner of police, a decision on prosecution shall be taken according to the ordinary rules.

If the accused has undertaken in writing to submit to a decision regarding a fine and legal costs in accordance with the first paragraph, but failed to pay, then instead of prosecution for the offence, the decision may be enforced by attachment in accordance with the provisions of the second paragraph of Article 151.

The Director of Public Prosecutions shall provide commissioners of police with a list of offences covered by the authorisation in the first paragraph, together with guidelines on fine amounts and other sanctions for each type of offence. Reports on the conclusion of cases under the first paragraph must be submitted to the Director of Public Prosecutions in accordance with rules that he or she sets.

If [the Director of Public Prosecutions] [2] considers that an innocent person has been made to undergo sanctions under this Article, or that that the way a case was concluded is absurd in some other respect, he or she may, within [two months] [2] of becoming aware of the conclusion of the case, have the conclusion set aside, providing that less than one year has passed since the case was concluded.

[1] *Act 162/2010, Art. 194.* [2] *Act 47/2015, Art. 17.*

Article 150

If the conditions for concluding a case according to the provisions of the first paragraph of Article 149 are met and [the District Prosecutor or] [1] the commissioner of police considers an appropriate sanction for the offence to consist only of a fine that does not exceed a specific amount in accordance with the regulations issued by [the minister] [2] under the first paragraph of Article 151, [the District Prosecutor or] [1] the commissioner of police may then give the accused the option of concluding the matter by paying the specified fine; the fine docket shall include a brief description of the offence, where and when it was committed and the criminal law provisions that apply. The possible consequences of non-payment shall also be stated in the fine docket.

If the accused rejects the call to pay the fine as provided for under the first paragraph, a decision on prosecution shall be taken according to the ordinary rules.

If the accused fails to act on the call to pay the fine as provided for under the first paragraph within 30 days of its having [demonstrably reached him or her or] [3] its being served under Article 156, [the District Prosecutor or] [1] the commissioner of police may send the matter to a district court judge for a decision on a fine and reserve punishment. The judge shall take the decision on sanctions and record it by endorsing the fine docket issued by [the District Prosecutor or] [1] commissioner of police. Such an endorsement shall have the same effect as a judgment. It is not necessary to summons the accused to appear in court before the case is concluded in this way.

If the judge considers an appropriate sanction for the offence to exceed what is stated in the first paragraph, or that the evidence presented in the case is insufficient to demonstrate the guilt of the accused, he or she shall reject the conclusion of the case as provided for under the third paragraph and record this by endorsing the fine docket. The judge shall not be bound by such a decision if an action is subsequently brought in connection with the offence.

If a case is concluded by a decision on a sanction under the third paragraph, the accused may then demand that the case be re-examined, providing that he or she is able to present a defence that may influence its outcome. Demands for re-examination shall be addressed to the court where the case was concluded within four weeks of the accused's being informed of the decision

to impose a fine. The judge shall decide by means of a ruling whether this demand is granted. If the judge accedes to the demand, the decision on sanctions under the third paragraph shall expire and the case shall then be examined in accordance with the ordinary rules, though without an indictment having been issued. As appropriate, the provisions of Section XXIX shall apply to the demand for re-examination under this paragraph and to procedure in the case.

If [the Director of Public Prosecutions] [1] considers that the accused has been subjected to an unreasonable conclusion of the matter, he or she may demand a re-examination of the matter by the court involved. Procedure regarding that demand, and the examination of the case thereafter, shall be subject to the provisions of the fifth paragraph.

[1] *Act 47/2015, Art. 18.* [2] *Act 162/2010, Art. 194.* [3] *Act 78/2015, Art. 23.*

Article 151

[The minister] [1] shall determine, in a regulation [2] which he or she shall issue after receiving the proposals of the Director of Public Prosecutions, the sanctions, including the maximum amount of a fine, that the police may decide on for offences under the first paragraph of Article 148. Furthermore, the regulation shall state the maximum amount of a fine that a commissioner of police may decide on for offences under the first paragraph of Article 149 and the maximum amount of a fine to be used as a reference point in the first paragraph of Article 150. The minister may also set more detailed rules on the handling of cases under Articles 148-150.

[Enforcement of fines decided on by the police under the first paragraph of Article 148 and decisions under the first paragraph of Article 149 shall be in accordance with the Execution of Sentences Act.] [3]

[1] *Act 162/2010, Art. 194.* [2] *Reg. 205/2009, cf. 1049/2012.* [3] *Act 15/2016, Art. 101.*

Section XXIV. Indictments, summonses and their service.

Article 152

The prosecutor shall bring a criminal action by issuing an indictment. It shall state as clearly as possible:

a. the court before which the action is brought,

b. the defendant's name, ID number or date of birth and domicile or place of residence,

c. the conduct to which the indictment refers, where and when the offence is alleged to have been committed, the designation and other definition given to the offence in law and, finally, details of the statutory or regulatory categories under which it falls, if appropriate,

d. the reasoning on which the prosecution is based, if necessary, e.g. if the case is complex or wide-ranging; the reasoning shall be stated in a concise

manner and sufficiently clear as to leave no doubt as to the crime of which the defendant is accused,

e. the claims being made regarding punishment and other sanctions, such as the deprivation of rights or confiscation of property, and the demand for the payment of legal costs,

f. civil law claims and claims of a public-law nature under Section XXVI.

☐When an indictment has been issued against a person, he or she is referred to as 'the defendant'.

■Article 153

☐The prosecutor may amend or add to an indictment by the issue of a further indictment so as to correct evident errors or if information that was not available at the time when the indictment was issued gives occasion to do so. A supplementary indictment shall be issued as soon as possible after the time when the need for it becomes known, and at the latest two weeks before the hearing of the case under Article 166, unless the defendant consents to its being issued at a later date.

☐Right up until the delivery of judgment, the prosecutor may revoke an indictment that he or she has issued or withdraw individual points in the indictment.

☐If a case is dismissed from court, or dropped, no new action dealing with the same matter may be brought until three months have elapsed since the case was finally concluded in this manner. This time period shall run from when the case was first dismissed from court or dropped, this possibly occurring before [a higher court]. [1)]

[1)] *Act 49/2016, Art. 53.*

■Article 154

☐The indictment shall be sent to the district court together with the visible items of evidence that the prosecution intends to present in the case. The indictment should be accompanied by a list of the materials, and these shall be submitted in a sufficient number of copies. In addition, an announcement shall be included stating who is to conduct the case for the prosecution, what witnesses the prosecution wishes to have called in the case and what other evidence it considers necessary to obtain. It shall be stated whether information on the names and other personal details of individual witnesses and police officers is to be kept secret from parties other than the judge in the case (*cf.* the second paragraph of Article 56 and the third paragraph of Article 65).

■Article 155

☐When the indictment has been received by the district court, the judge shall decide on a place and time for a session of the court at which the case will be registered. Registration shall take place at the first opportunity. At the same

time, the judge shall issue a summons to the defendant stating the place and time of registration and calling upon him or her to attend that court session. Furthermore, the notice period between the service of the indictment on the defendant and the registration of the case shall be stated; this may not be less than 72 hours. If the judge considers that the conditions for judging the case in the absence of the defendant under the first paragraph of Article 161 are likely to be met, it shall be clearly stated in the summons that the non-appearance of the defendant may be taken as the equivalent of a confession on his or her part and that judgment may be delivered in the case even though the defendant is not present in court. Alternatively, it shall be stated in the summons that the police may bring the defendant before the court, by force if necessary, if he or she does not respond to it.

If the judge considers that there are flaws in the presentation of the case that may result in its dismissal from court, he or she shall point these out to the prosecutor. On the other hand, the judge may not refuse to issue the summons for this reason, as judges are not bound by such private opinions when resolving cases.

When the judge has issued the summons provided for in the first paragraph, he or she shall send it, together with the indictment, to the prosecutor, who shall have them served under Article 156.

Article 156

The indictment, together with the summons (hereinafter referred to by the single term 'the indictment') shall be served on the defendant himself or herself, if this is possible, or else on the defendant's lawyer or other legally competent person who has received a written authorisation from the defendant to accept the service, or else on a member of the defendant's household or other person who is resident at, or is encountered at, the defendant's registered place of legal domicile. The person on whom it is served shall be obliged to state his or her identity.

The indictment shall be served by one police officer, prison warder or other employee of the Prison and Probation Administration, or by a process-server, unless it is served the judge at a session of the court. The person who effects service shall testify to it by endorsing the indictment or a special certificate. The person on whom it is served shall be given a copy of it. If it is served on a person other than the defendant himself or herself, that person shall be obliged, on pain of a fine, to give the copy of the indictment to him or her or, if this is not possible, to the person who is most likely to pass the copy on in time. The person who effects service shall bring this obligation to the notice of the person on whom the indictment is served.

If the defendant's place of residence is not known with certainty, the indictment may be published in the Law Gazette (*Lögbirtingablaðið*) with

suitable notice before the case is registered; this period may not be less than one month.

When the indictment is served, the defendant shall be asked whether he or she wishes to have a defence counsel, and if so, whom. The defendant's position on this question shall be recorded in the certificate of service. The defendant may, however, defer taking a decision on a defence counsel until the case is registered.

When service has been completed, the prosecutor shall send the indictment back to the judge together with the certificate of service. Seventy-two hours after service of the indictment, the prosecution shall be obliged to give copies of the indictment to those who request them, subject to the limitations stated in the first paragraph of Article 16.

Article 157

If, when the indictment was served, the defendant requested to have a defence counsel appointed, the judge shall take a decision on the appointment. The judge shall at the same time send the defence counsel copies of the case documents and inform him or her of when the case is to be registered.

Section XXV. Ordinary procedure in cases before a court.

Article 158

A case is registered when the indictment and other case documents from the prosecution are presented to a session of the court. Cases may be registered even though no summons has been issued if the defendant is in attendance.

If it is obligatory, or permitted, to appoint a defence counsel for the defendant and this has not been done prior to the registration of the case, it shall be done on registration or at the earliest opportunity. If the conditions are met for appointing a legal rights protector for the injured party, this shall be done on registration or, if that is not possible, for example because it has not been possible to contact the injured party, then at the first opportunity.

Article 159

On registration of the case, the judge shall check whether there are flaws in the case that may lead to its dismissal without a demand being made to this effect. He or she may then, immediately or at any time after that, dismiss the case from court by a ruling, even though no demand has been made to this effect, if he or she considers that there are such evident flaws in the case, which cannot be rectified during the pleading, as to mean that no judgment could be delivered on its substance. If appropriate, the judge may decide on the dismissal of part of the case and resolve the substance of other parts of it in a judgment. Before a case is dismissed from court, the prosecutor, and also the defendant, if he or she is in attendance in the case shall be given the opportunity of expressing his or her position on it orally.

If a demand is made for the dismissal of the case, in its entirety or in part, when it is registered or at a later stage while it is being conducted, the judge shall, in the same way, give the prosecutor and the defendant an opportunity of expressing their positions on the demand. The judge shall adopt a position on the demand for the dismissal of the case by a ruling before continuing to examine the substance of the case in further detail.

If the judge rejects a demand for the dismissal of the case, he or she shall not be bound by that ruling if, subsequently, new information comes to light during the conduct of the case concerning the matters on which the ruling was made.

If [the Court of Appeals] [1] sets aside a ruling on the dismissal of a case, in part or in its entirety, the district court judge shall then resume the case as it was when he or she made the ruling.

[1] *Act 49/2016, Art. 44.*

Article 160

If the prosecutor does not attend court when the case is registered, or at later stages of the case, it will be taken no further at that stage. The judge shall then decide on a new session of the court, and inform the prosecutor thereof; if no representation is made on behalf of the prosecutor on that occasion either, then the case shall be dropped.

Article 161

If the defendant does not appear in court when the case is registered, even though an indictment was served on him or her in the lawful manner and it was stated in the summons that the case might be judged in his or her absence (*cf.* the first paragraph of Article 155), [or if he or she fails to attend court at a later stage of the case], [1] then the case may be judged if the defendant is not known to have had a legitimate excuse and the following circumstances obtain:

a. the offence is not regarded as entailing sanctions greater than [six months' imprisonment], [1] the confiscation of property and deprivation of rights, and the judge considers that the evidence submitted is sufficient to secure a conviction, or

b. the defendant appeared in court during the investigation of the case, confesses without reservation to having committed the offence with which he or she is charged and the judge considers that there is no reason to doubt that the confession accords with the truth, providing that no heavier punishment than [one year's] [1] imprisonment may be imposed.

The defendant may not appeal against such a judgment; instead, he or she may seek to have the case reopened in accordance with Section XXIX.

[1] *Act 78/2015, Art. 24.*

Article 162

If the defendant fails to attend court when the case is registered and it cannot be concluded in accordance with what is stated in the first paragraph of Article 161, then the judge shall decide a time for a new court session. The prosecution shall require the police to bring the defendant before the court unless it is known that he or she had a legitimate excuse, in which case the police shall summons the defendant to the new court session and, if necessary, bring him or her to court by force (*cf.* indent c of the third paragraph of Article 90).

Article 163

At the registration of the case, the defendant shall be asked whether he or she admits that the substance of the indictment is correct and the contents of the documents submitted shall be made known to him or her if he or she is present. Alternatively, this shall be done in the court session when the defendant appears in court for the first time after registration.

If the defendant attends court and confesses to the conduct with which he or she has been charged, the prosecutor may then give him or her the option of concluding the case by submitting to a fine which is to be paid within a certain time, failing which the appropriate reserve punishment will be imposed, together with legal costs. If the defendant agrees to this conclusion of the case and the judge considers the sanctions appropriate, the judge may conclude the case by making a decision on these sanctions. In the same way, the claims against the defendant may be satisfied by the suspension of his or her driving licence and confiscation of property.

If the [Director of Public Prosecutions] [1)] considers that an innocent person has assented to the imposition of sanctions under the second paragraph or that the defendant has been made to submit to a conclusion of the matter that is not in accordance with reason in some other respect, he or she may lodge an appeal in the case with the [Court of Appeals] [2)] to have the decision annulled..

[1)] *Act 47/2015, Art. 20.* [2)] *Act 49/2016, Art. 44.*

Article 164

If the case is not concluded in accordance with the second paragraph of Article 163, the defendant confesses without reservation to all the conduct with which he or she is charged and the judge considers that there is no reason to doubt that the confession accords with the truth, the judge shall then accept the case for judgment immediately unless either party demands that a hearing be held on the case in accordance with Article 166.

If the case is concluded according to the first paragraph, it shall not be necessary to submit evidence other than that which has already been submitted. A party may nevertheless request to submit visible items of evidence. The parties shall be given an opportunity to express themselves on the legal aspects of the case and the determination of sanctions.

Article 165

☐ If the case cannot be concluded as described above, the defendant shall be given the opportunity of submitting written observations on his or her part within a reasonable period. The observations shall state the defendant's claims and arguments and also list the materials submitted by the defendant and those witnesses that he or she wishes to have called in the case. If defendants do not submit observations, they shall state whether they intend to submit evidence and call witnesses in the case, and if so, state their identities.

☐ The judge may defer a case until the parties are able to obtain further evidence, if they so request or if he or she considers this to be necessary.
☐The judge shall decide whether a case is to be pleaded orally or in writing. Judges shall not decide on written pleading unless the parties request this and the judge considers there to be a danger that the case would not be clarified sufficiently through oral pleading.
☐When the parties have declared that the gathering of visible evidence is complete, the judge shall decide a session of the court for the hearing of the case with suitable notice. If there is occasion to do so, the judge shall also decide whether the hearing is to be held *in camera*, whether a witness is to give evidence without being obliged to state his or her name aloud and whether the defendant and the legal counsels are to leave the courtroom while the witness gives evidence. Judges may ask parties how much time they need to deliver their addresses to the court during the hearing and then determine the length of the hearing accordingly.
☐ Testimony may be taken from the defendant or from witnesses before the hearing begins if it is known in advance that the person who is to give testimony will, for legitimate reasons, not be in attendance at the hearing.

■Article 166

☐ Normally, both statements in testimony and the oral pleading of the case shall proceed in a single session. The defendant shall be entitled to be present during the hearing. However, the judge may decide that the defendant is to leave the courtroom while testimony is taken from others who are indicted in the case or while a witness gives evidence (*cf.* Article 123).
☐ The hearing shall begin with a short account by the prosecutor of the indictment and of the evidence on which it is based; then the defendant shall be given the opportunity of making brief comments on his or her part. The defendant shall then be questioned. If the defendant confesses to having committed the offence with which he or she is charged, the judge shall then decide, in consultation with the legal counsels, whether there is a need for further proof, and if so, then to what extent. Witnesses shall then be questioned and, if necessary a visit to the scene of the crime shall be made.

☐ When questioning is complete, the oral pleading of the case shall take place. The prosecutor shall speak first, followed by the person presenting a claim under Chapter XXVI, if there is one, and then the defendant. After this, the same persons may make counter-statements for their own part. If a defence counsel pleads the case for the defendant, the defendant himself or herself may make a short statement at the end of the hearing. The judge shall direct the hearing and ensure that speakers keep to the point and that their presentation is clear and does not over-step the boundaries of what is proper in a court of law. The judge may curb the freedom of expression, or stop the pleading, of any person who does not comply with his or her admonitions or who greatly exceeds the time allocated for his or her pleading. After the hearing, the case shall be accepted for judgment.

■Article 167

☐If the case is pleaded in writing, testimony shall be taken from the defendant and the witnesses before pleading commences. Then the prosecution shall be given the opportunity of submitting the case for the prosecution to supplement the indictment. When this has been done, the defendant shall be given the opportunity of submitting the case for the defence to supplement his or her observations if these have been presented. Written counter-submissions may be presented once on behalf of each party. When pleading is complete, the case shall be accepted for judgment.

■Article 168

☐If, after the case has been accepted for judgment, the judge considers it necessary to have further evidence presented, or to put further questions to the defendant or the witnesses, he or she shall then summons the parties to attend court and, as appropriate, put questions to them and instruct the prosecutor to obtain further evidence or call specific witnesses before the court. The case may be adjourned as necessary; when this has been done, the judge shall give the parties the opportunity of making further comments or criticisms supplementary to their previous pleading and then accept the case for judgment anew.

■Article 169

☐If more cases have been brought against the defendant before the same court, the judge may decide, if he or she considers it convenient, to combine them and conduct and judge them as one case.

☐If a case has been brought as a single action against more than one defendant, the judge may, at the request of the parties or on his or her own initiative, decide to divide the case into parts and to judge the case involving one or more of the defendants separately if this is thought to be more convenient or is likely to result in more speedy processing and to save costs.

■Article 170

☐A case shall be dropped if:

a. the defendant dies while it is under examination, unless a fine may be imposed on his or her estate at death or assets may be confiscated from the estate,

b. the prosecutor revokes the indictment before judgment is delivered,

c. the prosecutor fails to attend court, as per the provisions of Article 160,

d. prosecution of the case depends on the claim submitted by the injured party and he or she waives the claim before the district court judgment is delivered, unless the prosecutor considers that the case should be continued with reference to the public interest.

☐Cases shall be dropped by an entry in the court records unless a dispute arises as to whether this should be done, in which case the judge shall adopt a position on the question in the form of a ruling. Arrangements regarding legal costs shall be made in the entry in the records, and the decision taken in it shall have the same validity as a judgment on that point.

■Article 171

☐Cases shall be processed as quickly as possible.

☐At what point in the conduct of a case declarations, objections and items of evidence are presented shall be immaterial.

Section XXVI. Civil Law Claims, etc.

■ Article 172

☐The injured party, and any other person who considers that he or she has acquired a civil law claim against the accused due to his or her criminal conduct may seek a judgment on the claim in a criminal case as provided for in further detail in this Section.

☐If the conduct of the accused is considered to result in criminal liability and, in addition, to a claim of a public-law nature, the government authority involved may seek a judgment regarding it in the same way as is provided for in the first paragraph.

☐A party with an entitlement as provided for in the first or second paragraph (hereinafter 'the claimholder') may not be a party to the criminal case except as regards his or her claim.

■Article 173

☐Claims under the first or second paragraph of Article 172 shall be submitted to the police during the investigation of the case, or to the prosecutor before the indictment is issued. Claims may also be submitted to the prosecutor after the issue of the indictment if the conditions of the first paragraph of Article 153 are met for the issue of a supplementary indictment in the case, or if the defendant gives his or her consent, providing that the other conditions for submitting such claims in the case are met.

The claimholder shall submit to the police or the prosecutor a written statement of his or her claim, stating the following:

a. the claimholder's name, address and ID number, and also the same details of his or her representative, if there is one,

b. the name of the claimant's legal rights protector or other lawyer in the case if the claimant, or his or her representative, does not handle the defence of his or her interests in person,

c. the claims submitted to the court by the claimholder; these shall be prepared in the same way as in a summons in a civil law action,

d. details of the standing of the claimholder with regard to the claim in the case of a person other than the injured party,

e. the circumstances of the case on which the claim is based,

f. references to the principal statutory provisions or legal principles on which the presentation of the case is based.

The statement as provided for in the second paragraph shall be accompanied by the materials pertaining to the claimholder's presentation of his or her case that are not already before the court in the criminal case.

If a claim is submitted to the police prior to conclusion of the investigation of the case, it shall be made known to the accused and his or her position with regard to it shall be sought if this is possible. If the claim is received later, the prosecutor may commission the police with handling it in the same way.

When a decision has been taken to proceed with prosecution, the prosecutor shall check whether the claim has been prepared in the proper manner and whether the necessary materials have been submitted with it; he or she may grant the claimholder a short period in which to make good any deficiencies that there may be in the claim. The prosecutor shall mention the claim in the indictment or, as appropriate, the supplementary indictment, and enclose the statement of the claim, and other related materials, with the indictment submitted to the district court (*cf.* Article 154).

Article 174

If a claim under the first or second paragraph of Article 172 is submitted in a criminal case, the judge shall include a copy of it with the indictment and summons to be served on the defendant. When service of the indictment has taken place, the judge shall inform the claimholder of the place and time when the case is to be registered.

When the case is registered, the statement of the claim shall be submitted together with the materials accompanying it. If the claimholder does not attend court when the case is registered, or at later stages of its consideration by the court, the claim shall be dropped unless the claimholder has a legitimate excuse for non-attendance or the prosecutor has undertaken to attend sessions of the court on behalf of the claimholder.

□During the conduct of the case, the judge shall, on his or her own initiative, check in the same way as in a civil law case, whether there are any flaws in the claim that could result in its being necessary to dismiss it from court. If the judge considers this to be the case, or if the defendant demands that the claim be dismissed from court, the parties to the case shall be given an opportunity of expressing their position on this, together with the claimholder, in a session of the court. If the judge dismisses the claim from court, or rejects a demand by the defendant to have it dismissed, he or she shall do this by delivering a ruling.

□The claimholder shall have the sole right to make disposals regarding the claim, in the same way as if he or she were presenting it In a civil action. He or she may waive it at any stage of the case, in which case the judge may, at the request of the defendant, order him or her to make a payment to the defendant for inconvenience in respect of the costs specifically associated with presenting a defence against the claim. The claimholder and the defendant may enter into a court settlement regarding the claim in accordance with the same rules as apply to such settlements in civil cases, irrespective of whether the claim was presented in the manner described in Article 173.

□If the claim is not dismissed from court, waived, dropped or made the subject of a settlement, the judge shall inform the claimholder in a verifiable manner of the court sessions to be held in the case.

■Article 175

□If the defendant does not acknowledge a claim submitted against him or her under the first or second paragraph of Article 172 and the judge considers that processing of the claim would result in substantial delays or inconvenience in the conduct of the case, the judge may at any stage up to the oral pleading of the case decide to detach the claim from the other parts of the case and send it for hearing by the court in a special civil case. Before taking such a decision, however, the judge shall give the parties and the claimholder an opportunity of expressing their positions on this point.

□If the circumstances are those provided for in the first paragraph and the claim is one for compensation, the judge may decide to have the judgment in the criminal case address only the question of compensatory liability. At the same time, he or she may decide to send the claim for the payment of a specific compensation sum for hearing by the court in a special civil case.

□If the judge decides to send a claim for processing in a civil case under the first or second paragraph, the claim shall be examined by the same court as if a civil case had been registered to deal with it. If the defendant has not made a submission in the criminal case as provided for under the first paragraph of Article 165, he or she shall, in the first session of the court in the civil case, be granted a period in which to present a defence there. In other respects, the

case shall be conducted thereafter in accordance with the ordinary rules on civil procedure.

■Article 176

□If a claim under the first or second paragraph of Article 172 is not dismissed from court, waived, dropped, made the subject of a settlement or referred for consideration in a civil case, the claimholder shall then be entitled to take an interest in the case insofar as it concerns the claim, this including the submission of evidence in support of the claim. The claimholder may also submit a request to the judge to have specific questions put, during the oral presentation of evidence, to the defendant, witnesses or the claimholder himself or herself regarding matters that are particularly relevant to the claim, and also to plead the case orally, as regards the claim only.

□If a criminal case is dropped or dismissed from court, or the defendant is acquitted under a judgment without this having been because he or she is considered not responsible for his or her actions, the judge shall then, at his or her own initiative, dismiss claims under the first or second paragraph of Article 172 from the court. This shall be done in judgment or, alternatively, in a ruling, including in instances where the case is dropped.

□If a claim is resolved substantively, a position on it shall be adopted in the same way as would be done in a civil case. The defendant may be sentenced to pay legal costs connected with the claim, providing that this has been demanded, except in the case of a claim presented by an injured party for whom a legal rights protector has been appointed.

Section XXVII. Extraordinary case procedure before a court.

■Article 177

□Insofar as cases are brought for resolution by a district court under this Act, without the prosecution having brought an action in accordance with the provisions of Article 1 or the cases being handled under Section XV, they shall be conducted under the provisions of this Section; this includes the cases mentioned specifically in paragraph 1 of Article 2.

■Article 178

□Cases under Article 177 shall be submitted to a district court by means of a written petition in which the following shall be stated:

a. the name of the party submitting the case to the court, the party's address and his or her ID number if the party is not a government authority,

b. who is to conduct the case on behalf of the party,

c. what the issue, or the purpose of the petition, is, together with the name, address and, as appropriate, the ID number, of the party against whom the petition is being made,

d. what claim is being presented in the case,

e. the circumstances behind the claim,
f. on what arguments and legal principles the claim is based.

☐The claim shall be accompanied by the necessary materials. It shall be directed to the relevant district court (*cf.* Article 51).

☐On receiving a claim, the judge shall examine whether there is an authorisation in law for processing it. If the judge considers this not to be the case, he or she shall dismiss the claim from court immediately by a ruling; otherwise, he or she shall decide on a place and time for a session of the court to register the case. The judge shall announce this decision to the party who submitted the claim, who shall from that time onwards be regarded as the plaintiff in the case. The decision shall also be made known to the defendant, if there is one, in a verifiable manner, unless the claim is made regarding a measure in the investigation of a criminal case and it could interfere with the investigation if the defendant were to be aware of it (*cf.* the first paragraph of Article 104).

■ Article 179

☐If the plaintiff does not attend the session of the court at which the case is to be registered, this will not be done. Alternatively, the case will be registered if the case materials are presented there.

☐If no one has the standing of a defendant in the case, or if the defendant has not been summonsed to attend court, or if he or she fails to attend court in accordance with a summons, the plaintiff shall be given the opportunity of giving an oral account of the case and submitting further evidence. The plaintiff may also be granted a period of time in which to obtain further evidence. When the gathering of evidence is complete, the plaintiff's demand shall be accepted for resolution.

☐If the defendant attends court when the case is registered, he or she shall be given a copy of the case documents. The defendant may be given a period in which to acquaint himself or herself with the case materials and prepare a defence; all other things being equal, the oral pleading and defence of the case shall proceed. When this is complete, the judge shall resolve the plaintiff's claim with a ruling.

☐In other respects, procedure in cases under this Section shall be in accordance with the provisions of this Act on general procedure as appropriate.

Section XXVIII. Resolution of cases by district courts.

■Article 180

☐The defendant may not be judged for conduct other than that specified in the indictment; nor may other claims against him or her be judged. The defendant may, however, be convicted even though the details of an offence, such as the

place and time of commission, are not clarified or correctly defined, providing that the judge considers that this did not detract from the defence. The judge may give the parties the opportunity to express themselves on these points if this is considered necessary. Subject to the same conditions, the judge may also judge according to criminal law provisions other than those stated in the indictment, but may in no case judge claims other than those stated there.

☐In other respects, judges are not bound by demands and declarations by the parties unless they concern a claim under Section XXVI.

■Article 181

☐To the extent that other provisions of this Act do not prescribe otherwise and no dispute exists, the judge shall adopt a position on matters concerning the conduct of the case by means of decisions which, as appropriate, shall be entered in the court records. Such matters may also be concluded by a decision even if they are the subject of a dispute if the substance of the dispute cannot be made the subject of an appeal to the [Court of Appeals]. [1)]

☐The judge shall resolve other matters that must be concluded before the case is accepted for judgement by means of rulings. Rulings shall be delivered immediately in the court session if possible, or else at the first opportunity.

☐Rulings shall be made in writing and shall be entered in the court records or the judgment book. The judge shall give reasons for his or her conclusion in the ruling without describing in greater detail than is necessary for the sake of coherence the circumstances of the case or the parties' arguments. The conclusion shall then be stated in the 'Conclusion' section. [Instead of a written ruling, the judge may simply record the conclusion in the records and state the reasoning for his or her conclusion orally, unless the ruling concerns measures under Sections IX-XIV or constitutes the final conclusion of the case. If an appeal is made against a ruling to a higher court, the judge shall compile a written ruling in accordance with the foregoing.] [2)]

☐If a ruling constitutes the final conclusion of a case which is conducted according to the provisions of Section XXV or XXVII, the premises shall be stated together with the conclusion in the same way as if it were a judgment. If the case is dismissed from court without a demand having been made to this effect, or if it is dropped, the judge may, however, simply state, in the summing-up in the ruling, the date of registration of the case, the indictment, the identity of the defendant, the claims presented by the defendant and the reasoning on which the conclusion is based.

☐Judges may change their decisions on matters regarding the conduct of a case, and also rulings that do not constitute the final conclusion of the case.

[1)] *Act 49/2016, Art. 44.* [2)] *Act 78/2015, Art. 25.*

■Article 182

☐When a case is concluded with a judge's decision imposing a sanction as provided for in the second paragraph of Article 163, the decision shall be entered in the court records, with a clear statement made there to the effect that it concludes the case, with the defendant being subjected to the specific punishment or, as appropriate, other punitive sanctions. The arrangements regarding legal costs shall also be recorded.

☐A decision imposing a sanction shall have the same effect as a judgment, including as regards repeated effect, if appropriate.

■Article 183

☐If a case is not dropped, dismissed from court or concluded with a decision imposing a sanction under Article 182, a written judgment shall be compiled, with a summing-up accompanying the conclusion.

☐Judgments shall specify the court and the name of the judge or the names of the judges if more than one judge is involved, and also the place and time of delivery of judgment. Then the following shall be stated as concisely and clearly as possible:

a. the defendant's name, ID number or date of birth and home address,

b. who issued the indictment, and when, and its principle substance,

c. what demands were made in the case,

d. the circumstances of the case, in their principal points, [without an account being given of the statements made by the defendant and witnesses except insofar as this is necessary for the resolution of the case], [1)]

e. [the evidence and reasoning on which the indictment is based, and the defendant's responses to these insofar as this is necessary], [1)]

f. the judge's reasoning regarding what is considered as having been demonstrated in the case, and how this was done,

g. the judge's reasoning regarding the conclusion on other aspects of the case, including sanctions,

h. legal costs.

☐The conclusion of the judgment shall be stated briefly in the 'Conclusion' section.

☐Without prejudice to the second paragraph, in a case subject to the procedure set out in Article 164, it shall be sufficient, in the judgment, to make reference to the indictment instead of describing the circumstances of the case and to mention, in addition, that the case is being judged in accordance with the defendant's unconditional confession. This same procedure may be followed in other instances where there is no dispute concerning the description of the facts of the case given in the indictment. In a case subject to the procedure set out in Article 161, it shall be sufficient, in the judgment, to refer to the indictment and to state that the defendant did not attend court,

even though it was stated in the summons that a judgment *in absentia* might be delivered in the case.

In accordance with a demand by the prosecution, the judge may decide that a decision on the loss of rights shall take immediate effect, this being without regard to an appeal having been lodged, if this is considered necessary in order to protect the life, health or property of particular persons or of the public, or if it may be considered as improper that the convicted person retain the rights following judgment or if it is prescribed in law that an appeal will not postpone the effect of provisions of a judgment under Articles 62, 63, 65 or 67 of the General Penal Code. The prosecution may submit a demand for provisions of this type at any time up to when the case is accepted for judgment.

[1] *Act 78/2015, Art. 26.*

Article 184

Judgments shall be delivered at the first opportunity. If judgment in a case that was pleaded orally is not delivered within four weeks from the date on which the case was accepted for judgment, the case shall be pleaded anew unless the judge and the parties consider this to be unnecessary.

If the court is in plenum and the case is pleaded orally, then all the judges shall have listened to the pleading of the case. If they are not all able to participate in the judgment, a judge shall be nominated instead of the one who has dropped out and the oral pleading shall be repeated. The judges shall discuss the conclusion of the case *in camera*, and a simple majority of votes shall determine the outcome of every issue. If a judge is in a minority on a matter, he or she shall nevertheless take part in decisions on other matters; the matter over which there was not full agreement shall be mentioned in the judgment. The presiding judge shall direct the voting and be in charge of the compilation of the judgment.

Article 185

The judge shall inform the parties of where and when judgment is to be delivered except where the procedure set out in Article 161 has been followed in the case. When delivery takes place, the conclusion of the judgment shall be read out at a session of the court. The same procedure shall be followed in the case of rulings that constitute the final resolution of the case.

A transcript of the judgment or ruling shall normally be available when it is delivered.

If the defendant attends court when judgment is delivered, the judgment shall be considered as having been served on him or her, providing that he or she also has the opportunity of obtaining a transcript of the judgment. [If the case has been judged under the first paragraph of Article 164, on the other hand, it shall be sufficient to read the conclusion aloud, but a transcript of the judgment shall be available within one week of its delivery.] [1] If a judgment

cannot be served in the manner [described above] [1] at a session of the court and sanctions are imposed in it on the defendant which are other than, and more encumbering than, a fine or the confiscation of property corresponding to the qualifying amount for an appeal in a civil case, then the prosecutor shall serve the judgment on the defendant. Service of the judgment shall then be in accordance with the procedure laid out in Article 156. Alternatively, judgment need not be served if no representation is made on behalf of the defendant at the court session where it is delivered.

Provisions in a judgment which prescribe punishment or other sanctions may not be applied until it has been decided whether an appeal is to be lodged against it (*cf.*, however, the fifth paragraph of Article 183). Subject to the same condition, the lodging of an appeal against a judgment shall postpone the enforcement of the judgment as regards punishment and other sanctions.

[1] *Act 78/2015, Art. 27.*

Article 186

Judgments are binding, as regards the resolution of the matter at issue, on the defendant, the prosecution and other persons regarding the matters on which substantive judgment is passed.

A claim on which a substantive judgment has been passed may not be referred again to the same court or to a court of the same judicial instance except as provided for in this Act. A new case on such a claim shall be dismissed from court.

Judgments shall be binding on judges when they have been delivered. Judges may, however, correct typographical errors, mistakes in calculations, mistakes in the writing of names and other obvious errors in judgments, providing that they give the parties to the case, who have received copies of the judgment, new copies without delay.

Judgments shall constitute full evidence regarding those circumstances of the case that are described in them until demonstration is made to the contrary.

Part 5. Reopening of cases; appeals.

Section XXIX. Reopening of cases judged *in absentia* in a district court.

Article 187

If the defendant did not attend court when the case was registered before a district court, and it has been concluded with a judgment as provided for in Article 161, he or she may, within four weeks of the date on which the judgment was served on him or her (or on which the judgment was delivered, if, in accordance with the third paragraph of Article 185, service was not necessary), request that the case be reopened before the district court,

providing that the request for a reopening of the case is received within this time.

☐The defendant may not request a reopening of the case if an appeal has already been lodged against the judgment … [1)] by the prosecution on matters regarding the defendant.

☐When the period provided for in the first paragraph is ended, the case may not be reopened except by the decision of the [committee on reopening cases as provided for under the Judiciary Act (see Section XXXIV)]. [1)]

[1)] *Act 49/2016, Art. 54.*

■Article 188

☐A written request from the defendant for the reopening of the case shall be sent to the court where the judgment *in absentia* was delivered. It shall state clearly to what case it applies, what changes the defendant requests as compared with the way the case was concluded previously and the grounds for action, sources of law and evidence on which the request is based.

☐ If a request is unsatisfactory, or is received by the wrong court, or the judge considers it evident that the conditions of Article 187 are not met, the judge shall then reject the request for the reopening of the case immediately; a ruling on the rejection shall be delivered if this is demanded. Otherwise, the judge shall call both parties before the court in order to consider the request.

☐If the defendant does not attend court when his or her request is considered, it shall be regarded as being dropped.

☐If the prosecutor raises objections against the request for the reopening of the case, these shall be resolved by means of a ruling before any further steps are taken. Otherwise, the judge shall reopen the case by making an entry in the court records.

■ Article 189

☐If a case is reopened, the legal effects of the judgment shall be suspended until it is concluded anew at the district court level. The judge may, however, deviate from this at the demand of the prosecutor, providing that the circumstances are such as are described in the fifth paragraph of Article 183.

☐The original judgment in the case may not be made the subject of an appeal to [the Court of Appeals][1] after the case is reopened unless the reconsideration of the case ends with the upholding of the judgment in accordance with the second paragraph of Article 190 and the prosecution appeals against it.

[1] *Act 67/2018, Art. 1.*

■ Article 190

☐ When it has been decided to reopen a case, the conduct of the case shall continue in accordance with the rules of this Act from the point when the case was originally registered.

☐If the defendant decides not to stand by his or her request for the reopening of the case or if representation on his or her behalf is once again deficient without his or her having submitted observations as provided for in the first paragraph of Article 165, the reopening of the case shall be concluded by an entry by the judge in the court records stating that the original judgment is to remain in force without amendment unless the prosecutor demands that the case be subjected to further consideration.

☐Cases may not be reopened a second time under the provisions of this Section.

■Article 191

☐If a case has been reopened without having been concluded as provided for in the second paragraph of Article 190, or if it has been dropped, the judge shall then impose sanctions on the defendant under Article 182 or judge the case again unless it can be dismissed from court by a ruling. In that case, the previous judgment shall become invalid automatically.

☐When a case is concluded as provided for in the first paragraph, the judge shall determine legal costs collectively for the whole case.

☐An appeal may be lodged against the judgment with [the Court of Appeals][1] after the reopening of the case in accordance with the ordinary rules of this Act.

[1] *Act 67/2018, Art. 1.*

Section XXX. [Appeals against rulings to the Court of Appeals.][1]

[1] *Act 49/2016, Art. 57.*

■ Article 192

☐Appeals may be made to [the Court of Appeals] [1] against rulings by district court judges on the following matters (*cf.,* however, the second paragraph):

a. whether they step down,

b. whether a session of the court is to be held *in camera* or a prohibition is to be imposed on the public reporting of court proceedings,

c. a refusal to release copies of materials or to grant permission to listen to a recording made at a court session,

d. matters concerning the defendant's rights, or those of his or her defence counsel or lawyer during the investigation of the case, [and also the appointment of a defence counsel or a refusal to appoint a defence counsel], [2]

e. matters regarding the rights of the injured party or of his or her legal rights protector during the investigation of the case, [and also the appointment of a legal rights protector or a refusal to appoint a legal rights protector], [2]

f. matters regarding the questioning of the defendant, the injured party or other witnesses during the investigation of the case,

g. the authorisation to seize items, or whether such items are to be released,

h. warrants for searches and other measures under Section X, and the execution of those measures,

i. authorisations for measures under Section XI,

j. authorisations for forensic autopsies,

k. the arrest of property,

l. custody and other measures under Section XIV, including how persons are to be held in custody,

m. refusals to handle a case regarding investigative measures without conduct an investigation without the accused, or another party whom it concerns, being summonsed to attend court,

n. matters regarding the questioning of the defendant or witnesses in court,

o. matters regarding assessments,

p. authorisation to submit an item of evidence, the duty to release it for submission in a case or authorisation to seize items in order to see that this duty is fulfilled,

q. refusal of authorisation to gather evidence before another court,

r. refusal to reopen cases that have been concluded by the endorsement of the fine docket,

s. on the granting of a time extension,

t. on the dismissal of a case from court,

u. on the dismissal from court of a claim under Section XXVI,

v. whether a case is to be dropped,

w. matters to which procedure under Section XXVII applies,

x. the refusal to reopen a case in which judgment has been delivered,

y. a procedural fine.

☐ After the hearing of a case has begun, a ruling by a district court judge may not be appealed to a higher court unless it concerns:

a. the dismissal of a case, the dropping of a case or its deferral,

b. coercive measures as provided for in Sections IX, X, XI, XII and XIV,

c. whether a witness or assessor is to be produced in court, a question is to be put to him or her and he or she is to be obliged to answer it,

d. matters relating in another way to the interests of a person who does not have standing in the case.

☐No appeal may be lodged against a ruling by a district court judge if the action decided upon in the ruling has already been taken or the situation resulting from the ruling has already ceased to obtain.

☐When an appeal has been made against a ruling, and the situation has become as is described in the third paragraph after that time but prior to the delivery of judgment in the appeal case, then the appeal shall be dismissed from [the Court of Appeals]. [1)]

[1)] *Act 49/2016, Art. 44.* [2)] *Act 52/2010, Art. 5.*

■ Article 193

☐District court judges shall instruct any person who does not have the assistance of a lawyer regarding the right to appeal against rulings and the deadline for doing so.

☐A person who wishes to appeal against a ruling shall make a declaration to this effect within 72 hours of being informed of the ruling. If an intention to make an appeal is declared at a session of the court, the appellant may simply have it recorded in the court records, including as regards the purpose behind the appeal. Otherwise, he or she shall deliver to the district court judge a written appeal stating what against ruling the appeal is being made, a request for an amendment of the ruling and the arguments on which the appeal is based. This written appeal shall be accompanied by any new materials to which the appellant intends to refer, providing that it is stated in the appeal what the intention is to demonstrate by means of them.

☐If an appeal is not lodged within the time limit stated in the second paragraph, the person wishing to appeal may apply for leave to appeal from [the Court of Appeals]; [1)] he or she shall submit a written appeal to the district court judge before this is done. Procedure regarding the application for leave to appeal and how it is processed is laid down in Article 200.

☐Appeals against rulings on measures under Sections IX, X, XI, XII and XIV shall not postpone actions taken in the case. Under other circumstances, appeals shall postpone actions on the investigation or procedure in the case unless the district court judge accedes to a demand to the contrary.

[1)] *Act 49/2016, Art. 44.*

■ Article 194

☐[If the district court judge has not compiled the ruling in writing (*cf.* the third paragraph of Article 181), he or she shall do so within a week of being informed of the appeal. If the judge considers there are flaws in the appeal, he or she may give the appellant a short period in which to rectify them.] [1)] Otherwise the district court judge shall send the appeal to [the Court of Appeals] [2)] at the first opportunity, together with transcripts from the court records and other case documents with a bearing on the appeal, unless he or she considers the proper course of action to be to revoke his or her own ruling. The district court judge shall send four copies of the materials, together with his or her own comments if he or she wishes to do so.

☐If the appeal was not declared in a session of the court in the presence of the appellant's counterparty, the district court judge shall inform the counterparty of it without delay, providing that the case was not processed without the counterparty's being informed of it. [If, however, a lawyer was appointed to defend the counterparty's interests under the second paragraph of Article 84, the lawyer shall be informed of the appeal and shall appear on behalf of the

counterparty when the appeal is heard.] [3] If the district court judge has not already sent the appeal case to [the Court of Appeals], [2] he may at the same time give the counterparty an opportunity to submit to him or her written observations containing the counterparty's claims and arguments. Written materials may be submitted with these observations, providing that it is stated in the observations what the intention is to demonstrate by means of them. If the observations have not been submitted to the district court judge before he or she sends the case documents to [the Court of Appeals], [2] it shall be submitted to the Court of Appeals.

☐Both, or each, of the parties to an appeal case may for their own part send [the Court of Appeals] [4] observations with the contents set out in the second paragraph, together with new materials, within 24 hours after the matter is received by the court. Each party shall, at the same time, send his or her counterparty a copy of the observations [and new materials], [4] providing that the case was not processed before the district court without the counterparty's being informed of it.

[1] *Act 78/2015, Art. 28.* [2] *Act 49/2016, Art. 44.* [3] *Act 103/2016, Art. 4.* [4] *Act 49/2016, Art. 55.*

■ Article 195

☐When the deadline according to the third paragraph of Article 194 has passed, or when the observations have been received by [the Court of Appeals],[1] the court may deliver [a ruling][1] in the appeal case. Observations or materials received after the deadline has passed shall be taken into consideration if the case has not already been brought to a conclusion at the time.

☐[The Court of Appeals][1] shall deliver [a ruling][1] in the appeal case on the basis of the written materials, but may nevertheless decide that the case is to be pleaded orally. [The ruling] [1] shall be delivered at the first opportunity.

☐[The Court of Appeals][1] shall inform the district court judge and those parties to the appeal case who have participated in submitting it to the court of the outcome.

☐In areas not covered above, the rules on appeals against judgments shall be applied, as appropriate, to appeals against rulings.

[1] *Act 49/2016, Art. 56.*

Section XXXI. [Appeals against judgments to the Court of Appeals.][1]

[1] *Act 49/2016, Art. 67.*

■ Article 196

☐ Subject to the restrictions that follow from other provisions of this Act, an appeal may be lodged with [the Court of Appeals] [1] against a district court judgment in order to obtain:

a. a review of a decision on sanctions;

b. a review of conclusions based on the interpretation or application of legal principles;

c. a review of conclusions based on an assessment of the evidential value of [evidence or] [2] oral testimony before the district court;

d. the annulment of a judgment and referral of a case back to the district court for a retrial, or

e. the dismissal of the case from the district court.

When an appeal is brought against a judgment, a review may also be sought of rulings delivered and decisions taken during the pleading of the case before the district court.

If an appeal is brought against a district court judgment for any of the purposes stated in the first paragraph, then a review may at the same time be sought of the conclusions of the judgment regarding a claim under Section XXVI, providing that it was substantively resolved and the defendant or the claimholder has requested a review for their own part. If no appeal is brought against the district court judgment in accordance with the foregoing, the defendant and the claimholder may each, separately, appeal specifically against the resolution by the court of the substance of the claim; such an appeal shall be subject to the rules applying to appeals against judgments in civil cases.

[1] *Act 49/2016, Art. 44.* [2] *Act 49/2016, Art. 58.*

Article 197

The Director of Public Prosecutions may appeal against a district court judgment if he or she considers that the defendant has been wrongly acquitted or that punishment or other sanctions determined are substantially too mild (*cf.*, however, the first paragraph of Article 198). He or she may also appeal against the judgment to the advantage of the defendant.

A defendant who has been convicted by a district court may bring an appeal against the district court judgment (*cf.*, however, the first paragraph of Article 198). If the defendant is deceased, his or her spouse, children, other direct descendants, parents or siblings may appeal against the judgment on his or her behalf.

Article 198

An appeal may only be lodged against a conviction if the defendant is sentenced to a term of imprisonment or to pay a fine, or suffer confiscation of property, which amounts to the qualifying sum for bringing an appeal in a civil case. The Director of Public Prosecutions may at all times appeal against a judgment acquitting the defendant.

Without prejudice to the provisions of the first paragraph, appeals may be made against district court judgments under leave from [the Court of Appeals],[1] which may be granted if the outcome of the case is of substantial

general value or has a bearing on important interests, or if it cannot be ruled out, in the light of the available materials, that the judgment may be amended in a significant respect.

[1] *Act 49/2016, Art. 44.*

Article 199

If the defendant is present when the district court judgment is delivered, the judge shall inform him or her of his or her right to appeal and the deadline for declaring the intention to appeal. In other cases, where it is necessary to serve the judgment in accordance with the third paragraph of Article 185, the person who serves it shall make this known to the defendant. Compliance with this shall be recorded by an entry in the court records or in the service certificate.

The defendant shall declare his or her intention to appeal against the district court judgment in a written announcement which must be received by the Director of Public Prosecutions within four weeks of service of the judgment, where service was necessary under the third paragraph of Article 185, or within four weeks of its delivery. The announcement shall state accurately the purpose of the appeal and what claims the appellant is submitting to the court, including as regards claims under Section XXVI, if any such are made, and also who he or she wishes to have appointed as his or her defence counsel before [the Court of Appeals][1] or whether he or she wishes to plead his or her own case. The Director of Public Prosecutions shall be obliged to provide the defendant with guidance on the composition of the announcement, if this is requested, and shall also be obliged to point out how defects in its substance may be rectified, if there are any. When the announcement has been received from the defendant within the aforementioned period, the appeal against the district court judgment shall be regarded as having been made by the defendant.

If the Director of Public Prosecutions intends to appeal against a judgment by a district court, he or she shall issue a writ of appeal within four weeks of delivery of the judgment.

Whether it is the defendant or the Director of Public Prosecutions that appeals against a district court judgment, the counterparty, including the claimholder if substantive judgment has been delivered on a claim under Section XXVI, may at all times submit a demand to [the Court of Appeals] [1] to have the court's conclusion changed without bringing an appeal on his or her part, providing that this demand is made in his or her observations under Article 203.

If neither the defendant nor the Director of Public Prosecutions has appealed within the period specified in the second and third paragraphs, this shall be interpreted as meaning that both of them accept the district court judgment. Nonetheless, [the Court of Appeals] [1] may grant an application for leave to

appeal against the district court judgment that is received during the three months following the end of the period allowed for appeals, providing that the conditions of the second paragraph of Article 198 are met and the delay in bringing an appeal is sufficiently justified. An application for leave to appeal of this type shall not defer the execution of the district court judgment as regards punishment and other sanctions.

[1] *Act 49/2016, Art. 44.*

■ Article 200

☐If the defendant wishes to apply for leave from [the Court of Appeals] [1] to appeal against the district court judgment, he or she shall send the Director of Public Prosecutions an announcement as provided for in the second paragraph of Article 199, together with a written application for leave, in which detailed reasoning shall be presented as to how the defendant considers that the conditions for an appeal licence are fulfilled. If the defendant seeks leave to appeal under the second paragraph of Article 198, his or her application, together with the announcement of the appeal, must be received by the Director of Public Prosecutions within the appeal period, which shall then be regarded as being interrupted.

☐If the Director of Public Prosecutions seeks leave to appeal, he or she shall send [the Court of Appeals] [1] a written application to this effect. This shall be as is described in the first paragraph as regards its substance. If leave to appeal is sought under the second paragraph of Article 198, the application must be received by the court within the appeal period, which shall then be regarded as being interrupted.

☐[The Court of Appeals] [1] shall give the other parties in the case an opportunity to express themselves regarding an application for leave to appeal. When processing of the application is complete, the court shall inform the parties in writing of the outcome. If leave is granted, it shall not be possible to demand the reasoning for the decision; if the application is rejected, then the reasons for this shall be stated in the announcement to the parties.

[1] *Act 49/2016, Art. 44.*

■ Article 201

☐The Director of Public Prosecutions shall be the plaintiff in the case before [the Court of Appeals], [1] irrespective of whether the director himself or herself has appealed against the district court judgment or the defendant has done so.

☐When it has been decided to proceed with the appeal, the Director of Public Prosecutions shall issue an appeals summons which shall state:

a. the name and number which the case bore before the district court, which district court resolved the case and when judgment was delivered,

b. the defendant's name, ID number or date of birth and address, and also details of the person who is to represent him or her in the appeal in accordance with the second paragraph of Article 197, where applicable,

c. who is appealing against the district court judgment and for exactly what purpose this is being done,

d. where appropriate, the name, ID number and address of the person who submitted a claim under Section XXVI which has been substantively judged by the district court,

e. that the case is to be heard by [the Court of Appeals][1] in accordance with notifications which will be sent from there to the parties at later stages.

☐If the Director of Public Prosecutions is appealing against the district court judgment, he or she shall, at the first opportunity, have the appeals summons served on the defendant. At the same time, the defendant shall be given the opportunity of expressing the wish to have a defence counsel appointed or, alternatively, to state his or her wish to be permitted to plead his or her own case.

☐If a claim under Section XXVI has been substantively judged by the district court, the Director of Public Prosecutions shall have an appeals summons served on the party who submitted the claim. Where this was the injured party, he or she shall at the same time be given the opportunity of presenting a request to have a legal rights protector appointed, either immediately or by means of an announcement to [the Court of Appeals]. [1]

☐When the procedures described above have been completed, the Director of Public Prosecutions shall send [the Court of Appeals] [1] the appeal summons, with proof of its service, together with a copy of the district court judgment and, where appropriate, the defendant's announcement of his or her intention to appeal. [The Court of Appeals] [1] shall appoint a defence counsel for the defendant unless he or she has requested to plead the case himself or herself, providing he or she is competent to do so in the view of the court. Where appropriate, [the Court of Appeals][1] shall also appoint a legal rights protector for the injured party, if the circumstances permit this. When this has been done, [the Court of Appeals][1] shall notify, as appropriate, the Director of Public Prosecutions, the defendant, his or her defence counsel and the injured party or his or her legal rights protector that the case has been received by the court and what case number it has been assigned and that further notifications will be made at a later stage of the deadlines for each party to submit his or her observations in the case.

[1] *Act 49/2016, Art. 44.*

■ Article 202

When it has been decided to proceed with the appeal, the district court which resolved the case shall comply with a request from the Director of Public Prosecutions to release to him or her the court's records on the case.

[When the Director of Public Prosecutions has received the court's records on the case in accordance with the first paragraph and a defence counsel has been appointed, the Director of Public Prosecutions shall, in consultation with the defence counsel, prepare the case materials; this term refers to transcripts, and also audio-visual recordings of oral testimony before the district court and copies of such case documents as the parties consider necessary for the resolution of the case in terms of how the appeal has been presented. The case documents shall then be submitted to the Court of Appeals in the number of copies it considers necessary, with the court records.] [1]

[The Court of Appeals] [2] shall set further rules [3] on the presentation of case materials and court records.

[1] *Act 49/2016, Art. 59.* [2] *Act 53/2017, Art. 3.* [3] *Rgl. 600/2014. Rgl. 1/2018..*

Article 203

When the case materials have been submitted, [the Court of Appeals] [1] shall give the party who has appealed a deadline by which to submit written observations and any materials which he or she considers are still lacking and on which he or she intends to base his or her case before [the Court of Appeals]. [1] When these observations and materials have been received, the counterparty shall be given a deadline by which to submit his or her observations and materials. Finally, where appropriate, the claimholder under Section XXVI shall be given a deadline for the submission of observations and materials. When observations are submitted to [the Court of Appeals] [1] the party submitting them shall send the other parties mentioned above a copy of them, and also of any materials submitted with them.

A party's observations shall state:

a. what is demanded before [the Court of Appeals], [1]

b. whether the party accepts the account of the circumstances of the case in the district court judgment and the reasons given by the court for its conclusion; if this is not the case, then the party shall state, concisely and clearly, on what points he or she is not in agreement and on what principal arguments he or she bases the demands presented for amendments to the conclusions reached by the district court,

c. comments on, or criticisms of, the counterparty's case, if necessary,

d. whether the party intends to submit further materials to [the Court of Appeals] [1] at a later stage, and if so what, in their essentials, these are.

[e. whether the party considers it necessary to have oral testimony or additional testimony taken before the Court of Appeals, and if so, then from whom, together with arguments supporting this view, including why it is not

sufficient to rely on recordings (*cf.* the third paragraph of Article 13), and also what recordings of testimony given before the district court he or she considers it necessary to play during the hearing of the case by the Court of Appeals]. [2)]

☐Parties to cases may submit further materials to [the Court of Appeals],[1)] in which case they shall be delivered to the court and made known to the counterparty not later than one week before the pleading of the case. [The Court of Appeals] [1)] may deviate from this rule under special circumstances, providing that the parties are in agreement that new materials may be submitted with shorter notice. However, the Director of Public Prosecutions may always submit a new statement of the defendant's criminal record at the beginning of his or her pleading of the case.

[1)] *Act 49/2016, Art. 44.* [2)] *Act 49/2016, Art. 60.*

■ Article 204

☐[If, in a case before the Court of Appeals, a demand is presented for the annulment of the district court judgment, the dismissal of the case from the district court, the dismissal of the case from the Court of Appeals or the dropping of the case, or if the Court of Appeals considers that there could be flaws in the case which could lead to the same conclusion, even though no such demand has been submitted, the Court of Appeals shall, normally within one month of the allocation of the case, have a case pleaded regarding its formal aspects before it is subjected to further examination regarding its substantive aspects. The presiding judge may decide that the case on the formal aspects is to be pleaded specially at a later date, or that one case is to be pleaded on both the formal and the substantive aspects. However, the Court of Appeals may at any time deliver a judgment on the dismissal of the case from court on grounds of flaws in its presentation before the court without any previous pleading. Similarly, the Court of Appeals may, at any time and without previous pleading, annul the district court judgment if there were substantial defects in the procedure on the case in the district court and dismiss it from the district court if the preparation for the bringing of the action was deficient in fundamental respects.] [1)]

☐If there are defects in the presentation of the case, though without it being necessary to dismiss the case or to annul the district court judgment, [the Court of Appeals][2)] may instruct the party to obtain evidence on particular points or to take other measures in order to rectify the defects.

☐[If there is reason to do so, the Court of Appeals shall examine the case at a session of the court in order to resolve matters regarding its conduct, including the gathering and presentation of evidence, what questioning is to be permitted before the Court of Appeals and what recordings are to be played during the hearing. The parties shall be summonsed before the court with

suitable notice for this purpose. The presiding judge shall normally sit alone on cases for this purpose and shall act alone in taking decisions on matters regarding the conduct of the case against which no appeal may be made.] [1)]

[1)] *Act 49/2016, Art. 61.* [2)] *Act 49/2016, Art. 44.*

Article 205

Cases shall normally be pleaded orally before the [Court of Appeals]. [1)] The court may, however, decide that a case is to be pleaded in writing if particular circumstances favour this. It may also decide that a case is to be accepted for judgment without separate pleading if requests to this effect are expressed by the parties in identical terms or if the appeal is being brought against the judgment only as regards the determination of sanctions.

[If it has been decided that the case is to be pleaded orally, the parties shall inform the Court of Appeals, after observations have been submitted by both, or all, of them, of how much time they estimate that each of them will need in order to deliver their speeches and also to carry out the questioning, and play the recordings, for which each of them has requested permission and for which the court has granted authorisation (*cf.* the third paragraph of Article 204). The Court of Appeals shall decide when oral pleading is to take place, and shall notify the parties of this with suitable notice. The parties shall then also be informed of the decisions that the Court of Appeals has taken as to whether questioning will be permitted before the court, and if so, then of what persons, or what recordings will be played there, if the Court of Appeals has not already resolved these matters (*cf.* the third paragraph of Article 204). As regards questioning, the provisions of Sections XVII and XVIII shall apply regarding other aspects of procedure. At the same time, if the court does not grant their wishes on this point, the parties shall be informed of the time they will be allowed to deliver their speeches. The Court of Appeals may, at the same opportunity, instruct both or all of the parties to submit, with a certain period of notice, a brief summary of the circumstances of the case, in chronological order, their main arguments and references to academic works and judgments to which they intend to refer in their pleading.] [2)]

… [2)]

[1)] *Act 49/2016, Art. 44.* [2)] *Act 49/2016, Art. 62.*

Article 206

[At the beginning of the hearing in court, an account shall be given of the conclusion of the judgment by the district court, and of the appeal summons, to the extent that the presiding judge considers necessary to elucidate the pleading of the case. In the hearing, questioning and oral pleading shall normally take place in a single session. To begin with, the court will watch and listen to recordings of testimony and questioning of the defendant and witnesses before the district court to the extent that the Court of Appeals has

already decided. Then, those defendants and witnesses who did not give testimony before the district court, or whom the parties have requested to have questioned further, and whose testimony the Court of Appeals considers could be of significance for the resolution of the case, shall be questioned. Then an exposition shall be delivered on behalf of the prosecution, and then, if appropriate, on behalf of the party who has submitted a claim under Section XXVI, and then on behalf of the defendant, unless the presiding judge has decided on a different order and the parties were informed of this decision with suitable notice prior to the pleading. After these expositions, the parties shall have the opportunity to make brief responses in the same order. If a defence counsel pleads the case on behalf of the defendant, the presiding judge may permit the defendant himself or herself to make brief comments after the defence counsel's responses. Normally, a visit to the scene of the crime shall be made at the beginning of the hearing if this is considered necessary.] [1)]

☐In the pleading, an account shall be given of those points in the district court's conclusions of which an amendment is sought, the demands relating thereto and the arguments on which they are based. Long-windedness shall be avoided, and pleading shall be focussed solely on these points, together with such accounts of other things as may be necessary in order to establish the context between them.

☐[The presiding judge][1)] shall direct the court. He or she may require speakers to keep to the point and not to discuss those aspects of the case which are not in dispute or concerning which, for other reasons, there is no need to give any further account. [The presiding judge][1)] may stop the pleading if the speeches run to excessive length, or set time limits and stop the pleading when these are reached.

☐When pleading is complete, [the Court of Appeals] [2)] shall accept the case for judgment.

[1)] *Act 49/2016, Art. 63.* [2)] *Act 49/2016, Art. 44.*

■Article 207

☐[To the extent that other provisions of this Act do not prescribe otherwise and no dispute exists, the Court of Appeals shall adopt a position on matters concerning the conduct of the case by means of a decision. Such matters may also be resolved by a decision, even if they are disputed, if the matter in dispute does not qualify for an appeal to the Supreme Court or its resolution will not result in the end of the case before the court; in such instances, a ruling shall be delivered, with the reasoning on which it is based. No special reasons need be given for the decision, but its substance shall be mentioned in the court records as necessary.

☐The Court of Appeals shall deliver [rulings][1)] in appeal cases. If the resolution by the Court of Appeals comprises the final resolution of the case without any

pleading of the substance of the case taking place, a ruling shall be delivered. Rulings shall be delivered as quickly as possible. If an appeal is pleaded regarding the substance alone, or concurrently concerning form and substance, the Court of Appeals shall deliver a judgment, irrespective of the outcome of the case.

Judgments and rulings by the Court of Appeals shall be backed with reasoning. If a case is dropped or dismissed from the Court of Appeals, however, then only the reasons for this shall be mentioned in the ruling or judgment; mention shall also be made of legal costs where appropriate. The same shall apply if a district court judgment is annulled and the case is sent back to the district court, or if it is dismissed from the district court. If a judgment constitutes a conclusion of the case of a type other than those described above, it shall contain such account of the parties' claims as is necessary so as to render the conclusion clear. Where observations on the circumstances of the case were deficient in the district court judgment, this shall be rectified in the judgment of the Court of Appeals. If the district court's resolution of the case is amended, and to the extent that this is done, the reasoning behind this shall be stated in the judgment of the Court of Appeals. If the Court of Appeals concurs with the conclusion reached by the district court, but not with the reasoning on which it is based, it shall give an account of its own reasoning to the extent considered necessary.] [2)]

Other aspects of [judgments and rulings by the Court of Appeals][2)] shall be subject, as appropriate, to the provisions of Article 183.

[1)] *Act 117/2016, Art. 75.* [2)] *Act 49/2016, Art. 64.*

Article 208

Punishments and other sanctions against the defendant may not be aggravated by a judgment of [the Court of Appeals][1)] unless a demand to this effect was made by the prosecution. Nor may the provisions of the district court judgment regarding claims under Section XXVI be amended unless a demand to this effect was made by the party to whose advantage the amendment would be, irrespective of whether this is the defendant or the claimholder. In other respects, [the Court of Appeals][1)] may at all times amend judgments to the advantage of the defendant even if he or she has not presented any demand to this effect.

... [2)]

[1)] *Act 49/2016, Art. 44.* [2)] *Act 49/2016, Art. 65.*

Article 209

Judgment shall be delivered as soon as possible after the case has been accepted for judgment, and at no time more than four weeks after that date. Where this is not possible, and if the case was pleaded orally, pleading shall be repeated to the extent deemed necessary by the [Court of Appeals][1)].

[Immediately after the case is accepted for judgment, the judges shall, *in camera*, discuss the reasoning and conclusion of the case. The presiding judge shall be the first speaker at the meeting, and shall direct it, put questions, take measures to enable each judge's opinion to be expressed as clearly as possible at the meeting and count their votes. A simple majority of votes cast shall determine issues. Following discussion, the presiding judge shall draft a judgment. If the judges are divided into a majority and a minority, the presiding judge shall draft a judgment for the group to which he or she belongs, while the other judges shall decide which of them is to draft the judgment for them if they form the majority. However, a Court of Appeals judge forming a majority together with an expert co-judge shall draft the judgment. A judge voting for the annulment of a district court judgment or the dismissal of the case, who will be in the minority, shall also vote on the substance of the case. Judges shall render judgments jointly, with or without dissenting opinions.] [2)]

When judgment is delivered, the conclusion of the judgment shall be read aloud at a session of the court as is considered necessary. If there is a dissenting opinion in the judgment, mention shall also be made of this.

[2)] *Act 49/2016, Art. 44.* [2)] *Act 49/2016, Art. 66.*

Article 210

As appropriate, procedure in, and the resolution of, criminal cases before the [Court of Appeals] [1)] shall be subject to the provisions of this Act on procedure at the district court level.

[1)] *Act 49/2016, Art. 44.*

[Section XXXII. Appeals against rulings by the Court of Appeals to the Supreme Court.] [1)]

[1)] *Act 49/2016, Art. 68.*

[Article 211

Appeals may be brought before the Supreme Court regarding rulings by the Court of Appeals on the following:

a. dismissal of cases from a district court or from the Court of Appeals or the dropping of cases, partially or in their entirety, before a district court or the Court of Appeals,

b. whether a judge in the Court of Appeals is to step down from a case,

c. procedural fines in the Court of Appeals

d. the obligation of witnesses to answer questions under Article 119.

The Supreme Court may, however, at any stage of the case, refuse to examine an appeal issue if it considers the appeal as being made without due occasion or evidently presented with the aim of impeding the progress of the case.] [1)]

[1)] *Act 49/2016, Art. 68.*

[Article 212

☐The presiding judge shall instruct any person who does not have the assistance of a lawyer regarding the right to appeal against rulings and the deadline for doing so.
☐A person who wishes to appeal against a ruling shall make a declaration to this effect within 72 hours of being informed of the ruling. If an intention to make an appeal is declared at a session of the court, the appellant may simply have it recorded in the court records, including as regards the purpose behind the appeal. Otherwise, he or she shall deliver to the Court of Appeals a written appeal stating what ruling the appeal is being made against, a request for an amendment of the ruling and the arguments on which the appeal is based. This written appeal shall be accompanied by any new materials to which the appellant intends to refer, providing that it is stated in the appeal what the intention is to demonstrate by means of them.
☐If an appeal is not lodged within the time limit stated in the second paragraph, the person wishing to appeal may nevertheless apply for leave to appeal from the Supreme Court; he or she shall submit a written appeal to the Court of Appeals before this is done. Procedure regarding the application for leave to appeal and how it is processed is laid down in Article 200.
☐Appeals shall postpone further actions on the basis of the action taken by the court until the matter has been resolved by the Supreme Court.] [1)]

[1)] *Act 49/2016, Art. 68.*

■[Article 213

☐If the Court of Appeals considers there are flaws in an appeal, it may give the appellant a short period in which to rectify them. Otherwise, the presiding judge shall send the appeal to the Supreme Court at the first opportunity, together with transcripts from the court records and other case documents with a bearing on the appeal, unless the Court of Appeals considers the proper course of action to be to revoke its own ruling. The Court of Appeals shall send four copies of the materials, together with its own comments if it wishes to do so.
☐If the intention to appeal was not declared in a session of the court in the presence of the appellant's counterparty, the Court of Appeals shall inform the counterparty of it without delay, providing that the case was not processed without the counterparty's being informed of it. If the Court of Appeals has not already sent the appeal case to the Supreme Court, it may at the same time give the counterparty an opportunity to submit to the Court of Appeals written observations containing the counterparty's claims and arguments regarding the substance of the appeal. Written materials may be submitted with these observations, providing that it is stated in the observations what the intention is to demonstrate by means of them. If the observations have not been

submitted to the Court of Appeals before it sends the case documents to the Supreme Court, they shall be submitted to the court.

☐ Both, or each, of the parties to an appeal case may for their own part send the Supreme Court observations with the contents set out in the second paragraph, together with new materials, within 24 hours after the matter is received by the court. Each party shall, at the same time, send his or her counterparty a copy of the observations, providing that the case was not processed before the district court without the counterparty's being informed of it.] [1)]

[1)] *Act 49/2016, Art. 68.*

■[Article 214

☐When the deadline according to the third paragraph of Article 213 has passed, or when the observations have been received by the Supreme Court, the court may deliver judgment in the appeal case. Observations or materials received after the deadline has passed shall be taken into consideration if the case has not already been brought to a conclusion at the time.

☐The Supreme Court shall judge the appeal case on the basis of the written materials, but may nevertheless decide that the case is to be pleaded orally. Judgment shall be delivered at the first opportunity.

☐When judgment has been delivered, the Supreme Court shall send the Court of Appeals a copy of the judgment. The Court of Appeals shall inform those parties to the appeal case who have participated in submitting it to the court and, as appropriate, the district court judge, of the outcome and send them copies of the judgment.

☐In areas not covered above, the rules on appeals against judgments shall be applied, as appropriate, to appeals against rulings.] [1)]

[1)] *Act 49/2016, Art. 68.*

[Section XXXIII. Appeals against judgments by the Court of Appeals to the Supreme Court.] [1)]

[1)] *Act 49/2016, Art. 68.*

■[Article 215

☐Subject to the restrictions that follow from other provisions of this Act, an appeal may be lodged with the Supreme Court against a judgment by the Court of Appeals in order to obtain:

a. a review of a decision on sanctions;

b. a review of conclusions based on the interpretation or application of legal principles;

c. a review of conclusions based on an assessment of the evidential value of evidence other than oral testimony before the district court or the Court of Appeals;

d. the annulment of a district court judgment and a judgment by the Court of Appeals and the referral of the case back to the district court for a retrial,

e. the dismissal of the case from the district court and the Court of Appeals.

When an appeal is brought against a judgment, a review may also be sought of rulings delivered and decisions taken during the pleading of the case before the district court.

If an appeal is brought against a judgment by the Court of Appeals for any of the purposes stated in the first paragraph, then a review may at the same time be sought of the conclusions of the judgment regarding a claim under Section XXVI, providing that it was substantively resolved and the defendant or the claimholder has requested a review for their own part. If no appeal is brought against the judgment by the Court of Appeals in accordance with the foregoing, the defendant and the claimholder may each, for their own part, apply specially to the Supreme Court for leave to appeal against the court's conclusion regarding the substance of the claim; such an appeal shall be subject to the rules applying to appeals against judgments in civil cases.

The Supreme Court shall decide whether to grant an application for leave to appeal. Such leave shall only be granted if the appeal concerns a matter which has substantial general significance or regarding which it is highly important, for other reasons, to obtain a resolution by the Supreme Court. The Supreme Court may also grant such leave if there is reason to consider that procedure in the case before the district court or the Court of Appeals was evidently incorrect, either formally or substantively. If the defendant was acquitted of the substance of the indictment by the district court, but convicted by the Court of Appeals, however, then an application for leave to appeal from the defendant, or from the prosecution when this will be to the defendant's advantage, shall be granted, unless the Supreme Court regards it as clear that an appeal will not result in an amendment of the judgment by the Court of Appeals.

Leave to appeal to the Supreme Court against a judgment by the Court of Appeals may not be granted for the review of an assessment by the Court of Appeals of the evidential value of oral testimony.] [1)]

1) *Act 49/2016, Art. 68.*

[Article 216

The Director of Public Prosecutions may seek leave to appeal against a judgment by the Court of Appeals if it considers that the defendant was wrongly acquitted, or that punishment or other sanctions imposed were far too mild (*cf.,* however, the first paragraph of Article 198). It may also seek leave to appeal against a judgment by the Court of Appeals to the defendant's advantage.

☐A defendant who has been convicted by the Court of Appeals may request leave to appeal against the judgment by the Court of Appeals (*cf.,* however, the first paragraph of Article 198). If the defendant is deceased, then the spouse, children, other descendants, parents or siblings of the deceased may, in lieu of the deceased, request leave to appeal against the judgment on his or her behalf.] [1)]

[1)] *Act 49/2016, Art. 68.*

■[Article 217

☐If the defendant is present when the judgment of the Court of Appeals is delivered, the judge shall inform him or her of his or her right to apply for leave to appeal to the Supreme Court and the deadline for declaring an appeal. In other cases, where it is necessary to serve the judgment in accordance with the third paragraph of Article 185, the person who serves it shall make this known to the defendant. Compliance with this shall be recorded by an entry in the court records or in the service certificate.

☐If the defendant wishes to apply for leave from the Supreme Court to appeal against the judgment of the Court of Appeals, he or she shall send the Director of Public Prosecutions a written application for leave, in which detailed reasoning shall be presented as to how the defendant considers that the conditions for an appeal licence are fulfilled. The defendant's application must reach the Director of Public Prosecutions within four weeks of the service of the judgment, if service was necessary under the third paragraph of Article 185, or otherwise within four weeks of delivery of the judgment. The application for leave to appeal shall be accompanied by a written announcement stating accurately the purpose of the appeal and what claims the appellant is submitting to the court, including as regards claims under Section XXVI, if any such are made, and also who he or she wishes to have appointed as his or her defence counsel before the Supreme Court or whether he or she wishes to plead his or her own case. The Director of Public Prosecutions shall be obliged to provide the defendant with guidance on the composition of the announcement, if this is requested, and shall also be obliged to point out how defects in its substance may be rectified, if there are any. When the announcement has been received from the defendant within the aforementioned period, the appeal period shall be regarded as having been interrupted.

☐If the Director of Public Prosecutions seeks leave to appeal, he or she shall send the Supreme Court a written application to this effect. Its content shall be the same as is specified in the second paragraph. The application must reach the court within four weeks of delivery of the judgment of the Court of Appeals.

☐The Supreme Court shall give the other parties to the case the opportunity of expressing their position regarding an application for leave to appeal. When

processing of the application has been completed, the court shall announce the outcome to the parties in writing. If leave is granted, it shall not be possible to demand the reasoning for the decision; if the application is rejected, then the reasons for this shall be stated in the announcement to the parties.

☐Whether it is the defendant or the Director of Public Prosecutions that has requested to appeal against a judgment by the Court of Appeals, the counterparty, including the claimholder if substantive judgment has been delivered on a claim under Section XXVI, may at all times submit a demand to the Supreme Court to have the conclusion of the judgment changed without bringing an appeal on his or her part, providing that this demand is made in his or her observations to the Supreme Court.

☐If neither the defendant nor the Director of Public Prosecutions has appealed before the deadlines specified in the second and third paragraphs, this shall be interpreted as meaning that both of them accept the judgment of the Court of Appeals. Nonetheless, the Supreme Court may grant an application for leave to appeal against a judgment by the Court of Appeals that is received during the three months following the end of the period allowed for appeals, providing that … [1] the delay in bringing an appeal is sufficiently justified. An application for leave to appeal of this type shall not defer the execution of the judgment by the Court of Appeals as regards punishment and other sanctions.] [2]

[1] *Act 90/2017, Art. 7.* [2] *Act 49/2016, Art. 68.*

■[Article 218

☐ The Director of Public Prosecutions shall be the plaintiff in the case before the Supreme Court, irrespective of whether the director himself or herself has appealed against the judgment by the Court of Appeals or the defendant has done so.

☐ When it has been decided to proceed with the appeal, the Director of Public Prosecutions shall issue an appeals summons which shall state:

a. the name and number which the case bore at the previous judicial level and when judgment was delivered,

b. the defendant's name, ID number or date of birth and address, and also details of the person who is to represent him or her in the appeal in accordance with the second paragraph of Article 197, where applicable,

c. who is appealing against the judgment and for exactly what purpose this is being done,

d. where appropriate, the name, ID number and address of the person who submitted a claim under Section XXVI which has been substantively judged at the previous judicial level,

e. that the case is to be heard by the Supreme Court in accordance with notifications which will be sent from there to the parties at later stages.

If the Director of Public Prosecutions has appealed against the judgment, he or she shall, at the first opportunity, have the appeal summons served on the defendant. At the same time, the defendant shall be given the opportunity of expressing the wish to have a defence counsel appointed or, alternatively, to state his or her wish to be permitted to plead his or her own case.

If a claim under Section XXVI has been substantively judged at the previous judicial level, the Director of Public Prosecutions shall have an appeal summons served on the party who submitted the claim. Where this was the injured party, he or she shall at the same time be given the opportunity of presenting a request to have a legal rights protector appointed, either immediately or by means of an announcement to the Supreme Court.

When the procedures described above have been completed, the Director of Public Prosecutions shall send the Supreme Court[1] the appeal summons, with proof of its service, together with a copy of the judgment at the previous judicial level and, where appropriate, the defendant's announcement of his or her intention to appeal. The Supreme Court shall appoint a defence counsel for the defendant unless he or she has requested to plead the case himself or herself, providing he or she is competent to do so in the view of the court. Where appropriate, the Supreme Court shall also appoint a legal rights protector for the injured party, if the circumstances permit this. When this has been done, the Supreme Court shall notify, as appropriate, the Director of Public Prosecutions, the defendant, his or her defence counsel and the injured party, or his or her legal rights protector, that the case has been received by the court and what case number it has been assigned and that further notifications will be made at a later stage of the deadlines for each party to submit his or her observations in the case.

[1] *Act 49/2016, Art. 68.*

[Article 219

When it has been decided to proceed with the appeal, the court in question shall comply with a request from the Director of Public Prosecutions to release the court's records on the case to him or her.

When the Director of Public Prosecutions has received the court's records on the case in accordance with the first paragraph and a defence counsel has been appointed, the Director of Public Prosecutions shall, in consultation with the defence counsel, prepare the case materials; this term refers to copies of the case documents and transcripts that the parties to the case consider necessary for the resolution of the case in terms of how the appeal has been presented. The case documents shall then be submitted to the Supreme Court in the number of copies it considers necessary, with the court records.

The Supreme Court shall set further rules on the presentation of case materials and court records.] [1]

[1] *Act 49/2016, Art. 68.*

[Article 220

When the case materials have been submitted, the Supreme Court shall give the party who has appealed a specific period of time in which to submit written observations and any materials which he or she considers are still lacking and on which he or she intends to base his or her case before the Supreme Court. When these observations and materials have been received, the counterparty shall be given a deadline by which to submit his or her observations and materials. Finally, where appropriate, the claimholder under Section XXVI shall be given a deadline for the submission of observations and materials. When observations are submitted to the Supreme Court, the party submitting them shall send the other parties mentioned above a copy of them, and also of any materials submitted with them.

A party's observations shall state:

a. what is demanded before the Supreme Court,

b. whether the party accepts the account of the circumstances of the case in the judgment against which the appeal is made and the reasons given by the court for its conclusion; if this is not the case, then the party shall state, concisely and clearly, on what points he or she is not in agreement and on what principal arguments he or she bases the demands presented for amendments to the conclusions in the judgment against which the appeal is made,

c. comments on, or criticisms of, the counter-party's case, if necessary,

d. whether the party intends to submit further materials to the Supreme Court at a later stage, and if so what, in their essentials, these are.

Parties to cases may submit further materials to the Supreme Court, in which case they shall be delivered to the court and made known to the counter-party not later than one week before the pleading of the case. The Supreme Court may deviate from this rule under special circumstances, providing that the parties are in agreement that new materials may be submitted with shorter notice. However, the Director of Public Prosecutions may always submit a new statement of the defendant's criminal record at the beginning of his or her pleading of the case.] [1]

[1] *Act 49/2016, Art. 68.*

[Article 221

The Supreme Court may at any time deliver a judgment on the dismissal of the case from court on grounds of flaws in its presentation to the court without any previous pleading. Similarly, the Supreme Court may annul the judgment against which an appeal has been made if there were substantial defects in the procedure on the case at the earlier judicial levels and dismiss it from court if the preparation for the bringing of the action was deficient in fundamental respects.

(3) If there are defects in the presentation of the case, though without it being necessary to dismiss the case or to annul the judgment against which the appeal has been made, the Supreme Court may instruct the party to obtain evidence on particular points or to take other measures in order to rectify the defects.

(4) Before pleading proceeds, the Supreme Court may examine the case at a session of the court in order to resolve matters regarding its conduct. The parties shall be summonsed before the court with suitable notice for this purpose.] [1]

[1] *Act 49/2016, Art. 68.*

[Article 222

(1) Cases shall normally be pleaded orally before the Supreme Court. The court may, however, decide that a case is to be pleaded in writing if particular circumstances favour this. It may also decide that a case is to be accepted for judgment without separate pleading if wishes to this effect are expressed by the parties in identical terms or if the appeal is being brought against the judgment only as regards the determination of sanctions.

(2) If it has been decided that the case is to be pleaded orally, the parties shall inform the Supreme Court, after observations have been submitted from both, or all, of them, of how much time they estimate that each of them will need in order to deliver their speeches. The Supreme Court shall decide when oral pleading is to take place, and shall notify the parties of this with suitable notice. At the same time, if the court does not grant their wishes on this point, the parties shall be informed of the time they will be allowed for delivering their speeches. The Supreme Court may, at the same opportunity, instruct both or all of the parties to submit, with a certain period of notice, a brief summary of the circumstances of the case, in chronological order, their main arguments and references to academic works and judgments to which they intend to refer in their pleading.] [1]

[1] *Act 49/2016, Art. 68.*

[Article 223

(1) Before oral pleading commences at a session of the court, an account shall be given of the conclusion of the judgment against which the appeal has been made, and of the appeal summons, to the extent that the president of the court considers necessary to elucidate the pleading of the case. Then an exposition shall be delivered on behalf of the prosecution, and then, if appropriate, on behalf of the party who has submitted a claim under Section XXVI, and then on behalf of the defendant, unless the president of the court has decided on a different order and the parties were informed of this decision with suitable notice prior to the pleading. After these expositions, the parties shall have the opportunity to make brief responses in the same order. If a defence counsel

pleads the case on behalf of the defendant, the president of the court may permit the defendant himself or herself to make brief comments after the defence counsel's responses.

In the pleading, an account shall be given of those points in the conclusions of the judgment against which the appeal is being made of which an amendment is sought, the demands relating thereto and the arguments on which they are based. Long-windedness shall be avoided, and pleading shall be focussed solely on these points, together with such accounts of other things as may be necessary in order to establish the context between them.

The president of the court shall direct the court. He or she may require speakers to keep to the point and not to discuss those aspects of the case which are not in dispute or concerning which, for other reasons, there is no need to give any further account. The president of the court may stop the pleading if the speeches run to excessive length, or set time limits and stop the pleading when these are reached.

When pleading is complete, the Supreme Court shall accept the case for judgment.] [1)]

[1)] *Act 49/2016, Art. 68.*

[Article 224

To the extent that it is necessary to adopt a position on matters regarding the conduct of the case before the Supreme Court, it shall resolve them by means of a decision, irrespective of whether or not the parties are in dispute over them, providing that the decision will not result in the end of the case before the court. No special reasons need be given for the decision, but its substance shall be mentioned in the court records as necessary.

The Supreme Court shall resolve other matters pertaining to the case by means of a judgment. If the case is dismissed from the Supreme Court, then it shall be sufficient to mention only the reasons for this in the judgment, and also legal costs. The same shall apply if the judgment against which the appeal is being made is annulled and the case is sent back to the district court or to the Court of Appeals.

If a judgment constitutes a conclusion of the case of a type other than those described above, it shall contain such account of the parties' claims as is necessary so as to render the conclusion clear. Where observations on the circumstances of the case were deficient in the judgment against which the appeal is made, this shall be rectified in the Supreme Court judgment. If the conclusion of the judgment against which the appeal is being made is amended, and to the extent that this is done, the reasoning behind this shall be stated in the Supreme Court judgment. If the Supreme Court concurs with the conclusion of the judgment against which the appeal is made, but not with the

reasoning on which it is based, it shall give an account of its own reasoning to the extent considered necessary.

Other aspects of Supreme Court judgments shall be subject, as appropriate, to the provisions of Article 183.] [1]

[1] *Act 49/2016, Art. 68.*

[Article 225

Punishments and other sanctions against the defendant may not be aggravated by a Supreme Court judgment unless a demand to this effect was made by the prosecution. Nor may the provisions of the district court judgment regarding claims under Section XXVI be amended unless a demand to this effect was made by the party to whose advantage the amendment would be, irrespective of whether this is the defendant or the claimholder. In other respects, the Supreme Court may at all times amend judgments to the advantage of the defendant even if he or she has not presented any demand to this effect.

The Supreme Court shall not be able to review the conclusion of the judgment against which the appeal has been made as regards the evidential value of oral testimony.] [1]

[1] *Act 49/2016, Art. 68.*

[Article 226

Judgment shall be delivered as soon as possible after the case has been accepted for judgment, and at no time more than four weeks after that date. Where this is not possible, and if the case was pleaded orally, pleading shall be repeated to the extent deemed necessary by the Supreme Court.

Immediately after the case is accepted for judgment, the judges shall, *in camera*, discuss the reasoning and conclusion of the case. Before discussion, he president of the court shall commission one of the judges to be the first speaker at the meeting; the president shall direct proceedings, put questions, take measures to enable each judge's opinion to be expressed as clearly as possible at the meeting and count their votes. A simple majority of votes cast shall determine issues. Following discussion, the president shall commission the first speaker to draft a judgment. If the judges are divided into a majority and a minority, the first speaker shall draft a judgment for the group to which he or she belongs, while the other judges shall decide which of them is to draft the judgment for them. A judge voting for the annulment of the district court judgment, or the dismissal of the case, and ends up in the minority, shall also vote on the substance of the case. Judges shall render judgments jointly, with or without dissenting opinions.

When judgment is delivered, the conclusion of the judgment shall be read aloud at a session of the court as is considered necessary. If there is a dissenting opinion in the judgment, mention shall also be made of this.] [1]

1) *Act 49/2016, Art. 68.*

[Article 227

As appropriate, procedure in, and the resolution of, criminal cases before the Supreme Court shall be subject to the provisions of this Act on procedure at the district court level.] 1)

1) *Act 49/2016, Art. 68.*

[Section XXXIV.]1) Reopening of cases in which no appeal has been brought.

1) *Act 49/2016, Art. 68.*

[Article 228]1)

If a district court judgment has been delivered in a criminal case against which no appeal has been brought and the period permitted for bringing an appeal has passed, the [committee on reopening cases as provided for under the Judiciary Act]2) may grant a request from a person who considers he or she has been wrongly convicted, or convicted for a far more serious offence than that which he or she committed, for the reopening of the case at the district court level if any of the following conditions is met:

a. new evidence has come to light of which it may reasonably be argued that it would have been of substantial significance for the outcome of the case if it had come to light before judgment was delivered,

b. it may be argued that the police, the prosecutor, the judge or other persons engaged in criminal actions in order to obtain the conclusion of case that was arrived at, for example if witnesses or others consciously gave false testimony to the court, or if forged documents were submitted and this resulted in a false conclusion to the case,

c. it is demonstrated that there is a strong likelihood that evidence submitted in the case was wrongly assessed, which influenced the outcome of the case,

d. there were substantial defects in procedure, which influenced the outcome of the case.

Any person who is involved in the investigation or processing of criminal cases who becomes aware of, or has a reasoned suspicion concerning, matters listed in the first paragraph, shall inform the convicted party of this.

[The committee on reopening cases] 2) may grant an application from the Director of Public Prosecutions to have a case reopened before the district court if judgment was delivered there, no appeal was brought against it, the deadline for bringing an appeal has passed and the defendant was acquitted or convicted of a far lesser offence than he or she was charged with if:

a. after delivery of the judgment, the defendant has confessed to having committed the offence with which he or she was charged, or other evidence

has come to light which could give an unequivocal indication of his or her guilt, or

b. circumstances covered in indent *b* of the first paragraph obtain.

The Director of Public Prosecutions may apply for the reopening of a case to the advantage of a convicted person if he or she considers that any of the circumstances listed in the first paragraph obtain.

[If a convicted person is deceased, the committee on reopening cases may grant an application from the person's spouse, children, parents or siblings to have the case reopened if any of the conditions stated in the first paragraph are met and special circumstances obtain. The person who applies to have the case reopened shall, as appropriate, have the same legal position as the convicted person regarding the processing of the case by the committee.] 3)

1) *Act 49/2016, Art. 68.* 2) *Act 15/2013, Art. 4.* 3) *Act 78/2015, Art. 29.*

[Article 229] 1)

Applications for the reopening of cases shall be made in writing and sent to [the committee on reopening cases]. 2) Detailed reasoning shall be presented in the application as to how the conditions for reopening the case are considered to be met. Supporting materials shall accompany applications.

If a convicted person seeks to have a case reopened, but has been deprived of his or her freedom, the governor of the prison shall be obliged to have his or her application delivered to the proper authority.

If an application for the reopening of a case is evidently groundless, [the committee on reopening cases] 2) shall reject it immediately.

1) *Act 49/2016, Art. 68.* 2) *Act 15/2013, Art. 5.*

[Article 230] 1)

[If an application for the reopening of a case is not rejected immediately in accordance with [the third paragraph of Article 229],2) then it and the documents accompanying it shall be sent to the counterparty, who shall be required to submit written observations on his or her position with regard to the application within a specific period. If, however, the convicted person has submitted the application, and prepared it himself or herself, then the committee on reopening cases may first appoint him or her a lawyer and give him or her the opportunity of submitting a new application. During further processing of the application for the reopening of the case, the committee shall be obliged to appoint, for a person who has been convicted, or is a defendant, a lawyer to defend his or her interests if he or she so requests. The committee shall determine remuneration to the lawyer for his or her work, and this decision shall be final.] 3)

[The committee on reopening cases] 4) may decide that an application for the reopening of a case is to postpone the legal effects of the judgment while the application is under examination.

When examining an application for the reopening of a case, [the committee on reopening cases] [4] may call on the Director of Public Prosecutions to take steps to have specific matters investigated or to gather evidence before the district court. The convicted person, or the defendant, may also demand that evidence be gathered before the court. The provisions of Section XXI shall apply, as appropriate, to the gathering of such evidence.

[The committee on reopening cases may give parties the opportunity of expressing themselves orally regarding an application to have the case reopened.] [4]

If it is demonstrated that an application for the reopening of a case contained demands that were too modest, the person who submitted it may amend it accordingly.

[1] *Act 49/2016, Art. 68.* [2] *Act 49/2016, Art. 69.* [3] *Act 78/2015, Art. 30.* [4] *Act 15/2013, Art. 6.*

[Article 231] [1]

[The committee on reopening cases shall take the decision on whether a case is to be reopened. [If an application for reopening is granted, the previous judgment in the case shall retain its validity until a new judgment has been delivered.] [2]] [3]

If authorisation has been granted for the reopening of a case, it shall be examined anew by the district court under the general rules prescribed in this Act in accordance with the decision by [the committee on reopening cases] [3] under the first paragraph. The provisions of Sections XXXI [and XXXIII] [4] shall apply to appeals against the new judgment.

If a case is reopened in accordance with an application from the convicted party, his or her position may at no time be poorer than it was following the original judgment.

The cost of a convicted person's application to have a case reopened, and of the new examination of the case, if the application is granted, shall be paid by the Treasury unless the convicted person obtained the reopening by means of materials which he or she should have been aware were false. Apart from this, the ordinary rules shall apply regarding legal costs.

[1] *Act 49/2016, Art. 68.* [2] *Act 99/2016, Art. 1.* [3] *Act 15/2013, Art. 7.* [4] *Act 49/2016, Art. 70.*

[Section XXXV.] [1] [Reopening of cases that have been judged by the Court of Appeals or the Supreme Court.] [2]

[1] *Act 49/2016, 68.* [2] *Act 49/2016, 72.*

[Article 232] [1]

[The committee on reopening cases as provided for under the Judiciary Act may, in response to an application, permit a case that has been judged by the Court of Appeals or the Supreme Court to be heard there again, and for a new judgment to be delivered there, if the conditions set out in Article 228 are met.

☐A case may not be reopened before the Court of Appeals unless the deadline for seeking leave to appeal to the Supreme Court has passed or the Supreme Court has refused to grant leave to appeal. The provisions of Articles 229 and 230 shall apply, as appropriate, to applications for the reopening of cases that have been judged by the Court of Appeals or the Supreme Court, and procedure in those cases.
☐The committee on reopening cases shall take the decision on whether a case is to be reopened; the provisions of the first paragraph of Article 231 shall apply to such a decision.
☐If authorisation has been granted for the reopening of a case, either in its entirety or in part, then it shall be processed, to the point covered by the authorisation, in accordance with the ordinary rules of Section XXXI as if the appeal summons had been issued at the time when it was decided to reopen the case.
☐To the extent that authorisation was granted for the reopening of the case, a new judgment in it shall be delivered in the Court of Appeals, irrespective of whether the conclusion reached is different from that of the previous judgment.
☐The provisions of the third and fourth paragraphs of Article 231 shall apply to cases that are reopened before the Court of Appeals or the Supreme Court.] [2)]

[1)] *Act 49/2016, Art. 68.* [2)] *Act 49/2016, Art. 71.*

Part 6. Legal costs and judicial fines.

[Section XXXVI.][1)] Legal costs.

[1)] *Act 49/2016, Art. 68.*

■[Article 233][1)]

☐Legal costs comprise unavoidable expenses in connection with the investigation and processing of the case, including:
a. remuneration to the defence counsel and legal rights protector, and also other costs in connection with the defendant's defence and the protection of the rights of the injured party, his or her defence counsel and legal rights protector,
b. witnesses' expenses and remuneration,
c. the cost of expert opinions, assessments and the use of other parties' facilities or equipment,
d. the cost of serving the indictment, summonses and other announcements.
☐Remuneration to court interpreters, translators or experts under Article 12 do not form part of legal costs. Nor are any court fees paid in connection with criminal cases.

[1)] *Act 49/2016, Art. 68.*

[Article 234][1]

In the judgment, determination of sanctions or ruling, if the case is concluded in that manner, provision shall be made as to whether the Treasury or the defendant is to bear legal costs. If the defendant is ordered to pay legal costs, in their entirety or in part, the total amount that he or she is to pay shall be stated. If the obligation to pay legal costs is imposed on the Treasury, the sum shall not be specified. In both cases, however, remuneration to the defence counsel and the legal rights protector shall at all times be stated specifically as a certain amount.

The prosecutor shall compile a survey of the expenses that have resulted from the case up to the time when it is registered and that are considered as legal costs. This survey shall be submitted in the case when it is registered. If legal costs accrue after registration, the prosecutor shall submit a survey of those additional costs before the case is concluded and by the beginning of the hearing at the latest. If there is a prospect of dismissing the case from court or concluding it in another manner without a judgment, the judge may call on the prosecutor to submit a survey of such additional costs if he or she considers there is reason to do so.

[1] *Act 49/2016, Art. 68.*

[Article 235][1]

If the defendant is convicted of the offence or offences with which he or she was charged, he or she shall be ordered to pay legal costs. If the defendant is convicted for some of the offences, but acquitted of others, the judge may order him or her to pay a certain proportion of legal costs and decide that the balance of the costs is to be paid by the Treasury. At no time, however, shall the defendant be required to pay costs which the police, the prosecution, the defence counsel or the legal rights protector have caused through negligence or indifference.

If the defendant is acquitted of all demands for punishment or other sanctions, or if the case against him or her is dropped for any reason whatsoever, he or she shall not be made to pay legal costs unless he or she has caused expense through deliberate and unlawful conduct during the investigation or processing of the case.

[1] *Act 49/2016, Art. 68.*

[Article 236][1]

If a case is brought against two or more persons jointly and they are convicted, both or all of them shall be made to pay a separate remuneration to their defence counsel if they had a defence counsel appointed who was different from that of the other or others. Those who shared the same defence counsel shall be made to pay his or her remuneration jointly.

Where both or all of the defendants participated in an offence with the knowledge and will of the other, or the others, and they are convicted in the same case, they shall normally be made to pay, jointly, legal costs other than their defence counsel's remuneration. If the degree of collaboration between them, individually or as a group, was not so great, the judge shall divide legal costs between them proportionally.

If two or more persons are charged and one (where there are two) or some of their number (where the total number is greater) are acquitted, while the other or others are convicted, then the Treasury shall bear that part of the costs which can be regarded as concerning only the one, or the ones, who are acquitted, unless the view can be taken that the one, or the ones, who are convicted caused it directly. If it is not apparent exactly what sum the Treasury is to bear for this reason, the judge shall determine in what ratio, or ratios, the convicted party or the convicted parties are to bear legal costs with the Treasury.

1) *Act 49/2016, Art. 68.*

[Article 237] 1)

If the defendant brings an appeal against the district court judgment and is acquitted, completely or partially, by a judgment of [the Court of Appeals], 2) or the sanctions are substantially reduced there, then the cost of the appeal shall be imposed on the Treasury, or shall be divided as set forth in the first paragraph of [Article 235.] 2)

If the Director of Public Prosecutions brings an appeal against a district court judgment and the sanctions are not appreciably aggravated by the judgment of [the Court of Appeals], 2) the cost of the appeal shall be imposed on the Treasury.

The cost of an appeal against a ruling will not be determined in a judgment by [the Court of Appeals] 2) unless the case is concluded there by a judgment.

As appropriate, other matters regarding legal costs before [the Court of Appeals] 2) shall be subject to the provisions of [Articles 233–236.] 2)

1) *Act 49/2016, Art. 68.* 2) *Act 49/2016, Art. 73.*

[Article 238] 1)

[If the defendant brings an appeal against a judgment at the previous judicial level and is acquitted, completely or partially, by a judgment of the Supreme Court,) or the sanctions are reduced there, then the cost of the appeal shall be imposed on the Treasury, or shall be divided as set forth in the first paragraph of Article 235.

If the Director of Public Prosecutions brings an appeal against a judgment at the previous judicial level and the sanctions are not appreciably aggravated by the judgment of the Supreme Court, the cost of the appeal shall be imposed on the Treasury.

☐As appropriate, other matters regarding legal costs before the Supreme Court shall be subject to the provisions of Articles 233–236.] [2]

[1] *Act 49/2016, Art. 68.* [2] *Act 49/2016, Art. 74.*

■[Article 239

☐Disbursements shall be made from the Treasury to cover legal costs. Legal costs that a convicted person is made to pay in accordance with a judgment, ruling or determination of sanctions shall be collected from that person by attachment and sale in execution as appropriate. The person shall bear the cost of these measures, and of measures in connection with the execution of sentence and of other sanctions against him or her, in addition to legal costs.

☐If it is sufficiently evident that a convicted person has neither assets nor income to meet legal costs that he or she has been made to pay, the demand against him or her for the payment of such costs shall be waived.] [1]

[1] *Act 17/2018, Art. 2.*

[Section XXXVII.][1] Judicial fines.

[1] *Act 49/2016, Art. 68.*

■[Article 240][1]

☐Judges shall determine fines in accordance with the rules in this Section on their own initiative; the fines shall be paid to the Treasury. Nevertheless, a separate case may be brought concerning fines imposed according to this Section.

☐If punishment is also prescribed in another act of law for an offence covered by the provisions of this Section, a claim regarding it may be presented in another case irrespective of the decision to impose a judicial fine.

[1] *Act 17/2018, Art. 2.*

■[Article 241][1]

☐A fine may be imposed on a prosecutor, a defence counsel or a legal rights protector for:

a. intentionally causing an unnecessary delay in a case,

b. violating a prohibition under the first or second paragraph of Article 11,

c. making improper comments, in writing or orally, before the court regarding the judge or other persons,

d. showing disrespect to the court in another manner by their conduct during court sessions.

☐Fines may be imposed on the defendant or another person who gives testimony in court for violations of indents b, c or d of the first paragraph.

☐Fines may be imposed on persons other than those covered by the first or second paragraph for violating a prohibition under the first or second paragraph of Article 11, for failing to comply with instructions from the judge

that are aimed at maintaining order in a session of the court or for behaving in some other way in a scandalous or improper fashion in court.

If the judge considers that a violation of the first, second or third paragraph has taken place, but that it is minor, he or she may then decide to reprimand the offender instead of imposing a fine.

Before [a higher court], [2] fines may be imposed on the prosecutor or the defence counsel, or on both at the same time, for making appeals without proper occasion. Furthermore, the prosecutor, the defence counsel or the legal rights protector may be fined for culpable neglect or other lapses in the conduct of the case before the district court or in preparing or conducting the case before [a higher court]. [2] The provisions of the first to the fourth paragraph shall apply to procedure in cases before [a higher court] [2] as appropriate.

[1] *Act 17/2018, Art. 2.* [2] *Act 49/2016, Art. 75.*

[Article 242] [1]

When judgment is delivered in a case, fines against the prosecutor, the defendant, the defence counsel or the legal rights protector shall be decided in the judgment. If the case is concluded in another manner, fines against them shall be determined in a ruling.

Fines imposed on persons other than those listed in the first paragraph shall be determined in a ruling as soon as the violation is committed.

[1] *Act 17/2018, Art. 2.*

Part 7. Miscellaneous provisions.

[Section XXXVIII.] [1] Penal register, etc.

[1] *Act 49/2016, Art. 68.*

[Article 243] [1]

The Director of Public Prosecutions shall maintain a penal register for the whole country in which the outcomes of criminal cases shall be recorded.

The Director of Public Prosecutions shall set further rules [2] on the design and preservation of the penal register, including as regards what is to be recorded in it on cases that are concluded without prosecution, and on statements from the register.

[1] *Act 17/2018, Art. 2.* [2] *Rgl. 680/2009, cf. Reg. 800/2009 and Reg. 398/2014.*

[Article 244] [1]

The police may record and preserve information on the criminal records of particular persons and matters pertaining to their private circumstances. [The minister] [2] shall issue instructions in a regulation on these matters, including the requirement that information on the criminal records of particular persons and other private circumstances of such persons is to be deleted when it is no longer needed for the investigation of criminal cases.

[1] *Act 17/2018, Art. 2.* [2] *Act 162/2010, Art. 194.*

[Article 245][1]

Prosecutors shall submit statements from the penal register on defendants' criminal records when cases are registered unless they consider there is no need to consider their criminal records when resolving cases.

All persons shall be entitled to have a statement, or information, concerning their own criminal records released to them from the penal register. Other persons shall only be entitled to have access to such information if the person concerned has given his or her unequivocal consent for them to do so.

[1] *Act 17/2018, Art. 2.*

[Section XXXIX][1] **Compensation resulting from criminal cases.**

[1] *Act 49/2016, Art. 68.*

[Article 246][1]

A person who was accused in a criminal case shall be entitled to compensation under the second paragraph if the case against him or her is dropped or if he or she is acquitted in a final judgment, except where this is done because he or she is not considered to be responsible for his or her actions.

Compensation shall be awarded by a court in respect of measures under Sections IX–XIV of this Act if the conditions of the first paragraph are met. Compensation may be cancelled or reduced if the accused caused or gave occasion for the measures on which his or her claim is based.

A person who has not been accused of any wrongdoing in a criminal case shall nevertheless be entitled to compensation if he or she has suffered damage or injury as a result of the measures listed in the second paragraph. Compensation may, however, be cancelled or reduced if the person caused or gave occasion for the measures on which his or her claim is based.

Any innocent person who has been sentenced in a criminal case, suffered punishment or incurred punitive sanctions shall be entitled to compensation. Compensation may, however, be reduced if he or she was to blame for being wrongly sentenced.

Compensation shall be paid for financial and non-financial damage, where such has occurred, under this Article.

[1] *Act 17/2018, Art. 2.*

[Article 247][1]

The same rules shall apply regarding the substitution of parties to a compensation claim under [Article 246][2] as to a claim for compensation for physical injury under the Tort Damages Act.

[1] *Act 17/2018, Art. 2.* [2] *Act 17/2018, Art. 3.*

[Article 248][1]

Compensation claims under [Article 246] [2] shall be presented in civil actions against the state; the plaintiff shall be granted legal aid at the district court level if he or she is a private individual. In other respects, the prosecution of the case shall be subject to the ordinary rules.

If the state is sentenced to pay compensation, it shall have right of recourse regarding the sum paid against the police, the prosecutor or other parties if they may be regarded as having, intentionally or through gross negligence, caused the measures on which the compensation claim was based, or having carried them out in the same manner.

Where the investigation or processing of a criminal case is reopened and it comes to light that someone has wrongly been paid compensation under [Article 246, [2] he or she shall then repay the compensation.

[1] *Act 17/2018, Art. 2.* [2] *Act 17/2018, Art. 3.*

[Article 249][1]

Any person who has suffered the measures listed in [Article 246] [2] may, instead of compensation, demand a certificate from the Director of Public Prosecutions stating that it has been found that he or she was treated unjustly. If the Director of Public Prosecutions considers that the person is entitled to such a certificate, it shall be issued to him or her.

[1] *Act 17/2018, Art. 2.* [2] *Act 17/2018, Art. 3.*

[Section XL][1] Commencement, repeal of legislation, etc.

[1] *Act 49/2016, Art. 68.*

[Article 250][1]

[This Act shall take effect on 1 January 2009 (*cf.*, however, Interim Provisions VII and VIII).] [2]

[1] *Act 17/2018, Art. 2.* [2] *Act 156/2008, Art. 1.*

[Article 251][1] …

[1] *Act 17/2018, Art. 2.*

[Article 252][1] …

[1] *Act 17/2018, Art. 2.*

Interim Provisions.

I.

Cases brought prior to the commencement of this Act on the basis of the authorisations in Article 1 or Article 2 of the previous Act to which there are no corresponding provisions in Article 1 or Article 2 of the present Act shall nevertheless continue to be processed by the court; however, as appropriate, they shall be conducted and resolved in accordance with the provisions of the present Act.

☐If, prior to the commencement of this Act, a case was presented to a district court judge which after that time was supposed to be processed under Section XXVII, it shall be processed in that way insofar as this may be appropriate.
☐A case that has been correctly brought prior to the commencement of this Act shall continue to be conducted before the same court even though it ought to be conducted in another venue according to the rules of Section VI.

■II.

☐Cases other than those falling under the first and second paragraphs of Interim Provision I which have been brought prior to the commencement of this Act shall, as appropriate, continue to be conducted before the court in accordance with the rules of this Act in all points except as follows:

a. … [1)]

b. If the case was allocated to one judge in accordance with the provisions of the older Act, that arrangement shall continue to apply, notwithstanding the provisions of Article 3.

c. The defendant shall not be given the opportunity of presenting a submission as provided for in Article 165 if the time for the hearing of the case was already decided prior to the commencement of this Act.

d. Civil law claims correctly presented according to the older Act shall be resolved even though they do not meet the conditions of Section XXVI.

[1)] *Act 156/2008, Art. 2.*

■III.

☐If the assistance of a judge was requested for an investigative measure prior to the commencement of this Act and the case is not yet closed, the request for assistance shall be handled, as appropriate, according to the provisions of Section XV after that time.

■IV.

☐A police investigation that is in progress at the commencement of this Act shall be subject to the provisions of this Act after that time, but this shall not detract from the value of what has already been done.
☐Following the commencement of this Act, an investigative measure may be carried out in accordance with the rules of Part 2 even though the judge's ruling or decision authorising it was delivered or taken according to the older Act.
☐A ruling delivered prior to the commencement of this Act to the effect that a person is to be remanded in custody shall remain in force for the period during which it was decided that custody was to last. Following the commencement of this Act, however, no person may be placed in solitary confinement in custody unless this is authorised under Article 98.

■V.

The provisions of Section XXIX shall be applied to the reopening of cases that were concluded on the basis of Article 126 of the older Act prior to the commencement of the present Act.

The provisions of the older Act on authorisations for appeals to the Supreme Court shall apply as regards rulings and decisions delivered or taken by district court judges prior to the commencement of the present Act. In other instances, the provisions of the present Act shall apply as regards procedure on appeals against rulings and decisions.

Where a district court judgment was passed prior to the commencement of this Act, the deadline for lodging an appeal against it shall be according to the provisions of the older Act. If an appeal is then lodged against such a judgment, or if an appeal was lodged against a district court judgment prior to the commencement of this Act, the provisions of this Act shall be applied, as appropriate, to procedure in the case after that time.

The rules of [Sections XXXIV and XXXV] [1] shall apply to the reopening of cases even though they were judged prior to the commencement of this Act.

[1] *Act 49/2016, Art. 77.*

VI.

The provisions of Article 16 regarding access to materials shall only apply to cases that have not been concluded at the commencement of this Act. The rules of the older Act shall be applied regarding materials in cases that are concluded before that time.

The provisions of [Section XXXIX] [1] shall apply regarding compensation for events that occur after the commencement of this Act. The rules of the older Act shall be applied regarding compensation for events that occurred prior to that time.

[1] *Act 49/2016, Art. 77.*

VII. … [1]

[1] *Act 47/2015, Art. 21.*

[VIII.

The District Prosecutor shall take over the prosecution of cases that have been brought prior to 1 January [2016] [1] by commissioners of police … [2] if authorisation is no longer made for the commissioner of police to have prosecutory powers under the provisions of Section III (*cf.* Interim Provision VII.)] [3]

[1] *Act 103/2014, Art. 1.* [2] *Act 82/2011, Art. 5.* [3] *Act 156/2008, Art. 4.*

[IX.

After 15 July 2015, the minister may appoint the District Prosecutor, who shall begin preparations for the establishment of the Office of the District Prosecutor. Civil servants and other employees of the Directorate of Public Prosecutions, the Office of the Special Prosecutor and other persons who have

worked on projects that are to be transferred to the Office of the District Prosecutor may be offered employment with the authority. Nevertheless, the minister may move civil servants from the Directorate of Public Prosecutions and the Office of the Special Prosecutor to the Office of the District Prosecutor on the basis of Article 36 of the Rights and Obligations of Government Employees Act, No. 70/1996. When ordinary employment positions or civil servants' appointments are allocated under this provision, it shall not be necessary to observe the obligation to advertise vacancies for application (*cf.* Article 7 of Act No. 70/1996). New institutions shall take over the rights and obligations that individual civil servants have earned, including those covered by the provisions of Act No. 70/1996.] [1)]

[1)] *Act 47/2015, Art. 22.*