CRIMINAL PROCEDURE CODE

(No. 19/2003/QH11 of November 26, 2003)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the Xth National Assembly, the 10th session?

This Code prescribes the order and procedures of instituting, investigating, prosecuting and adjudicating criminal cases and executing criminal judgments.

Part One

GENERAL PROVISIONS

Chapter I

TASKS AND EFFECT OF THE CRIMINAL PROCEDURE CODE

Article 1. Tasks of the Criminal Procedure Code

The Criminal Procedure Code prescribes the order and procedure of instituting, investigating, prosecuting and adjudicating criminal cases and executing criminal judgments; functions, tasks and powers of, as well as relationships among procedure-conducting bodies; tasks, powers and responsibilities of procedure-conducting persons; rights and obligations of participants in the procedure and of various agencies, organizations and citizens; international cooperation in the criminal procedure, in order to take initiative in preventing and precluding crimes, detecting accurately and quickly and handling justly and in time all criminal acts, not leaving criminals unpunished and the innocent punished unjustly.

The Criminal Procedure Code contributes to protecting the socialist regime, safeguarding the interests of the State, the legitimate rights and interests of citizens, organizing and protecting the socialist legal order, and at the same time educating all people in the sense of law observance, struggling to prevent and fight crimes.

Article 2. Effect of the Criminal Procedure Code

All criminal proceedings on the territory of the Socialist Republic of Vietnam must be conducted in accordance with the provisions of this Code.

Criminal proceedings against foreigners who commit offenses on the territory of the Socialist Republic of Vietnam and who are citizens of the member states of the international agreements which the Socialist Republic of Vietnam has signed or acceded to shall be carried out in accordance with the provisions of such international agreements.

For foreigners committing offenses on the territory of the Socialist Republic of Vietnam, who are entitled to diplomatic privileges or consular preferential treatment and immunities in accordance with Vietnamese laws, international agreements which the Socialist Republic of Vietnam has signed or acceded to or in compliance with international practices, their cases shall be settled through diplomatic channels.

Chapter II

FUNDAMENTAL PRINCIPLES

Article 3. Guarantee of the socialist legislation in the criminal procedure

All criminal proceedings of procedure-conducting bodies and persons and participants in the procedure must be carried out in accordance with the provisions of this Code.

Article 4. Respect for, and defense of, fundamental rights of citizens

When conducting the procedure, the heads and deputy heads of investigating bodies, investigators, chairmen and deputy chairmen of procuracies, procurators, presidents and vice-presidents of courts, judges and jurors must, within the scope of their respective responsibilities, respect and protect the legitimate rights and interests of citizens, regularly examine the lawfulness and necessity of the applied measures, promptly cancel or change such measures if deeming that they are in violation of law or no longer needed.

Article 5. Guarantee of all citizens' right to equality before law

The criminal procedure shall be conducted on the principle that all citizens are equal before law, regardless of their nationality, sex, belief, religion, social strata and social position. Any person committing an offense shall be handled according to law.

Article 6. Guarantee of citizens' right to body inviolability

Nobody shall be arrested without a court decision, decision made or approved by the procuracies, except for cases where offenders are caught red-handed.

Arrest and detention of people must comply with the provisions of this Code.

All forms of coercion and corporal punishment are strictly forbidden.

Article 7. Protection of life, health, honor, dignity and property of citizens

Citizens have the right to have their life, health, honor, dignity and property protected by law.

All acts of infringing upon the life, health, honor, dignity and/or property shall be handled according to law.

Victims, witnesses and other participants in the procedure as well as their relatives, when their life and health are endangered, their honor, dignity and/or property are infringed upon, shall be protected by competent procedure-conducting bodies through applying necessary measures according to law.

Article 8. Guarantee of the citizens' right to residence inviolability, safety and confidentiality of correspondence, telephone conversations and telegraphs

Nobody is permitted to infringe upon the residence, safety and confidentiality of correspondence, telephone conversations and telegraphs of citizens.

While conducting the procedure, the search of residence, search, seizure and forfeiture of correspondence and telegraphs must comply with the provisions of this Code.

Article 9. No person shall be considered guilty until a court judgment on his/her criminality takes legal effect

No person shall be considered guilty and be punished until a court judgment on his/her criminality takes legal effect.

Article 10. Determination of facts of criminal cases

Investigating bodies, procuracies and courts must apply every lawful measure to determine the facts of criminal cases in an objective, versatile and full manner, to make clear evidences of crime and evidences of innocence, circumstances aggravating and extenuating the criminal liabilities of the accused or defendants.

The responsibility to prove offenses shall rest with the procedure-conducting bodies. The accused or defendants shall have the right but not be bound to prove their innocence.

Article 11. Guarantee of the right to defense of detainees, accused and defendants

The detainees, accused and defendants shall have the right to defend by themselves or ask other persons to defend them.

Investigating bodies, procuracies and courts shall have the duty to ensure that the detainees, accused and defendants exercise their right to defense under the provisions of this Code.

Article 12. Responsibilities of procedure-conducting bodies and persons

In the course of conducting the procedure, the procedure-conducting bodies and persons must strictly implement law provisions and take responsibility for their acts and decisions.

Those who act against law in making arrest, detention, seizure, instituting, investigating, prosecuting and/or adjudicating criminal cases and/or executing judgments shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability.

Article 13. Responsibility to institute and handle criminal cases

Upon detecting criminal signs, the investigating bodies, procuracies or courts shall, within the scope of their respective tasks and powers, have to institute criminal cases and apply measures provided for by this Code to determine offenses and handle offenders.

Criminal cases must not be instituted except on the grounds and in the order provided for by this Code.

Article 14. Guarantee of the impartiality of persons conducting or participating in the procedure

The heads and deputy heads of investigating bodies, investigators, chairmen and vice-chairmen of procuracies, procurators, presidents and vice-presidents of courts, judges, jurors and court clerks must not conduct the procedure or interpreters and experts must not participate in the procedure if there are plausible grounds to believe that they may not be impartial while performing their duties.

Article 15. Implementation of the regime of trial with the participation of jurors

The trial by people's courts or military courts shall be participated by people's jurors or military jurors respectively in accordance with the provisions of this Code. In the course of trial, jurors shall be equal in rights to judges.

Article 16. Judges and jurors conduct trial independently and abide by law only

During trial, judges and jurors are independent and abide by law only.

Article 17. Courts conduct trial collectively

Courts shall conduct trial collectively and make decisions by majority.

Article 18. Public trial

Courts shall conduct trial in public, everybody shall have the right to attend such trial, unless otherwise prescribed by this Code.

In special cases where State secrets should be kept or the fine national customs and practices should be preserved or the involved parties' secrets must be kept at their legitimate requests, courts shall conduct trial behind closed door but must pronounce the judgments publicly.

Article 19. Guarantee of equal right before court

Procurators, defendants, defense counsels, victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases and their lawful representatives and defense counsels of interests of the involved parties shall all have the equal rights to present evidences, documents and objects, make claims and argue democratically before court. Courts shall have to create conditions for them to exercise these rights with a view to clarifying the objective truths of the cases.

Article 20. To implement the two-level trial regime

1. Courts shall implement the two-level trial regime.

First-instance judgments and decisions of courts may be appealed or protested against under the provisions of this Code.

First-instance judgments and decisions, if not appealed or protested against within the time limits prescribed by this Code, shall be legally valid. For first-instance judgments or decisions which are appealed or protested against, the cases must be brought to appellate trial. Appellate judgments and decisions shall be legally valid.

2. For legally valid court judgments and decisions, if law violations are detected or new circumstances emerge, they shall be reviewed according to the cassation or re-opening procedures.

Article 21. Trial supervision

Superior courts shall supervise the trial by subordinate courts. The Supreme People's Court shall supervise the trial by people's courts and military courts at all levels in order to ensure the strict and uniform application of laws.

Article 22. Guarantee of the validity of court judgments and decisions

1. Legally valid court judgments or decisions must be executed and respected by agencies, organizations and all citizens. The concerned individuals, agencies and organizations must, within the scope of their respective responsibilities, strictly execute or serve the court judgments and decisions and take responsibility before law for their execution or serving.

2. Within the scope of their respective responsibilities, State agencies, commune, ward and township administrations, organizations and citizens must coordinate with the agencies and organizations tasked to execute court judgments and decisions in the execution thereof.

State agencies and commune, ward and township administrations shall have to create conditions for, and comply with the requests of, agencies and organizations tasked to execute court judgments and decisions in the execution thereof.

Article 23. Exercise of the right to prosecute and supervise law observance in the criminal procedure

1. Procuracies shall exercise their right to prosecute in the criminal procedure and decide to prosecute offenders before court.

2. Procuracies shall supervise the law observance in the criminal procedure and have the duty to detect in time law violations committed by procedure-conducting bodies or persons as well as participants in the procedure, and apply measures prescribed by this Code to preclude law violations by these bodies or individuals.

3. Procuracies shall exercise their right to prosecute and supervise the law observance in the criminal procedure in order to ensure that all criminal acts be handled in time; the institution, investigation, prosecution and trial of criminal cases as well as execution of judgments be conducted against the right persons and right offenses, not omitting offenses and offenders, not letting injustice be done on the innocent.

Article 24. Spoken and written language used in the criminal procedure

Spoken and written language used in the criminal procedure is Vietnamese. Participants in the criminal procedure may use spoken and written languages of their own nationalities; in this case, interpreters shall be required.

Article 25. Responsibilities of organizations and citizens in the struggle to prevent and fight crimes

1. Organizations and individuals shall have the right as well as obligation to detect and denounce criminal acts; participate in the struggle to prevent and fight crimes, contributing to protecting the interests of the State, the legitimate rights and interests of citizens and organizations.

2. Procedure-conducting bodies shall have to create conditions for organizations and citizens to participate in the criminal procedure; must inform the results of processing the reported information on and denunciations of crimes to the reporting organizations or denouncers.

3. Organizations and citizens shall have to abide by the requests of, and create conditions for, the procedure-conducting bodies and persons to perform their duties.

Article 26. Coordination between State agencies and procedure-conducting bodies

1. Within the scope of their respective responsibilities, State agencies must apply measures to prevent crimes; coordinate with investigating bodies, procuracies and courts in the struggle to prevent and fight crimes.

State agencies must constantly examine and inspect the performance of their assigned functions and tasks; detect in time law violation acts for handling and immediately inform the investigating bodies or procuracies of all criminal acts committed in their agencies and in their management domains; have the right to propose and send related documents to the investigating bodies and procuracies to consider and initiate criminal proceedings against persons committing criminal acts.

The heads of State agencies shall take responsibility for their failure to report criminal acts happening in their agencies and in their management domains to the investigating bodies or procuracies.

State agencies shall have to comply with the requests of, and create conditions for, the procedure-conducting bodies and persons to perform their duties.

All acts of obstructing the activities of the procedure-conducting bodies and persons while performing their duties are strictly forbidden.

2. Inspection agencies must coordinate with investigating bodies, procuracies and courts in detecting and handling crimes. When detecting cases with criminal signs, they must immediately transfer related documents to and propose investigating bodies or procuracies to consider and institute criminal cases.

3. Within the scope of their responsibilities, investigating bodies and procuracies must consider and settle reported information on crimes, propose the institution of criminal cases and must inform the settling results to the reporting or proposing State agencies.

Article 27. Detection and remedy of causes and conditions for crime commission

In the course of carrying out the criminal procedure, investigating bodies, procuracies and courts shall have to find out crime commission causes and conditions; request the concerned agencies and organizations to apply remedial and preventive measures.

The concerned agencies and organizations must reply on their compliance with the requests of investigating bodies, procuracies or courts.

Article 28. Settlement of civil matters in criminal cases

The settlement of civil matters in criminal cases shall be carried out together with the settlement of criminal cases. Where a criminal case involves the compensation or indemnification matter which cannot be proved yet and does not affect the settlement of the criminal case, such civil matter may be separated and settled according to civil procedures.

Article 29. Guarantee of the right to damage compensation and restoration of honor and interests of unjustly handled persons

Persons who have been unjustly handled by competent persons in criminal proceedings shall have the right to damage compensation and restoration of their honor and interests.

The competent bodies which have handled persons unjustly in criminal proceedings shall have to pay damage compensation to, and restore the honor and interests of, the unjustly punished persons; persons who have caused damage shall have to reimburse the compensated amounts to the competent bodies according to law.

Article 30. Guarantee of the right to damage compensation of persons suffering from damage caused by the criminal procedure-conducting bodies or persons

Persons suffering from damage caused by competent bodies or persons in criminal proceedings shall have the right to damage compensation.

The bodies competent in criminal proceedings shall have to pay compensation to the damaged persons; the damage-causing persons shall have to reimburse the compensated amounts to the competent bodies according to law provisions.

Article 31. Guarantee of the right to complain and denounce in the criminal procedure

Citizens, agencies and organizations shall have the right to complain about, and citizens shall have the right to denounce, illegal acts in criminal proceedings committed by bodies or persons competent to conduct the criminal procedure or by any individuals of such bodies.

Competent bodies must receive, consider and settle in a timely and lawful manner complaints and denunciations, then send notices on the settlement results to the complainants and denouncers for knowledge and taking remedial measures.

The order, procedures and competence to settle complaints and denunciations are provided for by this Code.

Article 32. Supervision by agencies, organizations and people-elected deputies of activities of the procedure-conducting bodies and persons

State agencies, the Vietnam Fatherland Front Committees, the Front's member organizations and people-elected deputies shall have the right to supervise activities of the procedure-conducting bodies and persons; supervise the settlement of complaints and denunciations by such bodies and persons.

If detecting any illegal acts committed by the procedure-conducting bodies or persons, the State agencies and people-elected deputies shall have the right to request, or the Vietnam Fatherland Front Committees and the Front's member organizations shall have the right to propose, the competent procedure-conducting bodies to consider and settle them in accordance with the provisions of this Code. The competent procedure-conducting bodies must consider, settle and reply such proposals or requests according to law.

Chapter III

PROCEDURE-CONDUCTING BODIES, PROCEDURE-CONDUCTING PERSONS AND THE CHANGE OF PROCEDURE-CONDUCTING PERSONS

Article 33. Procedure-conducting bodies and procedure-conducting persons

1. Procedure-conducting bodies include:

a/ Investigating bodies;

b/ Procuracies;

c/ Courts.

2. Procedure-conducting persons include:

a/ The heads and deputy heads of investigating bodies, investigators;

b/ Chairmen, vice-chairmen of procuracies, procurators;

c/ Presidents and vice-presidents of courts, judges, jurors, court clerks.

Article 34. Tasks, powers and responsibilities of heads and deputy heads of investigating bodies

1. The heads of investigating bodies shall have the following tasks and powers:

a/ To directly organize and direct the investigating activities of investigating bodies;

b/ To decide to assign tasks to their deputies and investigators in investigating criminal cases;

c/ To examine investigating activities of their deputies and investigators;

d/ To decide to change or cancel ungrounded and illegal decisions of their deputies and investigators;

e/ To decide to change investigators;

f/ To settle complaints and denunciations falling under the competence of investigating bodies.

When the head of an investigating body is absent, one deputy authorized by such head shall perform the tasks and exercise the powers of the latter. Deputy heads shall be accountable to their heads for their assigned tasks.

2. When investigating criminal cases, the heads of investigating bodies shall have the following tasks and powers:

a/ To decide to institute criminal cases and initiate criminal proceedings against the accused, to decide not to institute criminal cases; to decide to incorporate or separate criminal cases;

b/ To decide to apply, change or cancel deterrent measures ;

c/ To decide to pursue the accused, to search, forfeit, seize, distrain properties, and handle exhibits;

d/ To decide to solicit expertise and exhume corpses;

e/ To make conclusions on the investigation of criminal cases;

f/ To decide to suspend investigation, to decide to cease investigation, to decide resume investigation;

g/ To directly carry out investigating measures; to grant or withdraw defense counsel's certificates; to issue other decisions and carry out other proceedings falling under the competence of investigating bodies.

3. When being assigned to investigate criminal cases, the deputy heads of the investigating bodies shall have the tasks and powers defined in Clause 2 of this Article.

4. The heads, deputy heads of investigating bodies shall take responsibility before law for their acts and decisions.

Article 35. Tasks, powers and responsibilities of investigators

1. The investigators assigned to investigate criminal cases shall have the following tasks and powers:

a/ To compile files of criminal cases;

b/ To summon and interrogate the accused; to summon and take testimonies from witnesses, victims, civil plaintiffs, civil dependants and persons with interests and obligations related to the cases;

c/ To decide to escort the accused, decide to escort witnesses;

d/ To execute orders for arrest, custody, temporary detention, search, forfeiture, seizure, distrainment of properties;

e/ To conduct scene examination, autopsy, confrontation, identification and investigative experiments;

f/ To conduct other investigating activities falling under the competence of investigating bodies according to the assignment of the heads of investigating bodies.

2. Investigators shall take responsibility before law and the heads of investigating bodies for their acts and decisions.

Article 36. Tasks, powers and responsibilities of chairmen, vice-chairmen of procuracies

1. The chairmen of procuracies shall have the following tasks and powers:

a/ To organize and direct activities of exercising the right to prosecute and supervise the law observance in criminal proceedings;

b/ To decide to assign their vice-chairmen and procurators to exercise the right to prosecute and supervise the law observance in criminal proceedings for criminal cases;

c/ To examine their vice-chairmen and procurators in activities of exercising the right to prosecute and supervise their law observance in criminal proceedings;

d/ To protest according to cassation or reopening procedures the legally valid court judgments or decisions in accordance with law;

e/ To decide to change or cancel ungrounded and illegal decisions of their vice-chairmen and procurators;

f/ To decide to withdraw, suspend or cancel ungrounded and illegal decisions of the subordinate procuracies;

g/ To decide to change procurators;

h/ To settle complaints and denunciations falling under the competence of procuracies.

When the chairman of a procuracy is absent, one vice-chairman authorized by the chairman shall perform the chairman's tasks and powers. Vice-chairmen shall be accountable to their chairmen for their assigned tasks.

2. When exercising the right to prosecute and supervising the law observance in the proceedings for criminal cases, the chairmen of procuracies shall have the following tasks and powers:

a/ To decide to institute criminal cases, to decide not to institute criminal cases, to decide to initiate criminal proceedings against the accused; to request investigating bodies to institute criminal cases or change decisions to institute criminal cases or initiate criminal proceedings against the accused in accordance with this Code;

b/ To request the heads of investigating bodies to change investigators;

c/ To decide to apply, change or cancel deterrent measures; to decide to extend the investigation period; to decide to prolong the temporary detention period; to request investigating bodies to pursue the accused;

d/ To decide to approve or disapprove decisions of investigating bodies;

e/ To decide to revoke ungrounded and illegal decisions of investigating bodies;

f/ To decide to transfer cases;

g/ To decide to prosecute, to decide to return the files for additional investigation; to decide to solicit expertise;

h/ To decide to suspend or cease criminal cases, to decide to resume investigation; to decide to handle exhibits;

i/ To protest according to appellate procedures court judgments and decisions;

j/ To grant and withdraw the defense counsel's certificates; to issue other decisions and conduct other proceedings falling under the competence of procuracies.

3. When being assigned to exercise the right to prosecute and supervise the law observance in the proceedings for criminal cases, vice-chairmen of procuracies shall have the tasks and powers defined in Clause 2 of this Article.

4. The chairmen and vice-chairmen of procuracies shall take responsibility before law for their acts and decisions.

Article 37. Tasks, powers and responsibilities of procurators

1. Procurators assigned to exercise the right to prosecute and supervise the law observance in the proceedings for criminal cases shall have the following tasks and powers:

a/ To supervise the institution of criminal cases, supervise investigating activities and the compilation of case files by investigating bodies;

b/ To set investigation requirements;

c/ To summon and interrogate the accused; to summon and take testimonies of witnesses, victims, civil plaintiffs, civil defendants, and persons with interests and obligations related to the cases;

d/ To supervise arrests, custody and temporary detention;

e/ To participate in court sessions; to read the procuracies' indictments and decisions related to the case settlement; to ask questions, present evidences and make arraignments; to express their views on the case settlement and argue with the participants in the procedure at court sessions;

f/ To supervise the law observance by courts in their adjudicating activities, by participants in the procedure, and to supervise court judgments and decisions;

g/ To supervise the execution of court judgments and decisions;

h/ To perform other tasks and exercise other powers falling under the procuracies' scope of competence as assigned by their chairmen.

2. Procurators shall take responsibility before law and the chairmen of the procuracies for their acts and decisions.

Article 38. Tasks, powers and responsibilities of presidents, vice-presidents of courts

1. The presidents of courts shall have the following tasks and powers:

a/ To organize the adjudicating work of their courts;

b/ To decide to assign their vice-presidents, judges and jurors to settle and adjudicate criminal cases; to decide to assign court clerks to conduct the procedure for criminal cases;

c/ To decide to change judges, jurors and court clerks before opening court sessions;

d/ To protest according to cassation procedures legally valid court judgments and decisions in accordance with the provisions of this Code;

e/ To issue decisions to execute criminal judgments;

f/ To decide to postpone the serving of imprisonment penalties;

g/ To decide to suspend the serving of imprisonment penalties;

h/ To decide to remit criminal records;

i/ To settle complaints and denunciations falling under the jurisdiction of their courts.

When the president of a court is absent, one vice-president authorized by the president shall perform the tasks and exercise the powers of the latter. Vice presidents shall be accountable before the presidents for their assigned tasks.

2. When settling criminal cases, the presidents of courts shall have the following tasks and powers:

a/ To decide to apply, change or cancel the temporary detention measure; to decide to handle exhibits;

b/ To decide to transfer criminal cases;

c/ To grant, withdraw the defense counsel's certificates; to issue decisions and conduct other proceedings falling under the jurisdiction of their courts.

3. When being assigned to settle or adjudicate criminal cases, vice-presidents of courts shall have the tasks and powers defined in Clause 2 of this Article.

4. Presidents and vice-presidents of courts shall take responsibility before law for their acts and decisions.

Article 39. Tasks, powers and responsibilities of judges

1. The judges assigned to settle, adjudicate criminal cases shall have the following tasks and powers:

a/ To study the case files before the opening of court sessions;

b/ To participate in adjudicating criminal cases;

c/ To conduct proceedings and vote on matters falling under the jurisdiction of the trial panels;

d/ To conduct other proceedings falling under the jurisdiction of their courts according to the assignment of the presidents of their courts.

2. The judges assigned to preside over court sessions shall have, apart from the tasks and powers defined in Clause 1 of this Article, the following tasks and powers:

a/ To decide to apply, change or cancel deterrent measures in accordance with the provisions of this Code;

b/ To decide to return files for additional investigation;

c/ To decide to bring cases for trial; to decide to cease or suspend cases;

d/ To decide to summon persons whom they need to inquire to court sessions;

e/ To conduct other proceedings falling under the competence of their courts according to the assignment of the presidents of their courts.

3. The judges holding the post of president or vice-president of the Court of Appeal of the Supreme People's Court shall have the right to grant and withdraw the defense counsel's certificates.

4. Judges shall take responsibility before law for their acts and decisions.

Article 40. Tasks, powers and responsibilities of jurors

1. When being assigned to adjudicate criminal cases, jurors shall have the following tasks and powers:

a/ To study case files before the opening of court sessions;

b/ To participate in adjudicating criminal cases according to first-instance or appellate procedures;

c/ To conduct proceedings and vote on matters falling under the jurisdiction of the trial panels.

2. Jurors shall take responsibility before law for their acts and decisions.

Article 41. Tasks, powers and responsibilities of court clerks

1. Court clerks assigned to carry out the procedure for criminal cases shall have the following tasks and powers:

a/ To announce the internal rules of court sessions;

b/ To report to the trial panels the list of persons summoned to court sessions;

c/ To write minutes of court sessions;

d/ To conduct other proceedings falling under the jurisdiction of their courts according to the assignment by the presidents of their courts.

2. Court clerks shall take responsibility before law and the presidents of courts for their acts.

Article 42. Cases of refusal or change of procedure-conducting persons

Procedure-conducting persons must refuse to conduct the procedure or be changed if:

1. They are concurrently victims, civil plaintiffs, civil defendants; persons with interests and obligations related to the cases; lawful representatives or next of kin of such persons or of the accused or defendants;

2. They have participated as defense counsels, witnesses, experts or interpreters in such cases;

3. There are explicit grounds to believe that they may not be impartial while performing their duties.

Article 43. Right to request to change procedure-conducting persons

The following persons shall have the right to request to change procedure-conducting persons:

1. Procurators;

2. The accused, defendants, victims, civil plaintiffs, civil defendants and their lawful representatives;

3. Defense counsels, defense counsels of interests of victims, civil plaintiffs or civil defendants.

Article 44. Change of investigators

1. Investigators must refuse to conduct the procedure or be changed if:

a/ They fall into one of the cases prescribed in Article 42 of this Code;

b/ They have conducted the procedure in such cases in the capacity as procurator, judge, juror or court clerk.

2. The change of investigators shall be decided by the heads of investigating bodies.

If the investigators being the heads of investigating bodies fall into one of the cases prescribed in Clause 1 of this Article, the investigation of the cases shall be conducted by the immediate superior investigating bodies.

Article 45. Change of procurators

1. Procurators must refuse to conduct the procedure or be changed if:

a/ They fall into one of the cases prescribed in Article 42 of this Code;

b/ They have conducted the procedure in such cases in the capacity as investigator, judge, juror or court clerk.

2. The change of procurators before the opening of court sessions shall be decided by the chairmen of the procuracies of the same level.

If the to be-changed procurators are procuracy chairmen, such change shall be decided by the chairmen of the immediate superior procuracies.

In cases where the procurators must be changed at court sessions, the trial panels shall issue decisions to postpone the court sessions.

The appointment of other procurators shall be decided by the chairmen of the procuracies of the same level or the chairmen of the immediate superior procuracies.

Article 46. Change of judges, jurors

1. Judges or jurors must refuse to participate in the trial or be changed if:

a/ They fall into one of the cases prescribed in Article 42 of this Code;

b/ They sit on the same trial panel and are next of kin;

c/ They have participated in the first-instance trial or appellate trial, or conducted the procedure in such cases in the capacity as investigator, procurator or court clerk.

2. The change of judges and/or jurors before the opening of court sessions shall be decided by the presidents of the courts. If the to be-changed judges are the presidents of the courts, such change shall be decided by the presidents of the immediate superior courts.

The change judges and/or jurors at court sessions shall be decided by the trial panels before starting the inquiry by voting at the deliberation chambers. When a member is considered, he/she may present his/her opinions; the panels shall make decisions by majority.

In case of change of judges and/or jurors at court sessions, the trial panels shall issue decisions to postpone the court sessions.

The appointment of new trial panel members shall be decided by the presidents of the courts.

Article 47. Change of court clerks

1. Court clerks must refuse to conduct the procedure or be changed if:

a/ They fall into one of the cases prescribed in Article 42 of this Code;

b/ They have conducted the procedure in such cases in the capacity as procurator, investigator, judge or juror.

2. The change of court clerks before the opening of court sessions shall be decided by the presidents of the courts.

The change of court clerks at court sessions shall be decided by the trial panels.

In cases where court clerks must be changed at court sessions, the trial panels shall issue decisions to postpone the court sessions.

The appointment of other court clerks shall be decided by the presidents of the courts.

Chapter IV

PARTICIPANTS IN THE PROCEDURE

Article 48. Persons held in custody

1. Persons held in custody are persons arrested in urgent cases, offenders caught red-handed, persons arrested under pursuit decisions, or confessing or self-surrendering offenders against whom custody decisions have been issued.

2. Persons held in custody shall have the following rights:

a/ To be informed of the reasons for their custody;

b/ To be explained on their rights and obligations;

c/ To present their statements;

d/ To defend by themselves or ask other persons to defend them;

e/ To present documents, objects as well as claims;

f/ To complain about their custody, procedural decisions or acts of the bodies and/or persons with procedure-conducting competence.

3. Persons held in custody shall have the obligation to observe the law provisions on custody.

Article 49. The accused

1. The accused are persons against whom criminal proceedings have been initiated.

2. The accused shall have the following rights:

a/ To be informed of the offenses which they have been accused of;

b/ To be explained on their rights and obligations;

c/ To present their statements;

d/ To present documents, objects as well as claims;

e/ To request the change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code;

f/ To defend by themselves or ask other persons to defend them;

g/ To receive decisions to institute the criminal cases; decisions to apply, change or cancel deterrent measures; written investigation conclusions; decisions to cease investigation or suspend investigation; decisions to cease or suspend the criminal

cases; indictments; decisions on their prosecution; and other procedural decisions as prescribed by this Code;

h/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence.

3. The accused must appear in response to the summonses of investigating bodies or procuracies; in case of non-appearance without plausible reasons, they may be escorted; if they escape, they shall be pursued.

Article 50. Defendants

1. Defendants are persons whom the courts have decided to bring for trial.

2. Defendants have the following rights:

a/ To receive decisions to bring the cases for trial; decisions to apply, change or cancel deterrent measures; decisions to cease the cases; judgments and/or decisions of the courts; and other procedural decisions as prescribed by this Code;

b/ To participate in court sessions;

c/ To be explained on their rights and obligations;

d/ To request the change of procedure-conducting persons, experts and/or interpreters in accordance with this Code;

e/ To present documents, objects as well as claims;

f/ To defend by themselves or ask other persons to defend them;

g/ To present opinions, argue at court sessions;

h/ To have final words before the judgment deliberation;

i/ To appeal against judgments and decisions of the courts;

j/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence.

3. Defendants must appear in response to the subpoenas of the courts; in case of non-appearance without plausible reasons, they may be escorted; if they escape, they shall be pursued.

Article 51. Victims

1. Victims are persons suffering from physical, spiritual and/or property damage caused by offenses.

2. Victims or their lawful representatives shall have the following rights:

a/ To present documents, objects as well as claims;

b/ To be informed of the investigation results;

c/ To request the change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code;

d/ To suggest the compensation levels and measures to secure such compensation;

e/ To participate in court sessions; present their opinions and arguments at court sessions in order to protect their legitimate rights and interests;

f/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence; to appeal against court judgments and decisions regarding the compensations to be paid by, as well as the penalties imposed on, the defendants.

3. Where the criminal cases are instituted at the requests of victims as prescribed in Article 105 of this Code, the victims or their lawful representatives shall present their accusations at court sessions.

4. Victims must appear in response to the summonses of investigating bodies, procuracies or courts; if they refuse to give testimonies without plausible reasons, they may bear penal liability according to Article 308 of the Penal Code.

5. In cases where victims are deceased, their lawful representatives shall have the rights defined in this Article.

Article 52. Civil plaintiffs

1. Civil plaintiffs are individuals, agencies or organizations suffering from damage caused by offenses and file claims for damages.

2. Civil plaintiffs or their lawful representatives shall have the following rights:

a/ To present documents, objects as well as claims;

b/ To be informed of the investigation results;

c/ To request the change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code;

d/ To suggest the compensation levels and measures to secure such compensation;

e/ To participate in court sessions; to present their opinions and arguments at court sessions in order to protect their legitimate rights and interests;

f/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence;

g/ To appeal against court judgments and decisions regarding damage compensation.

3. Civil plaintiffs must appear in response to the summonses of investigating bodies, procuracies or subpoenas of courts, and present honestly details related to their claims for damages.

Article 53. Civil defendants

1. Civil defendants are individuals, agencies or organizations prescribed by law to pay compensation for damage caused by criminal acts.

2. Civil defendants or their lawful representatives shall have the following rights:

a/ To complain about the civil plaintiffs' claims for damages;

b/ To present documents, objects as well as claims;

c/ To be informed of the investigation results related to the compensation requests;

d/ To request the change of procedure-conducting persons, experts and/or interpreters in accordance with this Code;

e/ To participate in court sessions; to present their opinions and arguments at court sessions to protect their legitimate rights and interests;

f/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence;

g/ To appeal against court judgments and decisions regarding damage compensation.

3. Civil defendants must appear in response to the summonses of investigating bodies, procuracies or subpoenas of courts, and present honestly details related to the damage compensation.

Article 54. Persons with interests and obligations related to criminal cases

1. Persons with interests and obligations related to criminal cases or their lawful representatives shall have the following rights:

a/ To present documents, objects as well as claims;

b/ To participate in court sessions; to present their opinions and arguments at court sessions in order to protect their legitimate rights and interests;

c/ To appeal against court judgments and decisions regarding matters directly related to their interests and obligations;

d/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence;

2. Persons with interests and obligations related to criminal cases must be present in response to the summonses of investigating bodies, procuracies or subpoenas of courts, and present honestly details directly related to their interests and obligations.

Article 55. Witnesses

1. Those who know details pertaining to criminal cases may all be summoned to give testimonies.

2. The following persons shall not be allowed to act as witnesses:

a/ Defense counsels of the accused or defendants;

b/ Persons with physical or mental defects which render them incapable of perceiving details of the criminal cases or incapable of giving truthful statements.

3. Witnesses shall have the following rights:

a/ To ask the bodies which have summoned them to protect their life, health, honor, dignity, property and other legitimate rights and interests when participating in the procedure;

b/ To complain about procedural decisions and acts of agencies and persons with procedure-conducting competence;

c/ To be paid by the summoning agencies the travel and other expenses as prescribed by law.

4. Witnesses shall have the following obligations:

a/ To appear in response to the summonses of investigating bodies, procuracies or subpoenas of courts; in case of deliberate absence without plausible reasons and their absence causes impediments to the investigation, prosecution or trial, they may be escorted;

b/ To honestly state all details they know about the cases.

Witnesses who refuse or shirk to testify without plausible reasons shall bear penal liability according to Article 308 of the Penal Code; if giving false testimonies, they shall bear penal liabilities according to Article 307 of the Penal Code.

Article 56. Defense counsels

1. Defense counsels may be:

a/ Lawyers;

b/ Lawful representatives of the persons in custody, the accused or defendants;

c/ People's advocates.

2. The following persons shall not be allowed to act as defense counsels:

a/ Persons who have conducted the procedure in such cases; are next of kin of persons who conducted or are conducting the procedure in such cases;

b/ Persons who participate in such cases in the capacity as witness, expert or interpreter.

3. One defense counsel may defend many persons in custody, accused or defendants in the same case provided that the rights and interests of such persons are not conflicting. Many defense counsels may defend one person held in custody, accused or defendant.

4. Within three days counting from the date of receiving the requests of the defense counsels enclosed with papers related to the defense, the investigating bodies, procuracies or courts must consider and grant them the defense counsel's certificates

so that they can perform the defense. If refusing to grant such certificates, they must state clearly the reasons therefor.

In case of keeping persons in custody, within 24 hours as from the time of receiving the requests of the defense counsels enclosed with the papers related to the defense, the investigating bodies must consider and grant them the defense counsel's certificates so that they can perform the defense. If refusing to grant such certificates, they must state clearly the reasons therefor.

Article 57. Selection and change of defense counsels

1. Defense counsels shall be selected by persons kept in custody, the accused, defendants or their lawful representatives.

2. In the following cases, if the accused, defendants or their lawful representatives do not seek the assistance of defense counsels, the investigating bodies, procuracies or courts must request bar associations to assign lawyers' offices to appoint defense counsels for such persons or request the Vietnam Fatherland Front Committees or the Front's member organizations to appoint defense counsels for their organizations' members:

a/ The accused or defendants charged with offenses punishable by death as the highest penalty as prescribed by the Penal Code;

b/ The accused or defendants being minors or persons with physical or mental defects.

In the cases specified at Point a and Point b, Clause 2 of this Article, the accused or defendants and their lawful representatives stall have the right to request the change of, or refuse to have, defense counsels.

3. The Vietnam Fatherland Front Committees and the Front's member organizations shall have the right to appoint people's advocates to defend the persons kept in custody, the accused or defendants who are their organizations' members.

Article 58. Rights and obligations of defense counsels

1. Defense counsels shall participate in the procedure from the initiation of criminal proceedings against the accused. In case of arresting persons under the provisions of Article 81 and Article 82 of this Code, defense counsels shall participate in the procedure from the time the custody decisions are issued. In case of necessity to keep secret the investigation of the crimes of infringing upon national security, the chairmen of procuracies shall decide to allow defense counsels to participate in the procedure from the time of termination of investigation.

2. Defense counsels shall have the following rights:

a/ To be present when testimonies are taken from the persons in custody, when the accused are interrogated, and, ask questions to the persons in custody or the accused if so consented by investigators; and to be present in other investigating activities; to read the minutes of the proceedings in which they have participated, and procedural decisions related to the persons whom they defend;

b/ To request investigating bodies to inform them in advance of the time and places of interrogating the accused so as to be present when the accused are interrogated;

c/ To request the change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code;

d/ To collect documents, objects and details related to their defense from the persons in custody, the accused, defendants, their next of kin or from agencies, organizations and individuals at the requests of the persons in custody, the accused or defendants, provided that they are not classified as State secrets or working secrets;

e/ To present documents, objects as well as claims;

f/ To meet the persons kept in custody; to meet the accused or defendants being under temporary detention;

g/ To read, take notes of and copy records in the case files, which are related to their defense, after the termination of investigation according to law provisions;

i/ To participate in questioning and arguing at court sessions;

j/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence;

k/ To appeal against court judgments or decisions if the defendants are minors or persons with physical or mental defects as prescribed at Point b, Clause 2 of Article 57 of this Code.

3. Defense counsels shall have the following obligations:

a/ To apply every measure prescribed by law to clarify the details to prove the innocence of the persons in custody, the accused or defendants as well as circumstances to mitigate the penal liability of the accused or defendants.

Depending on each stage of the procedure, when collecting documents and/or objects related to the cases, defense counsels shall have to deliver them to investigating bodies, procuracies or courts. The delivery and receipt of such documents and objects between defense counsels and the procedure-conducting bodies must be recorded in a minutes according to Article 95 of this Code;

b/ To provide legal assistance to the persons in custody, the accused or defendants in order to defend their legitimate rights and interests;

c/ Not to refuse to defend the persons in custody, the accused or defendants whom they have undertaken to defend if they have no plausible reasons therefor.

d/ To respect truth and law; not to bribe, force or incite other persons to give false statements or supply untruthful documents;

e/ To appear in response to court subpoenas;

d/ Not to disclose investigation secrets they know while performing the defense; not to use notes taken and/or copied from the case files for the purpose of infringing upon the State's interests; the legitimate rights and interests of agencies, organizations and individuals;

4. Defense counsels who act against laws shall, depending on the nature and seriousness of their violations, have their defense counsel's certificates revoked, be disciplined, administratively sanctioned or examined for penal liability; if causing damage, they shall have to pay compensation therefor according to law provisions.

Article 59. Defense counsels of interests of involved parties

1. Victims, civil plaintiffs, civil defendants, persons with interests and obligations related to criminal cases shall all have the right to ask lawyers, people's advocates or other persons, who are accepted by investigating bodies, procuracies or courts, to protect their interests.

2. Defense counsels of the interests of the involved parties may participate in the procedure from the time when criminal proceedings are initiated against the accused.

3. Defense counsels of the interests of the involved parties shall have the following rights:

a/ To produce documents, objects as well as claims;

b/ After the investigation completes, to read, take note of and copy documents in the case files, which are related to the protection of the interests of the involved parties according to law provisions;

c/ To participate in questioning and arguing at court sessions; to read the minutes of court sessions;

d/ To complain about procedural decisions and acts of the bodies and persons with procedure-conducting competence.

Defense counsels of the interests of victims, civil plaintiffs, civil defendants shall have the right to request the change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code.

For involved parties being minors or persons with physical or mental defects, the defense counsels of their interests shall have the right to be present when the procedure-conducting bodies are taking statements from the persons whom they protect; to appeal parts of court judgments or decisions regarding the interests and obligations of the persons whom they protect.

4. The defense counsels of the interests of the involved parties shall have the following obligations:

a/ To apply all measures prescribed by law to contribute to clarifying the truths of the cases;

b/ To provide the involved parties with legal assistance in order to protect their legitimate rights and interests.

Article 60. Experts

1. Experts are persons possessing necessary knowledge about the domains to be expertised, who are invited by the procedure-conducting bodies according to law provisions.

2. Experts shall have the following rights:

a/ To study documents of the cases, which are related to the to be-expertized objects;

b/ To request the expertise-soliciting bodies to supply documents necessary for the conclusion;

c/ To join the interrogation, taking of statements and to ask questions about matters related to the to be-expertized objects;

d/ To refuse to expertise in cases if they are not given enough time for the expertise; are supplied with documents which are inadequate or invalid for making conclusions; or the contents asked to be expertised are beyond their expert knowledge;

e/ To write their own conclusions in the written general conclusions if disagreeing with the general conclusions in cases where the expertise has been conducted by a group of experts.

3. Experts must appear in response to the summonses of investigating bodies, procuracies or subpoenas of courts; they must not disclose investigation secrets which they know while participating in the procedure in the capacity as expert.

Experts who refuse to make expertise conclusions without plausible reasons shall bear penal liability under Article 308 of the Penal Code. If making false conclusions, they shall bear penal liability under Article 307 of the Penal Code.

4. Experts must refuse to participate in the criminal procedure or be changed if:

a/ They fall into one of the cases defined in Clause 1 and Clause 3, Article 42 of this Code;

b/ They have conducted the procedure in the capacity as head, deputy head of the investigating body, investigator, chairman or vice-chairman of the procuracy, procurator, president or vice-president of the court, judge, juror or court clerk, or have participated in the capacity as defense counsel, witness or interpreter in such cases.

The change of experts shall be decided by the expertise-soliciting agencies.

Article 61. Interpreters

1. Interpreters shall be required by investigating bodies, procuracies or courts in cases where the procedures are participated by persons who cannot use Vietnamese.

2. Interpreters must appear in response to the summonses of investigating bodies, procuracies or subpoenas of courts and must interpret truthfully, must not disclose investigation secrets; if they interpret falsely, the interpreters shall bear penal liability according to Article 307 of the Penal Code.

3. Interpreters must refuse to participate in the procedure or be changed if:

a/ They fall into one of the cases defined in Clause 1 and Clause 3, Article 42 of this Code;

b/ They have conducted the procedure in the capacity as head, deputy head of the investigating body, investigator, chairman or vice-chairman of the procuracy, procurator, president or vice-president of the court, judge, juror or court clerk, or have participated in the capacity as defense counsel, witness or expert in such cases.

The change of interpreters shall be decided by the requesting agencies.

4. The provisions of this Article shall also apply to persons who know signs of the dumb and the deaf.

Article 62. Responsibility to explain and guarantee the exercise of the rights and the performance of obligations of participants in the procedure

The procedure-conducing bodies and persons shall have to explain and guarantee the exercise of the rights and the performance of obligations of participants in the procedure in accordance with of this Code. The explanation must be recorded in a minutes.

Chapter V

EVIDENCES

Article 63. Matters to be proved in criminal cases

When investigating, prosecuting and adjudicating criminal cases, the investigating bodies, procuracies and courts must prove:

1. Whether or not criminal acts have occurred, time, places and other circumstances of the criminal acts;

2. Who have committed the criminal acts; being at fault or not, intentionally or unintentionally, whether or not they have the penal liability capacity; purposes and motives of the commission of such crimes;

3. Circumstances aggravating and circumstances extenuating the penal liability of the accused or defendants, and personal details of the accused or defendants;

4. The nature and extent of damage caused by the criminal acts.

Article 64. Evidences

1. Evidences are facts which are collected in the order and procedure prescribed by this Code, which are used by the investigating bodies, procuracies and courts as grounds to determine whether or not criminal acts have been committed, persons committing such acts as well as other circumstances necessary for the proper settlement of the cases.

2. Evidences are determined by:

a/ Exhibits;

b/ Testimonies of witnesses, victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases, the arrestees, persons kept in custody, the accused or defendants;

c/ Expertise conclusions;

d/ Minutes of investigating and adjudicating activities, and other documents and things.

Article 65. Collection of evidences

1. In order to collect evidences, the investigating bodies, procuracies and courts may summon persons who know about the cases to ask and listen to their statements on the matters pertaining to the cases, solicit expertise, conduct searches, examinations and other investigating activities according to the provisions of this Code; request agencies, organizations and individuals to supply documents, objects and relate circumstances to clarify the cases.

2. Participants in the procedure, agencies, organizations or any individuals may all present documents, as well as matters related to the cases.

Article 66. Evaluation of evidences

1. Each evidence must be evaluated in order to determine its legality, authenticity and relevance to the cases. The collected evidences must be sufficient for the successful settlement of criminal cases.

2. Investigators, procurators, judges and jurors shall identify and evaluate all evidences with a full sense of responsibility after studying generally, objectively, comprehensively and fully all circumstances of the cases.

Article 67. Statements of witnesses

1. Witnesses shall present what they know about the cases, personal details of the arrestees, persons in custody, the accused or defendants, victims, their relationships with the arrestees, persons in custody, the accused or defendants, and/or victims, with other witnesses, and answer questions put to them.

2. Circumstances presented by witnesses must not be used as evidences if the witnesses cannot say clearly why they have known such circumstances.

Article 68. Statements of victims

1. Victims shall present circumstances of the cases, their relationships with the arrestees, persons in custody, the accused or defendants, and answer questions that are raised.

2. Circumstances presented by victims must not be used as evidences if they cannot say clearly why they have known such circumstances.

Article 69. Statements of civil plaintiffs, civil defendants

1. Civil plaintiffs, civil defendants shall present circumstances related to the compensation of damage caused by criminal acts.

2. Circumstances presented by civil plaintiffs or civil defendants must not be used as evidences if they cannot say clearly why they have known such circumstances.

Article 70. Statements of persons with interests and obligations related to criminal cases

1. Persons with interests and obligations related to criminal cases shall present circumstances directly related to their interests and obligations.

2. Circumstances presented by persons with interests and obligations related to criminal cases must not be used as evidences if they cannot say clearly why they have known such circumstances.

Article 71. Statements of arrestees, persons in custody

Arrestees, persons in custody shall present circumstances related to their being suspected of having committed criminal acts.

Article 72. Statements of the accused or defendants

1. The accused or defendants shall present circumstances of the cases.

2. Confessions of the accused or defendants shall only be regarded as evidences if they are consistent with other evidences of the cases.

Confessions of the accused or defendants must not be used as sole evidences for conviction.

Article 73. Expertise conclusions

1. Experts shall conclude on the matters required to be expertised and bear personal responsibility for their conclusions.

Expertise conclusions must be expressed in writing.

If the expertise has been conducted by a group of experts, all the group members shall sign the written general conclusions. In cases where their opinions are divergent, each person shall write his/her own conclusion therein.

2. In cases where the procedure-conducting bodies disagree with the expertise conclusions, they must clearly state the reasons, if such conclusions are unclear or incomplete, the procedure-conducting bodies shall decide to solicit additional expertise or re-expertise according to general procedures.

Article 74. Exhibits

Exhibits are articles which have been used as tools or means for the commission of crimes; items carrying traces of crimes, things being the targets of crimes, as well as money and other things which can be used to prove the crimes and criminals.

Article 75. Collection and preservation of exhibits

1. Exhibits should be collected in time, fully and described according to their actual conditions in the minutes and inserted in the case files.

Where exhibits cannot be inserted into the case files, they must be photographed and may be video-recorded for insertion in the case files. Exhibits must be sealed up and preserved.

2. Exhibits must be preserved intact, not letting them be lost, confused or damaged. The sealing and preservation of exhibits shall be as follows:

a/ Exhibits required to be sealed up must be sealed up immediately after being collected. The sealing and unsealing must comply with law provisions and recorded in a minutes to be inserted in the case file;

b/ Exhibits being money, gold, silver, precious metals, gems, antiques, explosives, inflammables, toxins or radioactive substances must be expertized immediately after being collected and delivered to banks or other specialized agencies for preservation;

c/ Exhibits which cannot be taken to the offices of the procedure-conducting bodies for preservation shall be handed over by the procedure-conducting bodies to the owners or lawful managers of objects or properties, their relatives or local administrations, agencies or organizations where the exhibits exist for preservation.

d/ For exhibits being easy-to-deteriorate or difficult-to-preserve goods, if they do not fall into the case prescribed in Clause 3, Article 76 of this Code, competent bodies defined in Clause 1, Article 76 of this Code shall, within the scope of their powers, decide to sell them according to law and remit the proceeds therefrom into their custody accounts at State treasuries for management;

e/ For exhibits brought to the offices of the procedure-conducting bodies for preservation, the police agencies shall have to preserve them at the investigating and prosecuting stages; the judgment-executing agencies shall have to preserve them at the adjudicating and judgment-executing stages.

3. If the persons responsible for preserving exhibits of criminal cases let them lost or damaged, break the seals, consume, transfer, fraudulently swap, conceal or destroy them, they shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability according to Article 310 of the Penal Code; if they add, appropriate, modify, fraudulently swap, destroy or damage exhibits of criminal cases in order to distort the case files, they shall bear penal liability according to Article 300 of the Penal Code; if causing damage, they shall have to pay compensation therefor according to law provisions.

Article 76. Handling of exhibits

1. The handling of exhibits shall be decided by investigating bodies if the criminal cases are ceased at the investigating stage; by the procuracies if the cases are ceased at the prosecuting stage; or by courts or trial panels at the adjudicating stage. The execution of decisions on handling exhibits must be recorded in minutes.

2. Exhibits shall be handled as follows:

a/ Exhibits being tools and means used for the commission of crimes, or articles banned from circulation shall be confiscated and forfeited into the State fund or be destroyed.

b/ Exhibits being items, money owned by the State, organizations or individuals but appropriated by offenders or used as tools and means for the commission of crimes shall be returned to their owners or lawful managers; in cases where their owners or lawful managers are unidentifiable, they shall be forfeited into the State fund;

c/ Exhibits being money or property acquired from the commission of crimes shall be confiscated and forfeited into the State fund;

d/ Exhibits being easy-to-deteriorate or difficult-to-preserve goods may be sold according to law;

e/ Exhibits of no value or no use shall be confiscated and destroyed.

3. In the course of investigation, prosecution or adjudication, competent bodies defined in Clause 1 of this Article shall have the right to decide to return the exhibits stated at Point b, Clause 2 of this Article to their owners or lawful managers if they deem that such will not affect the handling of the cases.

4. Disputes over the right to own exhibits shall be settled according to civil procedures.

Article 77. Minutes of investigating and adjudicating activities

The circumstances recorded in the minutes of arrests, searches, scene examinations, autopsies, confrontations, identification and investigation experiments, in the minutes of court sessions and the minutes of other proceedings conducted in accordance with this Code may be regarded as evidences.

Article 78. Other documents and objects in criminal cases

The circumstances related to criminal cases, which are recorded in documents as well as objects supplied by agencies, organizations and individuals may be regarded as evidences.

Where these documents and objects show signs specified in Article 74 of this Code, they shall be regarded as exhibits.

Chapter VI

DETERRENT MEASURES

Article 79. Grounds for application of deterrent measures

In order to stave off crimes in time or when there are grounds proving that the accused or defendants would cause difficulties to the investigation, prosecution or adjudication, or they would continue committing offenses, as well as when it is necessary to secure the judgment execution, the investigating bodies, procuracies or courts, within the scope of their procedural jurisdiction, or competent persons defined by this Code may apply one of the following deterrent measures: arrest, custody, temporary detention, ban from travel outside one's residence, guaranty, deposit of money or valuable property as bail.

Article 80. Arresting the accused or defendants for temporary detention

1. The following persons shall have the right to order the arrest of the accused or defendants for temporary detention:

a/ Chairmen and vice- chairmen of people's procuracies and military procuracies at all levels;

b/ Presidents, vice-presidents of people's courts and military courts at all levels;

c/ Judges holding the post of president or vice-president of the Court of Appeal of the Supreme People's Court; trial panels;

d/ Heads, deputy heads of investigating bodies at all levels. In this case, arrest warrants must be approved by the procuracies of the same level before they are executed.

2. An arrest warrant must be clearly inscribed with the date, full name and post of the warrant issuers, the full name, address of the arrestee and the reason for the arrest. Arrest warrants must be signed by the issuers and stamped.

The executors of arrest warrants must read the warrants, explain the warrants, rights and obligations of the arrestees, and make minutes of the arrests.

When arresting persons at their residences, representatives of the commune, ward or township administrations and the neighbors of the arrestees must be present as witnesses. When arresting persons at their working places, representatives of the agencies or organizations where such persons work must be present as witnesses.

When arresting persons at other places, representatives of the commune, ward or township administrations of the places where the arrests are made must be present as witnesses.

3. It is forbidden to arrest persons at night, except for cases of urgent arrest, arrest of offenders red-handed or arrest of wanted persons as prescribed in Article 81 and Article 82 of this Code.

Article 81. Arresting persons in urgent cases

1. In the following cases, urgent arrests can be made:

a/ When there exist grounds to believe that such persons are preparing to commit very serious or exceptionally serious offenses;

b/ When victims or persons present at the scenes where the offenses occurred saw with their own eyes and confirmed that such persons are the very ones who committed the offenses and it is deemed necessary to immediately prevent such persons from escaping;

c/ When traces of offenses are found on the bodies or at the residences of the persons suspected of having committed the offenses and it is deemed necessary to immediately prevent such persons from escaping or destroying evidences.

2. The following persons shall have the right to order the arrest of persons in urgent cases:

a/ Heads, deputy heads of investigating bodies at all levels;

b/ Commanders of independent military units of the regiment or equivalent level; commanders of border posts in islands or border areas;

c/ Commanders of aircraft, sea-going ships which have left airports or seaports.

3. The contents of arrest warrants in urgent cases and the execution thereof must comply with the provisions of Clause 2, Article 80 of this Code.

4. In all cases, the urgent arrests must be immediately notified in writing to the procuracies of the same level, enclosed with documents related to the urgent arrests, for consideration and approval.

The procuracies must closely supervise the grounds for urgent arrest prescribed in this Article. In case of necessity, the procuracies must meet and question the arrestees in person before considering and deciding to approve or not to approve the arrests.

Within 12 hours after receiving the requests for approval of, and documents related to, the urgent arrests, the procuracies must issue decisions to approve or not to approve such arrests. If the procuracies decide not to approve the arrests, the issuers of arrest warrants must immediately release the arrestees.

Article 82. Arresting offenders red-handed or wanted offenders

1. For persons who are detected or chased while committing offenses or immediately after having committed offenses as well as for wanted persons, any persons shall have the right to arrest and take them to the police agencies, procuracies or People's Committees at the nearest places. These agencies must make minutes thereof and immediately take the arrestees to the competent investigating bodies.

2. When arresting offenders red-handed or wanted persons, any persons shall have the right to deprive the arrestees of their weapons and/or dangerous tools.

Article 83. Actions to be taken promptly after arresting persons or receiving arrestees

1. Immediately after arresting persons in urgent cases or offenders red-handed or receiving such arrestees, the investigating bodies must take their statements and must, within 24 hours, issue decisions to keep the arrestee in custody or release them.

2. For arrestees being wanted persons, after taking their statements, the investigating bodies that have received them must immediately notify such to the bodies which have issued the pursuit decisions for coming to receive the arrestees.

After receiving the arrestees, the bodies which have issued the pursuit decisions must immediately issue decisions to cease the pursuit. In cases where the investigating bodies which have received the arrestees deem that the bodies which have issued the pursuit decisions cannot immediately come to receive the arrestees, they shall, after taking their statements, immediately issue custody decisions and at the same time immediately notify such to the agencies which have issued the pursuit decisions.

After receiving the notices, the agencies which have issued the pursuit decisions and have jurisdiction to arrest persons for temporary detention must immediately issue temporary detention warrants and send them, after being approved by the procuracies of the same level, to the investigating bodies which have received the arrestees. After receiving the temporary detention warrants, the investigating bodies which have

received the arrestees shall have to escort such persons to the nearest temporary detention centers.

Article 84. Arrest minutes

1. The persons executing arrest warrants must make minutes in all cases.

A minutes must clearly state the date, hour and place of arrest, minute-making place; actions already taken, the developments when the arrest warrant is being executed, objects and documents seized and complaints of the arrestee.

The minutes must be read to the arrestee and witnesses. The arrestee, the executor of the arrest warrant and witnesses must all sign the minutes, if any of them holds opinions different from or disagrees with the minutes' contents, he/she shall have the right to write such in the minutes and sign.

The seizure of articles and documents of the arrestees must comply with the provisions of this Code.

2. When delivering and receiving the arrestees, the delivering and receiving parties must make the minutes thereof.

Apart from the points stated in Clause 1 of this Article, the delivery and receipt minutes must clearly state the handing of the minutes of the statements, objects and documents already collected, the health conditions of the arrestees and all happenings at the time of the delivery and receipt.

Article 85. Notices on arrests

The arrest warrant issuers and the arrestee-receiving investigating bodies must immediately notify the arrests to the arrestees' families, the administrations of the communes, wards or townships where the arrestees reside or the agencies or organizations where they work. If such notification can impede the investigation, after the impediment no longer exists, the arrest warrant issuers or the arrestee-receiving investigating bodies must immediately effect such notification.

Article 86. Custody

1. Custody may apply to persons arrested in urgent cases, offenders caught red-handed, offenders who confessed or surrendered themselves or persons arrested under pursuit warrants.

2. The persons with the right to issue urgent arrest warrants, who are defined in Clause 2, Article 81 of this Code, and regional coast guard commanders shall have the right to issue custody decisions.

The executors of custody decisions must explain to the persons kept in custody their rights and obligations defined in Article 48 of this Code.

3. Within 12 hours after their issuance, the custody decisions must be sent to the procuracies of the same level. If deeming that the custody is ungrounded or unnecessary, the procuracies shall issue decisions to cancel the custody decisions and the custody decision issuers must immediately release the persons kept in custody.

Custody decisions must clearly state the custody reasons and the custody expiry dates, and one copy must be handed to the persons kept in custody.

Article 87. Custody time limits

1. The custody time limit must not exceed three days, counting from the time the investigating bodies receive the arrestees.

2. In case of necessity, the custody decision issuers may extend the custody time limit but for no more than three days. In special cases, the custody decision issuers may extend the custody time limit for the second time but for no more than three days. All cases of extension of the custody time limit must be approved by the procuracies of the same level; within 12 hours after receiving the extension requests and documents related to the custody time limit extension, the procuracies must issue decisions to approve or disapprove such requests.

3. In the custody period, if there are insufficient grounds to initiate criminal proceedings against the accused, the persons kept in custody must be released immediately.

4. The custody duration shall be subtracted from the temporary detention duration. A custody day shall be counted as one temporary detention day.

Article 88. Temporary detention

1. Temporary detention may apply to the accused or defendants in the following cases:

a/ The accused or defendants have committed especially serious offenses or very serious offenses.

b/ The accused or defendants have committed serious or less serious offenses punishable under the Penal Code by imprisonment for over two years and there are grounds to believe that they may escape or obstruct the investigation, prosecution or trial or may continue committing offenses.

2. The accused or defendants being women who are pregnant or nursing children aged under thirty six months, being old and feeble people, or suffering from serious diseases and having clear residences shall not be detained but be applied other deterrent measures, except for the following cases:

a/ The accused or defendants who escaped but then were arrested under pursuit warrants;

b/ The accused or defendants who were subject to other deterrent measures but then continue committing offenses or intentionally seriously obstruct the investigation, prosecution or adjudication;

c/ The accused or defendants who committed offenses of infringing upon national security and there are sufficient grounds to believe that if they are not detained, they shall be detrimental to national security.

3. The persons with competence to issue arrest warrants, who are defined in Article 80 of this Code, shall have the right to issue temporary detention warrants. Temporary detention warrants issued by the persons defined at Point d, Clause 1, Article 80 of this Code must be approved by the procuracies of the same level before being executed. Within three days after receiving the temporary detention warrants, requests for consideration and approval, files and documents related to the temporary detention, the procuracies must issue decisions to approve or disapprove the temporary detention. The procuracies must return the files to the investigating bodies immediately after finishing the consideration and approval.

4. The bodies which have issued the temporary detention warrants must examine the detainees' identity cards and immediately notify such to their families and the administrations of the communes, wards or townships where such persons reside or agencies or organizations where they work.

Article 89. Regime of custody and temporary detention

The regime of custody and temporary detention is different from the regime applicable to persons serving imprisonment penalties.

The temporary detention and custody places, the regimes of daily life, receipt of gifts, contact with families and other regimes shall comply with the regulations of the Government.

Article 90. Care of relatives and preservation of properties of persons in custody or temporary detention

1. When the persons in custody or temporary detention have children aged under 14 years or relatives being disabled, old and feeble without anyone to look after, the bodies which have issued the custody decisions or temporary detention warrants shall assign such persons to their relatives for care. Where the persons in custody or temporary detention have no relatives, the bodies which have issued the custody decisions or temporary detention warrants shall assign such persons to the administrations of the places where they live for care.

2. In cases where the persons in custody or temporary detention have houses or other properties guarded or preserved by nobody, the bodies which have issued the custody decisions or temporary detention warrants shall apply appropriate guard or preservation measures.

3. The bodies which have issued the custody decisions or temporary detention warrants shall notify the persons in custody or temporary detention of the applied measures.

Article 91. Ban from travel outside one's residence place

1. Ban from travel outside one's residence place is a measure applicable to the accused or defendants with clear residence places in order to ensure their appearance in response to the summonses of investigating bodies, procuracies or subpoenas of courts.

2. The persons defined in Clause 1, Article 80 of this Code, judges assigned to preside over court sessions shall have the right to order the ban from travel outside one's residence place.

The accused or defendants must make written pledges not to travel outside their residence places, to appear on time and at the place stated in the summonses.

The persons who have ordered the ban from travel outside one's residence place must notify the application of this measure to the administrations of the communes, wards or townships where the accused or defendants reside and assign the accused or defendants to the commune, ward or township administrations for management and supervision. Where the accused or defendants have plausible reasons to temporarily

travel outside their residence places, they must obtain the consent of the administrations of the communes, wards or townships where they reside as well as permits of the bodies which have applied such deterrent measure.

3. The accused or defendants who violate the orders on ban from travel outside their residence places shall be subject to the application of other deterrent measures .

Article 92. Guarantee

1. Guarantee is a deterrent measure to replace the temporary detention measure. Depending on the criminal acts' nature and extent of danger to the society and the personal details of the accused or defendants, the investigating bodies, procuracies or courts may decide to let them be guaranteed.

2. Individuals who may stand guarantee for the accused or defendants are their relatives. For this case at least two persons are required. Organizations may stand guarantee for the accused or defendants being their members. When standing guarantee, individuals or organizations must make written pledges not to let the accused or defendants continue committing offenses and ensure their appearance in response to the summonses of the investigating bodies, procuracies or subpoenas of courts. When making such written pledges, the guaranteeing individuals or organizations shall be informed of the circumstances of the cases related to their guarantee.

3. The persons defined in Clause 1, Article 80 of this Code, judges assigned to preside over court sessions shall have the right to issue decisions on the guarantee.

4. Individuals standing guarantee for the accused or defendants must have good conduct and qualities, and have strictly observed law. The guarantee must be certified by the local administrations of the places where the guaranteeing persons reside or the agencies or organizations where they work. For organizations standing guarantee, the certification of their heads shall be required.

5. If guaranteeing individuals or organizations violate the pledged obligations, they must bear responsibility for such pledged obligations and in this case the guaranteed accused or defendants shall be subject to the application of other deterrent measures.

Article 93. Depositing money or valuable property as bail

1. Depositing money or valuable property as bail is a deterrent measure to replace the temporary detention measure. Depending on the criminal acts' nature and extent of danger to the society, personal details and property status of the accused or defendants, the investigating bodies, procuracies or courts may decide to allow them

to deposit money or valuable property as security for their appearance in response to summonses.

2. The persons defined in Clause 1, Article 80 of this Code, judges assigned to preside over court sessions shall have the right to issue decisions on the deposit of money or property as bail. Decisions of the persons defined at Point d, Clause 1, Article 80 of this Code must be approved by the procuracies of the same level before being executed.

3. The bodies which have issued decisions on depositing money or valuable property as bail must make the minutes clearly stating the sum of money, names and conditions of property deposited, and hand one copy of the minutes to the accused or defendants.

4. Where the accused or defendants have been summoned by the investigating bodies, procuracies or courts but they do not appear without plausible reasons, the deposited money sum or property shall be forfeited into the State fund, and in this case other deterrent measures shall be applied to the accused or defendants.

Where the accused or defendants have fulfilled all pledged obligations, the procedure-conducting bodies shall have to return to them the deposited money sum or property.

5. The order, procedures, the money amounts or value of property required to be deposited as bail, the custody, return or non-return of the deposited money sums or property put as bail shall comply with law provisions.

Article 94. Cancellation or replacement of deterrent measures

1. When the cases are ceased, all applied deterrent measures shall be canceled.

2. Investigating bodies, procuracies and courts shall cancel deterrent measures when they are deemed no longer needed or may be replaced by another one.

For deterrent measures which have been approved by the procuracies, the cancellation or replacement thereof must be decided by the procuracies.

Chapter VII

MINUTES, TIME LIMITS, LEGAL COSTS

Article 95. Minutes

1. When carrying out proceedings, it is compulsory to make minutes thereon according to set forms.

A minutes must clearly indicate the place, date and hour when the proceeding is conducted, the starting and ending time, contents of the proceeding, the persons conducting, participating in, or related to, the proceeding, their complaints, requests or proposals.

2. Minutes of court sessions must be signed by the presiding judges and court clerks. Minutes of other proceedings must be signed by the persons prescribed by this Code for each specific case. Any corrections made in minutes must be also confirmed by the signatures of such persons.

Article 96. Calculation of time limits

1. Time limits prescribed by this Code shall be counted in hours, days and months. Night time shall be counted from 22:00 hrs to 6:00 hrs of the following day.

When a time limit is counted in days, it shall expire at 24:00 hrs of its last day. When a time limit is counted in months, it shall expire on the same date of the subsequent month; if that month has no same date, the time limit shall expire on the last day of that month; if a time limit expires on a holiday, the first following working day shall be counted as the last day of that time limit.

When calculating a custody or temporary detention time limit, the expiry date of that time limit shall be inscribed in the order. If a time limit is counted in months, a month shall consist of thirty days.

2. Where applications or papers are sent by post, the time limit shall be counted according to the postmarks of the sending places. If applications or papers are sent through the superintendence boards of the temporary detention centers or prisons, the time limit shall be counted from the date the superintendence boards of the temporary detention centers or prisons receive such applications or papers.

Article 97. Restoration of time limits

For expired time limits, if plausible reasons do exist, the procedure-conducting bodies must restore such time limits.

Article 98. Legal costs

Legal costs are all expenses for conducting criminal proceedings, including remuneration for witnesses, victims, experts, interpreters or defense counsels in cases

where they are appointed by the procedure-conducting bodies, and other expenses prescribed by law; civil legal costs in criminal cases.

Article 99. Responsibility to incur legal costs

1. Legal costs shall be incurred by the convicts or by the State according to law provisions.

2. The convicts must pay legal costs under court decisions.

3. Where a case is instituted at the request of the victim, if the defendant is pronounced not guilty by the court or the case is ceased under the provisions of Clause 2, Article 105 of this Code, the victim shall have to pay legal costs.

Part Two

INSTITUTION, INVESTIGATION OF CRIMINAL CASES AND DECISION ON PROSECUTION

Chapter VIII

INSTITUTION OF CRIMINAL CASES

Article 100. Grounds for instituting criminal cases

Criminal cases shall be instituted only when criminal signs have been identified. The identification of criminal signs shall be based on the following grounds:

1. Denunciations of citizens;

2. Information reported by agencies or organizations;

3. Information reported on the mass media;

4. Criminal signs directly detected by investigating bodies, procuracies, courts, border guard, customs, ranger, coast guard forces and other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities;

5. Confession by offenders.

Article 101. Denunciations and information on offenses

Citizens may denounce offenses to investigating bodies, procuracies, courts or other bodies, organizations. If a denunciation is made orally, the receiving agency or organization must make a minutes thereof with the signature of the denouncer.

Agencies, organizations, when detecting or receiving denunciations of citizens, must promptly report such information in writing to the investigating bodies.

Article 102. Confession by offenders

When offenders come to give confessions, the receiving agencies or organizations must make minutes thereof, clearly inscribing the full names, ages, occupations, residences and statements of the confessors. They shall have to immediately inform the investigating bodies or procuracies thereof.

Article 103. Tasks of settling offence denunciations and information and proposals for institution of criminal cases

1. Investigating bodies and procuracies shall have the responsibility to receive all offense denunciations and information from individuals, agencies and organizations as well as criminal case institution proposals transferred by State agencies. Procuracies shall have the responsibility to immediately transfer offense denunciations and information and criminal case institution proposals enclosed with relevant documents they have received to competent investigating bodies.

2. Within twenty days after receiving offense denunciations, information, and/or criminal case institution proposals, the investigating bodies must, within the scope of their responsibilities, examine and verify the information sources and decide to institute or not to institute criminal cases.

In cases where the denounced events, offense information or criminal case institution proposals involve many complicated circumstances or where the examination and verification thereof must be conducted at many different places, the time limit for settling denunciations and information may be longer, but must not exceed two months.

3. The results of settlement of offense denunciations or information or criminal case institution proposals of State bodies must be sent to the procuracies of the same level and be notified to the reporting agencies, organizations or the offense denouncers.

The investigating bodies must apply necessary measures to protect the offense denouncers.

4. The procuracies shall have to supervise the settlement by the investigating bodies of offence denunciations and information or criminal case institution proposals.

Article 104. Decisions to institute criminal cases

1. When determining that criminal signs have existed, the investigating bodies must issue decisions to institute criminal cases. The heads of border guard units, customs or ranger offices, the coast guard force and the heads of other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities, shall issue decisions to institute criminal cases in the cases specified in Article 111 of this Code.

The procuracies shall issue decisions to institute criminal cases in cases where they cancel decisions not to institute criminal cases, which have been issued by the bodies stated in this Clause, and in cases where the trial panels request to institute the criminal cases.

The trial panels shall issue decisions to institute criminal cases or request the procuracies to institute criminal cases if they, in the course of trial at court sessions, detect new offenses or offenders required to be investigated.

2. Decisions to institute criminal cases must clearly state the time and grounds for institution, the applicable articles of the Penal Code, and the full names and positions of the decision issuers.

3. Within 24 hours after issuing decisions to institute criminal cases, the procuracies must send such decisions to the investigating bodies for investigation; institution decisions enclosed with documents related to the institution of criminal cases, which have been issued by the investigating bodies, border guard, customs and ranger, coast guard force, or other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities, must be sent to the procuracies for procuration of the institution; institution decisions of the trial panels must be sent to the procuracies for consideration and decision on the investigation; institution requests of the trial panels shall be sent to the procuracies for consideration and decision on the institution.

Article 105. Institution of criminal cases at victims' requests

1. The cases involving the offenses prescribed in Clauses 1 of Articles 104, 105, 106, 108, 109, 111, 113, 121, 122, 131 and 171 of the Penal Code shall only be instituted at the requests of victims or lawful representatives of victims who are minors or persons with physical or mental defects.

2. In cases where the criminal case institution requesters withdraws their requests before the opening of court sessions of first-instance trial, the cases must be ceased.

Where exist grounds to determine that the institution requesters have withdrawn their requests against their own will due to force or coercion, the investigating bodies, procuracies or courts may, though such institution requesters have withdrawn their requests, still continue conducting the procedure for the cases.

Victims who have withdrawn their criminal case institution requests shall have no right to file their requests again, except for cases where their withdrawal is due to force or coercion.

Article 106. Change or supplementation of decisions to institute criminal cases

1. When they have grounds to determine that the instituted criminal cases are not true to the committed criminal acts or there remain other offences, the investigating bodies or procuracies shall issue decisions to change or supplement the decisions to institute the criminal cases.

2. In cases where the investigating bodies decide to change or supplement the decisions to institute criminal cases, within 24 hours after issuing such decisions, the investigating bodies must send them to the procuracies for supervision of such institution.

Where the procuracies decide to change or supplement the decisions to institute criminal cases, within 24 hours after issuing such decisions, the procuracies must send them to the investigating bodies for investigation.

Article 107. Grounds for not instituting criminal cases

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

1. There is no offence;

2. The committed acts do not constitute an offence;

3. The persons committing acts dangerous to the society have not yet reached the age to bear penal liability;

4. The persons committing criminal acts have got the legally valid judgments or decisions to cease their cases.

5. The statute of limitations for penal liability examination has expired;

6. The offenses have been granted general amnesty;

7. The persons committing acts dangerous to the society are deceased, except for cases where the reopening review of the cases is required for other persons.

Article 108. Decisions not to institute criminal cases

1. When there exists one of the grounds prescribed in Article 107 of this Code, the persons with competence to institute criminal cases shall issue decisions not to institute criminal cases; if they have instituted criminal cases, they must issue decisions to cancel such institution decisions and notify the offense-denouncing or reporting agencies, organizations or individuals of the reasons therefor; if deeming it necessary to handle the cases by other measures, they shall send the files thereof to the concerned agencies or organizations for settlement.

Within 24 hours after their issuance, decisions not to institute criminal cases, decisions to cancel decisions to institute criminal cases and related documents must be sent to the procuracies of the same level.

2. The agencies, organizations or individuals that have denounced or reported on the offenses shall have the right to complain about the decisions not to institute criminal cases. The competence and procedures for settling such complaints shall comply with the provisions of Chapter XXXV of this Code.

Article 109. Powers and responsibilities of procuracies in instituting criminal cases

1. The procuracies shall exercise the right to prosecute and supervise the law observance in the institution of criminal cases, ensuring that criminal cases be instituted for all detected offenses and the institution of criminal cases be grounded and lawful.

2. In cases where the decisions to institute criminal cases, which are issued by investigating bodies, border guard, customs, ranger, the coast guard force, or other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities, are ungrounded, the procuracies shall issue decisions to cancel such decisions; if the decisions not to institute criminal cases, which are issued by such agencies, are ungrounded, the procuracies shall cancel them and issue decisions to institute criminal cases.

3. Where the decisions to institute criminal cases, which are issued by the trial panels, are ungrounded, the procuracies shall file protests against them with the superior courts.

Chapter IX

GENERAL PROVISIONS ON INVESTIGATION

Article 110. Investigating competence

1. Investigating bodies of the People's Police shall investigate all kinds of offenses, excluding ones falling under the investigating competence of the investigating bodies in the People's Army or the investigating body of the Supreme People's Procuracy.

2. Investigating bodies of the People's Army shall investigate offenses falling under the adjudicating competence of military courts.

3. The investigating body of the Supreme People's Procuracy shall investigate some kinds of offenses of infringing upon judicial activities, which are committed by officials of judicial bodies.

4. Investigating bodies shall have competence to investigate criminal cases of offenses occurring in their respective geographical areas. Where the places where the offenses were committed are unknown, the investigation thereof shall fall under the competence of the investigating bodies of the places where the offenses were detected or where the accused reside or are arrested.

The district-level investigating bodies, regional military investigating bodies shall investigate criminal cases of offenses falling under the adjudicating competence of the district-level people's courts or regional military courts; the provincial-level and military zone-level military investigating bodies shall investigate criminal cases of offenses falling under the adjudicating competence of the provincial-level people's courts or military zone-level military courts or cases falling under the investigating competence of the subordinate investigating bodies, which they deem it necessary to directly investigate. The central investigating body shall investigate criminal cases of especially serious and complicated offenses falling under the investigating competence of the provincial-level investigating bodies or military zone-level military investigating bodies, which they deem it necessary to directly investigate such cases.

5. The apparatus organization and specific competence of investigating bodies shall be provided for by the National Assembly Standing Committee.

Article 111. Investigating powers of the border guard, customs, ranger, the coast guard forces and other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities

1. When detecting criminal acts for which penal liability must be examined in their respective management domains, the border guard, customs, ranger and the coast guard forces shall have the competence:

a/ For less serious offenses committed by offenders who are caught red-handed , evidences and the offenders' personal details are clear, to issue decisions to institute criminal cases and initiate criminal proceedings against the accused, conduct investigation and transfer the case files to the competent procuracies within twenty days after the date of issuing the decisions to institute criminal cases;

b/ For serious offenses, very serious offenses or especially serious offenses or less serious but complicated offenses, to issue decisions to institute criminal cases, conduct initial investigating activities and transfer the case files to competent investigating bodies within seven days after issuing the decisions to institute criminal cases.

2. In the People's Police and the People's Army, apart from the investigating bodies prescribed in Article 110 of this Code, if other agencies assigned to conduct a number of investigating activities detect cases showing criminal signs while performing their tasks, they shall have the right to institute criminal cases, conduct initial investigating activities and transfer the case files to competent investigating bodies within seven days after issuing the decisions to institute criminal cases.

3. When conducting investigating activities, the border guard, customs, ranger, the coast guard force, and other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities, must, within the scope of their respective procedural competence, comply with the procedural principles, order and proceedings for investigating activities as prescribed by this Code. The procuracies shall have to supervise the law observance by these agencies in their investigating activities.

4. The specific tasks and powers of the border guard, customs, ranger, the coast guard force, and other agencies of the People's Police or the People's Army, which are assigned to conduct a number of investigating activities, in investigating activities shall be prescribed by the National Assembly Standing Committee.

Article 112. Tasks and powers of procuracies in exercising the right to prosecute at the investigating stage

When exercising the right to prosecute at the investigating stage, the procuracies shall have the following tasks and powers:

1. To institute criminal cases, to initiate criminal proceedings against the accused; to request the investigating bodies to institute criminal cases or change the decisions to institute criminal cases or initiate criminal proceedings against the accused in accordance with this Code;

2. To set investigation requirements and request the investigating bodies to conduct investigation; when deeming it necessary, to directly conduct a number of investigating activities under the provisions of this Code;

3. To request the heads of investigating bodies to change investigators under the provisions of this Code; if the investigators' acts show criminal signs, to institute criminal cases against such investigators;

4. To decide to apply, change or cancel arrest, custody, temporary detention and other deterrent measures; to decide to approve or disapprove the decisions of investigating bodies under the provisions of this Code. In case of disapproval, the disapproval decision must clearly state the reasons therefor;

5. To cancel ungrounded and illegal decisions of investigating bodies; to request the investigating bodies to pursue the accused;

6. To decide to prosecute the accused; to decide to cease or suspend criminal cases.

Article 113. Tasks and powers of procuracies in supervising investigation

In performing the work of supervising the investigation, the procuracies shall have the following tasks and powers:

1. To supervise the institution of criminal cases, supervise investigating activities and the compilation of case files by investigating bodies;

2. To supervise the law observance by participants in the proceeding;

3. To settle disputes over the investigating competence;

4. To request the investigating bodies to remedy law violations in their investigating activities; to request investigating bodies to supply necessary documents on the law violations committed by investigators; to request the heads of investigating bodies to strictly handle the investigators who have committed law violations while conducting investigation;

5. To propose concerned agencies and organizations to apply measures to preclude offenses and law violations.

Article 114. Responsibilities of investigating bodies in complying with requests and decisions of procuracies

Investigating bodies shall have to comply with the requests and decisions of procuracies. For requests and decisions prescribed at Points 4, 5 and 6, Article 112 of this Code, if disagreeing with them, the investigating bodies shall still have to execute them but have the right to make proposals to the immediate superior procuracies. Within twenty days after receiving the proposals of the investigating bodies, the immediate superior procuracies must consider and settle them and notify the settlement results to the proposing bodies.

Article 115. Responsibilities to comply with decisions and requests of investigating bodies and procuracies

Decisions and requests of investigating bodies and procuracies at the stage of investigating criminal cases must be strictly complied with by agencies, organizations and citizens.

Article 116. Transfer of cases for investigation according to competence

Where cases do not fall under their investigating competence, the investigating bodies shall propose the procuracies of the same level to issue decisions to transfer the cases to the competent investigating bodies for further investigation; within three days after receiving such proposals of the investigating bodies, the procuracies of the same level shall have to issue decisions to transfer the cases.

The transfer of cases outside the territories of provinces or centrally run cities or military zones shall be decided by the provincial-level procuracies or military zone-level military procuracies.

Article 117. Joinder or separation of criminal cases for investigation

1. Investigating bodies may join in the same case for investigation several offenses committed by a person, several persons together committing an offense or offenders and other persons harboring or not denouncing the offenses as prescribed in Article 313 and Article 314 of the Penal Code.

2. Investigating bodies may only separate cases in case of extreme necessity when the investigation of all offenses cannot be completed early, provided that such separation would not affect the determination of the objective and comprehensive truths of the cases.

3. Decisions to join or separate criminal cases must be sent to the procuracies of the same level within 24 hours after their issuance.

Article 118. Entrustment of investigation

In case of necessity, investigating bodies may entrust other investigating bodies to conduct a number of investigating activities. Investigation entrustment decisions must clearly state the specific requirements. The entrusted investigating bodies shall have to perform fully the entrusted work within the time limits set by the entrusting investigating bodies.

Article 119. Investigation time limits

1. The time limits for investigating criminal cases shall not exceed two months for less serious offenses, not exceed three months for serious offenses, not exceed four months for very serious offenses and especially serious offenses, counting from the time of institution of criminal cases to the time of termination of investigation.

2. In case of necessity to prolong investigation due to the complexity of the cases, at least ten days before the expiry of the investigation time limit, the investigating bodies must request in writing the procuracies to extend the investigation time limit.

The extension of investigation time limits is prescribed as follows:

a/ For less serious offenses, the investigation time limit may be extended once for no more than two months;

b/ For serious offenses, the investigation time limit may be extended twice, for no more than three months for the first time and no more than two months for the second time;

c/ For very serious offenses, the investigation time limit may be extended twice, for no more than four months each;

d/ For especially serious offenses, the investigation time limit may be extended three times, for no more than four months each.

3. The competence of procuracies to extend investigation time limits is prescribed as follows:

a/ For less serious offenses, the district-level people’s procuracies or regional Military Procuracies shall extend investigation time limits. Where the cases are received for investigation at the provincial or military-zone level, the provincial-level people’s

procuracies or military zone-level military procuracies shall extend investigation time limits;

b/ For serious offenses, the district-level people's procuracies or regional military procuracies shall extend investigation time limits for the first time and the second time. Where the cases are received for investigation at the provincial or military-zone level, the provincial-level people's procuracies or military zone level military procuracies shall extend investigation time limits for the first time and the second time;

c/ For very serious offenses, the district-level people's procuracies or regional military procuracies shall extend investigation time limits for the first time; the provincial-level people's procuracies or the military zone-level military procuracies shall extend investigation time limits for the second time. Where the cases are received for investigation at the provincial or military-zone level, the provincial-level people's procuracies or military zone-level military procuracies shall extend investigation time limits for the first time and the second time.

d/ For especially serious offenses, the provincial-level people's procuracies or military zone level military procuracies shall extend investigation time limits for the first time and the second time; the Supreme People's Procuracy or the central Military Procuracy shall extend investigation time limits for the third time

4. Where the cases are received for investigation at the central level, the extension of investigation time limits shall fall under the competence of the Supreme People's Procuracy or the central Military Procuracy.

5. For especially serious offenses for which the extended investigation time limit has expired but, due to the very complicated nature of the cases, the investigation cannot be completed, the Chairman of the Supreme People's Procuracy may extend the investigation time limit once for no more than four months.

For the offenses of infringing upon national security, the Chairman of the Supreme People's Procuracy shall have the right to extend the investigation time limit once more for no more than four months.

6. Upon the expiry of the extended investigation time limit but it is impossible to prove the accused to have committed the offenses, the investigating bodies must issue decisions to cease the investigation.

Article 120. Time limits of temporary detention for investigation

1. The time limit of temporary detention of the accused for investigation shall not exceed two months for less serious offenses, not exceed three months for serious offenses, not exceed four months for very serious offenses and especially serious offenses.

2. Where the cases involving many complicated circumstances and it is deemed that the investigation should take a longer time and there exists no ground to change or cancel the temporary detention measure, at least ten days before the temporary detention time limit expires, the investigating bodies must send written requests to the procuracies to extend the such temporary detention time limit.

The extension of temporary detention time limits is prescribed as follows:

a/ For less serious offenses, the temporary detention time limit may be extended once for no more than one month;

b/ For serious offenses, the temporary detention time limit may be extended twice, for no more than two months for the first time and no more than one month for the second time;

c/ For very serious offenses, the temporary detention time limit may be extended twice, for no more than three months for the first time and no more than two months for the second time;

d/ For especially serious offenses, the temporary detention time limit may be extended three times, for no more than four months each.

3. The competence of procuracies to extend temporary detention time limits is prescribed as follows:

a/ The district-level people's procuracies or regional military procuracies shall have the right to extend temporary detention time limits for less serious offenses, extend temporary detention time limits for the first time for serious offenses and very serious offenses. Where the cases are received for investigation at the provincial or military-zone level, the provincial-level people's procuracies or military zone-level military procuracies shall have the right to extend temporary detention time limits for less serious offenses, extend temporary detention time limits for the first time for serious offenses, very serious offenses and especially serious offenses.

b/ In cases where the first-time extended temporary detention time limits prescribed at Point a of this Clause have expired but the investigation cannot be completed and there emerges no ground to change or cancel the temporary detention measure, the district-level people's procuracies or the regional military procuracies may extend the

temporary detention time limits for the second time for serious offenses. The provincial-level people's procuracies or military zone-level military procuracies may extend temporary detention time limits for the second time for serious offenses, very serious offenses or especially serious offenses.

4. Where the cases are received for investigation at the central level, the extension of temporary detention time limits shall fall under the competence of the Supreme People's Procuracy or the Central Military Procuracy.

5. For especially serious offenses, in cases where the second-time extended temporary detention time limits prescribed at Point b, Clause 3 of this Article have expired and the cases involve many very complicated circumstances while there emerges no ground to change or cancel the temporary detention measure, the Chairman of the Supreme People's Procuracy may extend the temporary detention time limits for the third time.

In case of necessity for offenses of infringing upon national security, the Chairman of the Supreme People's Procuracy may extend the temporary detention time limits once more for no more than four months.

6. When keeping persons in temporary detention, if deeming it unnecessary to continue the temporary detention, the investigating bodies must propose in time the procuracies to cancel the temporary detention in order to release the detainees or shall, if deeming it necessary, apply other deterrent measures.

Upon the expiry of the temporary detention time limits, the temporary detention order issuers must release the detainees or shall, if deeming it necessary, apply other deterrent measures.

Article 121. Time limits for investigation resumption, additional investigation and re-investigation

1. In case of investigation resumption prescribed in Article 165 of this Code, the time limit for further investigation shall not exceed two months for less serious offenses, serious offenses or very serious offenses, not exceed three months for especially serious offenses, counting from the time of issuance of the investigation resumption decisions to the time of termination of investigation.

Where it is necessary to extend investigation time limits due to the complicated nature of the cases, at least ten days before the investigation time limits expire, the investigating bodies must send written requests to the procuracies to extend the investigation time limits. The extension of investigation time limits is prescribed as follows:

a/ For serious offenses and very serious offenses, the investigation time limit may be extended once for no more than two months.

b/ For especially serious offenses, the investigation time limit may be extended once for no more than three months.

The competence to extend investigation time limits for each kind of offense shall comply with the provisions of Clause 3, Article 119 of this Code.

2. Where the cases are returned by the procuracies for additional investigation, the time limit for additional investigation shall not exceed two months; if the cases are returned by courts for additional investigation, the time limit for additional investigation shall not exceed one month. The procuracies or courts may only return the case files for additional investigation for no more than twice. The time limit for additional investigation shall be counted from the date the investigating bodies receive back the case files and investigation requests.

3. Where the cases are returned for re-investigation, the investigation time limit and the extension thereof shall comply with the general procedures prescribed in Article 119 of this Code.

The investigation time limit shall be counted from the time when the investigating bodies receive the files and re-investigation requests.

4. When resuming investigation, conducting additional investigation or re-investigation, the investigating bodies shall have the right to apply, change or cancel the deterrent measures under the provisions of this Code.

In cases where there exist grounds prescribed by this Code for temporary detention, the temporary detention time limit for investigation resumption or additional investigation must not exceed the time limit for investigation resumption or additional investigation prescribed in Clause 1 and Clause 2 of this Article.

The temporary detention time limit and the extension thereof in the cases of re-investigation shall comply with general procedures prescribed in Article 120 of this Code.

Article 122. Settlement of requests of participants in the procedure

When participants in the procedure make requests on matters related to the cases, the investigating bodies or procuracies shall, within the scope of their respective responsibilities, settle their requests and inform them of the settlement results. If

rejecting such requests, the investigating bodies or procuracies must reply, clearly stating the reasons therefor.

If disagreeing with the settlement results of the investigating bodies or procuracies, participants in the procedure shall have the right to complain. Complaints and the settlement thereof shall comply with the provisions of Chapter XXXV of this Code.

Article 123. Participation by witnesses

Witnesses shall be invited to participate in investigating activities in the cases prescribed by this Code.

Witnesses shall have the duty to confirm the contents and results of the work performed by investigators in their presence and may present their personal opinions. These opinions shall be recorded in the minutes.

Article 124. Non-disclosure of investigation secrets

In case of necessity to keep investigation secrets, investigators and procurators must notify in advance the participants in the procedure and witnesses not disclose investigation secrets. Such notification must be recorded in the minutes.

Investigators, procurators, participants in the procedure or witnesses who disclose investigation secrets shall, on a case-by-case basis, bear penal liability under Articles 263, 264, 286, 287, 327 and 328 of the Penal Code.

Article 125. Investigation minutes

1. In conducting investigation, the minutes thereof must be made according to Article 95 of this Code.

Investigators who have made the minutes must read them to the participants in the procedure, explain to them the right to supplement and give comments on the minutes. Such comments shall be recorded in the minutes. Participants in the procedure and investigators shall all sign the minutes.

2. Where the participants in the procedure refuse to sign the minutes, such refusal must be written in the minutes with reasons therefor clearly stated.

3. If the participants in the procedure, for their physical or mental defects or other reasons, cannot sign the minutes, such reasons must be clearly recorded in the minutes and confirmed jointly by investigators and witnesses.

Illiterate persons may put their fingerprints on the minutes.

Chapter X

INITIATION OF CRIMINAL PROCEEDINGS AGAINST THE ACCUSED AND INTERROGATION OF THE ACCUSED

Article 126. Initiation of criminal proceedings against the accused

1. When having sufficient grounds to determine that persons have committed criminal acts, the investigating body shall issue decisions to initiate criminal proceedings against the accused.

2. A decision to initiate criminal proceedings against the accused shall contain the time and place of its issuance; full name and position of its issuer; full name, birth date, occupation and family conditions of the accused; which offense the accused is charged with, under which articles of the Penal Code; time and place of commission of the offense, and other circumstances of the offense.

If the accused is charged with many different offenses, the decision to initiate criminal proceedings against him/her must contain the title of each offense and the applicable articles of the Penal Code.

3. After initiating proceedings against the accused, investigating bodies must take photographs and compile personal records of the accused and put them in the case files.

4. Within 24 hours after issuing the decisions to initiate criminal proceedings against the accused, the investigating bodies must send them to the procuracies of the same level for consideration and approval. Within three days after receiving such decisions, the procuracies must issue decisions to approve or cancel them and immediately send their decisions to the investigating bodies.

5. Where they detect that there are offenders against whom criminal proceedings have not yet been initiated, the procuracies shall request the investigating bodies to issue the decisions to initiate criminal proceedings against such offenders.

After receiving the files and investigation conclusions, if the procuracies detect other offenders in the cases against whom criminal proceedings have not yet been initiated, the procuracies shall issue decisions to initiate criminal proceedings against the accused. Within 24 hours after issuing such decisions, the procuracies must send them to the investigating bodies for investigation.

6. The investigating bodies must immediately hand their decisions or the procuracies' decisions to initiate criminal proceedings against the accused or such to the accused and explain on their rights and obligations prescribed in Article 49 of this Code. After receiving the procuracies' decisions to approve or cancel the decisions to initiate criminal proceedings against the accused, the investigating bodies must immediately hand them to the persons against whom criminal proceedings are initiated. The handing and receipt of these decisions must be recorded in the minutes prescribed in Article 95 of this Code.

Article 127. Change or supplementation of decisions to initiate criminal proceedings against the accused

1. While conducting investigation, if having grounds to determine that the criminal acts committed by the accused do not constitute the offenses for which criminal cases have been instituted against them or there remain other criminal acts, the investigating bodies or procuracies shall issue decisions to change or supplement the decisions to initiate criminal proceedings against the accused.

2. Within 24 hours after issuing the decisions to change or supplement the decisions to initiate criminal proceedings against the accused, the investigating bodies must send their decisions together with documents related to such change or supplementation to the procuracies of the same level for consideration and approval. Within three days after receiving the decisions to change or supplement the decisions to initiate criminal proceedings against the accused, the procuracies must decide to approve or cancel such decisions.

Within 24 hours after issuing the decisions to change or supplement the decisions to initiate criminal proceedings against the accused, the procuracies must send them to the investigating bodies for investigation.

3. The investigating bodies must immediately hand to the accused the decisions to change or supplement their decisions to initiate criminal proceedings against the accused or the procuracies' decisions to change or supplement their decisions to initiate criminal proceedings against the accused and explain on their rights and obligations prescribed in Article 49 of this Code. After receiving the procuracies' decisions to approve or cancel the decisions to change or supplement the decisions to initiate criminal proceedings against the accused, the investigating bodies must immediately hand them to the accused. The handing and receipt of the above-said decisions must be recorded in the minutes prescribed in Article 95 of this Code.

Article 128. Suspension of the accused from their current positions

When deeming that the accused's continued holding of their positions would cause difficulties to the investigation, the investigating bodies or procuracies shall have the right to propose the agencies or organizations with competence to manage the accused to suspend the accused from their positions. Within seven days after receiving such proposals, these agencies or organizations must reply in writing the proposing investigating bodies or procuracies.

Article 129. Summoning of the accused

1. When summoning the accused, investigators must send summonses to them. Such summons must contain the full name and residence of the accused, date, hour, and place of his/her presence; the person he/she will meet, and his/her responsibility for non-appearance without plausible reasons.

2. The summonses to the accused shall be sent to the administrations of the communes, wards or townships where the accused reside or to the agencies or organizations where they work. The agencies or organizations receiving the summonses shall have to immediately deliver them to the accused.

Upon receiving the summonses, the accused must sign for certification of the receipt thereof, clearly writing the hour and date of receipt thereon. The deliverers of the summonses must deliver the portions of the summonses containing the signatures of the accused to the summoning bodies; if the accused refuse to sign, the minutes thereof must be made and sent to the summoning bodies; if the accused are absent, the summonses may be handed to an adult member of their families to sign for certification and hand the summonses to the accused. For the accused being in temporary detention, they shall be summoned through the superintending boards of the detention centers.

3. The accused must appear in response to the summonses. If they are absent without plausible reasons or show signs of escape, investigators may issue decisions to escort them.

4. In case of necessity, procurators may summon the accused. The summoning of the accused shall comply with the provisions of this Article.

Article 130. Escort of the accused on bail

1. A decision to escort the accused shall contain the time and place of its issuance; full name and position of its issuer; full name, birth date and residence of the accused; the offense with which the accused has been charged; the time and the place for the accused to appear;

2. Executors of the escort decisions must read, explain the decisions, and make minutes of the escort as prescribed in Article 95 of this Code.

3. It is forbidden to escort the accused at night.

Article 131. Interrogation of the accused

1. The interrogation of the accused must be conducted by investigators immediately after the decisions to initiate criminal proceedings against the accused are issued. The accused may be interrogated at the places of investigation or at their residences.

Before conducting the interrogation, investigators must read the decisions to initiate criminal proceedings against the accused and clearly explain to the accused about their rights and obligations prescribed in Article 49 of this Code. This must be recorded in the minutes.

If a case involves many accused, each of them shall be questioned separately and they shall not be allowed to contact one another. The accused may be allowed to write by themselves their statements.

2. It is forbidden to conduct interrogation at night, except for cases where interrogation cannot be delayed, provided that the reasons therefor must be clearly recorded in the minutes.

3. In case of necessity, procurators may interrogate the accused. The interrogation of the accused shall comply with the provisions of this Article.

4. Investigators or procurators who extort statements from the accused or apply corporal punishment to the accused must bear penal liability prescribed in Article 299 or Article 298 of the Penal Code.

Article 132. Minutes of interrogation of the accused

1. The minutes of interrogation of the accused must be made according to Article 95 and Article 125 of this Code.

A minutes must be made for each time of interrogation. It must contain all statements of the accused, questions and answers. Investigators are strictly forbidden to add, cut or modify by themselves the statements of the accused.

2. After the interrogation, investigators shall read the minutes to the accused or let the accused read them. In case of supplementing or modifying the minutes, the accused and investigators both sign for certification. If the minutes consist of many pages, the

accused shall sign every page. Where the accused write their statements by themselves, the investigators and the accused shall sign such written statements for certification.

Should the interrogation is audio-recorded, such records, at the end of the interrogation, must be played back for the accused and the investigators to listen to. The minutes must be recorded with the contents of the interrogation and be signed for certification by the accused and the investigators.

Where the interrogation of the accused is conducted with the aid of interpreters, the investigators must explain the interpreters' rights and obligations, and also inform the accused of their right to request change of the interpreters. The interpreters and the accused shall both sign every page of the interrogation minutes.

3. When conducting interrogations in the presence of the defense counsels and/or lawful representatives of the accused, the investigators must explain to these persons their rights and obligations in the course of interrogation of the accused. The accused, the defense counsels and/or lawful representatives shall all sign the interrogation minutes.

Where the counsel defenses are allowed to question the accused, the minutes must contain fully the questions of the defense counsels and the answers of the accused.

4. In cases where procurators interrogate the accused, they must observe the provisions of this Article.

Chapter XI

TAKING STATEMENTS OF WITNESSES, VICTIMS, CIVIL PLAINTIFFS, CIVIL DEFENDANTS, PERSONS WITH INTERESTS AND OBLIGATIONS RELATED TO THE CASES, CONFRONTATION AND IDENTIFICATION

Article 133. Summoning of witnesses

1. To summon witnesses, investigators must send to them summonses. Such a summons must contain the full name and residence of the witness, the date, hour and place for his/her appearance; the person whom he/she will meet and his/her responsibility for non-appearance without plausible reasons.

2. Summonses shall be handed directly to the witnesses or through the administrations of the communes, wards or townships where they reside or the agencies or

organizations where they work. These agencies or organizations shall have to create conditions for the witnesses to perform their obligations.

Under all circumstances, signatures shall be required for the handing and receipt of summonses.

3. Summonses of witnesses aged under full 16 years shall be handed to their parents or other lawful representatives.

4. In case of necessity, procurators may summon witnesses. The summoning of witnesses shall comply with the provisions of this Article.

Article 134. Escort of witnesses

1. Where witnesses have been summoned by investigating bodies, procuracies or courts but they deliberately refuse to appear without plausible reasons and their absence causes obstruction to the investigation, prosecution or adjudication, the bodies which have summoned them may issue decisions to escort them.

2. Decisions to escort witnesses must contain the time and place of their issuance; full names and positions of their issuers; full names, birth dates and residential places of the witnesses; the time and places for their appearance.

3. The executors of escort decisions must read the decisions to the witnesses, explain their rights and obligations, and make the minutes of the escort as prescribed in Article 95 of this Code.

4. It is forbidden to escort witnesses at night.

Article 135. Taking statements of witnesses

1. Statements of witnesses shall be taken at the places of investigation or at their residences or working places.

2. If a case involves many witnesses, the statements of each witness must be taken separately and the witnesses shall not be let contact one another in the course of taking statements.

3. Before taking statements from witnesses, investigators must explain to them their rights and obligations. This must be recorded in the minutes.

4. Before inquiring into the contents of the cases, investigators should verify the relationships between the witnesses and the accused, victims and other details related

to the witnesses' personal identity. Before asking questions, investigators should request witnesses to relate or write what they know about the cases. Raising questions of suggestive nature shall not be allowed.

5. When taking statements of witnesses aged under 16 years, their parents, other lawful representatives or their teachers must be invited to attend.

6. In case of necessity, procurators may take statements of witnesses. The taking of statements of witnesses shall comply with the provisions of this Article.

Article 136. Minutes of witnesses' statements

Minutes of witnesses' statements must be made according to Articles 95, 125 and 132 of this Code.

Article 137. Summoning, and taking statements of, victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases

The summoning, and taking statements of, victims, civil plaintiffs, civil defendants and persons with interests and obligations related to the cases shall comply with the provisions of Articles 133, 135 and 136 of this Code.

Article 138. Confrontation

1. Where exist contradictions in the statements of two or more persons, investigators shall conduct confrontation.

2. If witnesses or victims participate in the confrontation, investigators must, first of all, explain to them their responsibility for refusing or shirking to give statements or deliberately giving false statements. This must be recorded in the minutes.

3. To begin the confrontation, investigators shall ask about the relationships between persons participating in the confrontation, then about circumstances required to be clarified. After hearing statements in the confrontation, investigators may further put questions to each person.

Investigators may also let persons participating in the confrontation ask one another and their questions and answers must be recorded in the minutes.

Only after persons participating in the confrontation give their statements shall their previous statements be repeated.

4. Confrontation minutes must be made according to the provisions of Articles 95, 125 and 132 of this Code.

5. In case of necessity, procurators may conduct confrontation. Such confrontation shall comply with the provisions of this Article.

Article 139. Identification

1. When necessary, investigators may invite persons or give objects or photos to witnesses, victims or the accused for identification.

Investigators must ask in advance the identifying persons about details, traces and characteristics owing to which they may make identification.

2. The number of persons, things or photos presented for identification must be at least three and their appearances must be similar. For identification of corpses, this principle shall not be applied.

In special cases, identification of persons may be made through their voices.

3. If witnesses or victims act as identifying persons, before conducting the identification, investors must explain to them their responsibility for refusing or shirking to give statements or deliberately giving false statements. Such explanation must be recorded in the minutes.

4. In the course of identification, investigators must not put questions of suggestive nature. After the identifying persons have identified a person, an object or a photo among those presented for identification, investigators shall request them to explain which traces or characteristics they have relied on for identifying such person, object or photo.

Identification must be conducted in the presence of witnesses.

5. Identification minutes must be made according to Articles 95, 125 ad 132 of this Code. Such a minutes should contain the personal details of identifying persons and persons shown for identification; characteristics of objects or photos presented for identification; statements and presentations given by identifying persons.

Chapter XII

SEARCH, FORFEITURE, SEIZURE, DISTRAINMENT OF PROPERTY

Article 140. Grounds for body search, search of residences, working places, premises, objects, correspondence, telegraphs, postal parcels and matters

1. Body search, search of residences, working places and premises shall be conducted only when there are grounds to judge that on the bodies, in the residences, working places and/or premises of persons there are instruments and means of offense commission, objects and property acquired from offense commission or other objects and documents related to the cases.

Search of residences, working places or premises shall also be conducted in case of necessity to detect wanted persons.

2. In case of necessity to collect documents and objects related to the cases, correspondence, telegraphs, postal parcels and matters may be searched.

Article 141. Competence to issue search warrants

1. The persons defined in Clause 1, Article 80 of this Code shall have the right to issue search warrants in all cases. Search warrants of the persons defined at Point d, Clause 1, Article 80 of this Code must be approved by the procuracies of the same level before they are executed.

2. In case of urgency, the persons defined in Clause 2, Article 81 of this Code shall have the right to issue search warrants. Within 24 hours after the completion of the search, the search warrant issuers must notify in writing the procuracies of the same level thereof.

Article 142. Body search

1. To start a body search, the search warrant must be read and handed to the to be-searched person for reading; the to be-searched person and other persons present shall be informed of their rights and obligations.

The persons conducting the search must request the to be-searched persons to give out objects and documents related to the cases; if the to be-searched persons disobey, they shall be searched.

2. The search of a person must be conducted by a person of the same sex and to the witness of a person also of the same sex.

3. Body search may be conducted without a search warrant in case of arrest or when there are grounds to confirm that the person present at the searched place hides on his/her body objects and documents required to be seized.

Article 143. Search of residences, working places, premises

1. Search of residences, working places or premises shall be conducted in accordance with the provisions of Articles 140, 141 and 142 of this Code.

2. Search of residences or premises must be conducted in the presence of the owners or their families' adult members, the representatives of the commune, ward or township administrations and neighbors as witnesses; in cases where the involved persons and their families' members are deliberately absent, have escaped or have been away for a long time while the search cannot be delayed, the search must be witnessed by the local administrations' representatives and two neighbors.

3. Search of residences must not be conducted at night, except where it cannot be delayed, provided that the reasons therefor must be clearly stated in the minutes.

4. Search of working places must be conducted in the presence of such persons, except where it cannot be delayed, provided that the reason therefor must be clearly stated in the minutes.

Search of working places of persons must be witnessed by the representatives of the agencies or organizations where such persons work.

5. When the search of residences, working places or premises is taking place, the persons present must neither leave the searched places without permission nor contact, discuss with one another or with other persons until the search completes.

Article 144. Forfeiture of correspondence, telegraphs, postal parcels and matters at post offices

In case of necessity to forfeit correspondence, telegraphs, postal parcels and matters at post offices, the investigating bodies shall issue forfeiture warrants. These warrants must be approved by the procuracies of the same level before they are executed, except for cases where the execution thereof cannot be delayed, provided that the reasons therefor must be clearly stated in the minutes and the forfeiture, once completed, be immediately notified to the procuracies of the same level.

Before effecting the forfeiture, the executors of forfeiture warrants must notify such to the persons in charge of the post offices concerned. The persons in charge of the post offices concerned must assist the executors of seizure warrants in fulfilling their tasks.

The forfeiture of correspondence, telegraphs, postal parcels and matters must be witnessed by the representatives of the post offices, who shall sign for certification the minutes thereof.

The forfeiture warrant-issuing bodies must notify the persons having the to be forfeited correspondence, telegraphs, postal parcels and/or matters of the forfeiture warrants. If such notification will impede the investigation, immediately after such impediment no longer exists, the forfeiture warrant-issuing bodies must make such notification.

Article 145. Seizure of objects and documents during a search

While conducting search, investigators may seize objects which are exhibits as well as documents directly related to the cases. For objects falling into the categories banned from storage or circulation, they must be forfeited and immediately delivered to competent management bodies. In case of necessity to seal objects up, such sealing must be conducted in the presence of the owners of such objects or their families' representatives, the administration's representatives as well as witnesses.

The seizure of objects and documents during a search must be recorded in a minutes. Seizure minutes must be made in four copies, one of which to be handed to the owner of the objects and/or documents, one to be put in the case files; one to be sent to the procuracy of the same level, and one to the agency managing the seized objects and/or documents.

Article 146. Distrainment of property

1. Distrainment of property shall only apply to the accused or defendants charged with offenses which, as prescribed by the Penal Code, may be subject to property confiscation or fine penalty as well as to persons liable to pay damage compensation according to law provisions.

The competent persons defined in Clause 1, Article 80 of this Code shall have the right to issue property distrainment warrants. Distrainment warrants of persons defined at Point d, Clause 1, Article 80 of this Code must be immediately notified to the procuracies of the same level before they are executed.

2. Distrainment shall be made only of a portion of property corresponding to the amount likely to be confiscated, to the pecuniary fine or the damage compensation.

Distrained property shall be assigned to their owners or their relatives for preservation. If the persons assigned to preserve such property commit acts of consuming, transferring, fraudulently swapping, concealing or destroying the distrained property, they shall bear penal liability under the provisions of Article 310 of the Penal Code.

3. Property distrainment must be witnessed by the involved persons or their families' adult members, representatives of the commune, ward or township administrations and neighbors. The distraining persons must make the minutes, clearly stating the name and condition of each distrained property item. Such minutes must be made according to Articles 95 and 125 of this Code, read to the involved persons and other present persons, and signed by these persons. Any complaints of the involved persons shall be recorded in the minutes, with the signatures for certification of such persons and the distraining persons.

A distrainment minutes shall be made in three copies, one to be handed to the involved person immediately after the distrainment is completed, one to be sent to the procuracy of the same level, and one to be put in the case file.

4. When deeming that distrainment is no longer necessary, the competent persons defined in Clause 1, Article 80 of this Code must issue in time decisions to cancel distrainment warrants.

Article 147. Responsibility to preserve objects, documents, correspondence, telegraphs, postal parcels and/or matters which are forfeited, seized or sealed up

Objects, documents, correspondence, telegraphs, postal parcels and/or matters which are forfeited, seized or sealed up under the provisions of Articles 75, 144 and 145 of this Code must be preserved intact.

If persons assigned to preserve property break up seals, consume, transfer, fraudulently swap or destroy such property, they shall bear penal liability under Article 310 of the Penal Code.

Article 148. Minutes of search, forfeiture, seizure of objects, documents, correspondence, telegraphs, postal parcels and matters

The search, forfeiture or seizure of objects, documents, telegraphs, postal parcels and/or matters must be recorded in the minutes prescribed in Articles 95 and 125 of this Code.

Article 149. Responsibilities of issuers and executors of warrants to search, distrain property, forfeit or seize objects, documents, correspon-dence, telegraphs, postal parcels and matters

Persons who have illegally issued and persons who have illegally executed warrants to search or distrain property, forfeiture or seize objects, documents, correspondence, telegraphs, postal parcels and/or matters shall, depending on the seriousness of their violations, be disciplined or examined for penal liability.

Chapter XIII

SCENE EXAMINATION, AUTOPSY, EXAMINATION OF TRACES ON HUMAN BODIES, INVESTIGATION EXPERIMENTS, EXPERTISE

Article 150. Scene examination

1. Investigators shall examine scenes where offenses have been committed or detected in order to find out traces of offense, exhibits and to clarify circumstances significant to the cases.

2. Scene examination may be conducted prior to the institution of criminal cases. Under all circumstances, before conducting the examination, investigators must notify the procuracies of the same level thereof. Procurators must come to supervise the scene examination. In the course of examination, there must be witnesses; the accused, victims and/or witnesses may be allowed to attend, and specialists may be invited to participate in, the examination.

3. While conducting scene examination, investigators shall take photos, draw plans describing the scenes, take measurements, make mock-ups, collect and examine on spot traces of offense, objects, documents related to the cases; and clearly write the examination results in the scene examination minutes.

Where the collected objects and documents cannot be scrutinized immediately, they must be preserved, kept intact or sealed up and taken to the investigation places.

Article 151. Autopsy

Autopsy shall be conducted by investigators with the participation of forensic doctors and in the presence of eyewitnesses.

In case of necessity to exhume corpses, decisions of investigating bodies shall be required and the deceased persons' families must be notified thereof before the exhumation starts. The corpse exhumation must be participated by forensic doctors.

When necessary, experts may be summoned to and there must be witnesses at the exhumation.

Under all circumstances, autopsy must be notified in advance to the procuracies of the same level. Procurators must come to supervise the autopsy.

Article 152. Examination of traces on human bodies

1. Investigators shall examine the bodies of the persons arrested or taken into custody, the accused, victims and witnesses in order to detect thereon traces of offense or other traces of significance to the cases. In case of necessity, the investigating bodies shall request forensic examination.

2. Examination of the body of a person must be conducted by a person of the same sex and witnessed by a person also of the same sex. In case of necessity, medical doctors may participate in body examination.

It is forbidden to infringe upon the honor, dignity or the health of the examined persons.

Article 153. Investigation experiments

1. In order to check and verify documents and circumstances of significance to the cases, the investigating bodies shall have the right to conduct investigation experiments by reproducing the scenes, replaying acts, circumstances or all other details of certain facts, and conduct necessary experiments. They may, when deeming it necessary, take measurements, photographs, video and draw plans.

2. Investigation experiments must be conducted in the presence of witnesses. In case of necessity, the persons in custody, the accused, victims and/or witnesses may participate therein.

It is forbidden to infringe upon the honor and dignity or cause harm to the health of persons participating in investigation experiments.

3. In case of necessity, the procuracies may conduct investigation experiments. Investigation experiments shall be conducted in accordance with the provisions of this Article.

Article 154. Minutes of scene examination, autopsy, examination of traces on human bodies and investigation experiments

Scene examination, autopsy, examination of traces on human bodies and investigation experiments must be recorded in the minutes as prescribed in Article 95 and Article 125 of this Code.

Article 155. Solicitation of expertise

1. When arise matters which need to be determined under Clause 3 of this Article or when deeming it necessary, the procedure-conducting bodies shall issue decisions to solicit expertise.

2. Decisions to solicit expertise must clearly state the matters required to be examined, full names of experts requested to examine or names of the expertising agencies as well as the rights and obligations of experts as prescribed in Article 60 of this Code.

3. Expertise is compulsory when it is necessary to determine:

a/ Causes of human death, injury nature, degree of harm to the health or working capability;

b/ The psychiatric state of the accused or defendants in cases where there is suspicion about their penal liability capacity;

c/ The psychiatric state of witnesses or victims in cases where there is suspicion about their perception capacity and truthful statements on circumstances of the cases;

d/ The ages of the accused or defendants or victims if such is significant to the cases and there are no documents proving their ages or there is suspicion about the authenticity of such documents;

e/ Noxious substances, narcotics, radioactive substances, counterfeit currencies.

Article 156. Conducting expertise

1. Expertise may be conducted at the expertising agencies or at the places of investigation of the cases immediately after the issuance of decisions to solicit expertise.

Investigators and procurators shall have the right to participate in the expertise provided that they must notify in advance the experts thereof.

2. In cases where the expertise cannot be conducted within the time limit requested by the expertise-soliciting agencies, the expertising agencies or experts must immediately notify such in writing and clearly state the reasons therefor to the expertise-soliciting agencies.

Article 157. Contents of expertise conclusions

1. Expertise conclusions must clearly state the time and place of the conducted expertise; full names, educational levels and professional qualifications of experts; participants in the expertise; traces, objects, documents and all other things already examined, applied methods and answers with specific grounds to the raised matters.

2. In order to clarify or supplement expertise conclusions, the expertise-soliciting agencies may put additional questions to the experts about necessary circumstances and may decide on additional expertise or re-expertise.

Article 158. Rights of the accused and participants in the procedure with regard to expertise conclusions

1. After the expertise completes, the agencies which have solicited the expertise must notify the contents of the expertise conclusions to the accused and other participants in the procedure if the latter so request.

The accused, other participants in the procedure may express their opinions on the expertise conclusions and requests for additional expertise or re-expertise. These opinions and requests shall be recorded in the minutes.

2. Where the investigating bodies or procuracies reject the requests of the accused or other participants in the procedure, they must clearly state the reasons therefor and inform such persons thereof.

Article 159. Additional expertise or re-expertise

1. Additional expertise shall be conducted in cases where the contents of the expertise remain unclear, incomplete or when arise new matters related to the cases' circumstances already concluded earlier.

2. Re-expertise shall be conducted where there is suspicion about the expertise results or there are contradictions in the expertise conclusions on the same expertised matter. The re-expertise must be conducted by other experts.

3. Additional expertise or re-expertise shall be conducted according to general procedures prescribed in Articles 155, 156, 157 and 158 of this Code.

Chapter XIV

SUSPENSION OF INVESTIGATION AND TERMINATION OF INVESTIGATION

Article 160. Suspension of investigation

1. When the accused suffer from mental diseases or other dangerous ailments with certification by the forensic examination councils, the investigation may be suspended ahead of the investigation time limit. In cases where the accused are not yet identified or their whereabouts are unknown, the investigation shall be suspended only upon the expiry of the investigation time limit.

Where expertise has been solicited but the expertise results are not yet available upon the expiry of the investigation time limit, the investigation shall be suspended while the expertise shall still continue till its results are obtained.

Where a case involves many accused while the reason for suspension of investigation does not relate to all of the accused, the investigation may be suspended for each of them.

If the accused's whereabouts are unknown, the investigating bodies must issue pursuit warrants before suspending the investigation.

2. Investigating bodies which have issued decisions to suspend the investigation must send such decisions to the procuracies of the same level, the accused and victims.

Article 161. Pursuit of the accused

When the accused abscond or their whereabouts are unknown, investigating bodies shall issue warrants to pursue them.

A pursuit warrant must clearly state the date, hour and place of its issuance; full name and position of its issuer; full name, age and residence of the accused, characteristics for identification of the accused, affixed with the accused's photo, if any; and the offense with which the accused has been charged.

Pursuit warrants shall be announced on the mass media for everyone to detect, arrest and detain the wanted persons.

Article 162. Termination of investigation

1. Upon the termination of investigation, the investigating bodies must make investigation conclusion reports

2. The investigation shall be terminated when the investigating bodies issue investigation conclusion reports proposing the prosecution or investigation conclusion reports and decisions to cease the investigation.

3. An investigation conclusion report must clearly state the date, full name, position and signature of the conclusion maker.

4. Within two days after issuing the investigation conclusion reports, the investigating bodies must send the investigation conclusion reports proposing the prosecution or the investigation conclusion reports enclosed with the decisions to cease the investigation together with the case files to the procuracies of the same level; send the investigation conclusion reports proposing the prosecution or decisions to cease the investigation to the accused and defense counsels.

Article 163. Proposals for prosecution

1. When having sufficient evidences to determine the offenses and the accused, the investigating bodies shall make investigation conclusion reports proposing the prosecution. An investigation conclusion report shall describe the development of the criminal act, evidences proving the offense, proposals on solving the case, including reasons and grounds for the prosecution proposal.

2. An investigation conclusion report shall be enclosed with the statement on the investigation periods, deterrent measures already applied, clearly stating the duration of custody or temporary detention, exhibits, civil suits, measures to secure the payment of fines, compensations and confiscation of assets, if any.

Article 164. Investigation cessation

1. In case of investigation cessation, the investigation conclusion reports shall clearly describe the investigation process, reasons and grounds for investigation cessation.

2. The investigating bodies shall issue investigation cessation decisions in the following cases:

a/ There exists one of the grounds prescribed in Clause 2 of Article 105, and Article 107 of this Code or in Article 19, Article 25 and Clause 2 of Article 69 of the Penal Code.

b/ The investigation time limits have expired but it cannot be proved that the accused have committed the offense.

3. An investigation cessation decision shall contain the date and place of its issuance, reasons and grounds for investigation cessation, the cancellation of the deterrent measure, the return of seized objects, documents, if any, and other related matters.

If a case involves many accused while the grounds for investigation cessation are not related to all of them, the investigation may be ceased for each of them.

4. If deeming that the investigation cessation decisions of the investigating bodies are grounded, within fifteen days after receiving such decisions, the procuracies must return the case files to the investigating bodies for settlement according to the latter's competence; if deeming that such investigation cessation decisions are ungrounded, the procuracies shall cancel them and request the investigating bodies to resume investigation; if deeming that there are sufficient grounds for prosecution, the procuracies shall cancel such decisions and issue prosecution decisions. The time limit for issuing prosecution decisions shall comply with the provisions of Article 166 of this Code.

Article 165. Investigation resumption

1. Where there exist grounds to cancel the decisions to cease or suspend the investigation, the investigating bodies shall issue decisions to resume investigation if the statute of limitations for penal liability examination has not yet expired. Within two days after issuing the decisions to resume investigation, the investigating bodies must send them to the procuracies of the same level.

2. If the investigation is ceased under Points 5 and 6, Article 107 of this Code but the accused disagree and request re-investigation, the investigating bodies or procuracies of the same level shall issue decisions to resume the investigation.

Chapter XV

PROSECUTION DECISION

Article 166. Time limit for prosecution decision

1. Within twenty days for less serious offenses and serious offenses, within thirty days for very serious offenses and especially serious offenses, after receiving the case files and investigation conclusion reports, the procuracies must issue one of the following decisions:

a/ To prosecute the accused before court by an indictment.

b/ To return the file for additional investigation;

c/ To cease or suspend the case.

In case of necessity, the procuracy chairmen may extend the time limits but for no more than ten days for less serious offenses and serious offenses, no more than fifteen days for very serious offenses, and no more than thirty days for especially serious offenses.

Within three days after issuing one of the above-said decisions, the procuracies must notify the accused and defense counsels thereof; and hand the indictments, decisions to cease the cases or decisions to suspend the cases to the accused. Defense counsels may read the indictments, take notes and copy documents in the case files related to the defense under the provisions of law and put forward requests.

2. After receiving the case files, the procuracies shall be entitled to decide to apply, change or cancel deterrent measures or to request the investigating bodies to pursue the accused. The temporary detention duration must not exceed the time limit prescribed in Clause 1 of this Article.

3. In case of prosecution, within three days after issuing the prosecution decisions in the form of indictment, the procuracies must send the files and indictments to the courts.

4. For cases not falling under their prosecuting competence, the procuracies shall immediately issue decisions to transfer them to the competent procuracies.

Article 167. Indictments

1. An indictment must contain the date, hour and place of occurrence of the offense; trick, purpose and motive of the commission of the offense; its consequences and other important circumstances; evidences for determining the criminality of the accused, circumstances aggravating and extenuating the penal liability, personal details of the accused, and all other circumstances of significance to the case.

The indictment’s conclusion section shall clearly state the title of the offense committed and applicable articles and clauses of the Penal Code.

2. An indictment must contain the date of its making, full name, position and signature of its maker.

Article 168. Return of files for additional investigation

The procuracies shall decide to return the files to the investigating bodies for additional investigation if they, through studying the case files, find out that:

1. Important evidences of the cases are insufficient, which the procuracies cannot supplement by themselves;

2. There are grounds to initiate criminal proceedings against the accused for other offenses or there are other accomplices;

3. There are serious violations of the criminal procedure.

The matters required to be additionally investigated must be clearly stated in the decisions requesting the additional investigation.

Article 169. Cessation or suspension of cases

1. The procuracies shall issue decisions to cease the cases when there exists one of the grounds prescribed in Clause 2 of Article 105 and Article 107 of this Code or in Article 19, Article 25, and Clause 2 of Article 69 of the Penal Code.

2. The procuracies shall issue decisions to suspend the cases in the following cases:

a/ When the accused suffer from mental diseases or other dangerous ailments, which has been certified by the forensic examination councils;

b/ When the accused escape and their whereabouts are unknown; in this case, they must request the investigating bodies to pursue the accused.

3. If a case involves many accused while the grounds to cease or suspend the case are not related to all of them, the procuracies may cease or suspend the case for each of them.

4. In cases where the subordinate procuracies have issued ungrounded and illegal decisions to cease the cases, the chairmen of the superior procuracies shall have the right to cancel such decisions and request the subordinate procuracies to issue prosecution decisions.

Part Three

FIRST-INSTANCE TRIAL

Chapter XVI

JURISDICTION OF COURTS AT ALL LEVELS

Article 170. Adjudicating jurisdiction of courts at all levels

1. The district-level people's courts and the regional military courts shall conduct first-instance trial of criminal cases involving less serious offenses, serious offenses and very serious offenses, excluding the following offenses:

a/ Offenses of infringing upon national security;

b/ Offenses of undermining peace, against humanity, and war crimes;

c/ Offenses prescribed in Articles 93, 95, 96, 172, 216, 217, 218, 219, 221, 222, 223, 224, 225, 226, 263, 293, 294, 295, 296, 322 and 323 of the Penal Code.

2. The provincial-level people's courts and the military zone-level military courts shall conduct first-instance trial of criminal cases involving offenses not falling under the jurisdiction of the district-level people's courts and the regional military courts or cases falling under the subordinate courts, which they take for trial.

Article 171. Territorial jurisdiction

1. The courts competent to adjudicate criminal cases are the courts of the places where the offenses were committed. Where an offense is committed in different places or if the place where an offense was committed is unknown, the court competent to adjudicate the case shall be the one of the place where the investigation is completed.

2. For defendants committing offenses abroad, if they are to be adjudicated in Vietnam, the provincial-level people's courts of their last residences in the country shall adjudicate them. If the defendants' last residences in the country cannot be determined, the President of the Supreme People's Court shall on a case-by-case basis issue decisions to assign the People's Court of Hanoi city or Ho Chi Minh City to adjudicate such cases.

For defendants committing offenses abroad, if they fall under the adjudicating jurisdiction of a military court, they shall be adjudicated by the Military Court of the military-zone or higher level under decisions of the President of the Central Military Court.

Article 172. Jurisdiction to adjudicate offenses committed on board aircraft or sea-going ships of the Socialist Republic of Vietnam, which are operating outside the airspace or the territorial sea of Vietnam

Offenses committed on board aircraft or sea-going ships of the Socialist Republic of Vietnam which are operating outside the airspace of the territorial sea of Vietnam shall fall under the jurisdiction of the Vietnamese courts of the places of the first return airports or seaports or the places where such aircraft or sea-going ships are registered.

Article 173. Adjudication of defendants committing many offenses falling under the jurisdiction of courts at different levels

For defendants committing many offenses, one of which falls under the adjudicating jurisdiction of the superior court, the superior court shall adjudicate the entire cases.

Article 174. Transfer of cases

When realizing that cases do not fall under their jurisdiction, the courts shall transfer the cases to those with jurisdiction to adjudicate. The transfer of cases to courts outside the territory of a province or centrally run city or outside the territory of a military zone shall be decided by the provincial-level people's courts or military zone-level military courts.

The transfer of a case to another court shall be effected only when the case has not been adjudicated yet. In this case, the transfer of the case shall be decided by the president of the court. If a case which falls under the jurisdiction of a Military Court or a superior court has been adjudicated, it must still be transferred to the competent court. In this case, the transfer of the case shall be decided by the trial panel.

Within two days after issuing decisions to transfer the cases, the courts must notify the procuracies of the same level and inform the accused and persons involved in the cases thereof.

Article 175. Settlement of disputes over adjudicating jurisdiction

1. The settlement of disputes over adjudicating jurisdiction shall be decided by the presidents of the immediate superior courts.

2. The settlement of disputes over adjudicating jurisdiction between district-level people's courts of different provinces or centrally run cities shall be decided by the presidents of the provincial-level people's courts of the places where the investigation is completed.

3. The settlement of disputes over the adjudicating jurisdiction between people's courts and military courts shall be decided by the President of the Supreme People's Court.

Chapter XVII

TRIAL PREPARATION

Article 176. Trial preparation time limits

1. After receiving the case files, the judges assigned to preside over the court sessions shall have to study the files, settle complaints and requests of the participants in the procedure and perform other tasks necessary for opening court sessions.

2. Within thirty days for less serious offenses, forty five days for serious offenses, two months for very serious offenses and three months for especially serious offenses, counting from the date of receipt of the case files, the judges assigned to preside over court sessions must issue one of the following decisions:

a/ To bring the case for trial;

b/ To return the file for additional investigation;

c/ To cease or suspend the case.

For complicated cases, the presidents of courts may decide to prolong the trial preparation time limits for no more than fifteen days for less serious offenses and serious offenses, and for no more than thirty days for very serious offenses and especially serious offenses. Such prolongation must be immediately notified to the procuracies of the same level.

Within fifteen days after issuing decisions to bring the cases for trial, the courts must open court sessions; where they have plausible reasons, the courts may open court sessions within thirty days.

For the cases returned for additional investigation, within fifteen days after receiving back the files, the judges assigned to preside over the court sessions must issue decisions to bring the cases for trial.

Article 177. Application, change or cancellation of deterrent measures

After receiving the case files, the judges assigned to preside over the court sessions shall have the right to decide to apply, change or cancel deterrent measures, excluding the application, change or cancellation of the temporary detention measure, which shall be decided by the presidents or vice-presidents of courts.

The time limits for temporary detention for trial preparation shall not exceed the trial preparation time limits defined in Article 176 of this Code.

For defendants in temporary detention but the time limit for their temporary detention expires on the date of opening the court sessions, if deeming their continued temporary detention necessary in order to complete the trial, the courts shall issue orders on temporary detention till the closing of the court sessions.

Article 178. Contents of decisions to bring cases for trial

A decision to bring a case for trial must contain:

1. The full name, birth date, birth place, occupation and residence of the defendant;

2. The title of the offense and articles of the Penal Code applied by the procuracy to the act committed by the defendant;

3. The date, hour and venue of opening the court session;

4. Public or closed-door trial;

5. The full names of the judge, jurors and court clerk; the full names of alternate judge and jurors, if any;

6. The full name of the procurator to participate in the court session; the full name of the alternate procurator, if any;

7. The full name of the defense counsel, if any;

8. The full name of the interpreter, if any;

9. The full names of persons summoned for questioning at the court session;

10. Exhibits to be presented for examination at the court session.

Article 179. Decisions to return files for additional investigation

1. Judges shall issue decisions to return files to procuracies for additional investigation in the following cases:

a/ Where important evidences in the cases need to be further examined, which cannot be supplemented at the court session;

b/ Where there are grounds to believe that the defendant has committed another offense or there is another accomplice;

c/ Where serious violations of the procedure are detected.

The matters required to be additionally investigated must be clearly stated in the decisions requesting the additional investigation.

2. If the additional investigation results lead to the cessation of the cases, the procuracies shall issue decisions to cease the cases and notify the courts thereof.

In cases where the procuracies cannot supplement the matters as requested by the courts and keep their prosecution decisions unchanged, the courts shall still proceed with the trial.

Article 180. Decisions to suspend or cease cases

Judges shall issue decisions to cease cases when there are grounds prescribed in Article 160 of this Code; issue decisions to cease cases when there is one of the grounds prescribed in Clause 2 of Article 105 and Points 3, 4, 5, 6 and 7 of Article 107 of this Code, or when the procuracies withdraw the entire prosecution decisions before the opening of court sessions.

Where a case involves many accused or defendants while the grounds for suspension or cessation of the case do not relate to all of the accused or defendants, the case may be suspended or ceased for each of them.

A decision to cease a case must contain the contents specified in Clause 3, Article 164 of this Code.

Article 181. Withdrawal of prosecution decisions by procuracies

If deeming that there is one of the grounds prescribed in Article 107 of this Code or there are grounds to exempt the accused or defendants from penal liability under the provisions of Article 19, Article 25, and Clause 2 of Article 69 of the Penal Code, the procuracies shall withdraw prosecution decisions before the opening of court sessions and propose the courts to cease the cases.

Article 182. Handing of court decisions

1. Decisions to bring the cases for trial must be handed to the defendants, their lawful representatives and defense counsels at least ten days before the opening of court sessions.

In case of adjudicating defendants in absentia, the decisions to bring the cases for trial and indictments shall be handed to the defendants' defense counsels or lawful representatives; such decisions must be also posted up at the head offices of the administrations of the communes, wards or townships where the defendants reside or at their last working places.

2. The courts' decisions to suspend or decisions to cease the cases must be handed to the accused or defendants, defense counsels, victims, lawful representatives of the accused or defendants; other participants in the procedure shall be informed thereof in writing.

3. Decisions to bring the cases for trial, decisions to cease the cases, decisions to suspend the cases must be immediately sent to the procuracies of the same level.

4. Decisions to apply, change or cancel deterrent measures must be immediately sent to the accused or defendants, the procuracies of the same level, detention centers where the accused or defendants are being held.

Article 183. Summoning of persons to be questioned at court sessions

Basing themselves on the decisions to bring the cases for trial, judges shall summon persons who need to be questioned at court sessions.

Chapter XVIII

GENERAL PROVISIONS ON PROCEDURES AT COURT SESSIONS

Article 184. Direct, oral and uninterrupted trial

1. The courts must directly determine the circumstances of the cases by asking questions and listening to opinions of the defendants, victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases, witnesses and experts, examine exhibits and listen to the opinions of the procurators and defense counsels. Judgments shall be based only on the evidences examined at court sessions.

2. The trial must be conducted uninterruptedly, excluding break time.

Article 185. Composition of first-instance trial panels

A first-instance trial panel shall be composed of one judge and two jurors. For serious and complicated cases, the trial panel may be composed of two judges and three jurors.

For cases where the defendants brought for trial are charged with offenses punishable by death as the highest penalty, the trial panel shall be composed of two judges and three jurors.

The judges presiding over court sessions shall conduct the trial and maintain the court order.

Article 186. Replacement of trial panel members in special cases

1. The members of trial panels must hear the cases from the beginning to the end.

2. In the course of trial, if a judge or juror discontinues hearing the case, the court may still hear the case with the alternate judge or juror. Only alternate judges and jurors who are present at the court sessions from the beginning may participate in adjudicating the cases. Where a trial panel consists of two judges but the judge presiding over the court session cannot continue hearing the case, the judge being member of the trial panel shall preside over the court session and the alternate judge shall be added to the trial panel as a member.

3. Where there is no alternate judge or juror for replacement or if the presiding judge of a court session must be replaced while there is no substitute judge as prescribed in Clause 2 of this Article, the case must be re-tried from the beginning.

Article 187. Appearance of defendants at court sessions

1. Defendants must appear at court sessions in response to court summonses; if they are absent without plausible reasons, they shall be escorted according to the procedure prescribed in Article 130 of this Code; if they are absent for plausible reasons, the court sessions must be postponed.

If the defendants suffer from mental diseases or other dangerous diseases, the trial panels shall suspend the cases till the defendants recover from their illnesses.

If the defendants have escaped, the trial panels shall suspend the cases and request the investigating bodies to pursue them.

2. Courts may try the defendants in absentia in the following cases:

a/ The defendant has escaped and his/her pursuit has been in vain;

b/ The defendant stays abroad and cannot be summoned to the court session;

c/ The absence of the defendant causes no obstacle to the trial and he/she has been handed the summons properly.

Article 188. Supervision of defendants at court sessions

1. Defendants being held in temporary detention, when appearing at court sessions, shall only be allowed to meet with their defense counsels. Their contacts with other persons must be permitted by the presiding judges of the court sessions.

2. Defendants who are not held in temporary detention must be present at the court sessions throughout the period of adjudication.

Article 189. Appearance of procurators

1. Procurators of the procuracies of the same level must participate in court sessions. For serious and complicated cases, two procurators may together participate in court sessions. In case of necessity, there may be alternate procurators.

2. If procurators are absent or changed while there are no alternate ones for replacement, the trial panels shall postpone court sessions and immediately report thereon to the procuracies of the same level.

Article 190. Appearance of defense counsels

Defense counsels shall be obliged to participate in court sessions. They may send in advance their written defenses to the courts. If defense counsels are absent, the courts shall still open the court sessions.

Where defense counsels are compulsorily required under the provisions of Clause 2, Article 57 of this Code but they are absent, the trial panels must postpone the court sessions.

Article 191. Appearance of victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases or their lawful representatives

1. If victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases or their lawful representatives are absent, the trial panels shall decide, on a case by-case basis, to postpone the court session or proceed with the trial.

2. If deeming that the absence of victims, civil plaintiffs or civil defendants would cause obstacles only to the settlement of compensation questions, the trial panels may sequester the compensation for later trial according to civil procedures.

Article 192. Appearance of witnesses

Witnesses shall participate in court sessions in order to clarify the circumstances of the cases. If an witness is absent but has earlier given his/her statements at the investigating body, the judge presiding the court session shall announce such statements. If a witness to important matters is absent, the trial panel shall decide, on a case-by-case basis, to postpone the court session or proceed with the trial.

If an witness has been subpoenaed by the court but deliberately refuses to appear without plausible reasons and their absence impedes the trial, the trial panel may issue an escort decision. The procedure for escorting witnesses shall comply with the provisions of Article 134 of this Code.

Article 193. Appearance of experts

1. When being subpoenaed by courts, experts shall participate in court sessions.

2. If experts are absent, the trial panel shall decide, on a case-by-case basis, to postpone the court session or proceed with the trial.

Article 194. Time limit for postponement of court sessions

For the cases where court sessions must be postponed under Articles 45. 46, 47, 187, 189, 190, 191, 192 and 193 of this Code, the time limit for postponement of court sessions of first-instance trial shall not exceed thirty days, counting from the date of issuance of the decisions to postpone the court sessions.

Article 195. Withdrawal of prosecution decisions or conclusion on lesser offenses by procurators at court sessions

During court sessions, after inquiring, procurators may withdraw part or whole of the prosecution decisions or conclude on lesser offenses, but the trial panels must try the whole cases.

Article 196. Limits of trial

Courts shall only adjudicate defendants and acts of the offenses which have been prosecuted by the procuracies and decided by the courts to be brought for trial.

Courts may adjudicate defendants according to clauses other than those in the same articles which the procuracies have applied to prosecute them, or for other offenses equal to or lesser than the ones prosecuted by the procuracies.

Article 197. Internal rules of court sessions

1. Before starting court sessions, the court clerks must announce the internal rules of the court sessions.

2. All people in the courtrooms must show respect for the trial panels, keep order and obey the instructions of the presiding judges.

3. All people in the courtrooms must stand up when the members of the trial panels enter the courtrooms. Those who have been summoned for inquiry may present their opinions provided that their presentation is permitted by the presiding judges. The persons presenting opinions must stand while being questioned, except where they are permitted by the presiding judges to sit and present their statements due to their poor health.

4. Persons aged under 16 years shall not be allowed to enter the courtrooms, except where they are summoned by the courts for inquiry.

Article 198. Measures against persons violating order at court sessions

Persons who violate order at court sessions shall be warned, fined, forced to leave the court rooms by the presiding judges or arrested on a case-by-case basis.

The security guards of court sessions shall have to keep order at court sessions and execute the orders of the presiding judges to force the persons disturbing order at court sessions to leave the courtrooms or arrest them.

Article 199. Making court judgments and decisions

1. Court judgments shall decide on whether or not the defendants have committed the offenses, penalties and other judicial measures. Judgments must be discussed and adopted in the deliberation chambers.

2. Decisions to change members of the trial panels, procurators, court clerks, experts, interpreters to transfer the cases, to request additional investigation, to suspend or cease the cases and to arrest or release defendants must be discussed and adopted in the deliberation chambers and made in writing.

3. Decisions on other matters shall be discussed and adopted by the trial panels at the courtrooms, are not required to be made in writing but must be recorded in the minutes of the court sessions.

Article 200. Minutes of court sessions

1. The minutes of a court session must contain the date, hour and venue of the court session and all developments thereat from commencement of trial to pronouncement of judgment. Apart from being recorded in the minutes, developments at a court session may be audio- and/or video-recorded,

2. All questions and answers must be recorded in the minutes.

3. At the end of court sessions, the judges presiding over the court sessions must examine the minutes and sign them together with the court clerks.

4. Procurators, defendants, defense counsels, victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases, defense counsels of the interests of the involved persons or lawful representatives of such persons may read the minutes of the court sessions and have the right to request the writing of amendments and/or supplements in such minutes and certify them with their signatures.

Chapter XIX

PROCEDURES FOR OPENING COURT SESSIONS

Article 201. Procedures for opening court sessions

To open a court session, the presiding judge shall read the decision to bring the case for trial.

After listening to the court clerk reporting on the list of summoned persons who are present, the presiding judge shall examine the identity cards of such persons and explain to them their rights and obligations at the court session.

Where a defendant has not yet been handed the indictment under the provisions of Clause 2, Article 49 and decision to bring the case for trial within the time limit defined in Clause 1, Article 182 of this Code, and if he/she requests, the trial panel must postpone the court session.

Article 202. Settlement of requests for change of judges, jurors, procurators, court clerk, experts and/or interpreters

Procurators and participants in the procedure must be asked by the presiding judges whether or not they request to change judges, jurors, procurators, court clerks, experts and/or interpreters. If any of them makes such a request, the trial panel shall consider it and make a decision thereon.

Article 203. Explanation of the rights and obligations of interpreters and experts

If there are interpreters and/or experts participating in the court sessions, the presiding judges shall introduce their full names, occupations or positions and clearly explain their rights and obligations. These persons must pledge to properly perform their tasks.

Article 204. Explanation of the rights, obligations of witnesses, and isolation of witnesses

1. After asking the full name, age, occupation and residence place of each witness, the presiding judges shall clearly explain their procedural rights and obligations. Witnesses must pledge not to give false testimonies. Particularly, minor witnesses shall not be required to make such pledge.

2. Before witnesses are questioned about the cases, the presiding judges may decide to apply various measures in order to prevent witnesses from hearing each other's testimonies or meeting with other concerned persons. In cases where the testimonies of defendants and witnesses may influence one another, the presiding judges may decide to separate defendants from witnesses before questioning witnesses.

Article 205. Settlement of requests for examination of evidences and postponement of court sessions due to the absence of persons concerned

The presiding judges must ask procurators and participants in the procedure whether or not they request to summon more witnesses or to produce more exhibits and documents for examination. If any of the participants in the procedure is absent, the presiding judges must also ask whether or not any of the above-said persons requests to postpone the court sessions. If any person so requests, the trial panels shall consider and decide.

Chapter XX

PROCEDURES FOR INQUIRY AT COURT SESSIONS

Article 206. Reading of indictments

Before inquiring, procurators shall read the indictments and present additional opinions, if any.

Article 207. Inquiring order

1. The trial panels must determine fully all circumstances of each fact and each offense in the cases in a rational inquiring order.

2. When inquiring each person, the presiding judge shall put questions first, then procurators, defense counsels and defense counsels of interests of the involved persons. Participants in the court sessions shall also have the right to request the presiding judges to ask more questions about the circumstances required to be clarified. Experts may ask questions about matters related to the expert examination.

3. While inquiring, the trial panels shall examine related exhibits in the cases.

Article 208. Announcement of statements at investigating bodies

1. If the persons inquired are present at the court sessions, the trial panels and procurators must not repeat or announce their statements at the investigating bodies before they give their statements on the circumstances of the cases at the court sessions.

2. Statements taken at the investigating bodies shall only be announced in the following cases:

a/ Statements of the persons inquired at the court sessions are contradictory to theirs at the investigating bodies;

b/ Inquired persons refuse to give statements at the court sessions;

c/ The persons to be inquired are absent or deceased.

Article 209. Inquiry of defendants

1. The trial panels must inquire each defendant separately. If the statements of this defendant may affect those of another, the presiding judge must isolate them. In this case, the isolated defendants shall be informed of the statements of the previous defendants and have the right to put questions to such defendants.

2. Defendants shall present their opinions on the indictments and circumstances of the cases. The trial panels shall further inquire about insufficient or contradictory points in the defendants' statements.

3. Procurators shall inquire about circumstances of the cases which are related to the accusation or exculpation of defendants. Defense counsels shall inquire about circumstances related to the defense, defense counsels of the interests of the involved parties shall inquire about circumstances related to the protection of interests of the involved parties. Participants at court sessions shall have the right to propose the presiding judges to further ask about circumstances related to them.

4. If defendants refuse to answer questions, the trial panels, procurators, defense counsels and defense counsels of the interests of the involved parties shall continue to inquire other persons and examine exhibits and documents related to the cases.

Article 210. Inquiry of victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases or their lawful representatives

Victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases or their lawful representatives shall give their statements on circumstances of the cases which are related to them. Then, the trial panels, procurators, defense counsels and defense counsels of the interests of the involved parties shall inquire further about insufficient or contradictory points in their statements.

Article 211. Inquiry of witnesses

1. The trial panels must inquire each witness separately and not let other witnesses know the contents of such inquiry.

2. While inquiring witnesses, the trial panels must ask questions to clarify their relationships with the defendants and involved parties in the cases. The presiding judges shall request witnesses to state clearly the circumstances of the cases they know, then inquire further about those insufficient or contradictory points in their testimonies. Procurators, defense counsels, defense counsels of the interests of the involved parties then may further ask the witnesses.

3. If witnesses are minor, the presiding judges may seek the help of their parents, mentors or teachers in inquiring them.

4. After giving their testimonies, witnesses shall stay on in the courtrooms for possible further inquiry.

5. In case of necessity to ensure safety for witnesses and their relatives, the trial panels must decide to apply measures to protect them according to law.

Article 212. Examination of exhibits

1. Exhibits, photos or minutes certifying exhibits shall be presented for examination at court sessions.

When necessary, the trial panels may together with procurators, defense counsels and other participants in court sessions, come to examine on the spot exhibits which cannot be brought to the court sessions. The on-spot examination must be recorded in a minutes according to the provisions of Article 95 of this Code.

2. Procurators, defense counsels and other participants in court sessions shall have the right to present their remarks on exhibits. The trial panels may inquire further about matters related to exhibits.

Article 213. On-spot examination

When deeming it necessary, the trial panels may together with procurators, defense counsels and other participants in court sessions come to examine the scenes of offenses or other places related to the cases. Procurators, defense counsels and other participates at court sessions shall have the right to present their remarks on the scenes of offenses or other places related to the cases.

The trial panels may inquire other participants in court sessions further about matters related to such places.

The on-spot examination must be recorded in a minutes according to general procedures prescribed in Article 95 of this Code.

Article 214. Presentation and announcement of documents of the cases and comments and reports of agencies or organizations

Comments and reports of agencies or organizations on circumstances of the cases shall be presented by the representatives of such agencies or organizations; if no representatives of such agencies or organizations are present, the trial panels shall announce such comments and reports at the court sessions.

Documents contained in the case files or just presented during the inquiry shall all have to be announced at court sessions.

Procurators, defendants, defense counsels and other participants in court sessions shall have the right to give their remarks on such documents and inquire further about related matters.

Article 215. Inquiry of experts

1. Experts shall present their conclusions on the matters assigned to them for expertise.

2. At court sessions, experts shall have the right to give additional explanations on the basis of the expertise conclusions.

3. If experts are absent, the presiding judges shall announce the expertise conclusions.

4. Procurators, defense counsels and other participants in court sessions shall have the right to give remarks on the expertise conclusions, inquire about unclear or contradictory matters in such conclusions.

5. When deeming it necessary, the trial panels shall decide to solicit additional expertise or re-expertise.

Article 216. Termination of inquiry

When deeming that all circumstances of the cases have been examined fully, the presiding judges shall ask procurators, defendants, defense counsels and other participants in the court sessions whether they request to inquire about any matters. If any of them makes such a request and deeming that such request is justifiable, the presiding judges shall decide to continue the inquiry.

Chapter XXI

ARGUMENT AT COURT SESSIONS

Article 217. Order of presentation of arguments

1. At the end of the inquiry at the court sessions, procurators shall present the arraignments, proposing the charges against the defendants on the basis of the whole or part of the indictments or conclusions on lesser offenses; if deeming that there are no grounds for conviction, they shall withdraw the whole prosecution decisions and propose the trial panels to pronounce the defendants not guilty.

The arraignments presented by procurators must be based on documents and evidences already examined at the court sessions and opinions of the defendants, defense counsels, defense counsels of the interests of the involved parties and other participants in the procedure at the court sessions.

2. Defendants shall present their defense, if they have defense counsels, such defense counsels shall defend the defendants. Defendants shall have the right to add defense opinions.

3. Victims, civil plaintiffs, civil defendants and persons with interests and obligations related to the cases or their lawful representatives may present their opinions to protect their rights and interests; if they have defense counsels of their interests, such defense counsels shall have the right to present and add opinions.

Article 218. Counter-argument

Defendants, defense counsels and other participants in the procedure shall have the right to present their opinions on the arraignments made by procurators and put forward their requests. Procurators must present their arguments on each opinion.

Participants in the arguing process shall have the right to respond to opinions of others. The presiding judges must not restrict the arguing time, must create conditions for participants in the arguing process to present all opinions, but they shall, however, have the right to cut out opinions irrelevant to the cases.

The presiding judges shall have the right to request procurators to respond to opinions related to the cases, which are presented by defense counsels and other participants in the procedure but have not yet been touched upon by procurators in their arguments.

Article 219. Reopening of inquiry

If, through the arguing process, they deem it necessary to further examine evidences, the trial panels may decide to reopen the inquiry. The arguing process must be continued once the inquiry ends.

Article 220. Final words of defendants

When the participants in the arguing process make no more statements, the presiding judges shall declare to conclude the arguing process.

Defendants shall then be allowed to say their final words. Questions must not be put while the defendants are saying their final words. The trial panels shall have the right

to request the defendants not to dwell on matters irrelevant to the cases but must not restrict the time for them to say.

If, in their final words, the defendants additionally present new circumstances of important significance to the cases, the trial panels must decide to re-open the inquiry.

Article 221. Consideration of withdrawal of prosecution decisions or conclusions on lesser offenses

1. When procurators withdraw part of their prosecution decisions or conclude on lesser offenses, the trial panels shall still continue adjudicating the cases.

2. Where procurators withdraw the whole of the prosecution decisions, the trial panels, before deliberating the judgments, shall request the participants in the procedure at the court sessions to give their opinions on such withdrawal.

Chapter XXII

DELIBERATION AND PRONUNCIATION OF JUDGMENTS

Article 222. Deliberation of judgments

1. Only judges and jurors shall have the right to deliberate judgments. Members of the trial panels must settle all matters of the cases by majority vote on each matter. Judges shall vote last. Persons holding minority opinions shall have the right to present their opinions in writing for inclusion in the case files.

2. Where procurators withdraw the whole prosecution decisions, the trial panels shall still settle matters of the cases in the order prescribed in Clause 1 of this Article. If there are grounds to confirm that defendants are not guilty, the trial panels shall declare the defendants not guilty; if deeming that the withdrawal of the prosecution decisions is ungrounded, they shall decide to cease the cases and make proposals to the immediate superior procuracies.

3. The deliberation of judgments shall be based only on evidences and documents already verified at the court sessions on the basis of fully and comprehensively examining all evidences, opinions of procurators, defendants, defense counsels and other participants in the proceedings at court sessions.

4. All opinions and decisions of the trial panels made in the process of deliberating judgments must be recorded in the minutes. Judgment deliberation minutes must be

signed by all members of the trial panels at the deliberation chambers before the judgments are pronounced.

Article 223. Reopening of inquiry and argument

If they find, through judgment deliberation, that some circumstances of the cases have not yet been inquired into or have been insufficiently inquired into, the trial panels shall decide to reopen the inquiry and argument.

Article 224. Judgments

1. The courts shall hand down judgments in the name of the Socialist Republic of Vietnam.

2. A judgment should contain the date, hour and venue of the court session; full names of members of the trial panel and court clerk; full names of procurators; full name, birth date, birth place, residence, occupation, educational level, social status and previous criminal records of the defendant; the date the defendant is held in custody and/or temporary detention; full name, age, occupation, birth place and residence of the defendant's lawful representative; full name of the defense counsel; full names, ages, occupations, residences of the victim, civil plaintiff, civil defendant, persons with interests and obligations related to the case, and their lawful representatives.

3. A judgment must describe the commission of the offense by the defendant, analyze evidences arraigning and exculpating the defendant, determine where or not the defendant is guilty, and if guilty, which offense he/she has committed under which article and clause of the Penal Code, circumstances aggravating and extenuating his/her penal liability and how should they be handled. If the defendant is not guilty, the judgment must clearly state the grounds to confirm that the defendant is not guilty and deal with the restoration of his/her honor, legitimate rights and interests. The last part of a judgment shall contain the court's decisions and the right to appeal against the judgment.

Article 225. Proposal to remedy mistakes in the managerial work

1. Together with handing down judgments, the courts shall issue proposals to the concerned agencies and organizations to apply necessary measures to overcome crime causes and conditions at their agencies and organizations. Within thirty days after receiving the courts' proposals, such agencies and organizations must notify in writing the courts of the measures already applied.

2. Proposals of the courts may be either read at the court sessions together with the judgments or sent to the concerned agencies or organizations only. .

Article 226. Pronouncement of judgments

All people present in the courtrooms must stand up when a judgment is pronounced. The presiding judge or another member of the trial panel shall read the judgment and may, after reading, explain further the execution of the judgment and the right to appeal.

If the defendant does not know Vietnamese, after the judgment is pronounced, the interpreter must read to the defendant the whole judgment in the language which the defendant knows.

Article 227. Release of defendants

In the following cases, the trial panels must declare the immediate release at the court sessions of the defendants who are temporarily detained, provided that they are not temporarily detained for another offense:

1. The defendants are not guilty;

2. The defendants are exempt from penal liability or from serving the penalty;

3. The defendants are punished with penalties other than imprisonment.

4. The defendants are entitled to suspended judgments;

5. The imprisonment term is equal to or shorter than the period during which the defendants have been temporarily detained.

Article 228. Arrest of defendants for temporary detention after the pronouncement of judgments

1. For defendants who are being temporarily detained and sentenced to imprisonment but their temporary detention time limits expire on the date the court sessions end, the trial panels shall issue decisions to hold the defendants in temporary detention in order to secure the judgment execution, except for the cases prescribed in Clause 4 and Clause 5 of Article 227 of this Code.

2. Where the defendants who are not held in temporary detention are sentenced to imprisonment, they shall only be arrested for temporary detention in order to serve the penalties when the judgments become legally valid. The trial panels may issue

decisions to immediately arrest the defendants for temporary detention if they have grounds to believe that the defendants may escape or continue to commit other offenses.

3. The time limit for temporary detention of defendants prescribed in Clause 1 and Clause 2 of this Article is forty five days as from the date of pronouncement of the judgments.

4. For defendants punished by capital punishment, the trial panels shall decide in the judgments on the continued temporary detention of the defendants to secure the execution of the judgments.

Article 229. Handing of judgments

Within ten days after the date of pronouncement of the judgments, the first-instance courts must hand copies of the judgments to the defendants, the procuracies of the same level, and defense counsels, send them to persons tried in absentia and the police agencies of the same level; notify such in writing to the administrations of the communes, wards or townships where the defendants reside or the agencies or organizations where they work.

In case of trying defendants in absentia under the provisions of Point a or Point b, Clause 2, Article 187 of this Code, within the above-said time limit, copies of the judgments must be posted up at the offices of the administrations of the communes, wards or townships where the defendants last reside or of the agencies or organizations where they last work.

Victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases or their lawful representatives shall have the right to request the courts to provide them extracts or copies of the judgments.

Part Four

APPELLATE TRIAL

Chapter XXIII

NATURE OF APPELLATE TRIAL AND RIGHTS TO APPEAL AND PROTEST

Article 230. Nature of appellate trial

Appellate trial means the re-trial of the cases or the review of first-instance decisions by immediate superior courts when the first-instance judgments or decisions in such cases are appealed or protested against before they become legally valid.

Article 231. Persons entitled to appeal

Defendants, victims and their lawful representatives shall have the right to appeal against first-instance judgments or decisions.

Defense counsels shall have the right to appeal in order to protect the interests of minors or persons with physical or mental defects.

Civil plaintiffs, civil defendants and their lawful representatives shall have the right to appeal against part of the judgments or decisions, which is related to damage compensation.

Persons with interests and obligations related to the cases and their lawful representatives shall have the right to appeal against part of the court judgment or decisions, which is related to their interests and obligations.

Defense counsels of the interests of minors or persons with physical or mental defects shall have the right to appeal against part of the court judgments or decisions, which is related to the interests and obligations of the persons whom they protect.

Persons who are declared not guilty by the courts shall have the right to appeal against part the first-instance judgments declaring them not guilty regarding the reasons for such declaration.

Article 232. Protests by procuracies

The procuracies of the same level and the immediate superior procuracies shall have the right to protest against first-instance judgments or decisions.

Article 233. Procedures for lodging appeals and protests

1. Appellants must send their written appeals to the courts which have conducted first-instance trial or to the courts of appeal. If the defendants are under temporary detention, the superintendence boards of the detention centers must guarantee the defendants to exercise their right to appeal.

Appellants may also present their appeals directly to the courts which have conducted first-instance trials. The courts must make minutes of such appeals as prescribed in Article 95 of this Code.

2. The procuracies of the same level or immediate higher procuracies shall lodge written protests, clearly stating the reasons therefor. Written protests shall be addressed to the courts which have conducted first-instance trials.

Article 234. Time limits for lodging appeals and protests

1. The time limit for lodging appeals is fifteen days after the date of pronouncement of judgments. For defendants or involved parties absent at the court sessions, the time limit for lodging appeals is counted from the date the copies of the judgments are handed to them or posted up.

The time limit for the procuracies of the same level to lodge protests is fifteen days and for immediate higher procuracies is thirty days, counting from the date of pronouncement of the judgments

2. If written appeals are sent by post, the date of such appeals shall be the date of the postmarks affixed by the sending post offices on the envelops. Where written appeals are sent via the superintendence boards of the detention centers, the date of such appeals shall be the date the superintendence boards of the detention centers receive such written appeals.

Article 235. Late appeals

1. Late appeals may be accepted if plausible reasons can be given.

2. The courts of appeal shall set up trial panels each consisting of three judges to consider the reasons for late appeals. Such trial panels shall have the right to decide to accept or reject late appeals.

Article 236. Notification of appeals or protests

1. Appeals and protests must be notified in writing by the courts of first instance to the procuracies of the same level and participants in the procedure within seven days after their receipt.

2. Persons notified of the appeals or protests shall have the right to send their written opinions on the contents of such appeals or protests to the courts of appeal. Their opinions shall be included in the case files.

Article 237. Consequences of appeals and protests

1. Parts of the judgments, which are appealed or protested against, shall not be executed, except for the cases prescribed in Clause 2, Article 255 of this Code. When

the whole judgments are appealed or protested against, the whole judgments shall not be executed.

2. The courts of first instance must send the case files and appeals or protests to the courts of appeal within seven days after the expiry of the time limit for lodging appeals or protests.

Article 238. Supplementation, change and withdrawal of appeals or protests

1. Before the opening of or during the appellate-court sessions, the appellants or procuracies shall have the right to supplement or change their appeals or protests, provided that such supplementation or change must not aggregate the situation of the defendants; or to withdraw part or the whole of their appeals or protests.

2. In cases where the whole appeals or protests are withdrawn at the court sessions, the appellate trial must be ceased. First-instance judgments shall become legally valid from the date the courts of appeal issue decisions to cease the appellate trial.

Article 239. Appeals and protests against decisions of the courts of first instance

1. The time limit for the procuracies of the same level to protest against decisions of the courts of first instance is seven days and for immediate higher procuracies fifteen days, counting from the date of issuance of such decisions.

2. Decisions of the courts of first instance to suspend or cease the cases may be appealed against within seven days, counting from the date the persons with the right to appeal receive such decisions.

Article 240. Validity of courts' first-instance judgments or decisions which are not appealed or protested against

The courts' first-instance judgments and decisions and parts thereof which are not appealed or protested against, shall become legally valid from the expiry date of the time limit for lodging appeals or protests.

Chapter XXIV

APPELLATE TRIAL PROCEDURES

Article 241. Scope of appellate trial

The court of appeal shall consider the contents of appeals or protests. If deeming it necessary, they may examine other parts of the judgments, which are not appealed or protested against.

Article 242. Time limit for appellate trial

The provincial-level people's courts and the military zone-level military courts must open appellate court sessions within sixty days; the Court of Appeal of the Supreme People's Court or the Central Military Court must open appellate court sessions within ninety days after receiving the case files.

At least fifteen days before opening court sessions, the courts of appeal must notify in writing the procuracies of the same level and participants in the procedure of the time and venue of the appellate trial of the cases.

Article 243. Application, change or cancellation of deterrent measures by courts of appeal

1. After receiving the case files, the courts of appeal shall have the right to decide to apply, change or cancel deterrent measures. The application, change or cancellation of the temporary detention measure shall be decided by the presidents or vice-presidents of the provincial-level people's courts or the military zone-level military courts or by the judges holding the post of president or vice-president of the Court of Appeal of the Supreme People's Court.

The temporary detention time limit must not exceed the time limit for appellate trial prescribed in Article 242 of this Code.

2. For defendants being under temporary detention whose detention periods end on the date of opening the appellate court sessions, if deeming it necessary to continue their temporary detention in order to complete the trial, the courts shall issue orders to keep them in temporary detention until the end of the court sessions.

3. For defendants being under temporary detention and sentenced to imprisonment and whose temporary detention periods end on the date of completion of the court sessions, the trial panels shall issue decisions to keep them in temporary detention in order to secure the execution of their judgments, except for the cases prescribed in Clause 4 and Clause 5, Article 227 of this Code.

For defendants who are not held in temporary detention but punished by imprisonment, the trial panels may issue decisions to arrest them immediately for temporary detention after pronouncing their judgments, except for the cases prescribed in Article 261 of this Code.

The temporary detention time limit shall be forty five days after the date of pronouncement of the judgments.

Article 244. Composition of the appellate trial panels

An appellate-trial panel shall be composed of three judges and possibly added two jurors in case of necessity.

Article 245. Participants in appellate court sessions

1. At appellate court sessions, the participation by procurators of the procuracies of the same level is compulsory, if they do not appear, the court sessions must be postponed.

2. Defense counsels, defense counsels of the interests of the involved parties, appellants, persons with interests and obligations related to the appeals or protests shall be summoned to attend the court sessions. If any of them is absent for plausible reasons, the trial panels may still proceed with the trial but shall refrain from issuing judgments or decisions unfavorable to the absent defendant or involved party. Court sessions must be postponed in other cases.

The time limit for postponing a court session as prescribed in Clause 1 or Clause 2 of this Article or in Articles 45, 46 and 47 of this Code shall not exceed thirty days, counting from the date of issuance of the decision to postpone the court session.

3. The participation in court sessions by other persons shall be decided by the courts of appeal if they deem their appearance necessary.

Article 246. Supplementation and examination of evidences at the courts of appeal

1. Before the trial or during the inquiry at the court sessions, the procuracies may supplement by themselves or at the court’s request new evidences; the appellants or persons with interests and obligations related to the appeals or protests, defense counsels and defense counsels of the interests of the involved parties shall also have the right to supplement documents and/or objects.

2. Previous evidences, new evidences, newly added materials and/or objects must all be examined at the court sessions. Judgments of the courts of appeal must be based on both previous and new evidences.

Article 247. Procedures at appellate court sessions

Appellate court sessions shall be conducted like first-instance ones but before the inquiry, one trial panel member must briefly present the case contents, decision(s) of the first-instance judgment, contents of the appeal or protest. In the arguing process, procurators must present the procuracies' viewpoints on the settlement of the cases.

Article 248. Appellate judgments and jurisdiction of courts of appeal

1. The courts of appeal shall hand down the judgments in the name of the Socialist Republic of Vietnam. A judgment should contain the date, hour and venue of the court session; full names of the members of the trial panel and the court clerk; the full names of the procurators; the full name, birth date, birth place, residence, occupation, educational level, social status and previous criminal records of the defendant; the date of custody or temporary detention of the defendant; the full name of the defense counsel; full names, ages, occupations and residences of the victim, civil plaintiff, civil defendant, persons with interests and obligations related to the case, and their lawful representatives.

A judgment must contain the brief content of the case, the process of settling the case, decisions of the first-instance judgment, the contents of the appeal or protest, and grounds to make one of the decisions defined in Clause 2 of this Article. The last part of a judgment shall contain the court decisions.

2. The courts of appeal shall have the right to decide:

a/ To reject the appeal or protest and keep the first-instance judgment unchanged;

b/ To amend the first-instance judgment;

c/ To cancel the first-instance judgment and transfer the case file for re-investigation or re-trial;

d/ To cancel the first-instance judgment and cease the case.

3. Appellate judgments shall become legally valid from the date of their pronouncement.

Article 249. Amendment of first-instance judgments

1. The courts of appeal shall have the right to amend the first-instance judgments as follows:

a/ To exempt defendants from penal liability or penalty;

b/ To apply the Penal Code's article and clauses on lesser offenses;

c/ To commute penalties for defendants;

d/ To reduce the levels of damage compensation and amend decisions on handling exhibits;

e/ To shift to lighter penalties; to retain the imprisonment term and hand down suspended sentences.

2. If having grounds, the courts of appeal may also commute penalties, apply the Penal Code's articles and clauses on lesser offenses, shift to lighter penalties; retain the imprisonment terms and hand down suspended sentences also on defendants who do not appeal or are not appealed or protested against.

3. Where the protesting procuracies or the appealing victims request, the courts of appeal may also increase penalties, apply the Penal Code's articles and clauses on more serious offenses; increase the damage compensation levels; if the procuracies protest or the victims, civil plaintiffs or civil defendants appeal; if having grounds, the courts may also commute penalties, apply the Penal Code's articles and clauses on lesser offenses, shift to lighter penalties; retain the imprisonment terms and hand down suspended sentences, or reduce the damage compensation levels.

Article 250. Dismissal of first-instance judgments for re-investigation or re-trial

1. The courts of appeal shall dismiss the first-instance judgments when they find that the investigation at the first-instance level is insufficient and cannot be supplemented at the appellate level.

2. The courts of appeal shall dismiss the first-instance judgments for re-trial at the first-instance level with a new composition of the trial panel in the following cases:

a/ The composition of the first-instance trial panel did not conform to law provisions or showed other serious violations of the criminal procedure.

b/ There are grounds to believe that the persons who were declared not guilty by the first-instance courts had committed offences.

3. When dismissing the first-instance judgments for re-investigation or re-trial, the courts of appeal must clearly state in writing the reasons therefor.

4. When dismissing the first-instance judgments for re-trial, the courts of appeal shall neither decide in advance on evidences which the courts of first instance must accept

or reject nor decide in advance on the Penal Code's articles and clauses as well as penalties the courts of first instance must apply.

5. In case of dismissing the first-instance judgments for re-investigation or re-trial but the defendants' temporary detention period has expired and if deeming it necessary to continue holding the defendants in temporary detention, the appellate trial panels shall issue decisions to continue keeping the defendants in temporary detention till the procuracies or the courts of first instance re-handle the cases.

Within fifteen days after the first-instance judgments are dismissed, the case files must be transferred to the procuracies or the courts of first instance for handling according to general procedures.

Article 251. Dismissal of first-instance judgments and cessation of cases

When having one of the grounds prescribed at Points 1 and 2, Article 207 of this Code, the courts of appeal shall dismiss the first-instance judgments, declare the defendants not guilty and cease the cases; if having one of the grounds prescribed at Points 3, 4, 5, 6 and 7, Article 107 of this Code, they shall dismiss the first-instance judgments and cease the cases.

Article 252. Re-investigation or re-trial of criminal cases

After the courts of appeal dismiss the first-instance judgments for re-investigation or re-trial, the investigating bodies shall re-investigate, the procuracies re-institute and courts of first instance re-try the cases according to general procedures.

Article 253. Appellate trial of decisions of courts of first instance

1. For appealed or protested decisions of the courts of first instance, the courts of appeal shall not have to open court sessions but may, if deeming it necessary, summon the necessary participants in the procedure and listen to their opinions before issuing decisions.

2. The courts of appeal shall have to issue decisions to settle appeals or protests within ten days after receiving the case files.

3. When examining the appealed or protested decisions of the courts of first instance, the courts of appeal shall have the powers defined in Article 248 of this Code.

4. Appellate decisions shall become legally valid from the date of their issuance.

Article 254. Handing of appellate judgments and decisions

Within ten days counting from the date of pronouncing the judgments or issuing the decisions, the courts of appeal must hand copies of the appellate judgments or decisions to the appellants, the courts, procuracies and police agencies of places where the cases were tried at the first-instance level, and to persons with interests and obligations related to the appeals or protests or their lawful representatives, the competent civil judgment-executing agencies in cases where the appellate judgments pronounce penalties of pecuniary fines, property confiscation and civil decisions; and notify in writing the administrations of the communes, wards or townships where the defendants reside or the agencies or organizations where they work. Where the appellate trial is conducted by the Court of Appeal of the Supreme People's Court, this time limit may be longer but must not exceed twenty five days.

Victims, civil plaintiffs, civil defendants, persons with interests and obligations related to the cases or their lawful representatives shall have the right to request the courts to provide them with extracts or copies of the judgments.

Part Five

EXECUTION OF COURT JUDGMENTS AND DECISIONS

Chapter XXV

GENERAL PROVISIONS ON EXECUTION OF COURT JUDGMENTS AND DECISIONS

Article 255. Judgments and decisions to be executed

1. Judgments and decisions to be executed are those which have become legally valid, including:

a/ Judgments and decisions of the courts of first instance, which are not appealed or protested against according to the appellate procedures;

b/ Judgments and decisions of the courts of appeal;

c/ Decisions of the courts of cassation or reopening trial

2. For cases where defendants are kept in temporary detention but the courts of first instance decide to cease the cases, not to convict them, exempt them from penal liability or penalty, to hand down non-custodial penalties or suspended sentences or where the imprisonment terms are equal to or shorter than the temporary detention

periods, the court judgments or decisions shall be immediately executed though they may be protested or appealed against.

Article 256. Procedures for execution of court judgments and decisions

1. Within seven days after the court judgments or decisions become legally valid or after receiving the appellate judgments or decisions, the cassation-trial or reopening trial decisions, the presidents of the courts which have conducted the first-instance trials shall have to issue decisions to execute the judgments or entrust other courts of the same level to issue decisions to execute the judgments.

2. A decision to execute a judgment must contain the full name of its issuer; the name of the agency tasked to execute the judgment or decision; the full name, birth date and residence of the convict; the judgment or decision the convict must serve.

Where the convicts are on bail, the decisions to execute the imprisonment sentences must clearly state that within seven days after receiving the decisions, the convicts must appear at the police offices to serve their sentences.

3. Decisions to execute judgments and judgment or decision extracts must be sent to the procuracies of the same level of the places where the judgments are to be executed, the judgment-executing agencies and the convicts.

4. If the persons on bail escape after being sentenced to imprisonment, the presidents of the courts which have issued the decisions to execute the judgments shall request the investigating bodies of the same level to issue pursuit warrants.

Article 257. Agencies, organizations tasked to execute court judgments and decisions

1. The police agencies shall execute the penalties of expulsion, termed imprisonment, life imprisonment and join the councils for execution of death penalties as prescribed in Article 259 of this Code.

2. The commune, ward or township administrations of the places where the convicts reside or agencies or organizations where the convicts work shall be tasked to monitor, educate and supervise the reform of the persons serving suspended sentence or non-custodial reform.

3. The execution of penalties of probation, residence ban, deprivation of a number of civic rights, ban from holding certain positions, ban from practicing certain occupations or doing certain jobs shall be undertaken by the commune, ward or

township administrations or agencies or organizations, where the judgments are executed.

4. Specialized medical establishments shall execute decisions on compulsory medical treatment.

5. Civil judgment-executing agencies shall execute penalties of pecuniary fine or property confiscation and civil decisions in criminal cases. The commune, ward or township administrations or agencies or organizations shall be tasked to assist executors in executing the judgments. If it is necessary to apply forcible measures to execute the judgments, the police and other concerned agencies shall have to coordinate therein.

6. The execution of judgments and decisions of military courts shall be undertaken by organizations in the army, except for the penalty of expulsion.

7. Judgment-executing agencies must report to the presidents of the courts which have issued decisions to execute the judgments on the execution of the judgments or decisions; and state clearly the reasons if they cannot execute them yet.

Chapter XXVI

EXECUTION OF DEATH PENALTY

Article 258. Procedures for consideration of death judgments before execution

1. After the death judgments become legally valid, the case files must be immediately sent to the President of the Supreme People's Court and the judgments must be immediately sent to the Chairman of the Supreme People's Procuracy.

Within two months after receiving the judgments and case files, the President of the Supreme People's Court and the Chairman of the Supreme People's Procuracy shall have to decide to protest or not to protest against the judgments according to cassation or reopening procedures.

Within seven days after the judgments become legally valid, the convicts may send amnesty petitions to the State President.

2. Death judgments shall be executed if they are not protested against by the President of the Supreme People's Court and the Chairman of the Supreme People's Procuracy according to cassation or reopening procedures.

Where the death judgments are protested against according to cassation or reopening procedures but the cassation trial panel or the reopening trial panel of the Supreme People's Court decides to reject such protests and retain the death judgments, the Supreme People's Court must immediately notify the convicts thereof so that the latter can make petitions for commutation of their death penalties.

Where the convicts have made petitions for commutation of their death penalties, the death penalties shall be executed after the State President rejects their petitions.

Article 259. Execution of death penalty

1. The presidents of the courts which have conducted first-instance trials shall issue execution decisions and set up the councils for execution of death penalty, each consisting of representatives of the court, procuracy and police. The judgment-executing councils must check the identity cards of the convicts before executing the judgments.

Where the convicts are women, before issuing decisions to execute the judgments, the presidents of the courts which have conducted first-instance trials shall have to examine the conditions for non-application of death penalty, prescribed in Article 35 of the Penal Code. If there are grounds that the convicts meet the conditions prescribed in Article 35 of the Penal Code, the presidents of the courts which have conducted first-instance trial shall not issue decisions to execute the judgments and report such to the President of the Supreme People's Court for consideration and commutation of the death penalty to life imprisonment for the convicts.

Before executing women convicts, the judgment-executing councils shall, apart from checking their identity cards, have to check the documents related to the conditions for non-application of the death penalty prescribed in Article 35 of the Penal Code.

Where the judgment-executing councils detect that the convicts meet the conditions prescribed in Article 35 of the Penal Code, they shall postpone the execution and report such to the presidents of the courts which have conducted first-instance trial for reporting to the President of the Supreme People's Court for consideration and commutation of the death penalty to life imprisonment for the convicts.

2. Before the execution, the convicts must be handed and read the decisions to execute the judgments, decisions not to protest against the judgments, made by the President of the Supreme People's Court and decisions not to protest against the judgments, made by the Chairman of the Supreme People's Procuracy; if the convicts have made petitions for commutation of their death penalty, they must be handed and read the State President's decisions to reject their commutation petitions.

3. Death penalties shall be executed by shooting.

4. The execution of death penalty must be recorded in a minutes which must clearly state the handing of decisions to the convicts for reading, their words, correspondence and articles they have left to their relatives.

5. In special circumstances, the judgment-executing councils shall postpone the execution and report such to the presidents of the courts which have issued the execution decisions for further reporting to the President of the Supreme People's Court.

Chapter XXVII

EXECUTION OF IMPRISONMENT PENALTIES AND OTHER PENALTIES

Article 260. Execution of imprisonment penalties

1. If the convicts are under temporary detention, the police agencies must permit them to meet their relatives before serving their sentences at the requests of the convicts' relatives.

The superintendence boards of the prisons must notify the convicts' families of the places where such convicts shall serve their penalties.

2. Where the convicts are on bail, past the time limit if they do not appear at the police offices to serve their penalties, they shall be escorted.

3. The presidents of the courts which have issued judgment execution decisions must monitor the execution of the judgments. The police agencies must notify the courts of the arrest of the convicts for execution of the judgments or of the reasons for failure to arrest them and measures to be taken to ensure the execution of the judgments.

4. Where the persons who are serving their imprisonment penalties escape from the prisons, the police agencies shall issue pursuit warrants.

Article 261. Postponement of serving of imprisonment penalties

1. For persons who are sentenced to imprisonment but on bail, the presidents of the courts which have issued judgment execution decisions may permit on their own or at the requests of the procuracies or police agencies of the same level or the convicts to

postpone the serving of imprisonment penalties in the cases prescribed in Clause 1, Article 61 of the Penal Code.

2. At least seven days before the expiry of the period of postponement of the serving of imprisonment penalties, the presidents of the courts which have permitted the postponement must issue judgment execution decisions and immediately send them together with the copies of the legally valid imprisonment judgments and/or decisions to the police agencies of the same level and the convicts before the expiry of the period of postponement of the serving of imprisonment penalties.

Past seven days after the expiry of the period of postponement of the serving of imprisonment penalties, if the convicts do not appear at the police offices without plausible reasons in order to go to serve their imprisonment penalties, the police agencies shall have to escort them to go to serve their imprisonment penalties.

Article 262. Suspension of serving of imprisonment penalties

1. At the requests of the procuracies or the superintendence boards of the prisons where the convicts are serving their imprisonment penalties:

a/ The presidents of the provincial-level courts of the places where the convicts are serving their imprisonment penalties may allow such convicts to temporarily stop serving their imprisonment penalties in the cases prescribed at Point a, Clause 1 of Article 61, and in Article 62 of the Penal Code.

b/ The presidents of the courts which have issued judgment execution decisions may allow the persons serving their imprisonment penalties to temporarily stop serving their imprisonment penalties in the cases prescribed at Points b, c and d, Clause 1 of Article 61, and in Article 62 of the Penal Code.

At least seven days before the expiry of the period of suspension of imprisonment penalties, the presidents of the courts which have permitted the suspension of serving of imprisonment penalties must issue judgment execution decisions with regard to the remaining part of their penalties and immediately send such decisions to the police agencies of the same level in the same places of the courts which have issued the suspension decisions and to the convicts.

Past seven days after the expiry of the period of suspension of the serving of imprisonment penalties, if the convicts do not appear at the police offices without plausible reasons in order to go to serve their imprisonment penalties, the police agencies shall have to escort them to go to serve their imprisonment penalties.

2. The suspension of the serving of imprisonment penalties for trial according to cassation or reopening procedures must be decided by the protestors or the courts of cassation or reopening trial level.

Article 263. Management of persons enjoying postponement or suspension of serving of imprisonment penalties

1. Persons enjoying the postponement or suspension of the serving of imprisonment penalties shall be assigned to the commune, ward or township administrations of the places where they reside or the agencies or organizations where they work for management. They must not go elsewhere without the permission of the commune, ward or township administrations or the agencies or organizations that manage them.

2. During the period of postponement or suspension of the serving of imprisonment penalties, if the convicts commit serious law violations or there emerge grounds to believe that they may abscond, the presidents of the courts which have permitted the postponement or suspension of the serving of imprisonment penalties shall cancel such decisions then issue judgment execution decisions to force them to serve their imprisonment penalties. Such judgment execution decisions shall be sent to the police agencies of the same level in the same localities of the decision-issuing courts. Immediately after receiving the judgment execution decisions, the police agencies must organize the arrest and escort of the convicts to go to serve their imprisonment penalties.

Article 264. Execution of suspended sentences and non-custodial reform penalty

Persons subject to suspended sentence and persons subject to non-custodial reform penalty shall be assigned to the commune, ward or township administrations of the places where they reside or the agencies or organizations where they work for supervision and education.

Article 265. Execution of expulsion penalty

Persons subject to expulsion must get out of the territory of the Socialist Republic of Vietnam within fifteen days after the execution decisions are issued. Where the persons subject to expulsion penalty must also serve other penalties or perform other obligations, the time limit for them to get out of the territory of the Socialist Republic of Vietnam shall be prescribed by law.

Article 266. Execution of probation or residence ban penalty

For persons subject to probation, after they have completely served their imprisonment penalties, they shall be assigned to the commune, ward or township

administrations of the places where they reside for execution of the probation penalty. Persons subject to residence ban shall not be allowed to temporarily or permanently reside in the localities where they are banned from residing in.

Article 267. Execution of fine or property confiscation penalty

Decisions to execute fine or property confiscation judgments must be sent to the procuracies of the same level, executors, convicts and the administrations of the communes, wards or townships where the convicts reside.

Property confiscation shall be conducted under the provisions of Article 40 of the Penal Code.

Chapter XXVIII

REDUCTION OF PENALTY TERMS OR EXEMPTION FROM SERVING PENALTIES

Article 268. Conditions for reduction of penalty terms or exemption from serving penalties

1. Persons who are serving imprisonment, non-custodial reform, residence ban or probation penalties may have the terms of serving such penalties reduced under the provisions of Articles 57, 58, 59 and 76 of the Penal Code; if they have not yet served their penalties, they may be exempt from serving the whole penalties under the provisions of Clauses 1, 2, 3 and 5, Article 57 of the Penal Code.

Persons who are allowed to temporarily stop serving their imprisonment penalties may be exempt from serving the remainder of their penalties under the provisions of Clause 4, Article 57 of the Penal Code.

Persons who have served part of their fine penalties may be exempt from paying the remaining amounts of fine under the provisions of Clause 2, Article 58 and Clause 3, Article 76 of the Penal Code.

2. Persons subject to suspended sentence may have their testing periods shortened under the provisions of Article 60 of the Penal Code.

Article 269. Procedures for reduction of penalty terms or exemption from serving penalties

1. The courts competent to decide on the reduction of imprisonment terms shall be provincial-level people's courts or military zone-level military courts of the places where the convicts serve their imprisonment penalties.

The courts competent to decide on the exemption from serving imprisonment penalties shall be provincial-level people's courts or military zone-level military courts of the places where the convicts reside or work.

The reduction of the terms of, or exemption from serving, other penalties or reduction of the testing periods shall be decided by the district-level people's courts or the regional military courts of the places where the convicts are serving their penalties or undergoing the test.

2. Dossiers of application for exemption from serving non-custodial reform penalties, exemption from serving the whole or remainder of imprisonment penalties, exemption from paying remaining fine amounts must contain the proposals of the chairmen of the procuracies of the same level.

Dossiers of application for reduction of imprisonment terms must contain the proposals of the agencies executing the imprisonment penalties.

Dossiers of application for reduction of the terms of non-custodial reform penalties must contain the proposals of the agencies, organizations or local administrations assigned to directly supervise and educate the convicts.

Dossiers of application for reduction of, or exemption from serving, other penalties or shortening of the testing periods of suspended sentences must contain the proposals or comments of the agencies or organizations tasked to execute the judgments as prescribed in Article 257 of this Code.

3. While a court considers the reduction of penalty terms or exemption from serving penalties, one member of the court shall present the matters to be considered, then a representative of the procuracy shall express his/her opinions. The court shall issue a decision to accept or reject the application for reduction of penalty terms or exemption from serving penalties or for shortening of the testing period.

Chapter XXIX

REMISSION OF CRIMINAL RECORDS

Article 270. Automatic remission of criminal records

At the requests of the persons entitled to automatic remission of criminal records prescribed in Article 64 of the Penal Code, the presidents of the courts which have conducted the first-instance trial of their cases shall grant certificates of remission of their criminal records.

Article 271. Remission of criminal records by court decisions

1. In the cases prescribed in Article 65 and Article 66 of the Penal Code, the remission of criminal records shall be decided by courts. The convicts must file their applications with the courts which have conducted the first-instance trial of their cases together with the comments of the commune, ward or township administrations of the places where they reside or the agencies or organizations where they work.

2. The presidents of the courts which have conducted the first-instance trial shall transfer the case files to the procuracies of the same level for the latter to state in writing their opinions on the applications for remission of criminal records. If deeming that all conditions are satisfied, the presidents shall issue decisions to remit the criminal records; if conditions are not fully met, the presidents of the courts shall decide to reject such applications.

Part Six

REVIEW OF LEGALLY VALID JUDGMENTS AND DECISIONS

Chapter XXX

CASSATION PROCEDURES

Article 272. Nature of cassation procedures

Cassation mean the review of a legally valid judgment or decision which is protested against because of serious law violations detected in the handling of the case.

Article 273. Grounds to lodge protests according to cassation procedures

Legally valid court judgments or decisions shall be protested according to cassation procedures if one of the following grounds exists:

1. The inquiry at the court session is one-sided or insufficient;

2. The conclusion in the judgment or decision does not suit the objective circumstances of the case;

3. Serious violations of criminal procedures are committed in the investigation, prosecution or trial;

4. Serious mistakes are made in the application of the Penal Code.

Article 274. Discovery of legally valid judgments or decisions which need to be reviewed according to cassation procedures

The convicts, agencies, organizations and all citizens shall have the right to discover law violations in legally valid court judgments and decisions and notify them to the persons with the right to protest as prescribed in Article 275 of this Code.

If discovering law violations in the legally valid court judgments or decisions, the procuracies or courts must notify such to the persons with the right to protest as prescribed in Article 275 of this Code.

Article 275. Persons with the right to protest according to cassation procedures

1. The President of the Supreme People's Court and the Chairman of the Supreme People's Procuracy shall have the right to protest according to cassation procedures against the legally valid judgments or decisions of the courts of different levels, except for decisions of the Judges' Council of the Supreme People's Court.

2. The President of the Central Military Court and the Chairman of the Central Military Procuracy shall have the right to protest according to cassation procedures against legally valid judgments or decisions of subordinate military courts.

3. The presidents of the provincial-level people's courts and the chairmen of the provincial-level people's procuracies, the presidents of the military zone-level military courts and the chairmen of the military zone-level military procuracies shall have the right to protest according to cassation procedures against legally valid judgments or decisions of their respective subordinate courts.

Article 276. Suspension of execution of judgments or decisions which have been protested against according to cassation procedures

Those who have protested against legally valid judgments or decisions shall have the right to decide to suspend the execution of such judgments or decisions.

Decisions to suspend the execution of judgments must be sent to the courts and procuracies which have been in charge of the first-instance trial and the competent judgment-executing agencies.

Article 277. Protests according to cassation procedures

1. Protests according to cassation procedures must clearly state the reasons and sent to:

a/ The courts which have issued the protested judgments or decisions;

b/ The courts which will conduct the cassation trial;

c/ The convicts, and the persons with rights and interests related to the protests.

2. If there is no ground to protest according to cassation procedures, before the expiry of the time limit for lodging protests as prescribed in Article 278 of this Code, the persons with the right to protest must reply the discovering persons, agencies or organizations, clearly stating the reasons for no protest.

3. Before the start of a court session of cassation, the protestors shall have the right to supplement their protests provided that the time limit for lodging protests prescribed in Article 278 of this Code has not yet expired, or withdraw their protests.

Article 278. Time limit for lodging protests according to cassation procedures

1. Protests unfavorable to the convicts must be lodged only within one year counting from the date the judgments or decisions become legally valid.

2. Protests favorable to the convicts may be lodged at any time, even in the cases where the convicts are deceased and it is necessary to prove their innocence.

3. Civil protests in criminal cases against civil plaintiffs, civil defendants or persons with interests and obligations related to the cases shall be lodged in accordance with the provisions of civil procedure legislation.

Article 279. Jurisdiction to review cases according to cassation procedures

1. The Judges' Committees of the provincial-level people's courts shall review according to cassation procedures legally valid judgements or decisions of the district-level people's courts. The Judges' Committees of the military zone-level military courts shall review according to cassation procedures legally valid judgements or decisions of the regional military courts.

2. The Criminal Tribunal of the Supreme People's Court shall review according to cassation procedures legally valid judgments or decisions of the provincial-level people's courts. The Central Military Court shall review according to cassation procedures legally valid judgements or decisions of the military zone-level military courts.

3. The Judges' Council of the Supreme People's Court shall review according to cassation procedures legally valid judgements or decisions of the Central Military Court, of the Criminal Tribunal or the courts of appeal of the Supreme People's Court, which have been protested against.

4. For legally valid judgments or decisions on the same criminal case falling under the cassation jurisdiction of different levels prescribed in Clauses 1, 2 and 3 of this Article, the competent superior level shall review the whole case according to cassation procedures.

Article 280. Participants in court sessions of cassation

A court session of cassation must be participated by the procuracy of the same level.

When deeming it necessary, the court must summon the convict, defense counsel and possibly persons with interests and obligations related to the protest to participate in the court session of cassation.

Article 281. Composition of cassation panels

1. The cassation panel of the Criminal Tribunal of the Supreme People's Court or the Central Military Court shall consist of three judges. If the Judges' Committees of the provincial-level people's courts, the Judges' Committees of the military zone-level military courts or the Judges' Council of the Supreme People's Court review the cases according to cassation procedures, at least two thirds of the total numbers of the Judges' Committees or Judges' Council shall participate in the trial.

Cassation decisions of the Judges' Committees or Judges' Council must be approved by more than half of the total number of members of the Judges' Committees or Judges' Council.

2. At the court sessions of cassation conducted by the Judges' Committees of the provincial-level people's courts, the Judges' Committees of the military zone-level military courts, of the Judges' Council of the Supreme People's Court, the voting on the contents of the protests must be in the order that opinions for the protests are followed by opinions against the protests. If neither opinions for or against are approved by more than half of the total number of the Judges' Committees or Judges'

Council, the court sessions must be postponed. Within thirty days after the issuance of the decisions to postpone the court sessions, the Judges' Committees or Judges' Council must open court sessions to re-try the cases with the participation of all of their members.

Article 282. Preparation for and proceedings at court sessions of cassation

1. The president of the court shall assign one judge to make a presentation on the case at the court session. The presentation shall summarize the contents of the case, judgments and decisions of the courts at different levels, and the contents of the protest. The presentation must be sent to the members of the panel at least seven days before the date of opening the court session of cassation.

2. At the court session, one member of the cassation panel shall read the presentation on the case. Members of the cassation panel shall express their opinions and the representative of the procuracy shall express his/her viewpoint on the settlement of the case.

If the convict, defense counsel, persons with interests and obligations related to the protests are summoned, these persons shall present their opinions before the representative of the procuracy. If they are absent, the cassation panel may still conduct the trial.

Article 283. Time limit for cassation

Court sessions of cassation must be conducted within four months counting from the date of receipt of the protests.

Article 284. Scope of cassation

The cassation panels must examine the whole cases without restricting the review to the contents of the protests.

Article 285. Competence of cassation panels

The cassation panels shall have the right to issue decisions:

1. To reject the protests and retain the legally valid judgments or decisions;

2. To dismiss the legally valid judgments or decisions and cease the cases;

3. To dismiss the legally valid judgments or decisions for re-investigation or re-trial.

Article 286. Dismissal of judgments or decisions and cessation of cases

The cassation panels shall dismiss legally valid judgments or decisions if they have one of the grounds prescribed in Article 107 of this Code.

Article 287. Dismissal of legally valid judgments or decisions for re-investigation or re-trial

The cassation panels shall dismiss legally valid judgments or decisions which are protested against for re-investigation or re-trial if they have one of the grounds prescribed in Article 273 of this Code. If they find re-trial necessary, the cassation panels may, on a case-by-case basis, decide on the re-trial from the first-instance level or at the appellate level.

In case of dismissing the protested judgments or decisions for re-investigation or re-trial, if deeming it necessary to continue the temporary detention of defendants, the cassation panels shall issue orders to keep such defendants in temporary detention until the procuracies or courts re-handle the cases.

Article 288. Effect of cassation decisions and handing of cassation decisions

1. Decisions of the cassation panels shall become legally valid as from the date of their issuance.

2. Within ten days as from the date of issuing the cassation decisions, the cassation panels must send them to the convicts, protestors, courts and police agencies which have been involved in the first-instance trial, persons with interests and obligations related to the protests or their lawful representatives, and competent judgment-executing agencies; and send notices thereon to the administrations of the communes, wards or townships where the convicts reside or the agencies or organizations where they work.

Article 289. Re-investigation, re-trial of cases after the cassation panels dismiss judgments or decisions

If the cassation panels decide to dismiss legally valid judgments or decisions for re-investigation, within fifteen days counting from the date of issuance of such decisions, the case files must be transferred to the procuracies of the same level for re-investigation according to general procedures.

If the cassation panels decide to dismiss legally valid judgments or decisions for re-trial of the cases at the first-instance level or appellate level, within fifteen days after

the date of issuance of such decisions, the case files must be transferred to the competent courts for re-trial according to general procedures.

Chapter XXXI

REOPENING PROCEDURES

Article 290. Nature of reopening procedures

Reopening procedures shall be applied to legally valid judgments or decisions which are protested against due to newly discovered new circumstances which may substantially change the contents of such judgments or decisions but were unknown to the courts when they issued such judgments or decisions.

Article 291. Grounds to protest according to reopening procedures

Circumstances to be used as grounds to protest according to reopening procedures include:

1. Statements of witnesses, expertise conclusions, oral interpretations of interpreters contain important contents discovered to be untruthful;

2. Investigators, procurators, judges or jurors made incorrect conclusions, thus leading to the wrong trial of the cases;

3. Exhibits, investigation records, records of other proceedings or other documents in the cases are forged or not truthful;

4. Other circumstances which have rendered the settlement of the cases untruthful.

Article 292. Notification and verification of newly discovered circumstances

1. The convicts, agencies, organizations and all citizens shall have the right to discover new circumstances of the cases and report them to the procuracies or courts. The chairmen of the procuracies competent to protest according to reopening procedures shall issue decisions to verify such circumstances.

2. If there exists one of the grounds prescribed in Article 291 of this Code, the chairmen of the procuracies shall issue decisions to protest according to reopening procedures and transfer the case files to the competent courts. If none of such grounds

exists, the chairmen of the procuracies shall reply the discovering agencies, organizations or persons, clearly stating the reasons for not lodging protests.

Article 293. Persons with the right to protest according to reopening procedures

1. The Chairman of the Supreme People's Procuracy shall have the right to protest according to reopening procedures against legally valid judgments or decisions of courts of different levels, except for decisions of the Judges' Council of the Supreme People's Court.

2. The Chairman of the Central Military Procuracy shall have the right to protest according to reopening procedures against legally valid judgments or decisions of subordinate military courts.

3. The chairmen of the provincial-level people's procuracies shall have the right to protest according to reopening procedures against legally valid judgments or decisions of the district-level people's courts. The chairmen of the military zone-level military procuracies shall have the right to protest according to reopening procedures against legally valid judgments or decisions of the regional military courts.

4. Written protests of the persons prescribed in this Article must be sent to the convicts and persons with interests and obligations related to the protests.

Article 294. Suspension of execution of judgments or decisions which are protested against according to reopening procedures

Those who have lodged protests according to reopening procedures shall have the right to suspend the execution of the protested judgments or decisions.

Article 295. Time limit for lodging protests according to reopening procedures

1. Review according to reopening procedures unfavorable to the convicts must be conducted within the statute of limitations for penal liability examination prescribed in Article 23 of the Penal Code and the time limit for lodging such protests shall not exceed one year after the date the procuracies receive information on newly discovered circumstances.

2. Review according to reopening procedures favorable to the convicts shall not be restricted temporally and shall be conducted even in the cases where the convicts are deceased and it is necessary to prove their innocence.

3. Civil protests in criminal cases against civil plaintiffs, civil defendants or persons with interests and obligations related to the cases shall be lodged in accordance with the provisions of civil procedure legislation.

Article 296. Jurisdiction to review cases according to reopening procedures

1. The Judges' Committees of the provincial-level people's courts shall review according to reopening procedures legally valid judgements or decisions of the district-level people's courts. The Judges' Committees of the military zone-level military courts shall review according to reopening procedures legally valid judgements or decisions of the regional military courts.

2. The Criminal Tribunal of the Supreme People's Court shall review according to reopening procedures legally valid judgments or decisions of the provincial-level people's courts. The Central Military Court shall review according to reopening procedures legally valid judgements or decisions of the military zone-level military courts.

3. The Judges' Council of the Supreme People's Court shall review according to reopening procedures legally valid judgements or decisions of the Central Military Court, of the Criminal Tribunal or the court of appeal of the Supreme People's Court.

Article 297. Conducting of reopening procedures

The provisions of Articles 280, 281, 282 and 283 of this Code shall also apply to the reopening procedures.

Article 298. Jurisdiction of reopening procedure panels

The reopening procedure panels shall have the right to issue decisions:

1. To reject the protests and retain the legally valid judgments or decisions;

2. To dismiss the protested judgments or decisions for re-investigation or re-trial.

3. To dismiss the protested judgments or decisions and cease the cases;

Article 299. Effect of reopening procedure decisions and handing of reopening procedure decisions

1. Decisions of the reopening procedure panels shall take legal effect as from the date of their issuance.

2. Within ten days after issuing the reopening procedure decisions, the reopening procedure panels must send them to the convicts, protestors, courts and police agencies which have been involved in the first-instance trial, persons with interests and obligations related to the protests or their lawful representatives, and competent judgment-executing agencies; and send notices thereon to the administrations of the communes, wards or townships where the convicts reside or the agencies or organizations where the convicts work.

Article 300. Re-investigation, re-trial of cases

1. If the reopening procedure panels decide to dismiss legally valid judgments or decisions for re-investigation, within fifteen days as from the date of issuance of such decisions, the case files must be transferred to the competent procuracies for re-investigation according to general procedures.

2. If the reopening procedure panels decide to dismiss legally valid judgments or decisions for first-instance re-trial of the cases, within fifteen days as from the date of issuance of such decisions, the case files must be transferred to the competent courts for re-trial according to general procedures.

Part Seven

SPECIAL PROCEDURES

Chapter XXXII

PROCEDURES APPLICABLE TO MINORS

Article 301. Scope of application

The criminal procedure applicable to arrestees, persons kept in custody, accused and defendants, who are minors, shall comply with the provisions of this Chapter, and concurrently with other provisions of this Code which are not contrary to those of this Chapter.

Article 302. Investigation, prosecution and trial

1. Investigators, procurators and judges who carry out the criminal procedure towards minor offenders must possess necessary knowledge about the psychology and education of minors as well as activities of preventing and fighting crimes committed by minors.

2. In the process of investigation, prosecution and trial, the following information must be clarified:

a/ The ages, physical and mental development levels, the level of perception of criminal acts of minors;

b/ Living and education conditions;

c/ Whether or not they are incited by adults;

d/ Causes and conditions of the commission of offenses.

Article 303. Arrest, custody and temporary detention

1. Persons aged between full 14 years and under 16 years may be arrested, held in custody or temporary detention if there are sufficient grounds prescribed in Articles 80, 81, 82, 86, 88 and 120 of this Code, but only in cases where they commit very serious offenses intentionally or commit especially serious offenses.

2. Persons aged between full 16 years and under 18 years may be arrested, held in custody or temporary detention, if there are sufficient grounds prescribed in Articles 80, 81, 82, 86, 88 and 120 of this Code, but only in cases where they commit serious offenses intentionally or commit very serious or especially serious offenses.

3. The bodies ordering the arrest, custody or temporary detention of minors must notify their families or lawful representatives thereof immediately after the arrest, custody or temporary detention is effected.

Article 304. Supervision of minor offenders

1. The investigating bodies, procuracies or courts may issue decisions to assign minor offenders to their parents or guardians for supervision so as to secure their appearance in response to the summonses of the procedure-conducting bodies.

2. Persons assigned to supervise minor offenders shall have to closely supervise them, oversee their behaviors, ethics and educate them.

Article 305. Defense

1. Lawful representatives of persons kept in custody, the accused or defendants who are minors may select defense counsels to defend or defend by themselves the persons kept in custody, the accused or defendants.

2. Where the accused or defendants are minors or their lawful representatives refuse to select defense counsels for them, the investigating bodies, procuracies or courts must request bar associations to assign lawyers' offices to appoint defense counsels for them or propose the Vietnam Fatherland Front Committee or the Front's member organizations to appoint defense counsels for their organizations' members.

Article 306. Participation in the procedure by families, schools and organizations

1. Representatives of the families of the persons kept in custody, the accused or defendants, teachers or representatives of schools, the Ho Chi Minh Communist Youth Union or other organizations where the persons kept in custody, the accused or defendants study, work and live shall have the right as well as obligation to participate in the procedure under decisions of the investigating bodies, procuracies or courts.

2. Where the persons kept in custody or the accused are between full 14 years and under 16 years old or minors with mental or physical defects, or in other necessary cases, the taking of their statements and interrogation must be attended by their families' representatives, except for the cases where their families' representatives are deliberately absent without plausible reasons. The families' representatives may inquire the persons kept in custody or the accused, if the investigators so agree; they may produce documents, objects, make requests or complaints, and read the case files upon the termination of the investigation.

3. At the court sessions to try minor defendants, the presence of their families' representatives, except for the cases where their families' representatives are deliberately absent without plausible reasons, of their schools' and/or organizations' representatives is compulsory.

Representatives of the defendants' families and representatives of their schools and/or organizations attending the court sessions shall have the rights to produce documents, exhibits, to request or propose to change the procedure-conducting persons; to join in the arguing process, and lodge complaints about procedural acts of the persons with procedure-conducting competence, and court decisions.

Article 307. Trial

1. The composition of a trial panel must include a juror being a teacher or a Ho Chi Minh Communist Youth Union cadre.

In case of necessity, the courts may decide to conduct the trial behind closed door.

2. In the course of trial, if deeming it unnecessary to impose penalties on the defendants, the courts may apply one of the judicial measures prescribed in Article 70 of the Penal Code.

Article 308. Serving of imprisonment penalties

1. Minor offenders shall serve their imprisonment penalties according to a separate detention regime prescribed by law.

It is forbidden to keep minor offenders together with adult offenders.

2. The minor convicts must be provided with job training or general education while they are serving their imprisonment penalties.

3. If the minors reach the age of full 18 years while serving their imprisonment penalties, they shall be shifted to be subject to the imprisonment regime applicable to adults.

4. For minors who have completely served their imprisonment penalties, the superintendence boards of their prisons shall have to coordinate with the administrations and social organizations in the communes, wards or townships in helping them to lead a normal life in the society.

Article 309. Termination of serving of judicial measures, commutation of penalties or exemption from serving of penalties

If they fully meet the conditions prescribed in Article 70 or Article 76 of the Penal Code, the minor offenders may be permitted to stop serving judicial measures, have their penalties commuted or be exempt from serving their penalties.

Article 310. Remission of criminal records

The remission of criminal records for minor offenders who fully meet the conditions specified in Article 77 of the Penal Code shall comply with general procedures.

Chapter XXXIII

PROCEDURES FOR APPLICATION OF THE COMPULSORY MEDICAL TREATMENT MEASURE

Article 311. Conditions for application of, and competence to apply, the compulsory medical treatment measure

1. Where there are grounds to believe that the persons having committed acts dangerous to the society have no capacity for penal liability as provided for in Article 13 of the Penal Code, depending each particular proceeding stage, the investigating bodies, procuracies or courts must solicit forensic examination.

2. Basing themselves on the conclusions of the forensic examination councils, the procuracies shall decide to apply the compulsory medical treatment measure at the investigation and prosecution stages; the courts shall decide to apply the compulsory medical treatment measure at the trial and judgment execution stages.

Article 312. Investigation

1. For the cases involving grounds specified in Clause 1, Article 311 of this Code, the investigating bodies must clarify:

a/ Committed acts dangerous to the society;

b/ The mental conditions and mental diseases of the persons having committed acts dangerous to the society;

c/ Whether or not the persons having committed acts dangerous to the society have lost their capacity to perceive or control their acts.

2. When conducting the procedure, the investigating bodies must ensure the participation by defense counsels in the procedure from the time it is determined that the persons having committed acts dangerous to the society suffer from mental diseases. In case of necessity, lawful representatives of such persons may participate in the proceedings.

Article 313. Decisions of procuracies upon termination of investigation

After receiving the case files and the written investigation conclusions, the procuracies may issue one of the following decisions:

1. To suspend or cease the case;

2. To cease the case and decide to apply the compulsory medical treatment measure.

3. To prosecute the accused before court.

Article 314. Trial

1. The courts may issue one of the following decisions:

a/ To exempt the penal liability or penalties and apply the compulsory medical treatment measure;

b/ To cease the case and decide to apply the compulsory medical treatment measure;

c/ To suspend the case and decide to apply the compulsory medical treatment measure;

d/ To return the file for re-investigation or additional investigation.

2. Apart from deciding to apply the compulsory medical treatment measure, the courts may settle the issue of damage compensation or other matters related to the cases.

Article 315. Application of the compulsory medical treatment measure to persons serving imprisonment penalties

Where there are grounds to believe that the persons who are currently serving imprisonment penalties suffer from mental diseases or other ailments which have deprived them of the capacity to perceive or control their acts, at the requests of the imprisonment penalty-executing agencies, the presidents of the provincial-level people's courts or the presidents of the military zone-level military courts in the localities where the convicts are serving their penalties must solicit forensic examination.

Basing themselves on the conclusions of the forensic examination councils, the presidents of the provincial-level people's courts or the presidents of the military zone-level military courts in the localities where the convicts are serving their penalties may decide to send them into specialized medical establishments for compulsory medical treatment. After recovery, such persons shall have to continue serving their penalties if they have no reasons for exemption from serving their penalties.

Article 316. Complaints, protests, appeals

1. When the procuracies' decisions to apply the compulsory medical treatment measure are complained about, the cases must be brought for first-instance trial by the courts of the same level.

2. Protests or appeals against the courts' decisions to apply the compulsory medical treatment measure shall be lodged in the same way as against first-instance judgments.

3. Despite complaints, protests or appeals, the courts' decisions to apply the compulsory medical treatment measure shall still take implementation effect.

Article 317. Implementation, suspension of implementation of the compulsory medical treatment measure

1. The compulsory medical treatment measure shall be implemented at specialized medical establishments designated by the procuracies or courts.

2. When there are reports of the medical treatment establishments and written requests of the relatives of the persons subject to compulsory medical treatment or requests of the procuracies, on the basis of the conclusions of the forensic medicine examination councils, the procuracies or courts which have issued the decisions to apply the compulsory medical treatment measure may issue decisions to cease the implementation of the compulsory medical treatment measure and may concurrently decide to resume the suspended proceedings.

Chapter XXXIV

SUMMARY PROCEDURES

Article 318. Scope of application of summary procedures

The summary procedures for investigation, prosecution as well as first-instance trial shall be applied under the provisions of this Chapter, and concurrently under other provisions of this Code which are not contrary to those of this Chapter.

Article 319. Conditions for application of summary procedures

Summary procedures shall be applied only when the following conditions are fully met:

1. The persons committing criminal acts are caught red-handed;

2. The offenses are simple with obvious evidences;

3. The committed offences are less serious ones;

4. The offenders have clear personal identifications and records.

Article 320. Decisions to apply summary procedures

1 After the criminal cases are instituted, at the requests of the investigating bodies or if deeming that the cases fully meet the conditions prescribed in Article 319 of this Code, the procuracies may issue decisions to apply summary procedures.

2. Decisions to apply summary procedures must be sent to the investigating bodies and the accused or their lawful representatives within 24 hours after their issuance.

3. Decisions to apply summary procedures may be complained about. The accused or their lawful representatives shall have the right to complain about the decisions to apply summary procedures; the statute of limitations for lodging such complaints is three days after the decisions are received. Complaints shall be sent to the procuracies which have issued the decisions to apply summary procedures and must be settled within three days after they are received.

Article 321. Investigation

1. The time limit of investigation according to summary procedures is twelve days after the issuance of the decisions to institute the criminal cases.

2. Upon the termination of the investigation, the investigating bodies shall not have to make written investigation conclusions but issue decisions proposing the prosecution and send the case files to the procuracies.

Article 322. Custody and temporary detention for investigation and prosecution

1. The grounds, competence and procedures for custody and temporary detention shall comply with the provisions of this Code.

2. The time limit for custody shall not exceed three days as from the date the investigating bodies receive the arrestees.

3. The time limit for temporary detention for investigation and prosecution shall not exceed sixteen days.

Article 323. Decision on prosecution

1. Within four days after receiving the case files, the procuracies shall have to issue one of the following decisions:

a/ To prosecute the accused before court by a prosecution decision;

b/ To return the file for additional investigation;

c/ To suspend the case;

d/ To cease the case.

2. In case of returning the files for additional investigation or suspending the cases prescribed at Point b or c, Clause 1 of this Article, the procuracies must issue decisions to cancel the decisions to apply the summary procedures and the cases shall then be settled according to general procedures

Article 324. Trial

1. Within seven days after receiving the case files, the judges assigned to preside over the court sessions shall have to issue one of the following decisions:

a/ To bring the case for trial;

b/ To return the file for additional investigation;

c/ To suspend the case;

d/ To cease the case.

2. In case of issuing decisions to bring the cases for trial prescribed at Point a, Clause 1 of this Article, within seven days as from the date of issuing such decisions, the courts must open court sessions to try the cases. The first-instance trial shall be conducted according to general procedures.

3. In case of returning the files for additional investigation or suspending the cases as prescribed at Point b or c, Clause 1 of this Article, the courts shall transfer the files to the procuracies and the cases shall then be settled according to general procedures.

4. In case of necessity, the courts of first instance shall decide to keep the defendants in temporary detention in order to secure the trial. The temporary detention time limit shall not exceed fourteen days.

5. The appellate trial, the review according to cassation or reopening procedures of the cases which underwent first-instance trial according to summary procedures, shall be conducted according to general procedures.

Chapter XXXV

COMPLAINTS, DENUNCIATIONS IN CRIMINAL PROCEDURE

Article 325. Persons with the right to complain

Agencies, organizations and individuals shall have the right to complain about procedural decisions and acts of bodies and persons with procedure-conducting competence when they have grounds to believe that such decisions or acts are contrary to law, infringe upon their legitimate rights and interests.

Appeals against legally valid first-instance judgments or decisions, complaints about legally valid judgments or decisions shall not be settled under the provisions of this Chapter but under the provisions of Chapters XXIII, XXIV, XXX and XXXI of this Code.

Article 326. Rights and obligations of complainants

1. Complainants shall have the following rights:

a/ To lodge complaints by themselves or through their lawful representatives;

b/ To lodge complaints at any stage of the process of settling criminal cases;

c/ To withdraw their complaints at any stage of the process of settling criminal cases;

d/ To receive written replies on the settlement of their complaints;

e/ To have their infringed legitimate rights and interests restored; and receive damage compensation in accordance with law.

2. Complainants shall have the following obligations:

a/ To present truthfully the facts, supply information and documents to the complaint settlers; to take responsibility before law for such presentation and supply of information and documents.

b/ To abide by the complaint settlement results.

Article 327. Rights and obligations of complained persons

1. Complained persons shall have the following rights:

a/ To produce evidences on the lawfulness of their procedural decisions or acts which are complained about;

b/ To receive documents on the settlement of complaints about their procedural decisions or acts.

2. Complained persons shall have the following obligations:

a/ To explain the complained procedural decisions or acts, supply relevant information and documents when competent bodies, organizations or individuals so request;

b/ To abide by the complaint settlement results;

c/ To pay compensation for damage and overcome consequences caused by their illegal procedural decisions or acts according to law provisions.

Article 328. Statute of limitations for complaining

The statute of limitations for complaining is fifteen days after the complainants receive or know about the procedural decisions or acts which they deem unlawful.

In case where due to illness, natural calamities, enemy sabotage, working or studying in distant places or other objective obstacles the complainants cannot exercise their right to complain within the prescribed statute of limitations, the period when such obstacles exist shall not be included in the statute of limitations for complaining.

Article 329. Competence and time limit for settling complaints against investigators, deputy heads and heads of investigating bodies

Complaints about procedural decisions and acts of investigators, deputy heads of investigating bodies shall be considered and settled by the heads of the investigating bodies within seven days after receiving the complaints. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the procuracies of the same level. Within seven days after receiving the complaints, the procuracies of the same level must consider and settle them. The procuracies of the same level shall have the competence to make final settlement.

Complaints about procedural decisions or acts of the heads of investigating bodies and procedural decisions of investigating bodies, which have been approved by the procuracies of the same level, shall be settled by the procuracies of the same level within seven days after receiving the complaints. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the

immediate superior procuracies. Within fifteen days after receiving the complaints, the immediate superior procuracies must consider and settle them. The immediate superior procuracies shall have the competence to make final settlement.

Article 330. Competence and time limits for settling complaints against procurators, vice-chairmen and chairmen of procuracies

Complaints about procedural decisions and acts of vice-chairmen of procuracies or procurators shall be settled by the chairmen of the procuracies within seven days after receiving the complaints. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the immediate superior procuracies. Within fifteen days after receiving the complaints, the immediate superior procuracies must consider and settle them. The immediate superior procuracies shall have the competence to make final settlement.

Complaints about procedural decisions or acts of chairmen of procuracies shall be settled by the immediate superior procuracies within fifteen days after receiving the complaints. The immediate superior procuracies shall have the competence to make final settlement.

Article 331. Competence and time limits for settling complaints against judges, vice-presidents and presidents of courts

Complaints about procedural decisions and acts of judges or vice-presidents of courts before the opening of court sessions shall be settled by the presidents of courts within seven days after receiving the complaints. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the immediate superior courts. Within fifteen days after receiving the complaints, the immediate superior courts must consider and settle them. The immediate superior courts shall have the competence to make final settlement.

Complaints about procedural decisions or acts of presidents of courts shall be settled by the immediate superior courts within fifteen days after receiving the complaints. The immediate superior courts shall have the competence to make final settlement.

Article 332. Competence and time limits for settling complaints against persons with competence to conduct a number of investigating activities

Complaints about procedural decisions and acts of persons with competence to conduct a number of investigating activities shall be considered and settled by the procuracies with prosecuting competence within seven days after receiving the complaints. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the immediate superior procuracies. Within

fifteen days after receiving the complaints, the immediate superior procuracies must consider and settle them. The immediate superior procuracies shall have the competence to make final settlement.

Complaints about procedural decisions or acts which have been approved by the procuracies shall be settled by such procuracies within seven days after receiving the complaints. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the immediate superior procuracies. Within fifteen days after receiving the complaints, the immediate superior procuracies must consider and settle them. The immediate superior procuracies shall have the competence to make final settlement.

Article 333. Time limits for settling complaints related to the application of arrest, custody and temporary detention measures

Complaints related to the application of arrest, custody and temporary detention measures must be immediately considered and settled by the procuracies. If it takes time to conduct further verification, the complaints must be settled within three days after the date of receipt thereof. If disagreeing with the settlement results, the complainants shall have the right to lodge further complaints with the immediate superior procuracies. Within seven days after receiving the complaints, the immediate superior procuracies must consider and settle them. The immediate superior procuracies shall have the competence to make final settlement.

Article 334. Persons with the right to denounce

Citizens shall have the right to denounce to competent bodies or individuals law violation acts of any persons with procedure-conducting competence, which cause damage or threaten to cause damage to the interests of the State, the legitimate rights and interests of citizens, agencies or organizations.

Article 335. Rights and obligations of denouncers

1. Denouncers shall have the following rights:

a/ To send written denunciations or denounce in person to competent bodies or individuals;

b/ To request the confidentiality of their full names, addresses and autographs;

c/ To request to be notified of the denunciation settlement results;

d/ To request the bodies with procedure-conducting competence to protect them when they are intimidated, harassed or revenged.

2. Denouncers shall have the following obligations:

a/ To present truthfully the denunciation contents;

b/ To clearly state their full names and addresses;

c/ To take responsibility before law for untruthful denunciation.

Article 336. Rights and obligations of denounced persons

1. Denounced persons shall have the following rights:

a/ To be informed of the denunciation contents;

b/ To produce evidences to prove that the denunciation contents are untruthful;

c/ To have their infringed legitimate rights and interests restored, their honor restored, and to receive compensation for damage caused by untruthful denunciation;

d/ To request competent bodies, organizations or individuals to handle slanderers.

2. Denounced persons shall have the following obligations:

a/ To explain their denounced acts; supply relevant information and documents when competent bodies or individuals so request;

b/ To abide by the denunciation-handling results of competent bodies or individuals;

c/ To pay compensation for damage and overcome consequences caused by their illegal acts.

Article 337. Competence and time limit for settling denunciations

1. For denunciations of law violation acts of persons with procedure-conducting competence of an agency with procedure-conducting competence, the head of such agency shall have the responsibility to settle them.

Where the denounced persons are heads of investigating bodies, chairmen of procuracies or presidents of courts, the immediate superior investigating bodies, procuracies or courts shall have the responsibility to settle them. Denunciations of procedural acts of persons with competence to conduct a number of investigating

activities shall be considered and settled by the procuracies with prosecuting competence.

The time limit for settling denunciations is sixty days counting from the date of receipt of denunciations; for complicated cases, it may be longer but must not exceed ninety days.

2. Denunciations of law violation acts with criminal signs shall be settled under the provisions of Article 103 of this Code.

3. Denunciations related to arrest, custody or temporary detention must be immediately considered and settled by the procuracies. If further verification is required, the time limit shall not exceed three days.

Article 338. Responsibilities of persons with competence to settle complaints or denunciations

Competent bodies or individuals shall, within the ambit of their respective tasks and powers, have to receive and settle promptly according to law complaints and denunciations and send notices on the settlement results to complaints and denouncers; stringently handle violators; apply necessary measures to prevent possible damage; ensure the settlement results be strictly implemented and take responsibility before law for their settlement.

Persons who are competent to settle complaints or denunciations but fail to settle them, have settled irresponsibly or illegally such complaints or denunciations shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing damage, they must pay compensation therefor according to law.

Article 339. Tasks and powers of procuracies in supervising the settlement of complaints and denunciations in the criminal procedure

1. The procuracies shall request the investigating bodies and courts of the same and subordinate levels, the border guard, customs, ranger and coast guard forces, and other agencies of the people's police and people's army, which are assigned to conduct a number of investigating activities:

a/ To issue written settlements of complaints or denunciations according to the provisions of this Chapter;

b/ To examine the settlement of complaints or denunciations by their level and subordinate levels; notify the examination results to the procuracies;

c/ To supply dossiers and documents related to the settlement of complaints and denunciations to the procuracies.

2. The procuracies shall directly supervise the settlement of complaints and denunciations at the investigating bodies, courts, border guard, customs, ranger offices, coast guard offices and other agencies of the people's police and army's police, which are assigned to conduct a number of investigating activities.

Part Eight

INTERNATIONAL COOPERATION

Chapter XXXVI

GENERAL PROVISIONS ON INTERNATIONAL COOPERATION IN CRIMINAL PROCEEDINGS

Article 340. Principles for international cooperation in criminal proceedings

International cooperation in criminal proceedings between the bodies with procedure-conducting competence of the Socialist Republic of Vietnam and foreign authorities with corresponding competence shall be effected on the principles of respect for each other's national independence, sovereignty and territorial integrity, non-intervention in each other's internal affairs, equality and mutual benefit, compliance with the Constitution of the Socialist Republic of Vietnam and fundamental principles of international laws.

International cooperation in criminal proceedings shall be carried out in conformity with the international agreements which the Socialist Republic of Vietnam has signed or acceded to and the laws of the Socialist Republic of Vietnam.

Where the Socialist Republic of Vietnam has not yet signed or acceded to relevant international agreements, the international cooperation in criminal proceedings shall be effected on the principle of reciprocity but in contravention of the laws of the Socialist Republic of Vietnam, international laws and international practices.

Article 341. Provision of judicial assistance

When rendering judicial assistance, the bodies as well as persons with procedure-conducting competence of the Socialist Republic of Vietnam shall apply the

provisions of relevant international agreements which the Socialist Republic of Vietnam has signed or acceded to and the provisions of this Code.

Article 342. Refusal to implement judicial assistance requests

The bodies with procedure-conducting competence of the Socialist Republic of Vietnam may refuse to implement judicial assistance requests in criminal proceedings in one of the following cases:

1. Judicial assistance requests fail to comply with the international agreements which the Socialist Republic of Vietnam has signed or acceded to and the laws of the Socialist Republic of Vietnam;

2. The implementation of judicial assistance requests is detrimental to the national sovereignty, security or other important interests of the Socialist Republic of Vietnam.

Chapter XXXVII

EXTRADITION AND TRANSFER OF DOSSIERS, DOCUMENTS AND EXHIBITS OF CASES

Article 343. Extradition in order to examine penal liability or execute judgments

Basing themselves on the international agreements which the Socialist Republic of Vietnam has signed or acceded to on the principle of reciprocity, the bodies with procedure-conducting competence of the Socialist Republic of Vietnam may:

1. Request the foreign authorities with corresponding competence to extradite persons who have committed criminal acts or convicted under legally valid judgments to the Socialist Republic of Vietnam for being examined for penal liability or serving their penalties.

2. Extradite foreigners who have committed criminal acts or convicted under legally valid judgments, who are being in the territory of the Socialist Republic of Vietnam, to the requesting nations for being examined for penal liability or serving their penalties.

Article 344. Refusal to extradite

1. The bodies with procedure-conducting competence of the Socialist Republic of Vietnam may refuse to extradite persons in one of the following cases:

a/ The persons requested to be extradited are citizens of the Socialist Republic of Vietnam;

b/ Under the provisions of the laws of the Socialist Republic of Vietnam, the persons requested to be extradited cannot be examined for penal liability or serve penalties as the statute of limitations therefor has expired or for other lawful reasons.

c/ The persons requested to be extradited for penal liability examination have been convicted by the courts of the Socialist Republic of Vietnam under legally valid judgements for the criminal acts stated in the extradition requests or the cases have been ceased under the provisions of this Code;

d/ The persons requested to be extradited are residing in Vietnam for reasons of being possibly ill-treated in the extradition-requesting countries on the grounds of racial discrimination, religion, nationality, ethnicity, social status or political views.

2. The bodies with procedure-conducting competence of the Socialist Republic of Vietnam may refuse to extradite in one of the following cases:

a/ Under the criminal legislation of the Socialist Republic of Vietnam, the acts taken by the persons requested to be extradited do not constitute offenses;

b/ The persons requested to be extradited are being examined for penal liability in Vietnam for the acts stated in the extradition requests.

3. The bodies with procedure-conducting competence of the Socialist Republic of Vietnam which refuse to extradite under the provisions of Clause 1 and Clause 2 of this Article shall have to notify such to the foreign authorities with corresponding competence, which have sent the extradition requests.

Article 345. Transfer of files and exhibits of criminal cases

1. For cases involving foreigners who have committed offenses on the territory of the Socialist Republic of Vietnam, if the procedure cannot be conducted because such persons have left the country, the bodies with procedure-conducting competence which are handling the cases may transfer the case files to the Supreme People’s Procuracy for carrying out the procedures to transfer them to the foreign authorities with corresponding competence.

2. When transferring the case files to the foreign authorities with corresponding competence, the bodies with procedure-conducting competence of the Socialist Republic of Vietnam may transfer also exhibits of the cases.

Article 346. Delivery, receipt and transfer of documents, objects and money related to criminal cases

1. The delivery and receipt of documents related to criminal cases shall comply with the international agreements which the Socialist Republic of Vietnam has signed or acceded to and the provisions of this Code.

2. The transfer of objects and money related to criminal cases out of the territory of the Socialist Republic of Vietnam shall comply with the laws of the Socialist Republic of Vietnam.

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Chairman of the National Assembly
NGUYEN VAN AN